

**MINUTES**  
**UTAH**  
**ACUPUNCTURE**  
**LICENSING BOARD**  
**MEETING**

**March 31, 2015**

**Room 475 – 4<sup>th</sup> Floor – 9:00 A.M.**  
**Heber Wells Building**  
**Salt Lake City, UT 84111**

**CONVENED:** 9:11 A.M.

**ADJOURNED:** 9:50 A.M.

**Bureau Manager:**

April Ellis

**Board Secretary:**

Lisa Martin

**Board Members Present:**

Natalie Clausen, L.Ac

Tiffany Garofalo, L.Ac Chairperson

Tyehao M. Lu, L.Ac

**Board Members Absent:**

Michele Zabriskie, Public Member

Regan J. Archibald, L.Ac

**Guests:**

Julianne Gardner, Master Lu's Health Center

Karena LuHun, Thrive Acupuncture of Utah

Alyssa Johnson

Kris Justesen, UAAOM

**DOPL Staff Present:**

Mark Steinagel, Division Director

Karl Perry, Assistant Attorney General

**ADMINISTRATIVE BUSINESS:**

**MINUTES:**

The minutes from the July 15, 2014 Board meeting were read.

**Mr. Lu made a motion to approve the minutes as read. Ms. Clausen seconded the motion. The Board vote was unanimous.**

**TOPICS FOR DISCUSSION**

**Rule R156-72-102(1)**

**Ms. Garofalo states the following rule change has been requested: provision as used in subsection 58-72-102(4)(b)(ii) includes procurement authority for regulated or controlled herbal, homeopathic, or**

**supplemental products.**

**Ms. Ellis states the definition in the proposed rule change coincides with R156-72-102 of the acupuncture licensing act rule. It was discussed that some companies were not providing homeopathic remedies to acupuncturists; the purpose of the proposed rule change is to alleviate the problem of obtaining the products.**

**Mr. Perry states there are two circumstances to create a rule. One is when a statute states a rule will be created; the second is when the statute is not clear or needs to be more specific. The requested change appears to be a statute change and not a rule change.**

**Ms. Garofalo asks if the division is saying the law would have to state "as defined by rule" in order for the board to define provision.**

**Ms. Ellis states the proposed rule is worded in a way that is contrary to the statute.**

**Mr. Lu asks if the statute already gives acupuncturists the authority to procure the homeopathic products.**

**Ms. Ellis states the statute gives acupuncturist the authority that the proposed rule is trying to create.**

**Mr. Perry states the FDA has not regulated herbal and homeopathic remedies.**

**Ms. Garofalo states within the last couple of years the FDA has increased what homeopathic remedies they are regulating.**

**Mr. Perry states the FDA treats homeopathic remedies differently than other prescription drugs.**

**Mr. Steinagel asks for clarification on the goal of the proposed rule change.**

**Ms. Garofalo states the goal is for acupunctures to be able to order regulated homeopathic and herbal**

remedies. Currently many companies will not allow acupunctures to order the products. The companies state that the Acupuncture Practice Act does not give the authority to purchase the homeopathic remedies that acupuncturists have the authority to use.

Mr. Steinagel states the way the statute is written the companies should see that acupuncturists have the authority to obtain the remedies. Mr. Steinagel asks if there is a way to create a clarification for the companies to show what is already in statute without a rule change.

Ms. Garofalo states a letter from DOPL stating acupuncturists have the authority to obtain homeopathic remedies would be helpful.

Ms. Clausen asks if the word controlled is what has stopped the proposed rule change from being approved.

Ms. Garofalo states the intent of the rule change is only for herbs, homeopathic and supplemental products. The goal is as these products become more regulated and controlled acupuncturists will continue to have access to them.

Ms. Garofalo asks if a wording of regulated herbal homeopathic or supplemental products would suffice to not get into legend or controlled medications.

Mr. Perry states the use of the word regulated would also include legend drugs.

Ms. Clausen states there are no legend drugs that are herbal, homeopathic, or supplemental.

Mr. Steinagel suggests the wording could include regulated non-legend, non-controlled.

Ms. Ellis states as medications are changing classifications, it would be better to not to include the terms controlled or regulated.

**Mr. Steinagel suggests wording of provision includes procurement of the substances listed under the statute.**

**Ms. Ellis states the proposed rule change is as follows: provision includes procurement of the substances listed in Utah code annotated 58-72-101(4)(b).**

**Mr. Lu makes a motion to approve the proposed rule change as stated by Ms. Ellis. Ms. Clausen seconded the motion. The board vote is unanimous.**

### **Malpractice Insurance**

**Ms. Garofalo states Mr. Lu has an apprenticeship program and is trying to get interns added onto the malpractice insurance. The insurance company is asking for formal approval from the licensing board in order to add the apprentices to the insurance.**

**Mr. Lu states the malpractice application asks if the apprenticeship has been approved by the state regulatory body.**

**Mr. Garofalo states the board determined if an apprenticeship is NCCAOM approved, Utah would recognize the apprenticeship as an exemption from obtaining a license.**

**Mr. Steinagel asks if any rule addresses this aspect of recognizing NCCAOM apprenticeships.**

**Ms. Ellis states there is a provision in the umbrella statute under exemptions from licensure that states: an individual engaged in an internship, residency, preceptorship, postceptorship, fellowship, apprenticeship, or on-the-job training program approved by the division while under the supervision on qualified individuals.**

**Mr. Steinagel clarifies the board is not discussing modifying the apprenticeship, but recognizing the apprenticeship for insurance purposes**

**Ms. Ellis asks if the request is for the division to approve individuals to receive malpractice**

**insurance.**

**Ms. Garofalo states a letter that states the board recognizes NCCAOM apprenticeship programs and they should be allowed to obtain malpractice insurance for their program.**

**Ms. Ellis states the concern is the division approving individuals for malpractice insurance. The division would be willing to state it recognizes all NCCAOM certified apprenticeships.**

**Ms. Garofalo asks if recognizing the approved apprenticeship program is enough for what the insurance company is asking for.**

**Mr. Lu reads the question from the insurance application: have you been approved by the applicable state acupuncture regulating body to act as an acupuncture trainee.**

**Ms. Clausen makes a motion that an apprenticeship program approved by NCCAOM the exemption 58-1-307 is applicable. Mr. Lu seconded the motion. The Board vote is unanimous.**

**NEXT MEETING SCHEDULED FOR:**

June 16, 2015

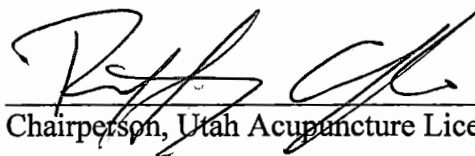
**ADJOURN:**

The time is 9:50 A.M. and the Board meeting is adjourned.

*Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.*

12/8/15

Date Approved



Chairperson, Utah Acupuncture Licensing Board

June 5, 2015

Date Approved

April Ellis

Bureau Manager, Division of Occupational & Professional Licensing