

MINUTES

**UTAH
ACUPUNCTURE
LICENSING BOARD
MEETING**

October 4, 2016

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

CONVENED: 9:08 A.M.

ADJOURNED: 11:01 A.M.

**Bureau Manager:
Board Secretary:**

Larry Marx
Lisa Martin

Board Members Present:

Tyehao M. Lu, L.Ac, Chairperson
Kris Justesen, L.Ac
Natalie Clausen, L.Ac
Regan J. Archibald, L.Ac

Board Members Absent:

Conra Weber, Public Member

Guests:

David Spatafore, UAAOM
Jackie Rogers
Mark Brinton, UMA

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the July 12, 2016 Board meeting were read.

Mr. Archibald made a motion to approve the minutes with the revisions as stated. Ms. Justesen seconded the motion. The Board vote was unanimous.

Swear in New Board Member

Mr. Marx swore in Kris Justesen as a new member of the acupuncture board.

APPOINTMENTS

9:10 A.M.

Sharon Lockart, UAAOM

Ms. Lockart states the association is seeing that physical therapists are being paid by insurance under

physical medicine. Ms. Lockart states this is causing patients to move from acupuncturists that are not covered by insurance to physical therapists that have less training.

Ms. Clausen asks if Ms. Lockart knows how the insurance code reads. Ms. Clausen states in the past the insurance code included the requirement of insurances to pay for a procedure performed by an individual licensed to do that procedure the code required the insurance had to pay for anyone licensed to do that procedure. Ms. Clausen states she is unfamiliar with the current insurance code.

Mr. Archibald states it is now listed in the affordable care act that acupuncture is billable if there has been proper training. Additionally insurances cannot discriminate against the profession according to section 2706 of the affordable care act.

Ms. Lockart states it may be in the affordable care act however Utah is not following the affordable care act. Ms. Lockart states they have pursued the anti-discriminatory language in the affordable care act; however there hasn't been a notable change.

Ms. Clausen asks if it has to do with how the billing code is used.

Ms. Lockart states due to HIPPA laws patient records are not available to investigate the billing codes being used. .

Mr. Archibald asks if the board has any authority to address this issue.

Mr. Spatafore states the best thing for the board to do is request the division to investigate the issue and report back to the board at the next meeting.

Mr. Marx suggest the board make a motion with a specific request.

Ms. Clausen states she is unclear what the board would be asking the division to investigate.

Mr. Lu states the request would be to find a comparison between the billing of all professions that are approved to provide acupuncture services. Mr. Spatafore states the division can ask the department of insurance to evaluate billing codes.

Mr. Marx states the request may be outside of the division's scope however we will ask the attorney general office.

Ms. Justesen made a motion requesting the division to consult with the insurance division and attorney general office for a review of billing procedures for dry needling services provided by all approved professions. Mr. Archibald seconded the motion. The board vote was unanimous.

TOPICS FOR DISCUSSION

R156-72-102

Mr. Lu states the board had discussed the option of changing definitions listed in the Rule. Mr. Lu states the board had discussed including intramuscular; specifically referring to dry needling techniques.

Mr. Archibald asks what the purpose of the change would be.

Mr. Lu states dry needling is listed in several profession's practice acts including the term intramuscular. Mr. Lu states the board's goal is to avoid billing issues.

Mr. Marx states the board will need to determine the precise terminology would be request. Mr. Marx refers the board to number four of Rule R156-72-102; which states Insertion of acupuncture needles means a procedure of acupuncture and oriental medicine which includes but is not limited to trigger point therapy, Ahshi points and dry needling techniques. Mr. Marx states this may already include intramuscular.

Ms. Justesen states she feels it is necessary to add the terminology based on issues that are arising in

billing and national discussion within other professions' practice acts.

Ms. Clausen made a motion to update the practice act rule be updated to include trigger point therapy, Ahshi points, dry needling techniques and intramuscular therapy.

Mr. Archibald states if the board is going to make changes to ensure all treatment types are recognized the board should address all changes at this time.

Mr. Archibald suggests the change includes: trigger point therapy, intramuscular therapy, proprioceptive stimulation, Ahshi points and dry needling.

Mr. Lu suggests adding myofascial.

Ms. Justesen states the updated motion should be worded as follows; myofascial, trigger point therapy, intramuscular therapy, proprioceptive stimulation, Ahshi points and dry needling. Mr. Archibald seconded the motion. The board vote was unanimous.

It was requested that the board vote be recorded as a roll-call vote.

Mr. Lu voted in favor of the motion.

Ms. Clausen voted in favor of the motion.

Mr. Archibald voted in favor of the motion.

Ms. Justesen voted in favor of the motion.

R156-72-302a/CALE

Mr. Lu states currently for licensing purposes the requirement only lists the NCCAOM certificate. Mr. Lu asks the board if there is consideration to accept the California Acupuncture License Exam (CALE) in addition to the NCCAOM.

Ms. Justesen states she has looked into the California exam. Ms. Justesen state the information provided by the NCCAOM is more inclusive; however California required more hours

of training. Ms. Justesen states California oriental herbal medicine and bio medicine to a higher number of hours and to a higher degree. Ms. Ms. Justesen states to obtain a California license an individual must attend an approved California school and complete 2880-3000 hours for an entry level; which is nearly double the NCCAOM requirements.

Mr. Marx states the practice act states an applicant will meet the requirements for current active certification in acupuncture under guidelines established by the National Commission for the Certification of Acupuncture and Oriental Medicine (NCCAOM) as demonstrated through a current certificate or other appropriate documentation;

Mr. Archibald asks if the term “other appropriate documentation” would allow the division to include the California exam.

Ms. Clausen made a motion requesting the division to review with the attorney general office concerning the practice act terminology. Mr. Archibald seconded the motion. The board vote was unanimous.

Ms. Clausen states her understanding when the legislation was being created was to establish a standard and not to exclude other avenues of obtaining a Utah license.

Sunset Act

Mr. Lu asks if the board has further discussion concerning states the Sunset Act for the 2017 session.

Mr. Spatafore states the Sunset extension is traditionally 10 years; however a profession can request a change from that standard. Mr. Spatafore states he has found a list of items that will not require review and will be automatically repealed. Mr. Spatafore states the acupuncture act is on the list of items not to be reviewed.

Mr. Marx asks where Mr. Spatafore found

information is listed.

Mr. Spatafore states he will email the information directly to Mr. Marx. Mr. Spatafore makes a recommendation that the board requests the division review this information to ensure the acupuncture board is not to be eliminated.

Ms. Clausen made a motion requesting the division to review the status of the acupuncture sunset review and if the acupuncture board is to be automatically sunset on January 1 2017. Ms. Justesen amended the motion to include a request for an appointment with the special legislative session in November. Mr. Archibald seconded the motion. The board vote was unanimous.

Open Meetings Act

Mr. Marx states each board is required to review the open meetings act once a year. Mr. Marx states all meetings are considered open to the public unless there is cause to request the meeting be closed allowed within the open meetings act. Mr. Marx states the board must vote to close the meeting due to a person's mental health, personal health or competency.

Designation & Procurement of Injectables

Mr. Lu states the issue has been obtaining supplies that are allowed in the practice act.

Ms. Justesen asks if the board can recommend a rule change to help in procurement of supplies. Ms. Justesen reads from the New Mexico practice act that includes: administering and dispensing of herbal medicines, homeopathic medicines, vitamins minerals, amino acids, proteins, enzymes, carbohydrates, lipids, glandular products, natural substances, natural medicines, protomorphogens, live cell products, gerovital, and dietary nutrition supplements. Additionally listed are sterile water, sterile saline, sarapin, caffeine, procaine, oxygen, epinephrine, vapocoolants, biological products including therapeutic serum. . Ms. Justesen suggests a rule be created to include specific products.

Ms. Clausen suggests adding lidocaine as well.

Mr. Marx states each board member should have a memorandum from the attorney general's office. Mr. Marx states included in the memorandum there is a determination that the practice act does not include the authority to administer prescription drugs within the scope of the practice. Mr. Marx states Vitamin B-12, lidocaine, epinephrine, and Procaine are specifically listed. Mr. Marx recommends that these requests are more appropriate to process through legislation rather than through the division; this recommendation is included in the memorandum.

Ms. Justesen states there are states surrounding Utah that include these items. Ms. Justesen states homeopathies are considered legend drugs which are specifically in the standing practice act.

Ms. Clausen states the issue is that there are problems unless there is a rule there are struggles to do what is permitted to be done.

Mr. Marx refers to the memorandum stating it concludes that the governing statute prescribes that the practice of acupuncture includes the administration and provision of herbs, supplements, and homeopathics, the division may not by administrative rule expand this defined scope of practice. Mr. Marx continues that the division can create rules to support the established practice act. Mr. Marx states it appears acupuncturists already have the authority to procure a number of items that they are seeking authorization to procure including herbs, homeopathics and injection needles.

Ms. Justesen asks if there is a way to appeal the informal opinion.

Mr. Spatafore suggests a board member or two request a meeting with Mr. McDonough to discuss how the opinion was drafted.

Mr. Lu states members of the board will meet with the Acupuncture Association, the Utah Medical

Association, and the Attorney General office. Mr. Lu states this discussion will continue at the next board meeting.

Meeting Frequency

Mr. Marx states initially the board was scheduled to meet twice in the calendar year. Mr. Marx asks the board if they would like to change the number of meetings scheduled for the upcoming year.

Ms. Clausen suggest the board schedule meetings every other month to ensure meeting dates; however if there are no agenda items the meeting can be easily cancelled.

The board agrees to meet the first Tuesday of even months starting in December.


NEXT MEETING SCHEDULED FOR:

ADJOURN:

The time is 11:01 A.M. and the Board meeting is adjourned.

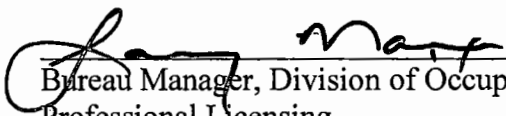
Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

12-6-16
Date Approved



Chairperson, Utah Acupuncture Licensing Board

12-6-16
Date Approved



Bureau Manager, Division of Occupational & Professional Licensing