

MINUTES
UTAH
ACUPUNCTURE
LICENSING BOARD
MEETING

December 8, 2015

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

CONVENED: 9:13 A.M.

ADJOURNED: 10:43 A.M.

Bureau Manager:
Board Secretary:

Larry Marx
Lisa Martin

Board Members Present:

Tiffany Garofalo, L.Ac Chairperson
Tyehao M. Lu, L.Ac
Conra Weber, Public Member
Regan J. Archibald, L.Ac

Board Members Absent:

Natalie Clausen, L.Ac

Guests:

Jacki Rogers, Quiworks Community Acupuncture
Chris Rogers, Quiworks Community Acupuncture
Kate Bradshaw, Holland & Associates
Sharon Lockhart, UAAOM
Kris Justo
Mark Brinton, UMA
Alyssa Johnson, UAAOM

DOPL Staff Present:

Ray Walker, Division Regulation Officer
Kevin McDonough, Attorney General

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the March 3, 2015 Board meeting were read.

Mr. Archibald made a motion to approve the minutes as read. Ms. Weber seconded the motion. The Board vote was unanimous.

Welcome Larry Marx

Mr. Walker introduced Larry Marx as the new bureau manager.

Swear in new board member

Ms. Weber was sworn in by Mr. Marx.

Elect Board Chairperson

Mr. Archibald elects Mr. Lu as chairperson. Ms. Weber seconded. No other nominations noted. Board vote was unanimous.

Appointments

9:20 Kate Bradshaw, Sunset Rule

Ms. Bradshaw introduced herself from the law firm of Holland and Heart. Ms. Bradshaw states she wanted the board to be aware of an active legislative committee, whose have put into place policies which requires each board under their authority to come under review prior to the session of their sunset review. The committee will make recommendations as to the business and labor committee.

Mr. Walker states the review and report is created by the committee rather than the division, they are looking to the profession to show why it should remain a licensed profession.

Ms. Bradshaw suggests the board will want to consider looking at a very regular set of meeting that the board is reviewing issues that arise in the profession.

Mr. Lu states in the past the board has attempted to have regular meeting but meetings are often cancelled.

Mr. Walker states the division policy is that if there are no agenda items the meeting is cancelled. If there are items that the board brings to the division a meeting is held.

Ms. Bradshaw states the 2016 legislative session is approaching and suggests a meeting prior to the session to suggest changes to the profession's licensing act.

Mr. Walker states it is common form professions to request changes to their licensing act it is important to note the committee's role is to asses if the existing act is recast with a new sunset date.

Ms. Bradshaw states the acupuncture sunset date July 1 2017; the opportunity to address it before the sunset would be legislation of 2017 creating the time for review interim of 2016.

Mr. Archibald asks what is risked if everything is not in place.

Mr. Lu states acupuncture could lose licensure status or being added to another board.

Ms. Bradshaw states there is a legislator that has an overall philosophy that government should play as little role as possible in the regulation of different types of profession; creating three tiers of certification, registration, and licensure. Licensure being the last option.

Mr. Walker states licensure would be what acupunctures has now. Certification is if a title were to be used to practice but anyone could practice the profession without using the title. Registration is the lowest form an individual would register; however there are no unprofessional conduct a person would register so the public knows they are there.

Ms. Lockhart, with the Utah Association for Acupuncture & Oriental Medicine (UAAOM), asks if the profession would then be regulated or monitored by the division.

Mr. Walker states it would depend on if the profession would continue as a license or change to a certification or registration.

Ms. Bradshaw states it is a difference between limitations of practice vs limitation of title.

TOPICS FOR DISCUSSION

Board Member Attendance

Ms. Garofalo states there has been some issue with board member attendance and wanted to address this topic.

Ms. Archibald states he travels often and asks if when he is out of state if it is possible to attend telephonically.

Mr. Walker states if the agenda states it will be an electronic meeting then board members can attend by phone.

Ms. Garofalo states that in the past the board would meet quarterly rather than twice a year.

Mr. Marx states if the board has agenda items the division will add meetings as requested.

Mr. Walker states if the board would like to meet more often the discussion will need to be on the agenda and the board will vote.

Prescriptive Authority

Ms. Garofalo states in previous meetings terms have changed in the pharmacy act that have affected items listed in the acupuncture profession. Ms. Garofalo states the acupuncture profession would like to use the term prescriptive authority.

Mr. Lu states in the last meeting the term procurement was discussed and even with the change there are continued issues. Pharmacies look for the term prescriptive authority. Other states have prescriptive authority in their practice act and they do not see the issues that are found here.

Mr. Walker states the prescribers in Utah have an associated controlled substance license and DEA license. Mr. Walker states to change a profession to a prescribing profession requires legislative change. The current statute defines the practice as recommendation, provision based on tradition or modern research. Mr. Walker continues that acupunctures can certainly provide but not prescribe.

Ms. Garofalo asks when the licensing act opens and the term 'prescriptive authority' is used in terms of the substances already listed.

Mr. Walker states the wording would have to be very clear to ensure that what is being asked for verses what would be limited.

Mr. Brinton, with the Utah Medical Association (UMA), states this topic would create questions and concerns. Mr. Brinton suggests consideration for the board to requests a letter as it relates to other state laws. Mr. Brinton continues it seems like the current statue give authority to do the work and obtain the supplies required and it seems the issue is in terminology from state to state.

Mr. Brinton states the UMA and the UUAOM will work together to clarify what is being requested and compose a clear understanding.

Ms. Bradshaw suggest language of other states be researched as well.

Mr. Lu made a motion to schedule a meeting for March 22. Ms. Garofalo seconded the motion. The board vote was unanimous.

Mr. Lu and Mr. Archibald will work with Mr. Marx on this topic prior to the March meeting.

Micro-needling Definition

Ms. Garofalo states the cosmetology practice act now includes the term dry needling and the UUAOM is concerned.

Mr. Lu states his understanding of micro-needling is the use of small needles that are puncturing however dry needling is using the needles to stimulate which is where the concern is founded.

Mr. Walker states looking at the cosmology practice act in regard to estheticians a variety of practice is allowed. Mr. Walker reads from the practice act and rule sections 58-11a-102(34), R156-11a-611(5) and R156-11a-102(22). Mr. Walker reads from the acupuncture act 58-72-102(4).

Mr. Marx clarifies the board's concern is what esthetician are doing in view of the definition of micro-needling.

Mr. Walker states it is not within the acupuncture board to define other professional practice acts or definitions.

Ms. Clausen asks how the board would raise concern of a profession exceeding the scope of practice.

Mr. Walker states if the board would like the attorney general office to review the board can make a motion stating such and the division would request an informal guidance letter.

Ms. Clausen requests the board request an adversary letter concerning the cosmetology practice act has exceeded its rule for dry needling.

Mr. Lu made a motion that the division make a request to the attorney general office to investigate if the cosmetology profession have exceeded their rule making authority. Ms. Garofalo seconded the motion. The board vote was unanimous.

NEXT MEETING SCHEDULED FOR:

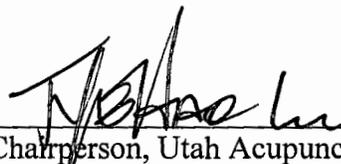
June 21, 2016

ADJOURN:

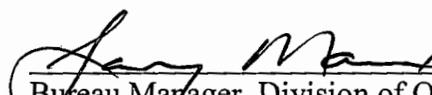
The time is 10:43 A.M. and the Board meeting is adjourned.

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.

3-22-16
Date Approved


Chairperson, Utah Acupuncture Licensing Board

Feb. 3, 2016
Date Approved


Bureau Manager, Division of Occupational & Professional Licensing