



State of Arizona Acupuncture Board of Examiners

1400 West Washington, Suite 230, Phoenix, Arizona 85007

(602) 364-0145 FAX (602) 542-3093

REGULAR MEETING

June 22, 2011

OPEN SESSION MINUTES

Members of the Arizona Acupuncture Board of Examiners met at 1:00 p.m. on Wednesday, June 22, 2011, at 1400 West Washington, Conference Room B-1, Phoenix, Arizona.

Board Members Present:

Toni Bernalley, L.AC., Chairperson
Rebecca Wilks, MD, Professional Member, Secretary
Ross Adelman, Consumer Member (via telephone)
Maureen Bronson, Consumer Member
Woohyung Cho, L.AC., Professional Member
Christopher M. Clair, Consumer Member
Dianne Darcy, L.AC., Professional Member
Robert L. Gear, NMD, DC, Professional Member

Board Members Absent:

Patricia E. Martin, L.AC., Professional Member

Administrative Staff:

Pete Gonzalez, Executive Director

Attorney General Representative:

Monty Lee, Assistant Attorney General

Call to Order

Chairperson Bernalley called the meeting to order at 1:00 p.m.

Moment of Silence—Stephen A. Stubenrauch, L.AC.

Mr. Stubenrauch passed away on June 9, 2011 in Flagstaff, Arizona.

Recognition of John Rhodes, L.AC.

The Board recognized Mr. Rhodes for his service and contributions while serving on the Board: February 2008 – January 2011.

The following order of business was then considered:

Declaration of Conflicts of Interest

Board Member Bernalley declared a conflict of interest on Agenda Item 6—Administrative Inquiry: Jason Umberger.

Discussion and Approval of Minutes

Board Member Bronson moved the adoption of the minutes for the May 25, 2011 regular board meeting with Board Member Clair providing a second. The motion carried by unanimous vote: 8-0.

Adelman	Bernalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Wilks	Vote
X	X	X	X	X	X	X		X	Aye
									Nay
									Recused
									Abstained
							X		Absent

Administrative Inquiry re: Jason Umberger

Board Member Wilks assumed the chair given the conflict of interest entered by Board Member Bernalley. Board Member Bronson moved to close this matter since no additional information has come forward with Board Member Wilks providing a second. The motion carried by unanimous vote: 7-0.

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Wilks	Vote
X		X	X	X	X	X		X	Aye
									Nay
	X								Recused
									Abstained
							X		Absent

Applications for Licensure (without self disclosures)

The Board reviewed the license applicant chart and Board Member Bronson moved for the approval of the applicant for licensure listed below with Board Member Wilks providing a second. The motion carried by unanimous vote: 8-0.

Daniel R. Schufft

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Wilks	Vote
X	X	X	X	X	X	X		X	Aye
									Nay
									Recused
									Abstained
							X		Absent

Applications for Licensure (with self disclosures)

The Board reviewed the license applicant chart and Board Member Bronson moved for the approval of the applicant for licensure listed below with Board Member Wilks providing a second. The motion carried by unanimous vote: 8-0.

Sally Van Snepson-Barnett

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Wilks	Vote
X	X	X	X	X	X	X		X	Aye
									Nay
									Recused
									Abstained
							X		Absent

Other Applications/ Requests - Continuing Education

The Board reviewed the continuing education application for the course “Dental Acupuncture” provided by the Asian Institute of Medical Studies on August 14, 2011 for 7.5 hours in Tucson.

Board Member Wilks moved for the approval of the continuing education application with Board Member Cho providing a second. The motion carried by unanimous vote: 8-0.

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Wilks	Vote
X	X	X	X	X	X	X		X	Aye
									Nay
									Recused
									Abstained
							X		Absent

The Board reviewed the continuing education application for the course “Facial Rejuvenation Acupuncture” provided by the Asian Institute of Medical Studies on July 9-10, 2011 for 15 hours in Tucson.

Board Member Bronson moved for the approval of the continuing education application with Board Member Wilks providing a second. The motion carried by unanimous vote: 8-0.

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Wilks	Vote
X	X	X	X	X	X	X		X	Aye
									Nay
									Recused
									Abstained
							X		Absent

The Board reviewed the continuing education application for the course “Differential Diagnosis of Musculoskeletal System” provided by Jeffrey Utter, BS, on-line for 16 hours.

Board Member Bronson moved for the approval of the continuing education application with Board Member Wilks providing a second. The motion carried by unanimous vote: 8-0.

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Wilks	Vote
X	X	X	X	X	X	X		X	Aye
									Nay
									Recused
									Abstained
							X		Absent

The Board reviewed the continuing education application for the course “Headaches and Other Head Conditions” provided by Jeffrey Utter, BS, on-line for 4 hours.

Board Member Wilks moved for the approval of the continuing education application with Board Member Clair providing a second. The motion carried by unanimous vote: 8-0.

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Wilks	Vote
X	X	X	X	X	X	X		X	Aye
									Nay
									Recused
									Abstained
							X		Absent

The Board reviewed the continuing education application for the course “Pain Management and Palliative Care” provided by Jeffrey Utter, BS, on-line for 6 hours.

Board Member Bronson moved for the approval of the continuing education application with Board Member Darcy providing a second. The motion carried by unanimous vote: 8-0.

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Wilks	Vote
X	X	X	X	X	X	X		X	Aye
									Nay
									Recused
									Abstained
							X		Absent

The Board reviewed the continuing education application for the course “Record Keeping, Outcome Measures, Documentation and Forms” provided by Jeffrey Utter, BS, on-line for 10 hours.

Board Member Wilks moved for the approval of the continuing education application with Board Member Bronson providing a second. The motion carried by unanimous vote: 8-0.

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Wilks	Vote
X	X	X	X	X	X	X		X	Aye
									Nay
									Recused
									Abstained
							X		Absent

Executive Director Report

License and Certificate Status Report:

Active Licensed Acupuncturists: 504

Expired Licenses: 5

Active Certified Auricular Acupuncturists: 54

Board Office Information/Activities:

- Pursuant to Arizona Revised Statutes §32-3925 (B), license and certificate renewal notices for July and August 2011 licensees were prepared and sent. In addition, expired license and certificate letters for the months of April and May 2011 were sent.
- Completed and submitted Certification of Compliance to the Governor's Regulatory Review Council as required by A.R.S. §41-1091(D). The Board is required to certify the Board:
 - Publishes at least annually a directory summarizing the subject matter of all currently applicable rules and substantive policy statements;
 - Keeps a copy of the directory and all substantive policy statements at one location;
 - Has the notice in A.R.S. §41-1091(B) on the first page of each substantive policy statement; and
 - Makes the directory, rules, substantive policy statements, and any materials incorporated by reference in the rules or substantive policy statements open to public inspection at the office of the agency director.
- Completed and submitted the annual progress report to the Governor's Regulatory Review Council as required by A.R.S. §41-1056(H). The purpose of the annual report is for rulemaking agencies to describe their progress in completing the action items set forth in all five-year-review reports of the previous five years.
- Responded and submitted the credentials verification survey from Aperture. Aperture, an Ingenix company, is a credentials verification organization contracted to assist health plans with primary source verification of practitioners.
- Attended the Agency/Board Executive Director's meeting on June 14, 2011.
- Continued working with the University of Arizona Department of Family and Community Medicine on the Project Reach research study to recruit acupuncturists for participation in this study. A copy of the announcement is attached.

Legislation

- The Legislature passed House Bill 2102 in the 2011 Regular Session. Found in this bill are the requirement for an individual applying for a license must present a government issued document that contains a photograph of the individual in order to obtain a license. Currently, an applicant may submit a copy of a birth certificate (which does not have a government issued identification that includes a photograph) or passport.

Professional Business

Dry Needling Discussion

The Board has heard from the community on the topic of dry needling in the last couple of board meetings. Therefore, the Board invited Charles Brown, Executive Director, from the Arizona State Board of Physical Therapy (ASBPT), to answer questions regarding this topic.

Mr. Brown explained the recognition of continuing education courses by the Arizona State Board of Physical Therapy. These courses are not approved by the Board, but by the national physical therapy association(s). There are three categories of courses for physical therapists to meet their continuing education requirements.

The Board asked Mr. Brown if the ASBPT has discussed the issue of dry needling in the past. Mr. Brown responded the ASBPT has reviewed the issue, but no action has taken place since there has not been a complaint/inquiry presented to the ASBPT for further review and discussion.

Board Member Gear asked the limits of a physical therapist taking a continuing education course and the ability to practice within their scope of practice after what is learned in the course. Mr. Brown stated it is difficult to limit everything that is learned in the course for any profession.

Board Member Wilks wanted to know how the ASBPT is assured the appropriate training has been attained in order to practice dry needling. Mr. Brown explained the ASBPT requires an applicant to demonstrate their training and education in order to secure a license.

Board Member Clair expressed his concern that we may be waiting for something bad to happen before either board acts on behalf of the public in regards to dry needling treatments performed by physical therapists. He would like to see the board be more proactive on this issue.

Board Member Adelman, as a consumer member of the Board, believes something needs to be done. He believes a great deal of confusion is faced by the public on the matter of dry needling. Furthermore, collaboration between both boards is needed to protect the public. Mr. Adelman has questions regarding the training of physical therapists in dry needling and wonders if disclaimers for the public to distinguish between dry needling and acupuncture are needed.

Mr. Brown assured the Board that physical therapists cannot advertise acupuncture treatments. If this is violated, the ASBPT would investigate the matter and take appropriate action. Mr. Brown urged anyone that is aware of this sort of activity taking place to file a complaint with the ASBPT.

Board Member Wilks believes that physical therapists have a great deal of education, but to protect the public's safety there may need to be a defined requirement of training for those interested in dry needling.

Board Member Bennialley's primary concern is the safety issue as it pertains to dry needling treatments.

Board Member Bronson wanted to know what a physical therapist tells a patient when needles are presented to the patient. Mr. Brown could not provide an answer to this question at this time.

Board Member Adelman suggested that a sub-committee, with members from both boards, be created to study this issue if people are interested in serving. Board Member Bennialley asked Mr. Brown to ask his board if they are interested in such a sub-committee.

Comments by Catherine Niemiec:

Madam Chair and Members of the Board:

Thank you for the opportunity to comment on this issue. I also thank the members of the Physical Therapy board for their willingness to meet on this issue.

As one of the original proponents of the acupuncture licensing law, we found consensus from this Legislature and the Governor that the public was substantially at risk from insufficiently trained practitioners of acupuncture, such the Acupuncture Board of Examiners was created to ensure the minimum level of training in acupuncture. As a college president and an Accreditation Commissioner of Acupuncture and Oriental Medicine, I can attest that the colleges of Acupuncture and Oriental medicine teach many hours beyond the minimum standard in this state, since much is required to become a safe and effective practitioner. Yet the minimum standard as set by the national certification exam and the World Health Organization are the primary criteria for ensuring that no harm will come to the public. Thus, any practitioner who is *not* a physician must meet these standards, no matter what field of medicine in which they seek to needle another human being. Furthermore, recasting the definition or name of acupuncture as “dry needling” should not be used as an opportunity to circumvent these minimal safety standards, regardless of the characterization of the theory behind it, whether western or Asian medicine.

I. Dry Needling is the practice of Acupuncture

-AAAOM (www.aaaomonline.org) and CCAOM (www.ccaom.org) have determined that dry needling is the practice of acupuncture

-Dry needling uses the same acupuncture needles used by acupuncturists

-Dry needling uses the same acupuncture points on the body used by acupuncturists

-Dry needling produces the same effects in the body as intended by acupuncturists

-The Arizona definition for Acupuncture clearly includes the practice of dry needling: ARS 32-3901, Acupuncture “means **puncturing the skin by thin, solid needles** to reach subcutaneous structures, stimulating the needles **to affect a positive therapeutic response** at a distant site and the use of adjunctive therapies.”

-Physical Therapists should not be allowed to define acupuncture as dry needling in order to circumvent minimum safety and training requirements, nor should the teaching of dry needling via continuing education be allowed to justify an expansion of scope of practice for Physical Therapists

II. The Public is Harmed and At Risk from Insufficiently Trained Practitioners

-The standard of training for non-physicians is at least 1850 hours of training (WHO, NCCAOM, ACAOM, Arizona) that includes at least 800 hundred hours of board approved clinical training, all from a board approved program (this is in addition to western science training)

-Physical Therapists who perform dry needling typically take a weekend seminar of 15 hours, without training in clean needle technique

-National standards create a public expectation of safety

Thus, just as the Homeopathic Board of Examiners recently acknowledged, the safety of the public is paramount when needling. Accordingly they also mandated their

Homeopathic Medical Assistants to meet the same standards and become certified by the NCCAOM. We simply ask that the Physical Therapists have the same concern for the public before being qualified to needle.

It is clear that Arizona lawmakers recognized that the practice of acupuncture/dry needling is a unique, invasive procedure that clearly has therapeutic benefits but also represents a clear danger to public safety if performed by individuals without sufficient training and education. As such, we ask that Acupuncture Board and the Physical Therapy board acknowledge that there is significant risk to public health and safety in the practice of acupuncture/dry needling by under-trained practitioners and that the Physical Therapy profession adopt the same national standards of training and education.

Catherine Niemiec, JD, L.Ac.

301 E. Bethany Home Road, A-100

Phoenix, AZ 85012

cniemiec@pihma.edu

President of Phoenix Institute of Herbal Medicine & Acupuncture (PIHMA)

Vice-Chair of the Accreditation Commission of Acupuncture & Oriental Medicine (ACAOM)

Former Vice-President of the Council of Colleges of Acupuncture & Oriental Medicine (CCAOM)

Founder/Current President of the Arizona Society of Acupuncture & Oriental Medicine (AzSOMA)

Comments by Lloyd Wright, L.AC.

Dear Board Members,

I would like to thank you for entertaining input on this important issue of public safety. I am here to relate the views and position of the American Association of Acupuncture and Oriental Medicine (AAAOM) on the matter of dry needling being performed by physical therapists. I am a Licensed Acupuncturist, the President Emeritus of the Arizona Society for Oriental Medicine and Acupuncture, former board member of the AAAOM, former member and Vice Chair of the California Acupuncture Board, I am Board certified in Acupuncture Orthopedics, served as a Qualified Medical Evaluator for California Worker's Compensation, and participated in the development and writing of the AAAOM position paper on trigger point dry needling.

To summarize the AAAOM position paper I would like to begin by pointing out that acupuncture has a very long history dating back over 5,000 years with a written history of approximately 2,500 years. During the course of that time literally hundreds of different styles and techniques have developed. Even in recent history techniques of needling and application have developed from Korea, Japan, France, England, and the United States and utilized a verity of theoretical modals to describe the mechanisms of action and range from the esoteric to the fundamental physiological action of motor point release.

Trigger point dry needling is simply one technique of the practice of acupuncture among hundreds that have developed through history. There is simply no way around the fact that a physical therapist that practices dry needling is engaged in the practice of

acupuncture. There is nothing within the statute or rules of the PT Board to indicate that acupuncture is included in the practice of physical therapy. Even if it were included our deepest concern is the level of training that physical therapists are currently receiving before engaging in this one particular aspect of the practice of acupuncture. Coursework for physical therapist to learn dry needle varies from 12 to 46 hours of weekend courses. There are no supervised clinical hours. This level of training is frankly inadequate to assure the safety of the public or the competency of the practitioner.

Reviewing national and international standards of training for the practice of acupuncture we find the following:

- National standard for United States for Licensed Acupuncturists is 1905 hours including 660 hours of observed clinical training. Most Licensed Acupuncturists receive the full scope of training in Oriental medicine with a minimum of 2625 hours of education and training to upwards of 3300 hours.
- World Health Organization minimum standards for fully trained Medical Doctors are 200 hours of training for limited practice and to be fully trained as an acupuncturist 1500 hours including 500 hours of clinical supervised practiced. It is noteworthy that the UCLA training course for physicians increased their number of hours to 300 several years ago.
- Chiropractor physicians in Arizona may practice under the Chiropractic Board with 100 hours of training and passage of a qualifying exam.
- Physical therapist have no set standards, no clinical studies, no exam, and expect to start practicing a narrow band of acupuncture with somewhere between 12 and 46 hours of weekend coursework. There is no opportunity to comprehend the depth of the medicine which they wish to incorporate or understand the context of how the therapy affects the patient.

As a Licensed Acupuncturist I can fully appreciate that idea that a PT may wish to include acupuncture into their practice. In fact I believe it is a great idea to combine modalities to acquire superior outcomes. But the level of training that PTs are seeking is completely out of sync with the most minimum standards of all other professions. I am left wondering what a physical therapist will do when they encounter an adverse effect or event. Do they simply say to the patient "I'm sorry I guess this doesn't work for you?" Do they actually admit to the patient that they have a relatively minuscule amount of training and perhaps the patient may have better and more rapid results with a more thoroughly trained practitioner? How much of the health care consumer's dollar should be spent on less efficient treatment because a practitioner of that modality knows only a sliver of the knowledge that other professionals know about the practice?

I would like to leave you with one final antidotal bit of data. I have been practicing for over 26 years; during that time I conservatively estimate that I have inserted 1.5 million needles in my various patients during that time. I am very well aware of direct needling into a trigger point and it is last approach I use to relieve a patient's pain, injury, and cramping. One may ask why? There are only two reasons, first of all it is the least effective technique I know, which does not mean I never use dry needle just not often. The second reason is that I have many times seen a patient become worse from needling directly into an area that is inflamed or in spasm. Yet this is the sole technique that PTs wish to incorporate. The practice of any form of acupuncture without proper

training is simply a bad idea. It potentially leaves patients in worse condition than when they started and may generate greater unnecessary expense.

In conclusion I would suggest that if the PT community wishes to have the legislature change their scope of practice to include acupuncture, the Arizona State Board of Physical Therapy and the PT community consult with the members of the acupuncture community and other interested parties and arrive at a reasonable level of education that will serve both the PT community and the health care consumer.

Comments by Susan Cannata, LaSota & Peters, to the Arizona Acupuncture Board of Examiners

Madam Chair and Members of the Board:

I am here today representing the Arizona Society of Oriental Medicine & Acupuncture (AzSOMA), a statewide organization dedicated to preserving the highest standards in, and promoting public access to, Oriental Medicine and Acupuncture, as well as protecting the interests of licensed acupuncturists and their patients.

You have heard from others how dry needling is the practice of acupuncture. More than a decade ago, the Arizona Legislature decided that the practice of acupuncture needs to be regulated in order to protect the public. Acupuncture or dry-needling is not currently within the scope of practice for physical therapists. Our concern is that the practice by physical therapists, which appears to be going on without regulation by any board, presents a danger to the public.

If physical therapists wish to establish acupuncture techniques within their scope of practice, there is a formal legislative mechanism for doing so. This is called a "sunrise process," and it allows the legislature and stakeholders to delve into issues such as public safety and training. Physical therapists cannot expand their scope of practice to include dry needling by taking continuing education courses, or even through board rule; they may only do so through legislation.

Until such time as the legislature determines that physical therapists may appropriately provide acupuncture, AzSOMA will be asking that the Arizona Board of Physical Therapy (1) notify all licensees that dry needling is not within the scope of practice and that performing dry needling is grounds for discipline pursuant to ARS § 32-2044, subsection 2; and (2) investigate any complaint and bring disciplinary action upon a finding that a physical therapist is practicing or offering to practice dry needling.

Comments by John Rhodes, L.AC.

During the past 36 years that I have been a physical therapist, it would have never occurred to me to use acupuncture as a dry needle technique to treat any of my patients. I considered it against the law. During my first 2 years as a physical therapist, starting in 1975, I observed the "turf battles" between the physical therapy profession and the chiropractors over the use of modalities. The physical therapy students come out of school with hours and lecture and lab instruction in the use of the modalities from which the physical therapy name is derived; physical modalities. It was the general consensus within the PT profession, that the chiropractic aides received some direction from the medical equipment

sales rep and were deemed "qualified" to treat the patients. I felt that there was an innate respect for the scope of practice of other professions and areas of expertise that served as protection for the licensed professional and more importantly, protection for the patient.

Over the years, I felt that the direction of my physical therapy practice had led me to pursue an Acupuncture license which would allow me to legally incorporate Oriental Medicine into my scope of practice. It also allowed me to charge the insurance companies for my treatments without any loss of integrity. I know of chiropractors who have chosen this route as well, even though their practice act allows for them to use acupuncture through a certification procedure. The enticement to expand anyone's expertise into as many areas as possible obviously increases the potential base of referrals and revenue source.

Unfortunately, I feel that this enthusiasm has affected a few PTs who are obviously pushing limits of their scope of practice into an area that clearly includes acupuncture. Even if this practice is so very obvious to the patient or the outside observer, its lure tends to blur the vision of the PT who feels it is well within their scope of practice. At the 2011 Spring PT State meeting, I was not surprised but very concerned when I heard that a PT colleague of mine had been using acupuncture as a form of dry needling for over 20 years. Dry needling or however one might choose to describe it, is in fact acupuncture.

I strongly support any efforts to discourage the use of acupuncture by any individual who is not a licensed acupuncturist but still chooses to use acupuncture or dry needling techniques in their practice.

Board Member Cho expressed his concern on this topic and asked the Board to take the appropriate steps to work with the Physical Therapy board in order to protect the public.

Executive Director Brown from the Arizona State Board of Physical Therapy stated the Board has not determined that dry needling is within the scope of practice for physical therapists.

Future Meeting Dates

August 24, 2011
October 26, 2011

Call to the Public

No requests were made.

Discussion of Items to be place on a future meeting agenda

- Strategic Plan

Adjournment

Board Member Bronson moved for adjournment and Board Member Cho provided a second. The motion carried by unanimous vote: 8-0. The Board adjourned at 2:16 p.m.

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Wilks	Vote
X	X	X	X	X	X	X		X	Aye
									Nay
									Recused
									Abstained
							X		Absent

Respectfully Submitted,



Pete Gonzalez
Executive Director

Approved by the Board: August 24, 2011