



## State of Arizona Acupuncture Board of Examiners

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### REGULAR MEETING

May 22, 2013

### OPEN SESSION MINUTES

Members of the Arizona Acupuncture Board of Examiners met at 1:00 p.m. on Wednesday, May 22, 2013, at 1400 West Washington, Conference Room B-1, Phoenix, Arizona.

#### **Board Members Present:**

Woohyung Cho, L.AC., Professional Member, Chairman

Christopher M. Clair, Consumer Member, Secretary

Ross Adelman, Consumer Member, (via telephone)

Maureen Bronson, Consumer Member

Teresa Buechel, L.AC., Professional Member

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

John M. Rhodes, L.AC., Professional Member

#### **Board Members Absent:**

Vacancy, Professional Member

Vacancy, Professional Member

#### **Administrative Staff:**

Pete Gonzalez, Executive Director

#### **Attorney General Representative:**

Montgomery Lee, Assistant Attorney General

#### **Call to Order**

Chairman Cho called the meeting to order at 1:05 p.m.

The following order of business was then considered:

**Declaration of Conflicts of Interest**

None.

**Discussion and Approval of Minutes**

Board Member Clair moved the adoption of the March 27, 2013 regular board meeting minutes with Board Member Martin providing a second. The motion carried by unanimous vote: 7-0.

Adelman	Bronson	Buechel	Cho	Clair	Martin	Rhodes	Vacancy	Vacancy	Vote
X	X	X	X	X	X	X			Aye
									Nay
									Recused
									Abstained
									Absent

Board Member Rhodes moved the adoption of the April 24, 2013 regular board meeting minutes with Board Member Martin providing a second. The motion carried by a vote of: 6-0.

Adelman	Bronson	Buechel	Cho	Clair	Martin	Rhodes	Vacancy	Vacancy	Vote
X		X	X	X	X	X			Aye
									Nay
									Recused
	X								Abstained
									Absent

Discussion and Appointment of Board Member John Rhodes to Joint Committee with the Arizona State Board of Physical Therapy regarding Dry Needling

Board Member Rhodes read the following statement:

I ask you as fellow board members not to misconstrue my motives in making the following statement. My concern is that opinions and misconceptions about the purpose of the Arizona Acupuncture Board of Examiners and its members, has burdened us with unnecessary damage control and misdirected us from our primary responsibilities.

During the past year, I have served on the board of the Arizona society of oriental medicine and Acupuncture (AzsoMA)' My role and sincere purpose was to promote acupuncture and my profession, and help protect the privileges of licensed acupuncturists in the state. My sense of fairness and justice, and my passion for acupuncture motivates me into a proactive attitude. Marketing, professional association promotion and protection of scope of practice are some primary goals.

Now, reappointed to serve on the acupuncture board of examiners, my role as changed. I served on this board with the purpose of consumer protection. The government relies on our experience and perception, and trusts our opinions to be without conflict of our own personal and professional interests.

I must serve without self promoting attention. This is not a popularity contest.

I must maintain confidentiality and avoid the temptation to convince and/or influence of the board members to make decisions that conflict with the objective information before us. with no exception, I do not have the authority or permission to discuss the issues being considered before this board, with any individuals who are not on this board.

I must listen with objectivity and fairness to the complaints of the consumer and to the responses from licensed acupuncturists or professional against whom a complaint has been filed.

My desire is to serve on this board with dignity and pride in how we are perceived by the public we protect and how we maintain the professional and legal guidelines with which we are intrusted. Projecting an image of professional clarity and support for majority decisions made by this board reflects an environment of confidence that the public can trust and on which they can rely.

I welcome any response to this statement and even though it is on public record, I discourage further discussion on the matter, outside of this meeting.

Board Member Cho moved for the appointment of Board Member Rhodes to the Joint Committee with the Arizona State Board of Physical Therapy regarding dry needling with Board Member Adelman providing a second. The motion carried by a vote of: 6-0.

Adelman	Bronson	Buechel	Cho	Clair	Martin	Rhodes	Vacancy	Vacancy	Vote
X		X	X	X	X	X			Aye
									Nay
									Recused
	X								Abstained
									Absent

**Arizona Acupuncture Board of Examiners and Arizona State Board of Physical Therapy Study Group on Dry Needling Report**

Executive Director Charles Brown from the Arizona State Board of Physical Therapy and Executive Director Pete Gonzalez from the Arizona Acupuncture Board of Examiners provided the Board with an explanation of the scope of the study group.

The notes from the three stakeholder meetings conducted by the Arizona State Board of Physical Therapy are available on the board’s website for review.

The first meeting of the study group is scheduled for the week of June 10, 2013. The Arizona State Board of Physical Therapy has named its three volunteers to the study group and are not members of the board. The makeup of these volunteers are as follows: licensed physical therapist who practices dry needling, physical therapy educator from Arizona and a licensed physical therapist who does not practice dry needling. The board directed Executive Director Brown to work with the Arizona Acupuncture Board of Examiners on the dry needling issue. The work of the committee will be provided to Executive Director Brown to present to the Arizona State Board of Physical Therapy. According to Mr. Brown, his Board wants to fully understand the issue of dry needling as it applies to the profession of physical therapy.

A description and discussion on how each board determined their representatives to the study committee took place.

Executive Director Brown informed the Board of the efforts taken by the Arizona State Board of Physical Therapy to address this issue started with the three stakeholder meetings as conducted by a public affairs firm contracted to assist the board on this matter.

Board members expressed their disappointment with not having board members from the Arizona State Board of Physical Therapy on the study committee.

The Board discussed the possibility of completing the work of the committee in the coming months as desired by both boards.

Assistant Attorney General Lee indicated the study committee will need to post meeting agendas per the open meeting law requirements.

### **Complaints/Investigations**

#### Complaint #2013-03 (Unprofessional Conduct) re: Qingsong Xiao, L.AC.

Mr. Craig J. Klodzinski filed the complaint because he alleges that Ms. Xiao is practicing out of scope per her treatment plan in the treatment records dated 1/23/10. Mr. Klodzinski stated other individuals in Ms. Xiao's office treated him and questions whether this is allowable per state law.

Danielle Phillips, speaking on behalf of Ms. Xiao, explained some treatments were conducted by Ms. Xiao and others per her massage therapy license provisions.

The question on whether Tuina can be billed under the massage therapy or acupuncture license was raised and the Board spoke only to the acupuncture statutes.

Board Member Rhodes provided the Board with a brief explanation of billing codes to better determine if Ms. Xiao was billing as an acupuncturist or a massage therapist.

The discussion continued on whether Ms. Xiao performed treatments per her acupuncture license or massage therapy license. The Board members restated their oversight is restricted to the practice of acupuncture.

Mr. Klodzinski wants to know if the treatments he received from Ms. Xiao are permitted under acupuncture statutes. The Board discussed the scope of practice language found in state law.

The Board review of the treatment notes indicate that Mr. Klodzinski was feeling better with the treatments provided by Ms. Xiao. Ms. Klodzinski questioned why some additional notes have now surfaced.

Mr. Klodzinski is questioning the billing and whether the treatments provided are under the scope of practice for acupuncture.

Assistant Attorney General Lee outlined the statutory oversight of acupuncturists and referenced A.R.S. 32-3901 where the Board would have to determine if a violation, as outlined in law, has taken place.

Board Member Bronson asked Mr. Klodzinski if he ever received a receipt for payment of treatments. Mr. Klodzinski stated 58 visits took place, but did not receive a monthly or per visit bill throughout his treatment.

The Board asked Mr. Klodzinski to provide a chronology of events that led to the filing of the complaint with the Board on January 16, 2013.

Board Member Cho asked for the date when the workers compensation claim, filed by Mr. Klodzinski, was denied. The claim was denied on April 14, 2011.

Board Member Cho moved to enter executive session to receive legal advice at 3:00 p.m. with Board Member Clair providing a second. The motion carried by a vote: 6-1.

Adelman	Bronson	Buechel	Cho	Clair	Martin	Rhodes	Vacancy	Vacancy	Vote
X	X	X	X	X		X			Aye
					X				Nay
									Recused
									Abstained
									Absent

The Board returned to regular session at 3:26 p.m.

Board Member Martin moved to dismiss Complaint #2013-03 with Board Member Clair providing a second. The motion carried by a vote of: 6-1.

Adelman	Bronson	Buechel	Cho	Clair	Martin	Rhodes	Vacancy	Vacancy	Vote
X	X	X	X	X	X				Aye
						X			Nay
									Recused
									Abstained
									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 Martin providing a second. The motion carried by unanimous vote: 7-0.

David K. Wallace  
 Patricia L. Crawford  
 Mary M. Shutan  
 Renee I. Stucklen

Adelman	Bronson	Buechel	Cho	Clair	Martin	Rhodes	Vacancy	Vacancy	Vote
X	X	X	X	X	X	X			Aye
									Nay
									Recused
									Abstained
									Absent

**Other Applications/Requests – Continuing Education**

“Gua Sha” provided by the Phoenix Institute of Herbal Medicine and Acupuncture for 3 hours in Phoenix on June 6, 2013.

The Board reviewed the application and Board Member Rhodes moved for approval of the application with Board Member Clair providing a second. The motion carried by a vote of: 5-2.

Adelman	Bronson	Buechel	Cho	Clair	Martin	Rhodes	Vacancy	Vacancy	Vote
X		X	X	X		X			Aye
	X				X				Nay
									Recused
									Abstained
									Absent

”Mindfulness Based Stress Reduction and Relaxation” provided by the Scottsdale Institute for Health and Medicine for 30 hours in the Phoenix area.

The Board reviewed the application and Board Member Rhodes moved for approval of the application with Board Member Clair providing a second. The motion carried by a vote of: 6-1.

Adelman	Bronson	Buechel	Cho	Clair	Martin	Rhodes	Vacancy	Vacancy	Vote
X	X	X	X	X		X			Aye
					X				Nay
									Recused
									Abstained
									Absent

**Professional Business**

Legislative Representative (Lobbyist) Contract Discussion

As the Board became aware of physical therapists using “Dry Needling” in April 2011, a great deal of activity has taken place to address this matter.

The Board has conducted a number of meetings in Phoenix and Tucson to better understand the issue. The Board has received numerous comments, papers, and documents from licensed acupuncturists presenting reasons why physical therapists should not be allowed to practice dry needling.

In addition, the Arizona State Board of Physical Therapy (ASBPT) conducted stakeholder meetings across the state for the purpose of gathering information on dry needling.

At this point, the Board will be participating in a study committee with the ASBPT to assure that public safety is maintained due to physical therapists using dry needling.

Recently, the Board office became aware of occupational therapists and athletic trainers using dry needling in their respective practices. This development seriously indicates the issue of dry needling is expanding into other health care professions.

Executive Director Gonzalez recommended the Board consider contracting the services of a legislative representative (lobbyist) firm to assist with the dry needling issue.

These services will supplement services provided by the Board staff and are anticipated to be required for fiscal year 2014 (July 1, 2013 to June 30, 2014).

Adelman	Bronson	Buechel	Cho	Clair	Martin	Rhodes	Vacancy	Vacancy	Vote
X	X	X	X	X	X	X			Aye
									Nay
									Recused
									Abstained
									Absent

**Executive Director’s Report**

**License and Certificate Status Report:**

Active Licensed Acupuncturists: 545  
Expired Licenses: 7  
Active Certified Auricular Acupuncturists: 42

**Board Office Information/Activities:**

- Pursuant to Arizona Revised Statutes §32-3925 (B), license and certificate renewal notices for July 2013 licensees were prepared and sent. In addition, expired license and certificate letters for the month of April 2013 were sent.
- Lobbyist report for the first quarter of 2013 was completed and submitted to the Office of the Secretary of State.
- Working with the Executive Director of the Arizonan State Board of Physical Therapy to outline a schedule of meetings to review the information gathered at the three stakeholder meetings held in Phoenix, Tucson, and Flagstaff.
- Attended May 5, 2013 town hall meeting in Phoenix to discuss dry needling issue.

### **Budget Information**

- The Governor's office and the Legislature have begun discussions on the state budget. At this time, the Board's funding requests have been recommended for approval. The Legislature has approved a revised state budget, but without the Governor's request for Medicaid expansion. This development could stall the budget approval process again.

### **Legislation**

Senate Bill 1037, introduced by Senator Nancy Barto, includes the Board's legislative recommendations as developed by the continuing education advisory and legislative advisory committees.

SB 1037 was approved by the Arizona State Senate on February 11, 2013 by a vote of 28 ayes and 1 nay and sent to the Arizona House of Representatives for action.

The Arizona House of Representatives Health and Rules have approved SB 1037 with unanimous votes. The Arizona House of Representatives Majority and Minority caucuses have approved the bill and the bill is awaiting committee of the whole action by the Arizona House of Representatives.

### **Board Member Compensation**

As the uncertainty of an approved state budget continues, the Board may need to reassess the projected amount of board member compensation for the coming fiscal year. The plan was to raise the compensation amount from \$30 to \$50, but without the passage of SB 1037 and state budget it would prudent to keep the \$30 payment until all is resolved.



**Board Member Resignation**

Board Member Robert Gear submitted his resignation from the Board on May 8, 2013. The Governor’s Boards and Commissions office will be seeking to find a replacement.

**Future Meeting Dates**

June 26, 2013  
July 24, 2013

**Call to the Public**

Jessica Jordan, L.AC., thanked the Board for moving forward in securing a lobbyist to assist on the dry needling issue. In addition, Ms. Jordan provided the Board with information on how to access additional data on dry needling activities.

**Discussion of Items to be place on a future meeting agenda**

- License renewal fees
- Legislative committee meetings

**Adjournment**

Board Member Bronson moved for adjournment and Board Member Rhodes provided a second. The motion carried by unanimous vote: 7-0. The Board adjourned at 4:09 p.m.

Adelman	Bronson	Buechel	Cho	Clair	Martin	Rhodes	Vacancy	Vacancy	<b>Vote</b>
X	X	X	X	X	X	X			Aye
									Nay
									Recused
									Abstained
									Absent

Respectfully Submitted,



Pete Gonzalez  
Executive Director

Approved by the Board: June 26, 2013