



New Mexico Regulation and Licensing Department
BOARDS AND COMMISSIONS DIVISION
Board of Acupuncture and Oriental Medicine
Toney Anaya Building ▪ 2550 Cerrillos Road ▪ Santa Fe, New Mexico 87505
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REGULAR BOARD MEETING
Monday September 22, 2008 at 9:00 a.m.
Regulation & Licensing, Toney Anaya Building
2550 Cerrillos Road, Rio Grande Room
Santa Fe, New Mexico

"DRAFT MINUTES"

MEMBERS PRESENT: John Pieper, Public Member, Chair
Caroline Colonna, DOM, Professional Member Vice Chair
Alix Bjorklund, DOM, Professional Member
Angelique Cook-Lowry, DOM, Professional Member
Barbara Maddoux, DOM, Professional Member
Anna Hansen, Public Member
Cynthia Archuleta, Public Member

BOARD STAFF: Martha L. Gallegos, Board Administrator
Adrian Terry, Assistant Attorney General
Andrew Vallejos, Boards & Commissions Division Director
Diane Vigil-Hayes, Exam Administrator

OTHERS PRESENT: See Sign-In Sheet (Attachment A)

I. CALL TO ORDER AND ROLL CALL

Chairman Dr. Pieper called the meeting to order at 9:11 a.m. Roll call was taken and it was determined that a quorum was present.

Chair Dr. Pieper introduced the Board's new Assistant Attorney General, Adrian Terry.

II. APPROVAL OF AGENDA

Dr. Colonna **MOVED** to approve the agenda. Dr. Bjorklund **SECONDED** the motion. Motion **PASSED** by unanimous decision.

III. APPROVAL OF MINUTES

A. December 7, 2007, Regular Meeting Minutes - Ms. Hansen **MOVED** to table the minutes of December 7, 2007 until the next board meeting. Dr. Bjorklund **SECONDED** the motion. Motion **PASSED** by unanimous decision.

B. August 21, 2008, Regular Meeting Minutes - Ms. Hansen expressed her concern that the minutes do not reflect Dr. Colonna's statement on why she went to the attorney general's office asking for an opinion. Ms. Hansen feels it is an important issue and is requesting it be in the minutes. Dr. Colonna **MOVED** to approve the minutes of August 21, 2008 with the additional information Ms. Hansen is requesting to be included. Discussion. Dr. Cook-Lowry also **MOVED** to keep the tapes from the August 21, 2008 meeting in archives. Mr. Vallejos

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opposed the keeping of tapes in archives from an RLD standpoint. The tapes are erased once the minutes are approved. Minutes are not meant to be kept verbatim. The purpose of minutes is for final action and general discussion. Ms. Hansen **MOVED** to table the minutes to the next board meeting, to allow time for the additional information she is requesting to be included. Dr. Bjorklund **SECONDED** the motion. The motion **PASSED** 4-2 with board members, Dr. Maddoux and Dr. Colonna opposing.

IV. OLD BUSINESS

A. Tim and Christin Hawbaker, request for refund

Ms. Gallegos discussed the reason for placing the Hawbakers back on the agenda. She explained the Hawbaker's correspondence to Attorney General, Betsy Glenn after the August meeting. It was the advice of the board not to take new action on the issue. Board action was taken at the August meeting and a final decision was made.

B. Committee Assignments

Chair Dr. Pieper presented the new committee assignments to the board. (Attachment B)

C. Detox Committee Report

Ms. Hansen reported on the Detox Committee. The proposed rules we finalized. There were only minor changes made. She would like rule hearing date to be scheduled for November 14, 2008.

D. Legislative Committee Report

Dr. Bjorklund discussed the report of the legislative committee meeting. She asked for clarification from Mr. Vallejos on whether the directive to the legislative committee was to clarify language in the statute or if there were other issues involved. Ms. Hansen referred to the August 21, 2008 minutes, which reflect that the legislative committee and the rules committee will begin immediately to work on clarifying the language so it will be clear to everyone. Mr. Vallejos spoke of mutual respect with each other for legislative action to be effective. There has been discussion with the legislators with regards to the possibility that any health care board who wants to change or expand the scope of practice would have to go before a super committee dominated by the New Mexico Medical Society, (a board against the expanded practice of alternative healthcare providers). If issues are not dealt with in a more civil and respectful way the legislature is going to take it away from the boards. Mr. Vallejos' recollection was Betsy Glenn spoke about certain issues in the statute that need clarification and to really be more specific on what they are talking about. Mr. Vallejos referred to the 2007 legislative statutory changes regarding the four modalities that were approved. Since then there have been no rules written explaining the four modalities. He stated again, that because of this, the new statutory proposals will probably not be approved. Mr. Vallejos stated that Kelly O'Donnell, the Superintendent feels she is not in any position to recommend any

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legislation to the Governor's office on behalf of this Board unless they can reach an agreement. Dr. Cook-Lowry asked if the board can look at expanding substances that are for public safety. Mr. Vallejos commented that it is the role of the association not the board. The board should not get involved. The board worries about what the statute says and making sure the public safety is being taken care of. The role of the board is on getting rules written that implement the legislation. Legislatively the association needs to take legislative action, not the board. Dr. Bjorklund **MOTIONED** that based on the Attorney General's memo and based on the letter from Kelly O'Donnell, and based on what we have heard from Andrew Vallejos, to instruct the legislative committee to identify specific areas within existing statute that need clarification and that the board write legislation that can be brought in this legislation for clarification. Dr. Cook-Lowry **SECONDED** the motion. Discussion.

Dr. Bjorklund **MOVED** to **RETRACT** her previous motion and make a new motion. Ms. Hansen **SECONDED** the motion.

Dr. Bjorklund **MOTIONED** that based on Attorney General Glenn's memo, and based on the letter from the Governor, and based on what Andrew Vallejos has stated, all which are based on the existing statute, including approved education, the board instruct the legislative committee to clarify those specific areas, which are identified in AG Glenn's letter, which include formulary and definitions. Further, that the committee write this legislation to be presented during the '09 legislative session. Dr. Cook-Lowry **SECONDED** the motion. Motion **PASSED** by unanimous decision.

Dr. Colonna **MOTIONED** that while the legislative committee follow instruction from the board, to keep in mind to not spend any energy at this time on expanding scope of practice by statute. Dr. Bjorklund **SECONDED** the motion. Discussion. Motion was **VOTED** 3-3. Dr. Colonna, Dr. Bjorklund and Dr. Maddoux voted in favor of the motion. Ms. Hansen, Dr. Cook-Lowry and Ms. Archuleta voted in opposition of the motion. Chairman Dr. Pieper broke the tie voting in favor of the motion. Motion **PASSED**. Dr. Colonna **MOVED** to amend the motion to state not to expand or contract. The amended motion states, while the legislative committee follow instruction from the board, to keep in mind not to spend any energy at this time on expanding or contracting the scope of practice by statute. Dr. Bjorklund **SECONDED** the amendments. The motion with the amendment **PASSED** by unanimous decision.

E. Ethics Committee Report

Dr. Colonna presented the Ethics Committee report. The committee discussed an amendment to the code of conduct resolution. The committee took the existing code of conduct and added language to it. Dr. Colonna went over the amendments. The reference document the committee is working off of is the AACOM Code of Conduct. Dr. Bjorklund **MOTIONED** that the Board have more time to review and consider code of conduct for next meeting. Dr.

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Maddoux **SECONDED** the motion. Dr. Bjorklund **AMENDED** to have Board members e-mail comments to Ms. Gallegos or Dr. Colonna. Dr. Maddoux **SECONDED** the amendment. Motion **PASSED** with a 4-2 vote. Dr. Colonna, Dr. Bjorklund, Ms. Archuleta, Dr. Maddoux voted in favor. Ms. Hansen and Dr. Cook-Lowry **ABSTAINED** their vote.

F. Rx Committee Report

Dr. Maddoux presented the minutes from the Rx Committee meeting on September 17, 2008. The Rx Committee will create a formulary and the Rx/BOP subcommittee will be reviewing and evaluating the proposed education to support the use of substances in the formulary. Dr. Maddoux **MOTIONED** to accept the proposed bioidentical hormone formulary as the formulary for the bioidentical hormone module (See Exhibit B). Dr. Bjorklund **SECONDED** the motion. Discussion. Motion **PASSED** by unanimous decision. The motion will go through a rules hearing process. Dr. Maddoux amended her motion to insert the words noninjectible at the beginning of bioidentical. The new motion reads, to accept the proposed noninjectible bioidentical hormone formulary as the formulary for the bioidentical hormone module. Dr. Bjorklund **SECONDED** the motion. The motion with the amendments **PASSED** by unanimous decision.

V. DISCUSSION ITEMS

A. Kenalog (Angelique Cook Lowry)

Dr. Cook-Lowry discussed the issue of someone ordering Kenalog and is asking for proof of this order. Chair Dr. Pieper deferred the topic to the Rx Committee.

B. Statutes (Anna Hansen)

Ms. Hansen reported briefly on the topic of statutes.

VI. ADMINISTRATOR'S REPORT & ACTION ITEMS

A. Budget Report FY09

Ms. Gallegos went over FY09 budget. It was point out that the board was given \$5000 to cover Board meetings for the year.

B. Exam Report

Candidates, Examiners and Patients - Ms. Gallegos stated the upcoming exam will be a two-day exam due to the amount of candidates, and is requesting an increase in pay for the examiners by \$300. Dr. Bjorklund **MOTIONED** to add \$300 pay for the examiners to include mileage. Ms. Hansen **SECONDED** the motion. The motion **PASSED** by unanimous decision.

C. FAOMRA Conference - Item withdrawn, no discussion.

VII. CORRESPONDENCE

A. ATEAM

Letter received from ATEAM was deferred over to the ethics committee and the complaint committee.

VIII. PUBLIC COMMENT (2 minutes each)

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Several members stood up and commended the Board on the leadership shown at the meeting.

Dr. McRostie requested for the board to come forward with a statement on what it is exactly they are trying to do with reference to expanded practice.

Dr. Duckworth commented on conflict of interest disclosure and strongly recommended the board to consider the disclosure form.

Dr. Wilcox handed an information sheet on off label use of marketed drugs, biologics and medical devices from the US Food and Drug Administration. He is requesting that this be a topic for the Rx Committee.

IX. TIME, DATE & LOCATION OF NEXT MEETING - The next meeting will be a rules hearing for November 21, 2008 at 9:00 am to be followed by a board meeting.

X. ADJOURN

Chair Dr. Pieper adjourned the meeting at 12:10 pm.

RESPECTFULLY SUBMITTED: _____
Martha L. Gallegos, Board Administrator

ACCEPTED BY: _____
Dr. John Pieper, Board Chairman