



BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

New Mexico Regulation and Licensing Department

BOARDS AND COMMISSIONS DIVISION

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MINUTES - REGULAR BOARD MEETING - NOVEMBER 21, 2008

Toney Anaya Building, 2550 Cerrillos Road, Rio Grande Room, Santa Fe, New Mexico

MEMBERS PRESENT: John Pieper, Pharm.D., Public Member, Chair
Caroline Colonna, DOM, Professional Member, Vice Chair
Alix Bjorklund, DOM, Professional Member
Angelique Cook-Lowry, DOM, Professional Member
Barbara Maddoux, RN, 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

After the rule hearing, Chairman Dr. Pieper called the meeting to order at 10:15 a.m. Roll call was taken and it was determined that a quorum was present.

II. APPROVAL OF AGENDA

A **MOTION** was made by Dr. Bjorklund to approve the agenda as is. Dr. Maddoux **SECONDED** the motion. The motion **PASSED** by unanimous decision.

III. APPROVAL OF MINUTES

A. December 7, 2007, Regular Meeting Minutes - A **MOTION** was made by Dr. Colonna to approve the minutes of December 7, 2007. Dr. Bjorklund **SECONDED** the motion. Motion **PASSED** by unanimous decision.

B. August 21, 2008, Regular Meeting Minutes - A **MOTION** was made by Dr. Maddoux to approve the minutes of August 21, 2008. Dr. Bjorklund **SECONDED** the motion. Dr. Colonna stated she was the board chair at the time of the meeting and the minutes needed to be corrected to reflect her as board chair. Dr. Maddoux **MOTIONED** to approve the minutes with the amendment. Dr. Bjorklund **SECONDED** the motion. Motion **PASSED** by unanimous decision.

C. September 22, 2008, Regular Meeting Minutes - Dr. Bjorklund **MOTIONED** to approve the minutes of September 22, 2008. Dr. Cook-Lowry **SECONDED** the motion. Motion **PASSED** by unanimous decision.

IV. NEW BUSINESS

A. Consider Adoption of Rule Changes - Part 16 Auricular Detoxification

A **MOTION** was made by Ms. Hansen to approve 16.2.16 NMAC, Auricular Detoxification rule changes with one amendment. On section 16.2.16.10. F, add an (s) after supervisor. Dr. Cook-Lowry **SECONDED** the motion. Motion **PASSED** by unanimous decision. There was discussion of AAG Terry's concerns of a potential inconsistency of language in 16.2.16.16, Certified Auricular Detoxification Specialist Inactive Status. Dr. Colonna **MOTIONED** to accept amendments with AAG Terry's suggestion regarding reactivating an inactive

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certification. The board agreed that AAG Terry would word the changes pertaining to the board being notified, that there is board approval, and then the treatments can be done. Dr. Bjorklund **SECONDED** the motion. Discussion. Motion **PASSED** by unanimous decision.

Ms. Hansen **MOTIONED** to adopt the rules with the amendments. Dr. Bjorklund **SECONDED** the motion. Motion **PASSED** by unanimous decision.

V. OLD BUSINESS

A. Detox Committee Report - Ms. Hansen stated there was nothing more to report at this time.

B. Exam Report (Diane Vigil-Hayes)

1) Approval/Denial of licenses and certificates issued - Ms. Vigil-Hayes presented and read the list of new DOM's, CAD's, CAD Supervisors and Externship Supervisors.

Ms. Hansen **MOTIONED** to approve the newly licensed DOM's. Dr. Colonna **SECONDED** the motion. The motion **PASSED** by unanimous decision.

Dr. Colonna **MOTIONED** to approve the newly certified CAD's specialists.

Dr. Bjorklund **SECONDED** the motion. Motioned **PASSED** by unanimous decision. Dr. Bjorklund **MOTIONED** to approve the newly certified CAD's supervisor. Dr. Colonna **SECONDED** the motion. Motion **PASSED** by unanimous decision.

Dr. Maddoux **MOTIONED** to approve the newly certified extern supervisor. Dr. Colonna **SECONDED** the motion. Motion **PASSED** by unanimous decision.

2) 2009 Exam Scheduled Dates - Ms. Vigil-Hayes informed the Board of the 2009 exam dates for Spring and Fall of 2009 to be May 2-3, 2009 and September 26-27, 2009.

C. Exam Committee Report - Dr. Cook-Lowry spoke briefly of how well the October exam went.

D. Ethics Committee Report

1) Code of Conduct - Dr. Colonna spoke of the original code of conduct that was signed and presented the addendum to the Board.

2) Addendum to the Code of Conduct - The addendum asks for board members and committee members to disclose relationships they have that may lead to a potential conflict of interest. Dr. Colonna **MOTIONED** to adopt the addendum. Dr. Bjorklund **SECONDED** the motion. AG Terry advised the board that the paragraph on page 2 number 2 be removed. Any conflicts should be determined and dealt with at such time and that nothing is executed prior to any conflict arising that would eliminate a vote. The determination would be made at the time of the vote where there is a meeting of a quorum. Dr. Colonna **MOTIONED** to accept the motion with the amendment to remove number 2 of page 2. Dr. Bjorklund **SECONDED** the motion. Motion **PASSED** with five in favor. Dr. Cook-Lowry and Ms. Hansen **ABSTAINED** from voting.

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- E. Legislative Committee Report** - Dr. Bjorklund gave a brief presentation on the legislative committee. Public members were invited to fully participate. Extensive discussion was held about the directives from the Governor's Office and the Attorney General. Substances were not discussed. The committee agreed to ask the Rx Committee to identify the substances to be placed in proposed legislation. A proposed draft was sent to the Rx committee for review and discussion.

Ms. Hansen **MOTIONED** to amend the agenda to move up the Administrator's Report to Old Business, right after the Legislative Report. Dr. Bjorklund **SECONDED** the motion. Dr. Pieper requested an amendment be made to also move up Discussion item as well. Ms. Hansen **ACCEPTED** the amendment to her motion. Dr. Bjorklund **SECONDED**. Motion passed by unanimous decision.

VI. ADMINISTRATOR'S REPORT

- A. FAOMRA Conference** - Ms. Gallegos gave a brief presentation on the conference in Chicago. She informed the Board that she was elected to be the new Secretary for FAOMRA at least until May. The next conference will be held in Sacramento, California.
- B. Budget - Fees** - Ms. Gallegos discussed the fact that the board needs to raise their fees because the cash balance is dwindling. The board is not generating enough revenue to support the budget. She stated that this would need to be done through a rules hearing. She will prepare a proposal for the rules committee to consider. Ms. Gallegos will also give some other suggestions to the Board for consideration by the rules committee. The Board is asking for an explanation from Regulation and Licensing of why the fees need to be raised since they are already high.

VII. DISCUSSION ITEMS

- A. Scope of Practice Clarification Request** - Leonie Rosenstiel is requesting clarification from the Board about a request she received from a company with reference as to whether DOM's can prescribe (and allow others who are specially trained to administer) either one of two specific protocols using a medical device (Nexalin) that stimulates acupuncture points with electricity. A **MOTION** was made by Dr. Bjorklund that Ms. Gallegos reply to Dr. Rosenstiel notifying her that the Board did discuss her request. The Board decided that the best thing to do is to have the company contact the Board with specific questions, and with specific questions about who they are. The Board will then formally resolve it. Dr. Colonna **SECONDED** the motion. Motion **PASSED** by unanimous decision.

The Board recessed for lunch at approximately 11:45 a.m. to reconvene at 1:00 p.m.

OLD BUSINESS (Continued)

- F. Rx Committee Report**
- 1) NMBAOM/Rx Committee Minutes 10-22-08
 - 2) Amended Review, Final Draft 10-31-08
 - 3) Education Prescriptive Authority
- Dr. Maddoux presented and read the Rx Committee minutes. She also presented the proposed legislation. She commented that injectable herbs were not included in the proposed draft because there has not been any education or training. In regards to herbs given orally, she referred to the Guidance for Industry: Complimentary and Alternative Medicine Products and Their Regulation by the Food and Drug Administration document

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(December 2006). Because most DOM's are experts qualified by scientific training and experience to evaluate the safety and effectiveness of oral herbs under the conditions prescribed, they are not considered "new drugs" and so do not trigger the FDA requirement for review and approval. A **MOTION** was made by Dr. Maddoux that the Board accept the amended, amended final draft proposed legislation dated October 31, 2008. Dr. Colonna **SECONDED** the motion. Chair Pieper asked for public comment. The Board listened and considered all public comment.

After public comment, there was discussion among the Board members. Dr. Cook-Lowry read a script that she wanted on the record. She said for the record that at the beginning she was in favor of expanding the statute to include lidocaine and benadryl for public safety reasons. Because she voted to not constrict nor expand she decided not to pursue this course. She was willing to work with the rest of the board to achieve the motion of no constriction and no expansion, which was voted for unanimously by this Board. She is requesting that the written reason for her vote be entered into the official minutes of the meeting. (See Attachment B)

After discussion, Dr. Cook- Lowry requested that the motion be tabled at this time to allow the committee to meet one more time with the professionals. Dr. Maddoux stated she would not accept the friendly motion.

A **MOTION** was made by Dr. Cook-Lowry to amend the following substances to be added to the current amended, amended final draft:

- 1) Bioidentical hormones would be listed as bioidentical hormones and not the full list of each individual hormone in Module 4;
- 2) that hydrogen peroxide be added into Modules 2 and 3;
(Module 2 is Injection Certification and Module 3 is Intravenous Certification)
- 3) that oxygen be added into Modules 2 and 3;
- 4) that amino acids be added into Modules 2 and 3;
- 5) that DMSO be added into Modules 2 and 3;
- 6) that hydrochloric acid be added into Module 3;
- 7) that disodium EDTA be added into Module 3;
- 8) that MSM be added into Module 3;
- 9) that DMSA oral be added into Section 3, but only as an oral;
- 10) that procaine be added into Module 3;
- 11) that N-acetyl cysteine be added to Module 3;
- 12) that alpha lipoic acid be added to Module 3;

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13) that autologous blood infusion or push with appropriate anticoagulants be added to Module 3;

14) that DMPS be added to Module 3.

Dr. Cook-Lowry is also requesting that each of the substances be voted on separately. Ms. Hansen **SECONDED** the proposed amendment.

Chair Pieper invited more public comment on the proposed amendments. He asked that the comments be relevant to the safety of the procedures and the education received for the procedure.

Various members of the public spoke in favor of the substances and against the substances, stating their reason why.

After public comment the board proceeded to vote on Dr. Cook-Lowry's amendments:

1) Bioidentical hormones would be listed as bioidentical hormones in Module 4, and not the full list of each individual hormone; A vote was taken to accept Dr. Cook-Lowry's amendment to the amended amendment. Dr. Cook-Lowry, Ms. Hansen and Ms. Archuleta voted in favor. Dr. Bjorklund, Dr. Maddoux, Dr. Colonna and Chair Pieper voted in opposition. Amendment **FAILED** with a 4-3 vote in opposition.

2) Hydrogen peroxide be added into Modules 2 and 3; Dr. Cook-Lowry requested it be stated as IV hydrogen peroxide per protocol in rules. A vote was taken to accept the amendment. Dr. Cook-Lowry, Ms. Hansen and Ms. Archuleta voted in favor. Dr. Bjorklund, Dr. Maddoux, Dr. Colonna and Chair Pieper voted in opposition. Amendment **FAILED** with a 4-3 vote in opposition.

3) Oxygen be added into Modules 2 and 3; a vote was taken to accept amendment. Dr. Cook-Lowry, Ms. Hansen, Ms. Archuleta and Dr. Bjorklund voted in favor. Dr. Colonna voted in opposition. Dr. Maddoux abstained. Amendment **APPROVED** with a 4-1 vote in favor of and one abstention.

4) Amino acids be added into Modules 2 and 3; a vote was taken to accept amendment. Amendment **APPROVED** with a 6-0 vote.

5) DMSO be added into Modules 2 and 3; a vote to add DMSO to Module 2 was taken. Amendment **APPROVED** with a 6-0 vote to add to **Module 2**. A separate vote to add DMSO to Section 3 was taken to accept amendment. Dr. Cook-Lowry, Ms. Hansen and Ms. Archuleta voted in favor of. Dr. Colonna, Dr. Bjorklund, Dr. Maddoux and Chair Pieper voted in opposition. Amendment to add DMSO to **Module 3 FAILED** with a 4-3 vote in opposition.

6) Hydrochloric acid be added into Module 3; a vote was taken to accept amendment. Dr. Cook-Lowry, Ms. Hansen and Ms. Archuleta voted in favor. Dr. Colonna, Dr. Bjorklund and Chair Pieper voted in opposition. Dr.

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Maddoux abstained. Amendment **FAILED** with a tied vote.

7) Disodium EDTA be added into Module 3; a vote was taken to accept amendment. Dr. Cook-Lowry, Ms. Hansen and Ms. Archuleta voted in favor. Dr. Bjorklund, Dr. Colonna and Chair Piper voter in opposition. Dr. Maddoux abstained. Amendment **FAILED** with a tied vote.

8) MSM be added into Module 3; a vote was taken to accept amendment. Dr. Cook-Lowry, Ms. Hansen and Ms. Archuleta vote in favor. Dr. Colonna, Dr. Bjorklund, Dr. Maddoux and Chair Pieper voted in opposition. Amendment **FAILED** with a 4-3 vote in opposition.

9) DMSA oral be added into Module 3, but only as an oral; a vote was taken to accept amendment. Amendment **APPROVED** by unanimous decision.

10) Procaine be added into Module 3; a vote was taken to accept amendment. Dr. Cook-Lowry, Ms. Hansen and Ms. Archuleta vote in favor. Dr. Colonna, Bjorklund, Dr. Maddoux and Chair Pieper voted in opposition. Amendment **FAILED** with a 4-3 vote in opposition. Dr. Amendment

11) N-acetyl cysteine be added to Module 3; a vote was taken to accept amendment. Dr. Cook-Lowry, Ms. Hansen and Ms. Archuleta vote in favor. Dr. Colonna, Dr. Bjorklund, Dr. Maddoux and Chair Pieper voted in opposition. Amendment **FAILED** with a 4-3 vote in opposition.

12) Alpha lipoic acid be added to Module 3; a vote was taken to accept amendment. Dr. Cook-Lowry, Ms. Hansen and Ms. Archuleta vote in favor. Dr. Colonna, Dr. Bjorklund, Dr. Maddoux and Chair Pieper voted in opposition. Amendment **FAILED** with a 4-3 vote in opposition.

13) Autologous blood infusion or push with appropriate anticoagulants be added to Module 3; Discussion. Dr. Maddoux recommended taking the word "for" out and inserting the word "including". A vote was taken with the recommended language change. Amendment **APPROVED** with a 6-0 vote.

14) DMPS be added to Module 3; a vote was taken to accept amendment. Dr. Cook-Lowry, Ms. Hansen and Ms. Archulta voted in favor. Dr. Bjorklund, Dr. Maddoux, Dr. Colonna and Chair Piper voted in opposition. Amendment **FAILED** with a 4-3 vote in opposition.

Chair Pieper recited the motion to accept the report of the Rx Committee with the additions that have been voted in the affirmative for amendment. Dr. Bjorklund, Dr. Maddoux and Dr. Colonna and Chair Pieper voted in favor. Dr. Cook-Lowry and Ms. Archuleta voted in opposition. Ms. Hansen abstained. Motion **PASSED** with a 4-2 vote and one abstention.

VIII. CORRESPONDENCE

A. Ms. Gallegos stated that the correspondence file will be submitted as an exhibit to the minutes.

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IX. PUBLIC COMMENT

Comments were heard from Dr. Nityamo Lian with reference to her thoughts on the Rx issues. Comments were also heard from Dr. Caterina DiPalma with reference to Auricular Detoxification.

X. TIME, DATE & LOCATION OF NEXT MEETING - Tentative scheduled meeting for January 30, 2009 at 9:00 a.m.

XI. ADJOURN - Chair Pieper adjourned the board meeting at 4:31 p.m.

RESPECTFULLY SUBMITTED: _____
Martha L. Gallegos, Board Administrator

ACCEPTED BY: _____
Dr. John Pieper, Board Chairman