



BOARDS AND COMMISSIONS DIVISION
New Mexico Board of Acupuncture and Oriental Medicine
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REGULAR BOARD MEETING

September 16, 2009

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

MEETING MINUTES - DRAFT

I. CALL TO ORDER

At 1:30 p.m., the Board Chair, John A. Pieper, Pharm.D. called the September 16, 2009 meeting of the New Mexico Board of Acupuncture and Oriental Medicine to order.

II. ROLL CALL

MEMBERS PRESENT:

John A. Pieper, Pharm.D., Public Member, Chair
Alix Bjorklund, DOM, Professional Member
Angelique Cook-Lowry, DOM, Professional Member
Barbara Maddoux, RN, DOM, Professional Member
Cynthia Archuleta, Public Member

MEMBERS ABSENT:

Deborah, Armstrong, Public Member
Caroline Colonna, DOM, Professional Member, Vice Chair

STAFF PRESENT:

Anita Villegas, Board Administrator
Adrian Terry, Assistant Attorney General
Linda Trujillo, Boards & Commissions Division Director
Diane Vigil-Hayes, Exam Administrator & Compliance Liaison

Roll Call was taken by Ms. Anita Villegas and a quorum was determined present.
(Refer to sign-in Sheet for Other Guests)

III. APPROVAL OF AGENDA

Alix Bjorklund, DOM made a **MOTION** to approve the agenda as written. Barbara Maddoux, RN, DOM **SECONDED** the motion, which was **PASSED** by **UNANIMOUS APPROVAL**.

IV. APPROVAL OF MEETING MINUTES

A. July 2, 2009 Regular Meeting

Barbara Maddoux, RN, DOM made a **MOTION** to approve the minutes of the July 2, 2009 Regular Meeting as written. Cynthia Archuleta **SECONDED** the motion.

Barbara Maddoux, RN, DOM made a **MOTION** to amend the first motion to approve the minutes of the July 2, 2009 Regular Meeting as amended. Cynthia Archuleta **SECONDED** the motion, which was **PASSED** by **UNANIMOUS APPROVAL**.

Amendment: Under item # VIII Executive Session, remove Anna Hansen name from the roll call vote, as she wasn't present.

V. OLD BUSINESS

A. Recognition of Retired Board Member

Before the Rule Hearing started, the Board Chairman, John Pieper recognized former Board Member Ms. Anna Hansen for her dedication and hard work as a public board member and presented her with a letter of appreciation and plaque from the Board.

Ms. Hansen took a few minutes to address the board and express that it was her honor to serve New Mexico and Governor Richardson as a board member. She encouraged all the current members and the board administrator to attend the national conferences and learn about the National Association of Regulations for the Acupuncture and Oriental Medicine Board. It was one of the most invaluable experiences that enriched her ability to serve as a board member.

Ms. Hansen ended by stating how proud she was of a couple of accomplishments that took place while Chair of the Board; which were of great value to the profession. One being that she was able to put people back to work by providing them a valid license to practice and the other was her team effort in writing the Rx1 and Rx2 rules. She is looking forward for an opportunity to work with the NMAOM Board again in the future.

VI. NEW BUSINESS

A. Set Future Meeting Date

Dr. John Pieper recommended that the Board try to establish a schedule for the regular board meetings apposed to scheduling one meeting at a time. This would be beneficial for the members to plan for the year and for the public to know when the next meetings will take place in advance. Dr. Pieper felt that quarterly meetings would be sufficient to accomplish any issues directed to the Board.

For the current 2009 calendar year, the Board would like to have one more meeting to discuss or take action on any outstanding issued for the year.

The Board Administrator was asked to send an email to the members polling them for a date for the next meeting and start proposing dates for quarterly meetings in 2010.

VII. COMMITTEE UPDATES

No committee reports were given.

VIII. PUBLIC COMMENTS

IX. EXECUTIVE SESSION

Barbara Maddoux, RN, DOM made a **MOTION** that the New Mexico Board of Acupuncture and Oriental Medicine close this meeting in order to enter into Executive Session to discuss the items listed in the agenda. Pursuant to Sections 10-15-1.H 1. of the Open Meetings Act authorizing closed sessions for matters related to issuance, suspension, renewal, revocation of a license. Alix Bjorklund, DOM **SECONDED** the motion, which was **PASSED** by **UNANIMOUS APPROVAL**.

Roll Call Vote:

John A. Pieper, Pharm.D., Public Member, Chair - **Aye**
Alix Bjorklund, DOM, Professional Member - **Aye**
Angelique Cook-Lowry, DOM, Professional Member - **Aye**
Barbara Maddoux, RN, DOM, Professional Member - **Aye**
Cynthia Archuleta, Public Member - **Aye**

Let the record show that at 1:49 p.m., the Board entered into closed session and the recorder has been turned off.

Let the record show that Caroline Colonna, DOM joined the Board Meeting and Executive Session at 1:55 p.m.

Back in Open Session

Let the record show that the recorder is back on. The New Mexico Board of Acupuncture and Oriental Medicine is now in open session. The time is 2:30 pm. Pursuant to 10-15-1 H. 1 of the Open Meetings Act the matters discussed in the closed meeting were limited only to the items listed in the motion.

X. BOARD ACTION ON MATTERS DISCUSSED IN EXECUTIVE SESSION

(Items listed on Agenda)

- A. Consider Initial Application Committee Recommendations:
 - 1. T. Andrikopoulos
- B. G.P. McRostie, DOM - Consider accepting a CE course for renewal.

Barbara Maddoux, RN, DOM made a **MOTION** to deny Toni Andrikopoulos request to accept her clinical experience that is need for application by Licensure by Endorsement because she does not meet the General Requirement pursuant to 16.2.17.8 A. NMAC. **SECONDED** the motion which was **PASSED** by **UNANIMOUS APPROVAL**.

Alix Bjorklund, DOM made a **MOTION** to accept the continuing education course "Master Nagano's Cranial Acupuncture" which was attended on June 28 and 29, 2008 by G.P. McRostie, DOM, which would apply toward his 2009 license renewal. Barbara Maddoux, RN, DOM **SECONDED** the motion which was **PASSED** with Caroline Colonna, DOM abstaining.

XI. DISCUSSION AND ACTION ON PROPOSED RULES

The Court Reporter, Robin Brazil, recorded the complete discussion for each of the parts listed. Following is a summary of the action taken by the Board on the proposed rules.

A. PART 1 GENERAL PROVISIONS

A discussion was held regarding the comments received during the rule hearing and following further input from the Board members and the audience on Part 1, General Provisions, and the following action was taken by the Board.

Barbara Maddoux, RN, DOM made a **MOTION** to adopt the proposed changes to Part 1, General Provisions, as proposed but with the following amendments to the proposed language. Alix Bjorklund, DOM **SECONDED** the motion, which was **PASSED** by **UNANIMOUS APPROVAL**.

- Amendment #1 on line 53 of page 1 of Part 1: Change the line to read, “*NMAC (Part 20 of the rules) that are authorized according to 61-14A-8.1 of the Act for prescription, administration, compounding and dispensing by a*”
- Amendment #2 on line 91 and 92 of page 2 of Part 1: Change the lines to read, “*”Educational Course” is a comprehensive foundation of studies, approved by the board leading to demonstration of entry level competence in the specified knowledge and skills*”
- Amendment #3 on line 144 of page 3 of Part 1: Change the line to read, “*”Natural substances” are substances that exist in or are produced by nature and have not been substantially transformed in character or use.*”

B. PART 2 SCOPE OF PRACTICE

A discussion was held regarding the comments received during the rule hearing and following further input from the Board members and the audience on Part 2, Scope of Practice, and the following action was taken by the Board.

Barbara Maddoux, RN, DOM made a **MOTION** to adopt the proposed changes to Part 2, Scope of Practice, as proposed but with the following amendment to the proposed language. Alix Bjorklund, DOM **SECONDED** the motion, which was **PASSED** by **UNANIMOUS APPROVAL**.

- Amendment #1 on line 7 of page 2 of Part 2: Change the line to read, “*prescribing, administering, combining, providing,*”

C. PART 3 APPLICATION FOR LICENSURE

A discussion was held regarding the comments received during the rule hearing and following further input from the Board members and the audience on Part 3, Application for Licensure, and the following action was taken by the Board.

Barbara Maddoux, RN, DOM made a **MOTION** to adopt the proposed changes to Part 3, Application for Licensure, as proposed but with the following amendment to the proposed language. Alix Bjorklund, DOM **SECONDED** the motion, which was **PASSED** by **UNANIMOUS APPROVAL**.

- Amendment #1 on line 56 of page 3 of Part 3: Change the line to read, “*60 days before the date of abandonment which is the expiration of the 24 month deadline*”

D. PART 4 EXAMINATIONS

A discussion was held regarding the comments received during the rule hearing and following further input from the Board members and the audience on Part 4, Examinations and the following action was taken by the Board.

Barbara Maddoux, RN, DOM made a **MOTION** to adopt the proposed changes to Part 4, Examinations, as proposed. Alix Bjorklund, DOM **SECONDED** the motion.

Barbara Maddoux, RN, DOM made a **MOTION** to amend the first motion and adopt the proposed changes to Part 4, Examinations, as proposed but with the following amendment to the proposed language. Alix Bjorklund, DOM **SECONDED** the motion, which was **PASSED** by **UNANIMOUS APPROVAL**.

- Amendment #1 on line 21 of page 2 of Part 4: Change the line to read, “achievement of a passing score of not less than 90 percent on the board”

E. PART 8 LICENSE RENEWAL

A discussion was held regarding the comments received during the rule hearing and following further input from the Board members and the audience on Part 8, License Renewal, and the following action was taken by the Board.

Barbara Maddoux, RN, DOM made a **MOTION** to adopt the proposed changes to Part 8, License Renewal, as proposed, but with the following amendments to the proposed language. Alix Bjorklund, DOM **SECONDED** the motion, which was **PASSED** by **UNANIMOUS APPROVAL**.

F. PART 9 CONTINUING EDUCATION

A discussion was held regarding the comments received during the rule hearing and following further input from the Board members and the audience on Part 9, Continuing Education, and the following action was taken by the Board.

Barbara Maddoux, RN, DOM made a **MOTION** to adopt the proposed changes to Part 9, Continuing Education, as proposed but with the following amendments to the proposed language. Alix Bjorklund, DOM **SECONDED** the motion, which was **PASSED** by **UNANIMOUS APPROVAL**.

- Amendment #1 on line 39, 40 and 41 of page 1 of Part 9: Strike the words that read, “*in oriental medicine equivalent to that required by the national certification commission for acupuncture and oriental medicine (NCCAOM).*” Change line 39 to read, “*examiner trainer, for the clinical skills examination shall be granted continuing education credit for a licensed D.O.M. in oriental medicine,*”
- Amendment #2 on line 74 of page 2 of Part 9: Change the line to read, “*practice formulary or formularies defined in 16.2.20 NMAC or updated information in improving current techniques or new and advanced techniques*”
- Amendment #3 on line 83 of page 2 of Part 9: Change the line to read, “*curriculum vitae of the instructor including previous teaching experience in subjects they are engaged to teach, of at least five years.*”
- Amendment #4 on line 89 of page 2 of Part 9: Strike the words that read, “*and will respond within 72 hours of review:*” and on line 88 and 89: Change the line to read, “*the continuing education committee shall meet each month on or before the 15th to review course materials; electronic review is acceptable;*”

Barbara Maddoux, RN, DOM made a **MOTION** to adopt an additional change to Part 9, Section 8 Continuing Education, line 49 and 50 of page 1 to read “*A doctor of oriental medicine shall maintain an understanding of the current act and rules and shall complete, with a score of 90 percent correct answers,...*”. Caroline Colonna, DOM **SECONDED** the motion, which was **PASSED** by **UNANIMOUS APPROVAL**.

Angelique Cook-Lowry, DOM made a **MOTION** to adopt an additional change to amendment #2 on the first motion to Part 9, Section 9, to read, “*practice formulary or formularies defined in 16.2.20 NMAC or updated information in improving current techniques or new and advanced techniques and substances.*” Cynthia Archuleta **SECONDED** the motion, which **FAILED** by a vote of 3 in favor and 3 opposed.

G. PART 10 FEES

A discussion was held regarding the comments received during the rule hearing and following further input from the Board members and the audience on Part 10, Fees, and the following action was taken by the Board.

Barbara Maddoux, RN, DOM made a **MOTION** to adopt the proposed changes to Part 10, Fees, as proposed but with the following amendments to the proposed language along with leaving the record open to receive a submission from RLD, which will be a report that the Board will use in further deliberations as to this Part 10. Alix Bjorklund, DOM **SECONDED** the motion.

- Amendment #1 on line 54 of page 1 of Part 10: Change the line to read, “*late license renewal: an additional \$200.00*”
- Amendment#2 on line 55 of page 1 of Part 10: Change the line to read, “*expired license renewal: an additional \$350.00 plus the renewal and late fee*”
- Amendment#3 on line 59 of page 2 of Part 10: Change the line to read “*late renewal of approval of an educational program: an additional \$225.00:*”
- Amendment#4 on line 62 of page 2 of Part 10: Delete the words “*or \$300 for all four modules*”
- Amendment#5 on line 65 of page 2 of Part 10: Change the line to read, “*practice certification renewal: an additional \$125.00 plus the renewal fee;*”
- Amendment#6 on line 66 of page 2 of Part 10: Change the line to read, “*expired expanded practice certification renewal: an additional \$100.00 plus the renewal and late fee;*”

Barbara Maddoux, RN, DOM made a **MOTION** to amend the first motion and adopt the proposed changes to Part 4, Examinations, as proposed but with the six amendment listed in the first motion and the following amendment (#7) to the proposed language along with leaving the record open to receive a submission from RLD, which will be a report, that the Board will use in further deliberations as to this part 10. Alix Bjorklund, DOM **SECONDED** the motion, which was **PASSED** by **UNANIMOUS APPROVAL**.

- Amendment#7 on line 63 of page 2 of Part 10: Change the line to read, “*application for biennial expanded practice certification renewal: an additional \$200.00*”

H. PART 11 LICENSEE BUSINESS OFFICES AND ADMINISTRATIVE REQUIREMENTS

A discussion was held regarding the comments received during the rule hearing and following further input from the Board members and the audience on Part 11, Licensee Business Offices and Administrative Requirements, and the following action was taken by the Board.

Barbara Maddoux, RN, DOM made a **MOTION** to adopt the proposed changes to Part 11, Licensee Business Offices and Administrative Requirements, as proposed but with the following amendment to the proposed language. Alix Bjorklund, DOM **SECONDED** the motion, which was **PASSED** by **UNANIMOUS APPROVAL**.

- Amendment #1 on line 45 of page 1 of Part 11: Change the line to read, “10 years or in accordance with federal regulation and shall be open to inspection at any time during normal business hours by the”

I. PART 12 GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF LICENSE

A discussion was held regarding the comments received during the rule hearing and following further input from the Board members and the audience on Part 12, Grounds for Denial and following action was taken by the Board.

Barbara Maddoux, RN, DOM made a **MOTION** to adopt the proposed changes to Part 12, Grounds for Denial, Suspension or Revocation of License as proposed, but with the following amendments to the proposed language. Alix Bjorklund, DOM **SECONDED** the motion, which was **PASSED** by **UNANIMOUS APPROVAL**.

- Amendment #1 on line 3 of page 7 of Part 35: remove the words “*extended prescriptive authority*”
- Amendment #2 on lines 9 thru 12 of Part 36: remove the letter “A” and start the sentence on line 8 after the word “*INCOMPETENCE:*” and the sentence should read “*Pursuant to the Act, Section 61-14A-17 A.(3) NMSA 1978, a doctor of oriental medicine or a doctor of oriental medicine certified in expanded practice who injudiciously prescribes, administers, or dispenses a drug a defined in the New Mexico Drug, Device and Cosmetic Act shall be guilty of incompetence.*”

J. PART 17 LICENSURE BY ENDORSEMENT

A discussion was held regarding the comments received during the rule hearing and following further input from the Board members and the audience on Part 17, Licensure by Endorsement and following action was taken by the Board.

Barbara Maddoux, RN, DOM made a **MOTION** to amend the proposed language changes to Part 17, Licensure By Endorsement, on lines 29 thru 30 of page 1 to read “*An applicant for licensure by endorsement must have three years of clinical experience, within the last five years as defined in 16.2.1.7 NMAC immediately preceding application.*”. Caroline Colonna, DOM **SECONDED** the motion, which was **PASSED** by **UNANIMOUS APPROVAL**.

Caroline Colonna, DOM made a **MOTION** to amend the first motion to accept the amended changes to Part 17 along with a change to line 48 on page 1 to add the following language after the sentence ending in 1986 to read “*in 1986 or that was accredited by the accreditation commission for acupuncture and oriental medicine. ACAOM, formerly the national accreditation commission for schools and colleges of acupuncture and oriental medicine and ACSCAOM*”. Cynthia Archuleta **SECONDED** the motion, which was **PASSED** by **UNANIMOUS APPROVAL**.

K. PART 19 EXPANDED PRACTICE CERTIFICATION (New Part)

A discussion was held regarding the comments received during the rule hearing and following further input from the Board members and the audience on Part 19, Expanded Practice Certification and following action was taken by the Board.

Barbara Maddoux, RN, DOM made a **MOTION** to adopt the proposed changes to Part 19, Expanded Practice Certification as proposed, but with the following amendments to the proposed language. Alix Bjorklund, DOM **SECONDED** the motion, which was **PASSED** by **UNANIMOUS APPROVAL**.

