

OREGON MEDICAL BOARD

ACUPUNCTURE ADVISORY COMMITTEE

Meeting – December 5, 2008

**1500 SW First Avenue, Suite 620
Portland, OR 97201**

The Acupuncture Advisory Committee of the Oregon Medical Board (OMB or “Board”) held a regular bi-annual meeting Friday, December 5th, 2008.

MEMBERS PRESENT

Malvin Finkelstein, LAc, Chair
Ellen Goldsmith, LAc, LMT
Gene G. Hong, MD
Diane Miller, MD
Debra L. Mulrooney, LAc

STAFF PRESENT

Kathleen Haley, JD, Executive Director
Diana Dolstra, Licensing Manager
Malar Ratnathicam, Licensing Manager
Michele Provinsal, Acupuncture Licensing Specialist
Randy Day, Complaint Resource Officer
Angie Springer, Executive Assistant

GUESTS PRESENT

PK Melethil, LAc

Agenda

EXECUTIVE SESSION:

Update on Acupuncturists Currently Under Board Investigation
– Randy Day, Complaint Resource Officer

Update from Diane Miller, MD, on Investigative Committee Interview, Client #36539

Review Application for Licensure, Client #37213

PUBLIC SESSION:

Approve Acupuncture Advisory Committee Minutes of the September 26, 2008 Meeting

Approval of Acupuncturist as Clinical Supervisor

Approval of Visiting Acupuncturists

Approval of Limited License, Visiting Professor

Approval of Limited License, Post Graduate

First Review of Administrative Rules

847-070-0016 Qualifications

Final Review of Administrative Rules

847-070-0019 Interview and Examination

847-070-0020 Regulation of Activities of Acupuncturists

847-070-0045 Inactive Registration, and Reactivation from Inactive to Active

Review Application for Licensure, Client #35932

Staff Procedure for Out-of-Practice Acupuncturists

Committee Members Attendance at Board and IC Interviews

Acupuncturist Advisory Committee Position Vacancy

Documentation of Acupuncture Visits

Approval of Future Meeting Dates

Public Comment Session

Malvin Finkelstein, LAc, Chair, called the meeting to order at 12:00 p.m.

Members present voted unanimously to pass the following motions and recommendations unless otherwise noted.

EXECUTIVE SESSION:

Update on Acupuncturists Currently Under Board Investigation

– Randy Day, Complaint Resource Officer

Update from Diane Miller, MD, on Investigative Committee Interview, Client #36539

Review Application for Licensure, Client #37213

PUBLIC SESSION:

Review Application for Licensure, Client #37213

Client #37213 disclosed two arrests on her application for licensure. On 2/2/07, applicant shoplifted approximately \$300 worth of clothes and was sentenced to one year probation. On 3/8/04, applicant was arrested for resisting arrest, trespass, and disorderly conduct. She was convicted of these charges.

It was moved and seconded that:

The Acupuncture Advisory Committee recommends the Oregon Medical Board refer client #37213 to the Investigative Committee for further review.

Approve Acupuncture Advisory Committee Minutes of the September 26, 2008 Meeting

It was moved and seconded that:

The Acupuncture Advisory Committee recommends the Oregon Medical Board approve the minutes of the September 26, 2008 meeting.

Approval of Acupuncturist as Clinical Supervisor

Haosheng Zhang, AC 00481

It was moved and seconded that:

The Acupuncture Advisory Committee recommends the Oregon Medical Board approve the above acupuncturist as a Clinical Supervisor.

Approval of Visiting Acupuncturists

Visiting Acupuncturist	Rosa Schnyer, DAOM, LAc, Massachusetts License #212614
Program Description	Oregon College of Oriental Medicine Doctoral Degree Program
Dates	December 12-16, 2008
Name of Responsible Oregon Acupuncturist	Zhaoxue Lu, D.Med. & Ph.D. (P.R. China), LAc, AC00794

Visiting Acupuncturist	Wei Chieh Youn, LAc, California License #AC 781
Program Description	Oregon College of Oriental Medicine Doctoral Degree Program
Dates	January 30-February 2, 2009
Name of Responsible Oregon Acupuncturist	Zhaoxue Lu, D.Med. & Ph.D. (P.R. China), LAc, AC00794

It was moved and seconded that:

The Acupuncture Advisory Committee recommends the Oregon Medical Board approve the above as visiting acupuncturists.

Approval of Limited License, Visiting Professor

Jun Zhang, LL18204

It was moved and seconded that:

The Acupuncture Advisory Committee recommends the Oregon Medical Board approve the above Limited License, Visiting Professor.

Approval of Limited License, Post Graduate

Jennifer Myers Netzer, LL18207

It was moved and seconded that:

The Acupuncture Advisory Committee recommends the Oregon Medical Board approve the above Limited License, Post Graduate.

First Review of Administrative Rules 847-070-0016 Qualifications

Exhibit A

Committee members noted that there would be no negative fiscal impact from the proposed changes to OAR 847-070-0016, specifying that graduates from non-accredited acupuncture programs prior to 1989 have no ACAOM western medicine requirements for licensure. The Committee moved the above change forward to the OMB for review.

Final Review of Administrative Rules

Exhibit B

847-070-0019 Interview and Examination

847-070-0020 Regulation of Activities of Acupuncturists

847-070-0045 Inactive Registration, and Reactivation from Inactive to Active

It was moved and seconded that:

The Acupuncture Advisory Committee recommends the Oregon Medical Board approve the final review of the above mentioned administrative rules changing the allowable time out of practice from 12 to 24 months, and requiring a 20 hour mentorship for applicants and licensees who have been out of practice for 24 months or more; and allowing for the use of the title “doctor of acupuncture and oriental medicine” by individuals who have graduated from an accredited doctoral degree program in Acupuncture and Oriental Medicine.

Review Application for Licensure, Client #35932

Client #35932 graduated from an accredited acupuncture program on 4/15/06 and has not practiced as an acupuncturist since that time.

It was moved and seconded that:

The Acupuncture Advisory Committee recommends the Oregon Medical Board approve the license of client #35932 with the condition of satisfactory completion of a 20 hour mentorship under the supervision of a Board approved clinical supervisor.

Staff Procedure for Out-of-Practice Acupuncturists

Under current procedures, acupuncture applicants for licensure who have been out of practice for 24 months must be reviewed first by the Acupuncture Advisory Committee and, subsequently, the Board. Current practice is to license applicants with a Corrective Action Order requiring a 20-hour mentorship with a clinical supervisor. This process can take up to five months, given that the Acupuncture Advisory Committees meets only twice each year.

It was moved and seconded that:

The Acupuncture Advisory Committee recommends the Oregon Medical Board allow that acupuncture applicants who have been out of practice for a period between 24 months and 5 years be reviewed during the full Board conference call at Investigative Committee meetings with a recommendation of licensure under a Corrective Action Order (CAO). The CAO will require a 20-hour mentorship under the supervision of a Board approved clinical supervisor.

It was moved and seconded that:

The Acupuncture Advisory Committee recommends the Oregon Medical Board allow that acupuncture licensees wishing to reactivate their license from Inactive status, who have been out of practice for a period between 24 months and 5 years, be reviewed during the full Board conference call at Investigative Committee meetings with a recommendation of reactivation of license under a Corrective Action Order (CAO). The CAO will require a 20-hour mentorship under the supervision of a Board approved clinical supervisor.

Committee Members Attendance at Board and IC Interviews

The Committee reviewed the OMB policy regarding per diem payments to Board and Committee members.

Acupuncturist Advisory Committee Position Vacancy

Committee members discussed the need to have a well defined list of duties for the open Committee position.

ACTION PLAN: Update Committee vacancy announcement with language from the article regarding a previous vacancy in the OMB winter 2003 newsletter.

Documentation of Acupuncture Visits

The Committee discussed acupuncture practices offering low cost treatments with the promise of no paperwork. After reviewing the Code of Ethics developed by the Oregon Acupuncture Association (OAA), the Committee determined that practitioners must keep minimum records of treatments given to include name, address and phone number of patient as well as the type of treatment. The Committee requested that Board staff make inquiries to determine if any such information is recorded in practices offering treatments without paperwork.

NOTE 1/9/2009: Board members noted that all acupuncture treatments should include charting and follow HIPAA requirements.

ACTION PLAN: Review the Code of Ethics document at the next Committee meeting.

Approval of Future Meeting Date

June 12, 2009

Public Comment Session

The meeting was adjourned at 1:50 p.m.

OREGON ADMINISTRATIVE RULES
CHAPTER 847, DIVISION 070 – OREGON MEDICAL BOARD
PROPOSED RULES CHANGES – JANUARY 2009
FIRST REVIEW BY THE BOARD

847-070-0016

Qualifications

An applicant for licensure as an acupuncturist in the State of Oregon must have the following qualifications:

(1) Have graduated from an acupuncture program that satisfies the standards of the Accreditation Commission for Acupuncture and Oriental Medicine (A.C.A.O.M.), or its successor organization, or an equivalent accreditation body that are in effect at the time of the applicant's graduation. An acupuncture program may be established as having satisfied those standards by demonstration of one of the following:

(a) Accreditation, or candidacy for accreditation by ACAOM at the time of graduation from the acupuncture program; or

(b) Approval by a foreign government's Ministry of Education, or Ministry of Health, or equivalent foreign government agency at the time of graduation from the acupuncture program. Each applicant must submit their documents to a foreign credential equivalency service, which is approved by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) for the purpose of establishing equivalency to the ACAOM accreditation standard. Acupuncture programs that wish to be considered equivalent to an ACAOM accredited program must also meet the curricular requirements of ACAOM in effect at the time of graduation.

(2) Current certification in acupuncture by the National Certification Commission for Acupuncture and Oriental Medicine (N.C.C.A.O.M.). An applicant shall be deemed certified by the N.C.C.A.O.M. in Acupuncture if the applicant has passed the N.C.C.A.O.M. Acupuncture Certification Examinations, or has been certified through the N.C.C.A.O.M. Credentials Documentation Examination. The applicant has no more than four attempts to pass the NCCAOM Acupuncture Certification Examinations. If the applicant does not pass the NCCAOM Certification Examinations within four attempts, the applicant is not eligible for licensure.

(3) An applicant who does not meet the criteria in OAR 847-070-0016(1) and (2) must have the following qualifications:

(a) Five years of licensed clinical acupuncture practice in the United States. This practice must include a minimum of 500 acupuncture patient visits per year. Documentation shall include:

(A) Two affidavits from office partners, clinic supervisors, accountants, or others approved by the Board, who have personal knowledge of the years of practice and number of patient visits per year; and

(B) Notarized copies of samples of appointment books, patient charts and financial records, or other documentation as required by the Board; and

(b) An applicant must have practiced as a licensed acupuncturist in the U.S. during five of the last seven years prior to application for Oregon licensure. Licensed practice includes clinical practice, clinical supervision, teaching, research, and other work as approved by the Board within the field of acupuncture and oriental medicine. Documentation of this practice will be required and is subject to Board approval; and

(c) Successful completion of the A.C.A.O.M. western medicine requirements in effect at the time of graduation from the acupuncture program, **unless the applicant graduated from a non-accredited acupuncture program prior to 1989**; and

(d) Current certification in acupuncture by the N.C.C.A.O.M. An applicant shall be deemed certified in Acupuncture by the N.C.C.A.O.M. if the applicant has passed the N.C.C.A.O.M. Acupuncture Certification Examinations, or has been certified through the N.C.C.A.O.M. Credentials Documentation Examination. The applicant has no more than four attempts to pass the NCCAOM Acupuncture Certification Examinations. If the applicant does not pass the NCCAOM Certification Examinations within four attempts, the applicant is not eligible for licensure.

(4) An individual whose acupuncture training and diploma were obtained in a foreign country and who cannot document the requirements of subsections (1) through (3) of this rule because the required documentation is now unobtainable, may be considered eligible for licensure if it is established to the satisfaction of the Board that the applicant has equivalent skills and training and can document one year of training or supervised practice under a licensed acupuncturist in the United States; and

(5) In addition to meeting the requirements in (1) and (2), or (3), or (4) of this rule, all applicants for licensure must have the following qualifications:

(a) Licensure in good standing from the state or states of all prior and current health related licensure; and

(b) Have good moral character as those traits would relate to the applicant's ability of properly engaging in the practice of acupuncture; and

(c) Have the ability to communicate in the English language well enough to be understood by patients and physicians. This requirement is met if the applicant passes the N.C.C.A.O.M. written acupuncture examination in English, or if in a foreign language, must also have passed an English language proficiency examination, such as TOEFL (Test of English as a Foreign Language), or TSE (Test of Spoken English). An applicant must obtain a TOEFL score of 500 or more for the written TOEFL exam and 173 or more for the computer based TOEFL exam, or a TSE score of 200 or more prior to July 1995, and a score of 50 or more after July 1995. An applicant who is certified through

the N.C.C.A.O.M. Credentials Documentation Examination must also have passed an English proficiency examination.

OREGON ADMINISTRATIVE RULES
CHAPTER 847, DIVISION 070 – OREGON MEDICAL BOARD
PROPOSED RULES CHANGES – JANUARY 2009
FINAL REVIEW BY THE BOARD

Proposed rule amendments increase the allowable amount of time out of practice after which the Board may require the applicant/licensee to demonstrate current clinical competency, and establish a minimum of a 20-hour mentorship as one possible requirement to demonstrate current competency. Proposed amendment also clarifies that an acupuncturist who has completed a doctoral degree in Acupuncture and Oriental Medicine may identify him/herself as a “doctor of acupuncture and oriental medicine.”

847-070-0019

Interview and Examination

(1) In addition to all other requirements for licensure, an applicant may be required to appear before the Acupuncture Committee for a personal interview regarding information received in the application process. The interview shall be conducted during a regular meeting of the committee.

(2) If there is reasonable cause to question the qualifications of an applicant, or if an applicant has not practiced as an acupuncturist for a period of [~~twelve (12)~~] **twenty-four (24)** or more consecutive months prior to application for Oregon licensure, the Board in its discretion may require the applicant to do one or more of the following:

- (a) Pass the N.C.C.A.O.M. Acupuncture Certification Examinations.
- (b) Pass an evaluation which may be written, oral, practical, or any combination thereof.
- (c) Provide documentation of current N.C.C.A.O.M. Acupuncture certification.
- (d) Document 15 hours of continuing education acceptable to the Board for every year the

applicant has ceased practice prior to application for Oregon licensure. Continuing education that

meets N.C.C.A.O.M.'s recertification requirements would qualify as Board approved continuing education.

(e) As a condition of licensure, [~~practice under a Board approved mentor for a specified period of time~~] **complete a mentorship of no less than 20 hours under a Board approved clinical supervisor who must individually supervise the applicant. The clinical supervisor must report the successful completion of the mentorship to the Board.**

(3) An applicant shall be required to pass an open-book examination on the Medical Practice Act (ORS Chapter 677) and Oregon Administrative Rules (OAR Chapter 847, Division 070).

847-070-0020

Regulation of Activities of Acupuncturists

(1) An individual other than a physician who is not authorized by the Board to engage in the practice of acupuncture shall not administer acupuncture treatment to any other individual.

(2) An acupuncturist shall report promptly to the referring physician, if requested, the method of acupuncture treatment and the results of such treatment together with such other information as the referring physician requires to maintain the records regarding acupuncture treatment.

(3) An acupuncturist must clearly indicate that he/she is an acupuncturist to individuals being treated. The acupuncturist must wear a name tag with the designation "**Acupuncturist**" thereon when practicing in a hospital or clinic setting where other health care providers practice.

Acupuncturists are not required to wear name tags in a private practice setting.

(4) An acupuncturist shall not [~~identify him/herself as a "doctor" or use any contraction in connection therewith, or~~] represent him/herself as a physician or permit another to so represent him/her.

(5) An acupuncturist who has completed a program that leads to a doctoral degree in Acupuncture and Oriental Medicine from a school that has federally recognized accreditation may identify him/herself as a “doctor of acupuncture and oriental medicine.”

847-070-0045

Inactive Registration, and Reactivation from Inactive to Active

(1) Any acupuncturist licensed in this state and registered under ORS 677.770 who changes location to some other state or country shall be listed by the Board as inactive.

(2) If the acupuncturist wishes to resume active status, the acupuncturist shall file an affidavit with the Board describing activities during the period of inactive status.

(3) If, in the judgment of the Board, the conduct of the acupuncturist has been such, during the period of inactive registration, that the acupuncturist would have been denied a license if applying for an initial license, the Board may deny active registration.

(4) If a licensed acupuncturist in this state ceases to practice for a period of ~~[12]~~ **24** or more consecutive months, the Board in its discretion may require the ~~[acupuncturist]~~ **licensee** to do one or more of the following:

(a) Pass the N.C.C.A.O.M. Acupuncture Certification Examinations.

(b) Pass an evaluation which may be written, oral, practical, or any combination thereof.

(c) Provide documentation of current N.C.C.A.O.M. Acupuncture certification.

(d) Document 15 hours of continuing education acceptable to the Board for every year the ~~[applicant]~~ **licensee** has ceased practice prior to application for **reactivation of** Oregon licensure. Continuing education that meets N.C.C.A.O.M.’s recertification requirements would qualify as Board approved continuing education.

(e) [~~As a condition of licensure, practice under a Board approved mentor for a specified period of time.~~] **Complete a mentorship of no less than 20 hours under a Board approved clinical supervisor who must individually supervise the licensee. The clinical supervisor must report the successful completion of the mentorship to the Board.**