

OREGON MEDICAL BOARD

ACUPUNCTURE ADVISORY COMMITTEE

Meeting – December 4, 2009

**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 4, 2009.

MEMBERS PRESENT

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

MEMBERS ABSENT

Sarojini S. Budden, MD, Board Liaison

STAFF PRESENT

Kathleen Haley, JD, Executive Director
Warren Foote, Assistant Attorney General (via telephone)
Gary Stafford, Chief Investigator
Malar Ratnathicam, Licensing Manager
Michele Provinsal, Acupuncture Licensing Specialist

GUESTS PRESENT

Hilary Laferriere, LAc, Oregon Association of Acupuncture and Oriental Medicine (OAAOM)
Tim Chapman, PhD, Oregon College of Oriental Medicine
PK Melethil, LAc, OAAOM
E. Christo Gorawski, LAc, OAAOM
Stephen Kafoury, OAAOM

Agenda

EXECUTIVE SESSION:

Update on Acupuncturists Currently Under Board Investigation
– Gary Stafford, Chief Investigator

Review Licensure Application of Client # 37348

Review Licensure Application of Client # 1001003

Information Item - Client # 38717

PUBLIC SESSION:

Welcome Ellen Shefi to Committee

Approve Acupuncture Advisory Committee Minutes of the June 12, 2009 Meeting

Approve Acupuncture Advisory Committee Minutes of October 7, 2009 Teleconference Meeting

Approval of Acupuncturist as Clinical Supervisor

Approval of Visiting Acupuncturists

Approval of Limited License, Post Graduate

Physical Therapists and Dry Needling

Acupuncturists Ordering Lab/Urine Tests

Coding Guidelines for Acupuncturists, Debra Mulrooney, LAc

Approve Future Meeting Dates

Public Comment Session

Malvin Finkelstein, LAc, Chair, called the meeting to order at 12:20 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
– Gary Stafford, Chief Investigator**

Review Licensure Application of Client # 37348

Review Licensure Application of Client # 1001003

Information Item - Client # 38717

PUBLIC SESSION:

Review Licensure Application of Client # 37348

Client #37348 was arrested twice in 2006 for domestic violence, only one of these arrests was reported on his application. Client has requested a waiver of the requirement outlined in OAR 847-070-0016(5)(c), requiring that he pass an English language proficiency exam, as he passed the national certification exam in a foreign language. When discussing this waiver request, Committee members stated that even if a practitioner has the ability to communicate orally in English, it is imperative that they also have the ability to communicate in writing for charting purposes.

Committee members would like the applicant to be interviewed by the Investigative Committee if he chooses to complete his application.

It was moved and seconded that:

The Acupuncture Advisory Committee recommends the Oregon Medical Board deny the request of Client #37348 to waive the English proficiency requirement as outlined in OAR 847-070-0016(5)(c) and to refer client to the Investigative Committee if client chooses to complete the application process.

Review Licensure Application of Client # 1001003

Client #1001003 reported on her application that in 2005 she practiced shiatsu without a massage license. Applicant was fined \$6,500 by the Oregon Massage Board for practicing without a license, this was reduced to \$3,250, and has been paid in full.

It was moved and seconded that:

The Acupuncture Advisory Committee recommends the Oregon Medical Board approve the licensure of client #1001003.

Information Item - Client # 38717

The Committee reviewed information from staff regarding Client #38717.

Welcome Ellen Shefi to Committee

The Committee welcomed newest member, Ellen Shefi, LAc, LMT.

Approve Acupuncture Advisory Committee Minutes of the June 12, 2009 Meeting

It was moved and seconded that:

The Acupuncture Advisory Committee recommends the Oregon Medical Board approve the minutes of the June 12, 2009 meeting.

Approve Acupuncture Advisory Committee Minutes of October 7, 2009 Teleconference Meeting

It was moved and seconded that:

The Acupuncture Advisory Committee recommends the Oregon Medical Board approve the minutes of the October 7, 2009 teleconference meeting.

Approval of Acupuncturist as Clinical Supervisor

David Ford, AC140490

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	Kerong Xie, LAc, Washington
Program Description	Oregon College of Oriental Medicine Doctoral Degree Program
Dates	July 10-13, 2009
Name of Responsible Oregon Acupuncturist	Zhaoxue Lu, D.Med. & Ph.D. (P.R. China), LAc, AC00794

Visiting Acupuncturist	Henry McCann, LAc, New Jersey
Program Description	Oregon College of Oriental Medicine Doctoral Degree Program
Dates	November 13-16, 2009
Name of Responsible Oregon Acupuncturist	Tsuey-hwa Lai, LAc, AC00773

Visiting Acupuncturist	Minqing Zhu, LAc, California
Program Description	Oregon College of Oriental Medicine Doctoral Degree Program
Dates	September 11-15, 2009
Name of Responsible Oregon Acupuncturist	Tsuey-hwa Lai, LAc, AC00773

Visiting Acupuncturist	Viola Huang-Beck, LAc, California
Program Description	Facial Rejuvenation Seminar
Dates	September 26, 2009
Name of Responsible Oregon Acupuncturist	Debra Nash-Galpern, LAc, AC00698

It was moved and seconded that:

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

Approval of Limited License, Post Graduate

Edward Neal, MD, PG150200

It was moved and seconded that:

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

Physical Therapists and Dry Needling

At the November 20, 2009 meeting of the Physical Therapy Board, Kathleen Haley, JD, and committee members Malvin Finkelstein, LAc, and Ellen Shefi, LAc, testified against physical therapists performing dry needling. Testimony was based on the recent statement from the OMB that dry needling constitutes the practice of acupuncture. Subsequent to this meeting, the Physical Therapy Board issued a statement that dry needling of trigger points is likely within the scope of physical therapists, but that physical therapists are strongly advised not to perform this procedure until training and education requirements can be determined.

Committee members discussed the need to respond to this statement by sending a letter to the Physical Therapy Board emphasizing that the Acupuncture Committee and the Oregon Medical Board consider dry needling to be the practice of acupuncture and that any physical therapist performing this procedure will be investigated by the OMB for practicing acupuncture without a license. Also to be included in this letter are the points Malvin Finkelstein, LAc, addressed in his testimony to the Physical Therapy Board and the fact that there is legal precedence in seven states prohibiting physical therapists from performing this procedure. The letter will additionally request that the Physical Therapy Board notify all licensed physical therapists in Oregon that they are strongly advised by their own Board not to perform the procedure.

Committee members further discussed the training seminar scheduled in Portland December 4-6, 2009, geared toward physical therapists wishing to learn the dry needling technique. This training is to be taught by Yun-tao Ma, PhD, an acupuncturist licensed in Colorado. Dr. Ma was sent two letters from the OMB stating that he needed to obtain permission from the OMB to perform the training in Oregon. Kathleen Haley, JD, stated that if the OMB discovers that Dr. Ma taught the course in the State of Oregon, the OMB will send a letter to the Colorado Acupuncture Board notifying them of the violation in Oregon.

Acupuncturists Ordering Lab/Urine Tests

Committee members discussed whether the ordering of lab tests by acupuncturists is within the acupuncture scope of practice. Gene Hong, MD, stated that while many of the tests are interpreted by the laboratories, the interpretation of the tests is implied with the ordering, any missed interpretation can be a liability for the acupuncturist. Debra Mulrooney, LAc, noted that this also impacts the curriculum in Oregon acupuncture programs; students are not currently taught to read and interpret lab reports.

It was moved and seconded that:

The Acupuncture Advisory Committee recommends the Oregon Medical Board adopt the statement that the ordering and interpreting of medical laboratory findings is outside the scope of acupuncture.

ACTION PLAN: Write an article for the OMB newsletter informing licensees that the Acupuncture Committee has recently been looking at several scope of practice issues.

ACTION PLAN: Add the ordering of labs tests as an agenda item to the next Acupuncture Advisory Committee meeting.

Coding Guidelines for Acupuncturists

Debra Mulrooney, LAc, stated that the Oregon College of Oriental Medicine is receiving an increase in the number of questions from students and licensed acupuncturists regarding the use of diagnostic codes in charting. Ms. Mulrooney further stated that many acupuncturists in Oregon desire clear coding guidelines from the OMB.

It was moved and seconded that:

The Acupuncture Advisory Committee recommends the Oregon Medical Board adopt the statement that since acupuncturists cannot make a western medicine diagnosis they cannot use diagnostic codes unless the diagnosis has been previously established by a medical professional licensed to make that diagnosis. Acupuncturists can use codes which are related to pain and symptoms.

Other Business

Ethics Workshop

In light of the increase in the number of ethical violations by licensed acupuncturists, Ellen Shefi, LAc, suggested that a workshop on the Code of Ethics be available to attendees of the next Oregon Association of Acupuncture and Oriental Medicine (OAAOM) conference. PK Melethil, OAAOM public relations representative, suggested that a weekday focus session might also be arranged so

that a representative from the OMB might be available to present the types of violations which have been cataloged by the OMB over the last few years.

Committee Vacancy

The second term of Debra Mulrooney, LAc, is due to expire July 12, 2010. Potential candidates need to be recruited now so that they may be interviewed at the June 11, 2010 meeting.

ACTION PLAN: Staff to post the vacancy and description of duties of Committee members on the OMB's website and notify various entities in Oregon of this vacancy.

Approval of Future Meeting Date

June 11, 2010

Public Comment Session

Public comments were not held until the end of the meeting, but given during the meeting.

The meeting was adjourned at 3:00 p.m.
