ACUPUNCTURE ADVISORY COMMITTEE
MEETING AGENDA
BOARD OFFICE/WORKING LUNCH

December 2, 2016
Noon

The mission of the Oregon Medical Board is to protect the health, safety, and wellbeing of Oregon citizens by regulating the practice of medicine in a manner that promotes access to quality care.

Committee Members:
Brynn Graham, LAc, Chair
Lena Kuo, MD
Charlotte Lin, MD
Laura Ocker, LAc
Collin Stoll, LAc
Katherine Fisher, DO, Board Liaison

Staff:
Nicole Krishnaswami, JD, Operations & Policy Analyst
Eric Brown, Chief Investigator
Shayne J. Nylund, Committee Coordinator
John Hoover, Licensing Assistant

Guests Present:
Malvin Finkelstein, LAc, Oregon Association of Acupuncture and Oriental Medicine (OAAOM)
E. Christo Gorawski, LAc, OAAOM
Beth Howlett, LAc, President, OAAOM
Stephen Kafoury, OAAOM
John Rybak, LAc

Ms. Graham called the meeting to order at 12:06 p.m.

Ms. Graham to announce that pursuant to ORS 192.660(2)(f) and ORS 192.660(2)(L), the Acupuncture Advisory Committee of the Oregon Medical Board (OMB) may convene in Executive Session to consider information or records that are exempt by law from public inspection or information obtained as part of an investigation, including information received in confidence by the Board and Acupuncture Advisory Committee, information of a personal nature the disclosure of which would constitute an invasion of privacy, and records which are otherwise confidential under Oregon law. The Acupuncture Advisory Committee will reconvene in Public Session prior to taking any final action. Members of the news media may remain in the room during the Executive Session, but are directed not to report on the specific information discussed during the Executive Session.
INFORMATIONAL ITEMS

PUBLIC SESSION

1 Revenue and Expenditure by License Type from Carol Brandt, Business Manager Lin

Carol Brandt, Business Manager, presented the Revenue and Expenditure by License Type report to the Committee.

COMMITTEE RECOMMENDATION: Informational item only; no action taken.

2 Governor’s Recommended Budget from Carol Brandt, Business Manager Lin

Ms. Brandt presented the Governor’s Recommended Budget to the Committee.

COMMITTEE RECOMMENDATION: Informational item only; no action taken.

EXECUTIVE SESSION

3 Investigative Update from Eric Brown, Chief Investigator Graham

Eric Brown, Chief Investigator, updated the Committee on licensees currently under investigation.

COMMITTEE RECOMMENDATION: Informational item only; no action taken.

4 Applicant Review Entity ID: 1035477 Kuo

The Committee reviewed Entity ID 1035477’s application for licensure. After administrative review on September 22, 2016, it was determined the applicant was not eligible for licensure per OAR847-070-0016(2)(d), which states one has to pass the NCCAOM certification examinations within four attempts or they are not eligible for licensure. Pending the Committee’s review, the applicant was approved by Board staff to practice acupuncture under a Board approved clinical supervisor at an Oregon acupuncture clinic, per OAR 847-070-0017 (clinical training).

COMMITTEE RECOMMENDATION: Dr. Lin made a motion to allow the applicant to continue practicing under a Board approved clinical supervisor until the Board amends the rule to allow an applicant a total of five attempts to successfully pass a NCCAOM certification examination. If the Board does not adopt a rule change, then the applicant may no longer practice under the Board approved clinical supervisor. Ms. Ocker seconded the motion. Forward to the full Board for review.
Ms. Graham read current rule OAR 847-070-0016(1)(b) and (2)(d), which states: the applicant has no more than four attempts to pass the NCCAOM Acupuncture Examinations. If the applicant does not pass the NCCAOM Certification Examinations within four attempts, the applicant is not eligible for licensure. She stated the rule was adopted by the Board on July 11, 2008. Ms. Graham pointed out that on January 1, 2007 NCCAOM commenced a policy of allowing candidates five attempts to pass one examination. She stated that in 2007 and 2008, the Acupuncture Advisory Committee recommended that the maximum number of exam attempts be in line with NCCAOM’s exam standards but the full Board decided that acupuncturists be allowed no more than four attempts in order to be consistent with licensing examination standards for physicians and physician assistants.

Dr. Kuo stated she would like information on how these examination attempt limits are determined by other states and for other professions. The Committee asked Board staff to start the rule making process to change OAR 847-070-0016(1)(b) and (2)(d) to allow an applicant five attempts to pass the NCCAOM examination but also want some more information for a first review of a rule change. Board staff stated they could do some research and provide additional information to go along with it.

**COMMITTEE RECOMMENDATION:** The Committee recommended amending OAR 847-070-0016(1)(b) and (2)(d), which states: the applicant has no more than four attempts to pass the NCCAOM Acupuncture Examinations. If the applicant does not pass the NCCAOM Certification Examinations within four attempts, the applicant is not eligible for licensure, to reflect NCCAOM’s examination standard of five attempts to pass the examination. The Committee also suggested the Board have the option for a waiver of the examination attempt limit under specific circumstances. The Committee asked Board staff to research how attempt limits are chosen by other certifying and licensing bodies and include this information with the First Review of the rule amendment. Forward to the Full Board for review.

**OREGON ADMINISTRATIVE RULES (OAR)**

**The proposed rule amendment adds a definition for Oriental massage and clarifies the definition for physician.**

Ms. Ocker reviewed the proposed rule amendment, which defines “Oriental massage” in OAR 847-070-0005(6): (a) “Oriental massage” means methods of manual therapy, including manual mobilization, manual traction, compression, rubbing, kneading and percussion, with or without manual implements, for indications including limited range of motion, muscle spasm, pain, scar tissue, contracted tissue and soft tissue swelling, edema and inflammation, as described in instructional programs and materials of Oriental or Asian health care.

(b) Oriental massage as practiced in Oregon does not include high-velocity, short-amplitude, manipulative thrusting procedures to the articulations of the spine or extremities.
The proposed rule amendment also clarifies the definition for “physician” in OAR 847-070-0005(7) to read: "Physician" means an individual licensed to practice medicine as a medical doctor or doctor of osteopathic medicine pursuant to ORS Chapter 677.

Ms. Ocker summarized some of the testimony from the public hearing. She noted that the Oregon Physical Therapy Association (OPTA) stated the proposed amendment is an attempt to align the definition of Oriental Medicine with CPT coding in order to broaden reimbursement of services that are already part of the acupuncture scope. Malvin Finkelstein on behalf of OAAOM, reiterated the process was collaborative and that many people were consulted and many hours were put into writing the proposed language. Ms. Ocker informed the Committee that an email came in from an osteopathic physician whose main concern is that the proposed rule may limit her scope of practice. Board staff stated the proposed rule amendment is only within an acupuncturist’s scope of practice and would not limit a physician’s scope of practice.

Ms. Graham stated the CPT codes the OPTA are concerned about have been used by acupuncturists for quite some time without any issues. Mr. Stoll confirmed the codes have been used by acupuncturists and billed and paid for by regular medical insurance, motor vehicle accident coverage and worker’s compensation for many years. Ms. Ocker stated the proposed language defines the terminology in modern and understandable terms.

**COMMITTEE RECOMMENDATION:** Dr. Kuo moved the Committee recommend adoption of proposed rule amendment OAR 847-070-0005 as written. Mr. Stoll seconded the motion. The motion unanimously passed.

**DISCUSSION ITEMS**

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**COMMITTEE RECOMMENDATION:** Ms. Graham moved to reappoint Dr. Lin to a second term on the Acupuncture Advisory Committee. Dr. Kuo seconded the motion. The motion passed with Dr. Lin abstaining. Forward to the full Board for approval.

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<th>Planning for New Committee Membership: Brynn Graham, LAc, and Lena Kuo, MD</th>
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Ms. Graham stated that she and Dr. Kuo’s last meeting as Committee members will be on June 7, 2017, and their second terms end on July 8, 2017. She pointed out the Committee will recommend a new acupuncture member and physician member and elect a new Committee Chair at the June 7, 2017 meeting.

**COMMITTEE RECOMMENDATION:** No action taken by the Committee.
### INFORMATIONAL ITEMS

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**COMMITTEE RECOMMENDATION:** The Committee acknowledged the letter to Attorney General regarding physical therapist’s scope of practice and dry needling. Informational item only; no action taken.

**COMMITTEE RECOMMENDATION:** The Committee acknowledged the Board-approved minutes from June 3, 2016.

**COMMITTEE RECOMMENDATION:** The Committee reviewed the list of approved visiting acupuncturists. Informational item only; no action taken.

**COMMITTEE RECOMMENDATION:** The Committee reviewed the list of approved clinical supervisors. Informational item only; no action taken.

**COMMITTEE RECOMMENDATION:** The Committee reviewed the upcoming meeting dates. No amendments were suggested. No action taken.

Beth Howlett, LAc, thanked the Acupuncture Advisory Committee for their service. No additional public comments were made during this portion of the meeting.

**ADJOURN at 1:31 p.m.**