

MARYLAND BOARD OF ACUPUNCTURE

4201 Patterson Avenue
Baltimore, MD 21215
Room 100

MINUTES OF THE REGULAR SESSION

MARCH 12, 2013
1:10 p.m.

BOARD MEMBERS PRESENT:

Steve Kaufman, L.Ac., Corinne Axelrod, L.Ac., Kate Carter, L.Ac., Deneb Falabella, L.Ac., Grant Zhang, L.Ac., Jan Exler, Consumer, Charles Neustadt, Consumer

BOARD MEMBERS ABSENT:

None.

BOARD STAFF PRESENT: Penny Heisler, Executive Director, Cynthia Dobbins, Administrative Officer, Marian Ruth, Investigator, Richard Bloom, AAG and Noreen Rubin, AAG

GUESTS:

Paula Hollinger, DHMH, Sharon Bloom, DHMH, David Wurzel, L.Ac., and Teal Beatty, L.Ac., ADS Supervisor

1. CALL TO ORDER AND ESTABLISHMENT OF A QUORUM

Mr. Kaufman called the Acupuncture Board meeting to order at 1:10 pm and a quorum was established.

2. APPROVAL OF JANUARY 8, 2013 MINUTES

Ms. Falabella moved to approve the Minutes with minor corrections and Ms. Carter seconded the motion. The motion passed unanimously.

3. OLD BUSINESS

A. HERBAL MEDICINE

Mr. Kaufman informed the Board that he and Ms. Heisler met with the President of the Maryland Acupuncture Society, Tracy Soltesz, to review the possibility of regulating Chinese herbal medicine. Mr. Kaufman stated that it is a complicated issue as the Board is responsible for public safety but herbs are not nationally regulated and can be used by anyone. Herbal formulas are classified as dietary supplements and are therefore outside of the realm of the Food and Drug Administration. Ms. Soltesz stated that some states have begun regulating the dispensing of herbs and volunteered to research the State of Maine's herbal requirements. Currently, the NCCAOM has only approved two stand-alone herbal programs to sit for their herbal exam.

B. LEGISLATION 2013

Ms. Heisler distributed a listing of all bills that in some way would affect the Health Occupation Boards this session.

HB 59 – Dedicated State Funds Protection Act – this bill prohibits the transferring of dedicated funds to the State General Fund, except if the Governor declares a State of Emergency, needs the funds for the protection of the health and safety of the State’s citizens, and proposes a plan to pay back the funds, or in the event the State is invaded. Not yet voted upon by the Health and Government Operations Committee (HGO). The Acupuncture Board sent a letter of support.

HB 140 – State Government – Open Meetings Act – Penalty – The bill requires the Attorney General in collaboration with the Open Meetings Compliance Board, to adopt regulations that would impose penalties upon a body for violating the Open Meetings Act. There was an unfavorable vote by HGO. A joint letter of concern was sent by all Boards.

HB 148 – State Government – Refund of Fees – Policy – As introduced, the bill would have required a Board to refund the fees paid to it for failure to provide the service for which the fee was paid, or to refund a fee paid in error. HGO amended the bill to remove the requirement that a fee be refunded for failure to provide the service. Now, all the bill requires is that a fee be refunded when it is paid in error. Third reading passed the House.

HB 206/SB 237 – Health Occupations – Sunset Extension and Program Evaluation – This bill extends the sunset date of the Board of Acupuncture, the Board of Dietetic Practice and the Board of Occupational Therapy Examiners. Both bills have been amended to include a provision related to the Board of Pharmacy. Both bills have passed their houses of origin and are waiting for a hearing in the opposite House.

HB 225/SB 273 – Veterans Full Employment Act of 2013 – As introduced, the bill would have established a temporary licensure process for veterans and their spouses. The bill has been amended to remove the temporary licensure process and to simply require that a staff member of a Board provide assistance to a veteran or their spouse with the licensure process, and issue a license within 15 days of the application being completed. Amendments being finalized and should be voted on in HGO subcommittee on Thursday.

HB 331/SB 826 – Open Meetings Act – Violations and Penalties – As introduced, the bill would have set a civil penalty for violation of the Open Meetings Act at \$1,000 for the first violation and for subsequent violations occurring within 3 years of the first violation. A Board found to be in violation shall designate a member to read the letter detailing the finding of violation of the Open Meetings Compliance Board at the next public meeting and a majority of the members of the Board found in violation shall sign the letter. The bill was amended to reduce the civil fine to \$250 for a first violation and \$1000 for subsequent violations occurring with three years of the first violation, and to provide that reading the letter or signing it are not to be construed as admissions of guilt

in a court and that the signed letter shall not be used as evidence in a future court proceeding. HB 331 has passed the House and is waiting for a hearing in the Senate. SB 826 was heard last week.

HB 686 – Professional Boards Special Funds – Three-Fifths Committee Vote – The bill will prohibit the transfer of funds from a special fund unless the transfer is approved by the General Assembly through a three-fifths majority vote of the full standing committee assigned the bill in both houses and the full standing committee which has jurisdiction over the profession. The bill is waiting to be voted on by House Appropriations Committee.

SB 372 & HB 712 – Health Occupations Boards – Criminal History Records Checks – General Authority – Boards- The bill will authorize the Boards to perform criminal history records checks. SB 372 was passed by the Senate committee with an amendment. HB 712 is scheduled for an HGO subcommittee hearing on Wednesday.

HB 897/SB 570 – Professional Licensing and Certification Governing Bodies – Child Abuse Mandated Reporter Training and Discipline – To make it a condition of licensure or certification that an applicant take a course on recognizing child abuse and child sex abuse, to require that the Boards adopt regulations to investigate a licensee or certificate holder for failure to report, and to discipline a licensee or certificate holder for failure to report. The Boards sent a joint letter of concern. The bill is still waiting to be voted on in House Judiciary Committee.

HB 1006 & SB 701 – Criminal Records – Shielding – Nonviolent Misdemeanor Convictions – This bill proposes to shield certain nonviolent criminal convictions from public view. Boards testified that we need to amend into the section of the bill which gives certain entities access to the shielded records. The bills are still waiting to be voted on.

HB 1029/SB 783 – State Board of Physicians – Naturopathic Doctors – This bill would license Naturopathic doctors under the Board of Physicians. Boards sent a joint letter of concern about infringement upon scopes of practice, a provision allowing for expungement of certain disciplinary records, a provision that would allow the Physicians Board to discipline licensees of another Board for failing to report a naturopath who is practicing incompetently, outside their scope, who is unauthorized to practice, etc. The House bill was heard last week; the Senate bill will be heard this week.

HB 1115/SB 593 – Health Occupations Boards – License Renewal, Investigation of Alleged Complaints, and Immunity from Liability – The bill would allow the Boards to email renewal notices, codifies that the Boards should investigate complaints, provides for immunity from civil liability for certain Boards. Amendments to House bill regarding the ability to email renewal notices is still being worked out. Senate bill is waiting for a vote.

HB 1186 – Task Force on Child Abuse and Neglect- Establishing a task force on the subject of child abuse and neglect and how best to discipline various individuals who fail to report suspected child abuse and neglect. Boards sent a joint letter of support. No vote in the House yet.

HB 1290/SB 837 – Health Occupations Boards – Disciplinary Procedures – Prohibition on Stays – To prohibit the staying of a Board order of discipline while judicial review is pending, thereby preventing a health care practitioner from being able to practice while appealing a Board order. HB 1190 was heard in the House, no vote yet. SB 837 will be heard on Wednesday.

**C. AURICULAR DETOXIFICATION SPECIALISTS –
RESPONSE TO SUNSET EVALUATION**

Ms. Heisler stated that the Sunset Report recommended that the Board explore potential reasons for its low number of ADS registrations, and to examine the experiences of other state ADS programs. Ms. Heisler offered to contact other Maryland Health Occupational Boards to request that they publish in their newsletters the availability of the ADS registration. The Board agreed with her recommendation.

4. NEW BUSINESS

A. INITIAL LICENSURE APPLICATION APPROVAL

Mr. Neustadt moved to approve the list of new applicants and Mr. Exler seconded the motion. The Board unanimously approved the list of new licensees.

**B. AURICULAR DETOXIFICATION SPECIALIST (ADS) COURSE
REVIEW**

The Board received a request from Mr. David Wurzel to review and approve his proposed ADS program. After review and discussion by the Board, Mr. Kaufman asked that the members of the CEU committee review the program and make a recommendation at the next meeting of the Board.

C. EXECUTIVE DIRECTOR UPDATE

Ms. Heisler informed that the Election of Officers will take place at the next meeting of the Board (May 2013). Both the Board chair and Vice Chair positions will be available.

The meeting adjourned at approximately 2:25 p.m.