

MARYLAND BOARD OF ACUPUNCTURE
4201 Patterson Avenue
Baltimore, MD 21215
Room 105

MINUTES OF THE REGULAR SESSION

NOVEMBER 8, 2011
1:00 p.m.

BOARD MEMBERS PRESENT:

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

BOARD MEMBERS ABSENT:

Corinne Axelrod, L.Ac.

BOARD STAFF PRESENT: Penny Heisler, Executive Director, Cynthia Dobbins, Administrative Officer, and Richard Bloom, AAG

GUESTS: Sharon Bloom, DHMH, Paula Hollinger, DHMH, William Carter, ADS, SAJ Rojas, L.Ac., Teal Beatty, L.Ac., David Wurzel, L.Ac., and Kristen Neville, Regulations Coordinator

WELCOME NEW BOARD MEMBER - Mr. Charles Neustadt, Consumer

1. CALL TO ORDER AND ESTABLISHMENT OF A QUORUM

Mr. Kaufman called the Acupuncture Board meeting to order at 1:00 pm and a quorum was established.

2. APPROVAL OF SEPTEMBER 13, 2011 MINUTES

After review of the Minutes, Ms. Falabella moved to approve the Minutes with minor changes and Ms. Carter seconded the motion. The motion passed unanimously.

OLD BUSINESS

A. AURICULAR DETOXIFICATION SUPERVISION

Mr. Kaufman informed the Board that he decided to limit the ADS Committee to Ms. Heisler and Ms. Dobbins since they deal with the daily operation of the program and are most familiar with its problems. Mr. Kaufman stated they met on October 18 and concluded that it would be best to eliminate the supervisory training requirement as staff receives many complaints about the training. Most practitioners find the requirement burdensome and confided that it has hindered some from becoming a supervisor.

Mr. Kaufman also recommended that the Board consider shortening the amount of time a supervisor must supervise an ADS to 6 months from the date of ADS registration. Mr. Kaufman pointed out that the Board is registering health professionals, not lay people, and feels that they do not need a constant level of supervision once they show proficiency in their techniques. He also recommended that the Board delete the requirement that a supervisor meet with the ADS every 2 months as it is an added expense to the ADS and burden to the supervisor.

Ms. Falabella made a motion to approve the following changes under COMAR 10.26.02.07 and Mr. Exler seconded the motion. The Board unanimously approved the changes.

C. The Board may approve a Maryland licensed acupuncturist for supervision of an individual registered to perform auricular detoxification if the licensee:

(1) Holds a valid license to practice acupuncture in Maryland;

(2) Has completed a training program in auricular detoxification as set forth in §B of this regulation;

(3) Has completed an auricular detoxification specialist supervisor training course that consists of:

(a) Maryland law and regulations;

(b) Management skills, including but not limited to:

(i) Appropriate record keeping;

(ii) Ordering supplies;

(iii) Scheduling; and

(iv) Daily operation requirements;

(e) Auricular detoxification methodologies, including but not limited to:

(i) Point location;

(ii) Clean needle technique; and

(iii) Environmental hazards;

(d) Teaching and leadership skills;

(e) Patient safety and risk management;

(f) Occupational Safety and Health Administration (OSHA) requirements;

~~(g) Health Insurance Portability and Accountability Act (HIPAA) requirements;~~

~~(h) Auricular detoxification program development; and~~

~~(i) Ethics, including but not limited to:~~

~~(i) Complaint resolution; and~~

~~(ii) Professional boundaries; and~~

(3) ~~(4)~~ Submits to the Board a completed application provided by the Board.

D. Supervisor Responsibilities. ~~A supervisor shall ensure that:~~

(1) **Ensure that** ~~A~~ auricular detoxification specialists are sufficiently competent in the areas listed in §B(1) of this regulation;

(2) **Ensure that** ~~A~~ auricular detoxification treatment records for patients of auricular detoxification specialists are maintained in a manner appropriate for and consistent with current and reasonable community standards of care; ~~and for 6 months from the date of registration.~~

~~(3) An on-site visit with the auricular detoxification specialist occurs at least once every 2 months.~~

(3) **Validate that ADS is competent in COMAR 10.26.02.07.D (1) and (2) at the end of the 6 month supervisory term.**

NEW BUSINESS

A. Initial Licensure Application Approval

Mr. Zhang made a motion to accept the list of new applicants and Ms. Carter seconded the motion. The Board unanimously approved the list of new licensees.

B. Americans with Disabilities Act

Ms. Heisler received an email inquiry from an acupuncturist regarding a concern about treating hearing impaired and whether or not an acupuncturist is responsible for paying for the interpreter. Mr. Bloom informed the Board that Title III of the American with Disabilities Act (ADA) considers private health care providers to be places of public accommodation and therefore subject to the ADA. It would therefore be incumbent upon an acupuncturist, in consultation with the patient, to determine the services or auxiliary aids most appropriate for that individual.

Under 28 CFR § 36.303(a) the provider may be exempt from providing auxiliary aids or services, if as a result an undue burden would accrue to the provider. The mere fact that the cost to provide the services or auxiliary aids may exceed the cost of the treatment provided the patient may not in and of it self meet the undue burden standard. The Board can not take it upon it self to opine what circumstances may meet that standard. This would be for the courts to decide.

C. Executive Director Update

Ms. Heisler informed the Board that Peter Marinakas, L.Ac., who is a long-time acupuncturist and greatly assisted in the development of the ADS program, had requested to be exempted from the supervisory training required to be an ADS supervisor. After discussion the Board decided to deny his request, as there is no exemption clause in the regulation.

Ms. Heisler informed the Board that the Secretary signed the sanctioning guidelines.

Ms. Heisler informed the Board that the Secretary is in the process of putting together a bill that would form an advisory committee to facilitate scope of practice disputes between boards. Senator Hollinger stated that the advisory committee would report their findings to the Secretary who would then issue a report to the General Assembly. Members were in accord with the proposal.

The meeting adjourned at approximately 2:30 p.m.