

BOARD OF ACUPUNCTURE
Professional & Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

The agenda for this meeting was filed with the Office of the Lt. Governor, as required by §92-7(b), Hawaii Revised Statutes ("HRS")

Date: Thursday, December 13, 2012
Time: 1:00 p.m.
Place: Princess Likelike Conference Room
King Kalakaua Building, 3rd Floor
335 Merchant Street
Honolulu, Hawaii 96813

Members Present: Michael Howden, L.Ac., Chairperson
Mike Hashimoto, D.Ac., Member
Jayne Tsuchiyama, L.Ac., Member

Staff Present: Christine Rutkowski, Executive Officer
Steven H. Levins, Deputy Attorney General
Alice Worthy, Secretary

Excused: Dr. James Corcoran, Member

Guests: Milton Newman, Applicant
Susan Sluys, Applicant
Reid A. Nakamura, Attorney for Jeffrey Dann
Catherine Jayne, Associate of Mr. Nakamura

Call to Order: There being a quorum established, Chair Howden called the meeting to order at 1:05 p.m.

Agenda Additions or Revisions: Additional distribution of documents relating to Mr. Newman's application was given to members.

The Chair announced that the agenda would be taken out of order.

Applications: Exam and License

Milton Newman

Mr. Newman appeared before the Board.

Mr. Newman is applying for licensure. Mr. Newman stated that he graduated from the American College of Traditional Chinese Medicine ("ACTCM") in 1984, which was not accredited when he graduated. Mr. Newman stated that no accredited schools were available when he was attending. He stated that he was told by William Goding, Interim

Executive Director of ACAOM, that January 1984 is the earliest that ACAOM recognized a school. Therefore, he could not have obtained education from an accredited school in 1984. Mr. Newman further stated that he has been in active acupuncture practice for twenty-seven years, is current in his CE's and requested that the Board grandfather him in.

Susan Sluys

Ms. Sluys appeared before the Board.

Ms. Sluys is applying for licensure. She graduated from the International Institute of Chinese Medicine in 1996 which was accredited by ACAOM, when she graduated. Ms. Sluys stated that the school is now closed. Ms. Sluys acknowledged that she lacks the required academic hours, since her school transcripts reflect that she studied 1,140 hours. Ms. Sluys said that she understands that the requirement is 1,515 academic hours. Ms. Sluys requested the Board to accept courses she completed in an undergraduate program and her hours from a massage therapy program to make up the deficiency for the academic hours. Ms. Sluys also told the Board that she was licensed to practice in CA but allowed her license to expire in 2011.

Jeffrey Dann

Reid Nakamura, attorney for Mr. Dann, appeared before the Board on Mr. Dann's behalf. Mr. Dann has given Mr. Nakamura the authority to release information relative to his case and to speak on his behalf.

Mr. Dann was licensed in Hawaii in 1987 and his license expired in 2007. He did not renew his license, nor did he attempt to restore his license within the time provided by law. Therefore, if he wants a Hawaii license, he is required to apply as a new applicant.

Mr. Nakamura stated that Mr. Dann attended the American Institute of Chinese Medicine, which no longer exists. Mr. Nakamura stated that Mr. Dann is well aware of the fact that he let his license lapse and recognizes that his hours are insufficient. With his many moves and busy schedule, he was remiss in not following up. He added that it would be unfortunate for Mr. Dann to be denied a license to practice in Hawaii.

Mr. Nakamura said that Mr. Dann's reputation as an educator/teacher more than exceeds the requirement. He distributed to the members copies of a spreadsheet that lists courses taken, schools attended and positions held. Mr. Nakamura added that Mr. Dann is reputable and is also a respected graduate advisor for doctoral candidates. Further, he has authored several acupuncture articles and publications.

Mr. Nakamura explained that Mr. Dann has sufficient hours to meet the licensure requirement because the Board can accept graduate course work that he completed. He added that in his interpretation of the law, there is just not one program that an applicant must complete; that the Board can interpret the law more broadly. He further stated that in taking this approach, the Board would not be stretching it; and that Mr. Dann should be approved for a license to practice acupuncture. Mr. Nakamura went on to state that the Board has the power to interpret the law.

At 1:39 p.m., it was moved by Dr. Hashimoto, seconded by Ms. Tsuchiyama, and unanimously carried to enter into Executive Session to consider and evaluate personal information relating to the individual applying for licensure in accordance with Chapter 92-5(a) (1), and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities in accordance with Chapter 92-5(a) (4), Hawaii Revised Statutes.

Executive Session

At 2:12 p.m., it was moved by Dr. Hashimoto, seconded by Ms. Tsuchiyama, and unanimously carried to return to the Board's order of business.

Milton Newman

After discussion, it was moved by Ms. Tsuchiyama, seconded by Dr. Hashimoto, and unanimously carried to deny the application for licensure for Milton Newman based on HRS, §436E-5(d) and HAR, §16-72-14(c), in that Mr. Newman has not furnished satisfactory proof to the Board that he meets the requirements for licensure.

Mr. Newman asked why the Board denied his application.

Deputy Attorney General Levins explained that the Board based its decision citing the above sections in that applicant has not established that he meets the required hours of study, that his practice experience in another state cannot be substituted for his deficiency in academic hours and the criteria for the accredited program has not been met

Mr. Newman maintained that he has 27 years of acupuncture experience and has helped lots of people. Short of academic hours, how is he to meet the requirement of an accredited school.

The Chair stated that by law an applicant must satisfy all requirements for licensure.

Susan Sluys

After discussion, it was moved by Dr. Hashimoto, seconded by Ms. Tsuchiyama, and unanimously carried to deny the application for licensure for Susan Sluys based on HRS, §436e-5(d) and HAR, §16-72-14(c), in that Ms. Sluys has not furnished satisfactory proof to the Board that she meets the requirements for licensure.

Deputy Attorney General Levins explained that the Board based its decision citing the above sections in that applicant has insufficient hours and practice experience in another state cannot be substituted for her deficiency in academic hours.

Ms. Sluys asked how she might fulfill the deficient hours. Would going to school suffice? The Chair stated that she might return to an accredited school to make up the deficient hours she needs. If she chooses to attend a school, she might want the school to look at her transcript and assist her with this issue.

Jeffrey Dann

It was moved by Dr. Hashimoto, seconded by Ms. Tsuchiyama, and unanimously carried to deny the application for licensure for Jeffrey Dann based on HRS, §436E-5(d) and HAR, §§16-72-3 and 16-72-14(c) in that Mr. Dann has not furnished satisfactory proof to the Board that he meets the requirements for licensure.

Deputy Attorney General Levins explained that the Board based its decision citing the above sections in that applicant has not met the educational requirement, is deficient in academic hours, the criteria for the accredited program has not been met, and that his teaching, publications and experience in another state cannot be substituted for his deficiency in academic hours.

Brendan Kozik – Application to Use Doctor of Acupuncture Title

It was moved by Dr. Hashimoto, seconded by Ms. Tsuchiyama, and unanimously carried to approve the application to use the Doctor of Acupuncture title for Brendan Kozik.

Celeste Manderville – Application for Intern Permit

It was moved by Ms. Tsuchiyama, seconded by Dr. Hashimoto, and unanimously carried to ratify the application for acupuncture intern permit for Celeste Manderville.

Applications to Use Doctor of Acupuncture Title

There was a brief discussion on whether the Executive Officer can approve applications to use the doctor of acupuncture title.

After discussion, it was moved by Ms. Tsuchiyama, seconded by Dr. Hashimoto and unanimously carried to delegate to the Executive Officer the authority to approve applications to use the doctor of acupuncture title provided that the applicants submit proof that they completed the ACAOM accredited doctoral program from a recognized school.

Ratifications

Board members reviewed the list of licenses and intern permits. It was moved by Ms. Tsuchiyama, seconded by Dr. Hashimoto, and unanimously carried to ratify the applications of the individuals as listed for respective approvals sought (attached).

Chair's Report: None.

Executive Officer's Report: None.

New Business: Letter from John Mini, Licensed Acupuncturist from California Regarding his Book Entitled *Marijuana Syndromes*

Copies of Mr. Mini's letter were provided to members for their information. The Board determined that no action is necessary. Also, the Executive Officer was requested to write Mr. Mini thanking him for his letter.

ACAOM – Probationary Accreditation – Hawaii College of Oriental Medicine

Copies of ACAOM's notice of probationary accreditation regarding Hawaii College of Oriental Medicine were provided members for their information.

Unfinished Business: Possible Amendments to Ch. 436E, HRS, §§436E-2, 3, 3.6, 4, 5, 6, 10, 12, 13 and 14

Dr. Hashimoto suggested that the Board hold off further review and discussion on amending the law, and instead review the rules first. After a brief discussion, it was agreed to defer any further discussion on amending the law, continue reviewing the rules, and that this item be taken off the agenda.

The Executive Officer reported that, as requested by the Board at the August, 2012 meeting to submit an administration bill, a draft bill to

amend §436E-13 regarding the use of the doctoral title is being reviewed.

Report of the Rules Investigative Committee Regarding §§16-72-3, 4, 5, 11, 14, 17, 20.1, 23, 33 and 57

Discussion continued on the proposed amendments to Ch. 72.

The Chair announced that the Board would return to its regular order of business.

Election of Officers: After a brief discussion, members, by consensus, agreed to defer the election of officers until there is a full board, and that this item be taken off the agenda.

Minutes of
Previous Meeting:

Minutes of the October 4, 2012 Meeting

It was moved by Ms. Tsuchiyama, seconded by Dr. Hashimoto, and unanimously carried to approve the minutes of the October 4, 2012 meeting as circulated.

Open Forum:

None.

Next
Meeting:

Thursday, February 7, 2013
1:00 p.m.
King Kalakaua Conference Room
King Kalakaua Building, 1st Floor
Honolulu, Hawaii 96813

Adjournment:

Chairperson Howden adjourned the meeting at 3:09 p.m.

Taken and recorded by:

/s/ Alice Worthy

Alice Worthy, Secretary

Reviewed and approved by:

/s/ Christine Rutkowski

Christine Rutkowski, Executive Officer

CR:aw
1/11/13

[X] Minutes approved as is.
[] Minutes approved with changes. See Minutes of _____.

VAT_02_BPR_LEGAL_NAME_1

SORAYA F <APPLEGATE<
MIKHAIL <BORKIN<
HIRAM K A <PUKAHI<
RYAN B <SUNIGA<
DARLINA R <PALERMO<
OLGA A <TATAROVICH<

LTYPE	LIC NUM	ORIG LIC	BP NAME PART 1
ACU	1043	09/28/2012	PATRICK W <PIOTROWSKI<
ACU	1044	09/05/2012	SANG K <KIM<
ACU	1045	10/01/2012	JAMIE L <VARELA<
ACU	1046	11/05/2012	JASON D <WILEY<
ACU	1047	10/29/2012	HENRY E <STROZIER<
ACU	1048	11/16/2012	PENNY L <RICE<
ACU	1049	11/07/2012	MEI LIN L <MAUNAKEA<
ACU	1050	11/15/2012	SALLY G <SHAW<
ACU	1051	11/09/2012	BRANDON L <FLEWELLING<