

Brian Sandoval, Governor



Maggie Tracey, O.M.D., *President*
Abraham Jim Nagy, MD, *Vice President*
Lisa Grant, O.M.D., *Secretary/Treasurer*
Michael Ferris, O.M.D., *Member*
Chia Hua Linda Chow, O.M.D., *Member*
Michael Smith, *Member*
Jennifer Braster, *Member*
Merle Lok, *Executive Director*

STATE OF NEVADA
BOARD OF ORIENTAL MEDICINE

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*****PUBLIC NOTICE*****

WORKSHOP
May 7, 2018 @ 9 AM

AT THE FOLLOWING LOCATION:

Grant Sawyer Building, Office of the Attorney General, 555 East Washington Ave., Room #4500 - Las Vegas, NV 89101 with teleconferencing at the Office of the Attorney General, 5420 Kietzke Lane, Room #202, Reno, NV 89511.

*****MINUTES*****

1. CALL TO ORDER (Discussion/For Possible Action) Maggie Tracey, OMD, President

Roll call to determine presence of a quorum, at 9 am

Board Members Present:

Dr. Maggie Tracey, OMD (Reno location)
Dr. Lisa Grant, OMD (Las Vegas location)
Dr. Michael Ferris, OMD (Las Vegas appearance)
Dr. Chia Hua Linda Chow, OMD (Las Vegas location)
Michael Smith (Reno location)

Board Staff:

Merle Lok, Executive Director
Asheesh Bhalla, Deputy AG

Public:

Rachel Kohl
Shannon Partell
Sara Chohagian
Susan Fisher
DuWayne Steele
Daniel Davies (Via telephone)
Setsuko Sage (Via telephone)

Dr. Tracey called the workshop to order. She stated that there were concerns about lowering the standards of Oriental Medicine in Nevada and that is not true. Dr. Tracey stated that these regulations are to update the NAC, increase the number of licensees and update the NRS when the

Legislature starts. Dr. Tracey wants to show that we are a viable board and should stay independent. We are the first state to legalize acupuncture and so the standard was set high to protect the integrity of Oriental Medicine and we were on par with the medical doctors. As a board, we are obligated maintain the standards and the integrity of Oriental Medicine.

Dr. Grant noted that there are no public comments. She stated it has been a long time since the NACs were updated and the profession has changed a lot. We want to increase the alignment with national professional standards. The VA has just recognized and certified acupuncture as a profession and not just a technique; acupuncture is a whole integrative means of delivering healthcare. A part of the government, the VA, by aligning itself with NCCAOM, has recognized that acupuncturists who attain and maintain NCCAOM's national certification have the training, are competent, and have integrity to what they are doing. When acupuncture was first licensed in Nevada, there were no national standards. NCCAOM was established in 1982 to validate competency in acupuncture through a certification process. By aligning our standards with NCCAOM, a nationally certified board by the federal government, we are increasing and improving the standards of the licensees in Nevada. The alignment impacts 4 main areas: (1) Scope of practice as defined by the AG; (2) state exam should encompass NCCAOM exams; (3) the Oriental Medical schools curriculum should align with ACAOM (a national certification organization for Oriental Medical schools) standards; (4) fees should align with Board tasks. A few miscellaneous provisions in the proposed regulations including gender neutral terms and a move to online testing for the state exam so that applicants do not have to wait that long to take it.

634A.005 Definitions

NCCAOM refers to the National Certification Commission for Acupuncture and Oriental Medicine, or its successor entity

ACAOM refers to the Accreditation Commission for Acupuncture and Oriental Medicine, or its successor entity

CCAOM refers to the Council of Colleges of Acupuncture and Oriental Medicine

There were no comments and no questions.

634A.084 The scope of Oriental medicine and practitioners of Oriental Medicine defined.

The scope of practice for licensed Oriental Medicine Doctors includes but is not limited to the following:

Acupuncture and other acupuncture techniques including electro-acupuncture, laser acupuncture, dry needling and auricular acupuncture; acupressure; acupuncture points injection therapy; Oriental osteopathic manipulation treatment; Asian bodywork and Tui'na; gua sha; cupping; moxibustion; infrared treatment; herbal medicine; nutritional and dietary

counseling; cold and heat therapy; magnet therapy; Oriental Medicine obstetrics and gynecology treatment; electro-muscular stimulations; breathing techniques; exercise and Qi-gong; dietary supplements; diagnostic imaging (radiology); laboratory tests; diathermy treatments; and ultrasound treatment.

Dr. Grant wanted to add “traditional and non traditional” after “other” and before “acupuncture”. Dr. Tracey wanted to add “but not limited to” after “including”. Mr. Smith wanted to add a comma after “techniques”.

NAC 34A.060 Officers, Salary of the Secretary-Treasurer

The position of Secretary-Treasurer will not be paid a salary.

Dr. Grant stated that currently the Secretary-Treasurer is a paid position and no one else on the Board is paid a salary. The President, who puts in a lot of time, is not paid and so it is important to clarify that the Secretary-Treasurer should not be paid as well.

634A.071 Application: General requirements.

1. File an application *and deliver all required paperwork to the Executive Director at least 3 months* before the date of the practical examination in which the applicant wishes to participate

Dr. Grant stated that it is important for the paperwork to be done 3 months ahead is so that there is time to do the FBI fingerprint check and if the application is incomplete, it gives the ED time to reach out to the applicant and the applicant has time to rectify any issues.

634A.080 Evidence of qualifications of applicant; approval of program of study.

1. An applicant for a license to practice Oriental medicine must submit, together with ~~his or her~~ *their* application, evidence that ~~he or she has they~~ *have* successfully completed an accredited 4-year program of study, or its equivalent, in Oriental medicine at a school or college of Oriental medicine which is approved by the Board, *accredited by ACAOM, or in ACAOM pre-certification status subject to the requirements in subsection 4(a)NRS 634A.080.*

3. If the application is submitted by *endorsement* pursuant to subsection 2 of NRS 634A.140, the applicant must submit evidence that ~~he or she has they~~ *have* lawfully practiced Oriental medicine in another state or foreign country for at least 4 years, *hold the NCCAOM Oriental Medicine certification, submit a completed application for licensure by endorsement and pass the state exam with a 70% on each section and 75% overall to qualify for licensure.*

4. For the purposes of subsection 1, the Board may approve an accredited 4-year program of study, or its equivalent, in Oriental medicine at a school

or college of Oriental medicine if the Board finds that:

(a) The program of study includes training or instruction in the subjects of acupuncture, moxibustion, herbology, Oriental physiology, Oriental pathology, Oriental diagnosis, tuina *or qigong*, biology, physics, chemistry, ~~biochemistry~~, anatomy, Western physiology, Western pathology, Western diagnosis, pharmacology, laboratory ; and radiology;

(b) an applicant who has been granted a Master's level degree from an ACAOM accredited school or a school in ACAOM pre-certification status that conforms to the course of study outlined in NAC 634A.080(4)(a) is deemed qualified to apply for licensure as an Oriental Medicine doctor.

Dr. Grant stated that for paragraph 1, the additional language makes it easier for the applicant to know which schools will be accepted by the Board. Dr. Ferris stated that “or” be added between “Board” and “accredited” so it gives the Board discretion to approve additional schools, such as overseas schools.

Dr. Grant stated that for paragraph 3, the additional language brings it into alignment with SB 69 and clarifying the different pathways for licensure. Mr. Smith stated that “Nevada” should be added between “the” and “state” for clarification. Dr. Grant stated that the NRS already provides that applicants who apply for endorsement have to take the Nevada state exam, but it should be added here again for clarification.

Dr. Grant stated that for paragraph 4a, more applicants can apply with the addition of qigong alternative. Also, the biochemistry requirement should be eliminated as it is unclear what is biochemistry, and just leave chemistry.

Dr. Grant stated that for paragraph 4b, the language makes it clear that Master's level students are allowed to apply.

Dr. Kohl stated that there is a movement in Oriental Medical schools towards doctorate level programs. She proposed adding “or higher” between “degree” and “from”.

ED stated that there should be an “and” or a consolidation for paragraphs 4a and 4b as some Masters programs do not have all the subject areas mentioned. Dr. Ferris stated that paragraph 4b could be moved below paragraph 1 and be referred to as 1a. Dr. Grant agreed to move paragraph 4b to 1a. Dr. Ferris stated that the applicants should meet all other qualifications such as having a Bachelors degree. AG suggested language stating that the applicants have to be in compliance with the provisions in this Chapter. Dr. Grant stated that this does not get rid of the Bachelors requirement since it is required by the NRS.

Dr. Steele stated that eliminating biochemistry is not in line with high standards as the knowledge of herbs in going down to the molecular level and acupuncture is now studying the release of chemicals.

Ms. Patel asked whether certain schools call biochemistry by another name. Dr. Grant stated that most schools require a course in chemistry and herbology classes may have some chemistry; Chemistry is still included in the NAC. Dr. Tracey stated that the language could be

“biochemistry or chemistry”. Dr. Grant agreed that the language could be “biochemistry or chemistry”. There was discussion regarding whether physics was necessary. Dr. Grant stated that physics could be taken out as there is no mention in the NRS as a requirement.

Dr. Kohl asked about how an applicant could make up deficiencies in the subject areas. Dr. Tracey stated that CEUs cannot make up the deficiencies. Dr. Grant stated that she had a deficiency in Tuina which was made up by CEUs which was accepted by the Board. Dr. Ferris stated that he would not be happy if an applicant was deficient by 700 hours and wanted to make it up through CEUs. AG stated that there is no prohibition against CEUs, but it is not a great idea for a standard. Dr. Grant stated that this issue would be addressed in another workshop.

634A.085 Compliance with requirement of passing examination administered by national organization.

To comply with the requirement of passing an examination in Oriental medicine that is administered by a national organization approved by the Board pursuant to [NRS 634A.120](#), an applicant for licensure as a doctor of Oriental medicine must pass the examinations for *Oriental Medicine Certification from NCCAOM acupuncturists and Chinese herbology administered by a national organization approved by the board.*...

Dr. Grant stated that the purpose of this section is so that the state exam does not have to focus on biomedicine as the national exam would do that; The state exam would focus on herb-drug interactions, the clean needle technique, hygiene and public safety. Dr. Tracey stated that public safety is the main concern.

Dr. Steele stated that he did not get a certification from NCCAOM for 6 months, even though he passed all the requirements. Dr. Ferris stated that the language says pass the examination, rather than be certified and NCCAOM could send in the test results.

Dr. Ferris and Dr. Grant stated that applicants who are holding the NCCAOM certification does not have to re-take the NCCAOM exam. Dr. Ferris stated that if an applicant who has practiced for 30 years somewhere else has not maintained the NCCAOM certification, then the applicant has to take the certification exam; if the applicant has maintained the NCCAOM certification, then the applicant is up-to-date on the knowledge. Dr. Grant stated that otherwise, the practice of herbs is just too dangerous. Dr. Kohl stated looking at NCCAOM, it appears that states are about half and half who require the NCCAOM certification and half that just use the exam. Dr. Grant stated that the language will now be “... an applicant for licensure as a doctor of Oriental medicine ‘must currently hold the NCCAOM Oriental Medicine certification, or show evidence of passing the Oriental Medicine certification exams within the last 12 months.’”

634A.090 Approval of schools and colleges of Oriental medicine; prescription of course of study required for degree.

(a) To comply with the requirement of annual curriculum review by the Board for content and quality of instruction, a school of Oriental Medicine established in Nevada shall submit annually, proof of payment of annual sustaining dues to ACAOM. No other curriculum review by the Board will be deemed necessary with such documentation.

Dr. Grant stated that the Board does not have the expertise or man-power to do curriculum review. However, we are charged to do so. By getting proof that a licensed OM school in Nevada has the ACAOM certification, that should be sufficient for the school to show it is maintaining high standards.

634A.095 Proficiency of applicant in English language.

1. (a) – pass the Test of English as a Foreign Language with a score of at least 550 PBT or 80 iBT

Dr. Grant stated that this provision just acknowledges the passing score. Dr. Ferris stated that 550 PBT is roughly equivalent to 80 iBT.

634A.100 Practical examination of applicant.

NAC 634A.100 Practical examination of applicant. ([NRS 634A.070](#), [634A.120](#))

1. The practical examination will be given in June and December of each year *until such time as the Board implements an online exam process, which will supersede all regulations governing the in-person examination process.* An applicant may not take the practical examination unless the applicant has first passed the national examinations required pursuant to [NAC 634A.085](#). The Executive Director shall notify an applicant of the time and place of the practical examination not later than 20 days before the date on which the practical examination is scheduled. *Upon the implementation of an online testing system, the applicant will be notified of eligibility to sit for the online exam; the applicant will have 90 days in which to take the online exam at the designated testing facility.*

3. Various sections of the ~~practical~~ examination ~~may~~ will be given in written, ~~oral or demonstrative~~ form.

4. As a part of ~~any practical~~ the examination, the Board may examine an applicant as to his or her basic knowledge of the following subjects:

~~(a) Needling. The Board may require a demonstration of needling on a patient or on the applicant himself or herself.~~

~~(b) Skills pertaining to sterilization.~~

~~(c) Skills pertaining to the use of herbs~~

~~(d) (a)~~ Basic medical science concerning anatomy, physiology, pathology, ~~biochemistry~~, bacteriology and communicable diseases, and acupuncture as covered in the Clean Needle Technique course manual

by CCAOM

(b) *Oriental herb safety and herb-drug interactions*

(c) ~~(e)~~ Applicable laws and regulations pertaining to health and safety.

(f) ~~Use of the English language, as described in NAC 634A.095.~~

6. An applicant must receive an overall score of 75 percent on the practical examination and ~~60~~ 70 percent on all of its sections or subparts to pass the practical examination-

Dr. Grant stated that the online process will take time but it is so that applicants do not have to wait 6 months to take the state licensing exam. Dr. Grant stated that there is no more practical exam and it will just be a written exam. Dr. Grant stated that there should be a requirement for the Clean Needle technique under current CCAOM guidelines. Dr. Tracey and Dr. Ferris stated that the subjects should be broader. Dr. Grant stated that there should be additional language stating “(d) Oriental Medical theory, herbology and acupuncture.” Dr. Tracey stated that she received a call from Michelle Lau, from a California organization, who believed that the state should maintain the practical exam. Dr. Tracey stated that she would prefer the exam passing score to be an overall score of 70, with 65 on each section. ED agreed with Dr. Tracey. Dr. Tracey stated that the applicants would be competent if they had passed the NCCAOM tests.

634A.110 Reexamination of applicant who fails practical examination.

2. If an applicant who has failed the practical examination failed only one section of the practical examination, the applicant will be reexamined only with respect to the section that he or she failed. If the applicant failed two or more sections of the practical examination, he or she must repeat the entire practical examination at the time of reexamination. *After Dec 31, 2018, an applicant who fails any section of the practical examination must retake the entire exam.*

Dr. Grant stated that the italicized language after “reexamination” will be taken out as the exam will be expanded. Dr. Ferris stated that the words “practical” be taken out.

634A.135 Continuing education; placement of license on inactive status; reinstatement to active status.

5. *(d) After Dec 2018 If the licensee has been inactive, the licensee must provide documentation of maintaining the NCCAOM national license during the inactive time.*

6. *All licensees, including endorsement licensees approved after Dec 2018 must maintain their NCCAOM Oriental Medicine certification. A copy of the NCCAOM license must be kept on file with the Executive Director, and resubmitted upon recertification by NCCAOM.*

Dr. Grant stated 5d is to make clear that this provision only

applies to new licensees who are licensed after December 2018. Dr. Grant wanted to make sure that someone who has not maintained their active status, not taken any CEUs, and not maintain anything, should not be allowed to become active again. Dr. Grant stated that the language should say any practitioner who elects to change their license from inactive to active status must provide proof of NCCAOM certification. ED stated that the word “inactive” is a term of art as there are licensees who pay the \$500 fee to maintain their inactive status and don’t have to take their CEUS and there are licensees who do not pay at all. Dr. Grant stated that Dr. Link wanted to make a distinction between licensees who are licensed before and after December 31, 2018. Dr. Steele stated he wasn’t sure of the purpose of 5d. Dr. Ferris stated that 5d and 6 should be combined. Dr. Tracey stated that Dr. Zhang brought up whether we would be exposing ourselves to liability by naming a national organization. AG stated that we can change to NCCAOM or its equivalent if there was ever another national organization. Dr. Grant stated that practitioners who are on inactive status and are licensed prior to December 31, 2018 must file proof annually of their 10 CEUS or active license in another state. Mr. Smith stated that the real estate board requires their inactive licensees have to file their requirements annually.

634A.137 Approval of courses of continuing education.

1. A person or entity shall not offer a course of continuing education for licensees in this State unless the person or entity has first obtained approval for the course from the Board pursuant to this section.
2. *All continuing education courses certified by NCCAOM in the AOM-BIO core competency recertification category will be accepted by the Board without review or additional fees.*
3. *Board approval of non-NCCAOM courses for CEUs will expire 4 years after the Board approval date.*

Dr. Grant stated that NCCAOM classifies its CEUs and AOM-BIO are core classes. So if the certificate has the AOM-BIO, then Board approval is not necessary. Business classes are not AOM-BIO. Dr. Ferris and Dr. Grant stated non AOM-BIO must be submitted for Board approval with the \$100 application fee.

634A.140 Payment of annual registration fee.

Each person who holds an active or inactive license to practice Oriental medicine shall pay to the Board an annual registration fee as required by NAC [634A.165](#). *The fees of new licensees shall be prorated by month until the next renewal date.*

Dr. Grant stated this provision is more relevant when we go to the online exam.

634A.150 Reinstatement of license cancelled for failure to pay annual fee. Any person whose license has been cancelled pursuant to NRS 634A.160 and who desires to reinstate ~~his or her~~ their license may have the license *reinstated within a year* if:

4. *Licensing lapses of more than one year will require the licensee to apply for new licensure.*

Dr. Grant stated this is to address a licensee who has not paid for over a year.

634A.165 Fees of Board.

The Board will charge and collect the following fees:

<i>Approval of non NCCAOM course of continuing education:</i>	<i>\$100</i>
<i>Original application fee for a school or college of Oriental Medicine:</i>	<i>\$2000</i>
<i>Annual fee for approval of curriculum before February 1:</i>	<i>\$1000</i>
<i>Fine for unlicensed practice of Oriental Medicine subsequent to a guilty verdict at a hearing:</i>	<i>up to \$2500</i>

Dr. Tracey stated that there should be flexibility in the fees and “collect” should be removed. Dr. Grant stated that these fees are authorized by NRS. Mr. Smith stated that these fees are quite low. Dr. Grant stated that the fees could be lowered when more licensees come in, but at the moment, we are self-funded and we need to balance all the fees and the costs including lobbyist fees this year. Dr. Kohl stated that it will be more expensive for new applicants due to the changes in requiring the NCCAOM tests. Dr. Tracey stated that looking for the Board expenses, she wished that she could lower the fees and will consider that option in the future, but for now, she does not see how the fees could be lowered.

634A.170 Grounds for disciplinary action.

2. The use of any *paid* testimonial, ~~whether paid for or not~~, to solicit or encourage use of the licensee’s services by members of the public.

Dr. Grant stated that this is to update the regulations based upon Yelp and other reviews. So only paid testimonials can be met with disciplinary action.

Dr. Grant thanked everyone for their input. Dr. Tracey thanked everyone for participating and for their comments.

Minutes have been approved.