

SUNSET EVALUATION REPORT
NATUROPATHY
Chapter 455, Hawaii Revised Statutes

A Report to the Governor and the Legislature of the State of Hawaii

Submitted by the
Legislative Auditor of the State of Hawaii

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FOREWORD

Under the "Sunset Law," licensing boards and commissions and regulated programs are terminated at specified times unless they are reestablished by the Legislature. Hawaii's Sunset Law, or the Hawaii Regulatory Licensing Reform Act of 1977, scheduled for termination 38 occupational licensing programs over a six-year period. These programs are repealed unless they are specifically reestablished by the Legislature. In 1979, the Legislature assigned the Office of the Legislative Auditor responsibility for evaluating each program prior to its repeal.

This report evaluates the regulation of naturopaths under Chapter 455, Hawaii Revised Statutes. It presents our findings as to whether the program complies with the Sunset Law and whether there is a reasonable need to regulate naturopaths to protect public health, safety, or welfare. It includes our recommendation on whether the program should be continued, modified, or repealed.

We acknowledge the cooperation and assistance extended to our staff by the State Board of Examiners in Naturopathy, the Department of Commerce and Consumer Affairs, and other officials contacted during the course of our examination.

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Chapter 1

INTRODUCTION

The Hawaii Regulatory Licensing Reform Act of 1977, or Sunset Law, repeals statutes concerning 38 state licensing boards and commissions over a six-year period. Each year, six to eight licensing statutes are scheduled to be repealed unless specifically reenacted by the Legislature.

In 1979, the Legislature amended the law to make the Legislative Auditor responsible for evaluating each licensing program prior to its repeal and to recommend to the Legislature whether the statute should be reenacted, modified, or permitted to expire as scheduled. In 1980, the Legislature further amended the law to require the Legislative Auditor to evaluate the effectiveness and efficiency of the licensing program, even if he determines that the program should not be reenacted.

Objective of the Evaluation

The objective of the evaluation is: To determine whether, in light of the policies set forth in the Sunset Law, the public interest is best served by reenactment, modification, or repeal of Chapter 455, Hawaii Revised Statutes.

Scope of the Evaluation

This report examines the history of the statute on the regulation of naturopaths and the public health, safety, or welfare that the statute was designed to protect. It then assesses the effectiveness of the statute in preventing public injury and the continuing need for the statute.

Organization of the Report

This report consists of three chapters: Chapter 1, this introduction and the framework developed for evaluating the licensing program; Chapter 2, background information on the regulated industry and the enabling legislation; and Chapter 3, our evaluation and recommendations.

Framework for Evaluation

Hawaii's Regulatory Licensing Reform Act of 1977, or Sunset Law, reflects rising public antipathy toward what is seen as unwarranted government interference in citizens' lives. The Sunset Law sets up a timetable terminating various occupational licensing boards. Unless reestablished, the boards disappear or "sunset" at a prescribed moment in time.

In the Sunset Law, the Legislature established policies on the regulation of professions and vocations. The law requires that each occupational licensing program be assessed against these policies in determining whether the program should be reestablished or permitted to expire as scheduled. These policies, as amended in 1980, are:

1. The regulation and licensing of professions and vocations by the State shall be undertaken only where reasonably necessary to protect the health, safety, or welfare of consumers of the services; the purpose of regulation shall be the protection of the public welfare and not that of the regulated profession or vocation.

2. Where regulation of professions and vocations is reasonably necessary to protect consumers, government regulation in the form of full licensure or other restrictions on the professions or vocations should be retained or adopted.

3. Professional and vocational regulation shall be imposed where necessary to protect consumers who, because of a variety of circumstances, may be at a disadvantage in choosing or relying on the provider of the services.

4. Evidence of abuses by providers of the services shall be accorded great weight in determining whether government regulation is desirable.

5. Professional and vocational regulation which artificially increases the costs of goods and services to the consumer should be avoided.

6. Professional and vocational regulation should be eliminated where its benefits to consumers are outweighed by its costs to taxpayers.

7. Regulation shall not unreasonably restrict entry into professions and vocations by all qualified persons.

We translated these policy statements into the following framework for evaluating the continuing need for the various occupational licensing statutes.

Licensing of an occupation or profession is warranted if:

1. There exists an identifiable potential danger to public health, safety, or welfare arising from the operation or conduct of the occupation or profession.
2. The public that is likely to be harmed is the consuming public.
3. The potential harm is not one against which the public can reasonably be expected to protect itself.
4. There is a reasonable relationship between licensing and protection of the public from potential harm.
5. Licensing is superior to other optional ways of restricting the profession or vocation to protect the public from the potential harm.
6. The benefits of licensing outweigh its costs.

The potential harm. For each regulatory program under review, the initial task is to identify the purpose of regulation and the dangers from which the public is intended to be protected.

Not all potential dangers warrant the exercise of the State's licensing powers. The exercise of such powers is justified only when the potential harm is to public health, safety, or welfare. "Health" and "safety" are fairly well understood. "Welfare" means well-being in any respect and includes physical, social, and economic well-being.

This policy that the potential danger be to the public health, safety, or welfare is a restatement of general case law. As a general rule, a state may exercise its police power and impose occupational licensing requirements only if such requirements tend to promote the public health, safety, or welfare. Under particular fact situations and statutory enactments, courts have held that licensing requirements for paperhangers, housepainters, operators of public dancing schools, florists, and private land surveyors could not be justified.¹ In Hawaii, the State Supreme Court in 1935 ruled that legislation requiring photographers to be licensed bore no reasonable relationship to public health, safety, or welfare and constituted an unconstitutional

1. See discussion in 51 *American Jurisprudence*, 2d., "Licenses and Permits," Sec. 14.

encroachment on the right of individuals to pursue an innocent profession.² The court held that mere interest in the practice of photography or in ensuring quality in professional photography did not justify the use of the State's licensing powers.

The public. The Sunset Law states that for the exercise of the State's licensing powers to be justified, not only must there be some potential harm to public health, safety, or welfare, but also the potential harm must be to the health, safety, or welfare of that segment of the public consisting mainly of consumers of the services rendered by the regulated occupation or profession. The law makes it clear that the focus of protection should be the consuming public and not the regulated occupation or profession itself.

Consumers are all those who may be affected by the services rendered by the regulated occupation or profession. Consumers are not restricted to those who purchase the services directly. The provider of services may have a direct contractual relationship with a third party and not with the consumer, but the criterion set forth here may be met if the provider's services ultimately flow to and adversely affect the consumer. For example, the services of an automobile mechanic working for a garage or for a U-drive establishment flow directly to the employer, but the mechanic's workmanship ultimately affects the consumer who brings a car in for repairs or who rents a car from the employer. If all other criteria set forth in the framework are met, the potential danger of poor workmanship to the consuming public *may* qualify an auto mechanic licensing statute for reenactment or continuance.

Consumer disadvantage. The consuming public does not require the protection afforded by the exercise of the State's licensing powers if the potential harm is one from which the consumers can reasonably be expected to adequately protect themselves. Consumers are expected to be able to protect themselves unless they are at a disadvantage in selecting or dealing with the provider of services.

Consumer disadvantage can arise from a variety of circumstances. It may result from a characteristic of the consumer or from the nature of the occupation or profession being regulated. Age is an example of a consumer characteristic which may cause the consumer to be at a disadvantage. The highly technical and complex

2. *Terr. v. Fritz Kraft*, 33 Haw. 397.

nature of the occupation is an illustration of occupational character that may result in the consumer being at a disadvantage. Medicine and law fit into the latter illustration. Medicine and law were the first occupations to be licensed on the theory that the general public lacked sufficient knowledge about medicine and law to enable them to make judgments about the relative competencies of doctors and lawyers and about the quality of services provided them by the doctors and lawyers of their choice.

However, unless otherwise indicated, consumers are generally assumed to be knowledgeable and able to make rational choices and to assess the quality of services being provided them.

Relationship between licensing and protection. Occupational licensing cannot be justified unless it reasonably protects the consumers from the identified potential harm. If the potential harm to the consumer is physical injury arising from possible lack of competence on the part of the provider of service, the licensing requirement must ensure the competence of the provider. If, on the other hand, the potential harm is the likelihood of fraud, the licensing requirements must be such as to minimize the opportunities for fraud.

Alternatives. Depending on the harm to be protected against, licensing may not be the most suitable form of protection for the consumers. Rather than licensing, the prohibition of certain business practices, governmental inspection, or the inclusion of the occupation within some other existing business regulatory statute may be preferable, appropriate, or more effective in providing protection to the consumers. Increasing the powers, duties, or role of the consumer protector is another possibility. For some programs, a nonregulatory approach may be appropriate, such as consumer education.

Benefit-costs. Even when all other criteria set forth in this framework are met, the exercise of the State's licensing powers may not be justified if the costs of doing so outweigh the benefits to be gained from such exercise of power. The term, "costs," in this regard means more than direct money outlays or expenditure for a licensing program. "Costs" includes opportunity costs or all real resources used up by the licensing program; it includes indirect, spillover, and secondary costs. Thus, the Sunset Law asserts that regulation which artificially increases the costs of goods and services to the consumer should be avoided; and regulation should not unreasonably restrict entry into professions and vocations by all qualified persons.

Chapter 2

BACKGROUND

Chapter 455, Hawaii Revised Statutes, regulates the practice of naturopathy. No one may claim to be a naturopath or engage in the practice of naturopathy without being licensed by the State. This chapter provides background information on the occupation and its regulation.

Occupational Characteristics

Naturopathy was developed in Germany in the mid-1800s. It was brought to the United States by Dr. Benedict Lust in 1892. Dr. Lust established health resorts and the first naturopathy college, the Yungborn Health Institute in New Jersey.¹ He also founded the American School of Naturopathy in New York City which graduated its first class of students in 1902.²

The term naturopathy was coined to encompass an evolving system of natural therapeutics which included hydrotherapy, homeopathy, nutritional therapy, botanical medicines, medical electricity, psychology, and the emerging manipulative therapies. The foundation of naturopathic philosophy and practice is the concept of "vix medicatrix naturae" which literally means the healing power of nature.³

Naturopathy maintains that the human body has the power to heal itself by restoring homeostatic balance. Therapeutic substances, methods, and techniques which are in harmony with the body's self-healing processes are applied to stimulate

1. John Bastyr College of Naturopathic Medicine, Catalog, Volume 4, 1982-1984, Seattle, Wash., p. 3.

2. Andrew Weil, *Health and Healing, Understanding Conventional & Alternative Medicine*, Boston, Mass., Houghton Mifflin Company, 1983, p. 137.

3. Malcolm Hulbe, ed., *The Encyclopedia of Alternative Medicine and Self-Help*, Schocken Books Inc., 1979, p. 138.

and enhance the healing power of nature and the inherent recuperation powers of the body. Naturopathy draws on everything of a drugless nature to provide a holistic approach to health.

Naturopaths are primary health care providers who exercise independent judgment in the diagnosis, prevention, and treatment of illness. The scope of practice and the diagnostic, prevention, and treatment methods used vary widely among the individual practitioners. Naturopathy does not subscribe to any one doctrine or system of health care. The profession is loosely organized in theory as well as practice. It draws on treatment and diagnostic techniques from other health care professions which are compatible with its philosophical principles.

Most naturopaths are in private practice and provide services as sole practitioners. They use standard methods to diagnose disorders including patient interviews, physical examinations, X-rays, and laboratory tests of blood, urine, and cultures. Their scope of practice normally includes therapies such as nutrition, herbology, homeopathy, spinal manipulation, and physiotherapy for treatment and prevention of illness. Natural child birthing is also usually included in naturopathy practice. Surgery, drugs, and radiation treatments are generally not performed.

Regulation of Naturopaths in the United States

The profession of naturopathy was established in the United States in the early 1900s, but it has never attained widespread legal recognition through licensing. The progress made in traditional medicine and the discovery of modern miracle drugs contributed largely to a decline in the profession and to problems of getting legal recognition. The profession declined to the point where only one naturopathic college remained by the 1960s.⁴ This college awarded only 29 degrees between 1956 and 1973.⁵

More recently, there has been a resurgence of interest in preventive medicine and in nutrition. This resulted in the establishment of several new naturopathic

4. Jonathan Halper and Lawrence R. Berger, "Naturopaths and Childhood Immunizations: Heterodoxy Among the Unorthodox" *Pediatrics*, v. 68, no. 3, September 3, 1981, p. 408.

5. The National College of Naturopathic Medicine, "Self-Study Report." Portland, Oreg., pp. 5-53.

colleges in the 1970s. However, most of these failed because of financial problems.⁶ Today, there are two main naturopathic colleges in the United States. National College of Naturopathic Medicine in Portland has an enrollment of approximately 170 students and has graduated 137 naturopaths since 1979.⁷ John Bastyr College of Naturopathic Medicine in Seattle has graduated 103 naturopaths in the past three years and has a current enrollment of 145 students.⁸

At one time, licensing of naturopaths was required in 14 states.⁹ Currently, eight states require licensure.¹⁰ In two of these eight states, licensing laws have been amended to make naturopaths a "dying class." In other words, those licensed prior to the statutory amendments are permitted to practice, but no new naturopaths are licensed.

Those states that still license naturopaths require applicants to be graduates of naturopathy colleges. Applicants to naturopathy colleges must have two or three years of undergraduate study as a prerequisite to entering the four-year naturopathy program. The naturopathic college curriculum includes standard medical courses in subjects such as anatomy, bacteriology, pathology, physiology, and X-ray interpretation. The curriculum also includes courses in botanical medicine, hydrotherapy, manipulative technique, physiotherapy, and nutrition. Graduates of naturopathy colleges earn the degree of Doctor of Naturopathy Medicine (N.D.).¹¹

Currently, there is no nationally recognized accrediting agency for naturopathy colleges. The Council on Naturopathic Medical Education (CNME) was established in 1978 to serve as the national accrediting agency for naturopathic colleges, but it is now inactive.¹² There is also no national credentialing agency to certify competency

6. Interview with Dr. Cordell E. Logan, Federation of Naturopathic Medical Licensing Boards, West Jordan, Utah, November 26, 1984.

7. National College, "Self-Study Report," pp. 5-53, 9-24.

8. Interview with Dr. Joseph Pizzorno, John Bastyr College of Naturopathic Medicine, Seattle, Wash., November 26, 1984.

9. State of Utah, Office of the Legislative Auditor General, *A Performance Audit of Naturopathic Licensing in Utah*, Report to Utah State Legislature Number 79-9, June 1979, p. 5.

10. The National College of Naturopathic Medicine, "Naturopathic Licensing Boards," Portland, Oreg., December 16, 1982.

11. National College of Naturopathic Medicine, Bulletin 1982-84, Portland, Oreg., pp. 15-17, 35-38.

12. Interview with Dr. Pizzorno, November 26, 1984.

in the profession as there is for other health care professions. There is also no nationally standardized examination which will assess competency as there is for other health professions such as the Federation Licensing Examination used by all states in licensing physicians and surgeons (M.D.s) or the National Board of Chiropractic Examiners examination used for licensing chiropractors.

Statutory History

Naturopaths have been regulated by the State since 1925. Act 77 that year provided for the granting of licenses to practice naturopathy in Hawaii to those individuals who were graduates of a school of naturopathy and who passed written examinations. The act specified minimum standards for naturopathy schools and enumerated the subjects that were to be examined.

The Board of Health was charged with the responsibility for conducting examinations and issuing licenses until such time as "there is a board of naturopathic examiners appointed from the naturopathic practitioners of the Territory of Hawaii. . . ."

Act 77 authorized naturopaths to provide a full range of services including, "the scientific application of air, light, sunshine, water, earth, cold and heat, electricity, hygiene and dietetics, bio-chemic system, psychotherapy, mechanical movements, manipulations and appliances, applied specifically to eliminate toxic conditions from the human body and to promote the quality, quantity and flow of the vital fluids without the use of drugs, aiding nature with natural and congenial agents or means either tangible or intangible to restore and maintain normal functioning. . . ." The law specifically excluded Hawaiian lomilomi or massage from the definition of naturopathy.

Naturopathic practitioners licensed under the law were required to ". . . observe and be subject to all territorial and municipal regulations relative to reporting births and deaths and all matters pertaining to the public health with equal rights and obligations as physicians, surgeons and practitioners or other schools of medicine."

The act prohibited the use of the title of natureopath, naturopath or N.D. or the offering of such services by any person not licensed under the law. Sanctions against such violations included fines or imprisonment or both.

To obtain a license, an applicant had to pass written examinations and provide the Board of Health with proof of graduation from high school or its equivalent and graduation from a naturopathy school which qualified under the provisions of the act.

Subsequently, Act 221, SLH 1937, established the Territorial Board of Examiners in Natureopathy. A board had been in existence since 1927 but was without statutory authority. The board was empowered to assess qualifications, examine applicants, and recommend the issuance of licenses by the Board of Health. The House Committee on Public Health, Police and Military in its committee report noted that "The purpose of the Bill is to legalize a board of examiners which has been in existence in the territory since 1927. . . . The Bill also proposes to tighten restrictions placed upon the qualifications of prospective practitioners of natureopathy."¹³

Since 1937, the statute has been amended several times. Some of the major amendments include the following:

In 1949, Act 214 added a one-year residency requirement, increased educational requirements, and defined the powers and duties of the board of examiners. The law phased in more rigorous educational requirements in requiring applicants who graduated from naturopathy college after 1949 to have completed two years of undergraduate liberal arts and science study at a college or university. The board of examiners was granted the authority to recommend to the Board of Health the suspension and revocation of licenses for reasons such as false or deceptive advertising, habitual substance abuse, or professional misconduct. The act also specified hearing procedures for license suspension and revocation proceedings.

In 1969, Act 106 transferred the Board of Examiners in Naturopathy from the Department of Health to the Department of Regulatory Agencies [now the Department of Commerce and Consumer Affairs (DCCA)].

After passage of the Sunset Law, Chapter 455 on the practice of naturopathy was scheduled to be repealed on December 31, 1978. At that time, the sunset evaluations were based on impact statements submitted by the respective boards or

13. House Standing Committee Report No. 562 on Senate Bill No. 336, Regular Session of 1937.

the department. The board urged in its 1978 impact statement that the law be reenacted to provide for continued regulation of naturopathy. Based on testimony from the board, naturopaths, and the public, the Legislature extended the repeal date for Chapter 455 from December 1978 to December 1984.¹⁴ The Legislature said that repeal of Chapter 455 would be premature because of testimony that regulation is essential for protection of the public.¹⁵

In extending the law, the Legislature made several changes to make regulation "more meaningful and effective." It noted that the board had never adopted rules to implement the law or to govern the conduct of naturopaths. It required the board to submit rules to the Legislature prior to the 1979 session or to report on efforts made to adopt such rules.

The Legislature also added more comprehensive and specific grounds for revoking and suspending licenses. This was done to parallel the grounds on which physician's licenses may be suspended or revoked. In addition, the board was required to conduct examinations at least twice a year. The passing score for such examinations was set at a general average of 75 percent.

In 1982, the Legislature deleted the authorization for naturopaths to execute death certificates in response to testimony from the Department of Health.¹⁶ The director of health is required to convene a committee in every odd-numbered year to review statutory provisions relating to the determination of death. The director reported that the definition of a physician in the statutes included naturopaths, thus allowing them to certify the cause of death. However, his committee did not believe that naturopaths are qualified to determine that a person is dead and should not be allowed to certify the cause of death. Accordingly, the statutes were amended to delete naturopaths from the definition of physician and their authority to certify death or the cause of death.¹⁷

14. In 1982, Act 110 extended the scheduled date for repeal to December 31, 1985, in a general revision of the sunset review schedule.

15. Senate Standing Committee Report No. 549 on House Bill No. 2385, Regular Session of 1978.

16. Testimony on House Bill No. 2444 submitted by George A. L. Yuen, Director of Health, State of Hawaii, to the Honorable Yoshiro Nakamura, Chairman, House Committee on Judiciary, February 24, 1982.

17. Sections 2 and 5, Act 112, SLH 1982.

Currently, there are 21 naturopaths who have been licensed to practice by the board. Of these, 16 have Hawaii addresses.¹⁸ Thirteen of those currently licensed received their licenses after 1981.¹⁹

Nature of Regulation in Hawaii

The board. The practice of naturopathy in Hawaii is regulated by a three-member board placed for administrative purposes in DCCA. The department provides staff support to the board. Board membership consists of two naturopaths and one public member. The two naturopaths must be licensed under Chapter 455. Board members serve without pay but are reimbursed for expenses incurred in performing their duties.

The powers and duties granted by statute to the board include the authority to: conduct examinations; grant, suspend, or revoke licenses; conduct hearings; and adopt, amend, and repeal rules.

Scope of regulation. The definition of naturopathy currently in effect in Section 455-1 is the same as that contained in the enabling legislation for the regulation of naturopathy in 1925. The practice of naturopathy remains broadly defined to cover almost all forms of therapy without the use of drugs, with the exception of Hawaiian massage.

Licensing requirements. To qualify for a license, a person must meet the following requirements: graduate from high school, complete two years (defined as 60 credit hours by rule) of liberal arts and science study at an accredited college or university, graduate from a board approved naturopathy school or college which meets specified statutory requirements, and pass examinations administered by the board in subjects enumerated in the statute. A general average of 75 percent is required for successful completion of the examination. The board does not require oral examinations or practical tests although it has statutory authority to do so.

18. State of Hawaii, Department of Commerce and Consumer Affairs, *Geographic Report*, October 1, 1984.

19. State of Hawaii, Department of Commerce and Consumer Affairs, *Naturopathy License Roster*, As of November 30, 1984.

Educational requirements. The statute specifies certain minimum educational requirements. Applicants must be graduates of legally chartered naturopathy colleges which require a course of study of at least four school years of nine months each. The college must offer and the applicant must complete the following subjects: anatomy, histology and embryology, chemistry and toxicology, physiology, bacteriology, hygiene and sanitation, pathology, diagnosis, naturopathic theory and practice, obstetrics and gynecology, jurisprudence, clinical practice, biochemistry and dietetics, and therapeutics.

The board has adopted rules that define legally chartered naturopathy colleges as those that it has found satisfactory in the following respects: (1) the training includes at least two continuous academic years of full-time residency at the school at which the diploma is granted; (2) the training program is clearly identified and labeled a naturopathic medicine training program; (3) the program specifies in its catalogs and brochures its intent to train naturopathic physicians; (4) the program must be an organized sequence of study to provide an integrated educational experience in the professional practice of naturopathy; and (5) it must have an identifiable body of students accepted as candidates for a certificate of graduation in naturopathy.

Naturopathy corporations. The board has adopted rules that establish certain requirements for professional naturopathy corporations including board approval for its corporate name, \$100,000/\$300,000 in professional liability insurance coverage, and a license to practice naturopathy.

Penalties. The board has the power to revoke or suspend licenses to practice naturopathy on any of a number of specified grounds including: false, fraudulent, or deceptive advertising; consistently utilizing medical service or treatment which is inappropriate or unnecessary; habitually using any habit-forming drug; or professional misconduct or gross carelessness or manifest incapacity in the practice of naturopathy.

In cases involving disciplinary action, DCCA, acting on the board's behalf, is required to give the person proper notice and a fair hearing in conformity with the State's Administrative Procedure Act. In its proceedings, the department has the power to administer oaths, compel the attendance of witnesses, require the production of documentary evidence, and examine witnesses.

Persons are subject to a fine of not less than \$500 or more than \$10,000 if they do the following: (1) practice or attempt to practice naturopathy without complying with Chapter 455; (2) use the title "naturopath," "natureopath," or "N.D." without obtaining a license in any manner to suggest that they are in the practice of naturopathy; or (3) buy, sell, or fraudulently obtain a diploma or license to practice naturopathy.

Chapter 3

EVALUATION OF THE REGULATION OF NATUROPATHY

This chapter contains our evaluation of the regulation of naturopathy under Chapter 455, Hawaii Revised Statutes, including our assessment of the need for regulation and the effectiveness of existing regulatory operations.

Summary of Findings

1. There is a significant potential for public harm with the practice of naturopathy. However, current state regulation provides no protection against this harm.

2. State standards for licensure are outdated and are not considered by the board during the application review process.

3. The board appears to have exceeded its statutory authority in the standards it has adopted. These standards provide no assurance that licensees are competent. The board requires applicants to be graduates of naturopathic colleges approved by the board, but it has no written standards or procedures for approving the colleges, and its examination is outdated and of questionable validity and reliability.

The Need for Regulation

Naturopaths are primary health care providers who, like members of the other healing arts, may legally employ independent judgment in the diagnosis, prevention, and treatment of disease, illness, or injury. As primary health care practitioners, naturopaths make decisions on patient care and may make referrals to other health care professionals. Incompetent practitioners could cause considerable and significant harm to the health, safety, and welfare of consumers.

Naturopaths believe in the healing power of nature. Naturopathy evolved by integrating all the various natural healing methods into its treatment system. It does not have a clearly defined doctrine of the preferred natural treatment methods that should be administered to stimulate healing power for different ailments.

Naturopathic practice is given very broad scope in the Hawaii statute. The law, as implemented by the board, authorizes the use of almost any method or means without the use of drugs in the care and treatment of the human body except for Hawaiian massage. Naturopaths conduct laboratory and clinical tests and use X-rays and other nonsurgical methods of diagnosis. Treatment methods include nutritional therapy, botanical medicine, homeotherapeutics, spinal manipulation, physiotherapy modalities, and many other natural therapeutics.

The broad scope of treatment methods allowed naturopaths could result in significant health risks for consumers in Hawaii. The improper diagnosis and treatment of certain diseases and illnesses can result in serious complications or even death in a short period of time. Treatment modalities commonly utilized by naturopaths such as colonic irrigation can result in considerable harm to consumers if performed in an incompetent manner. Malpractice in the use of naturopathic manipulation and adjustment may result in irreversable spinal damage or even death.

Although naturopathy normally excludes the use of chemical or synthesized drugs, it is far from a drugless healing profession. Botanical and homeopathic medicine are primary naturopathic treatment modalities which involve the administration of natural or herbal medicine. The potential danger from the incompetent use of natural drug therapy is highlighted by the results of a recent survey that disclosed that "close to 50 percent of all prescriptions contain drugs that are either directly derived from natural sources or synthesized from natural models as the sole ingredient or as one of the several ingredients."¹ The improper administration of certain botanical medicines can have the same toxic or even fatal effect on patients as chemical drugs.

1. Mark Bricklin, *The Practical Encyclopedia of Natural Healing*, 2nd ed., Rodale Press, Inc., 1983, pp. 268-269.

Naturopaths offer therapy which is often different from that provided by conventional medical doctors. Some of these may be of questionable medical value. For example, homeopathic therapy is based on the theory that "like cures like" or, in other words, a small dose of a substance that causes a healthy person to become ill will actually stimulate the body's self-defense system to overcome that same effect in a sick person.² Homeotherapeutics may involve the use, in highly diluted dosages, of powerful toxic herbs that can cause death.

There have been cases in other states where naturopathic malpractice has resulted in death. In Colorado, six deaths and several cases of dysentery resulted from an improperly cleaned colonic irrigation apparatus in 1982.³

In Hawaii, there have been no serious injuries or other harm resulting from the practice of naturopathic medicine in recent years. However, according to a former board member, during the late 1940s and early 1950s, numerous complaints were filed against naturopaths concerning unsatisfactory treatments and excessive charges. In one case, a licensed naturopath inserted an electrode into a patient's uterus which brought about a fatal embolism. The license of the naturopathic physician was revoked for malpractice.

It is apparent that the practice of naturopathy poses significant potential harm to the public. The question is whether state licensing is the best means of protecting the public.

We find that state licensing of naturopaths presents more dangers than advantages. By licensing naturopaths, the State is conferring recognition on the profession and attesting to the competency of those it has licensed. This may lead the public to believe that naturopathic services are effective and to place confidence on naturopathic services which may have no demonstrated medical value.

The public may also be led to believe that those who are licensed by the State have demonstrated a minimal level of competency in the scope of practice permitted by law. In the present instance, the scope of practice is so broad that competency in

2. Maryann Napoli, *Health Facts*, Woodstock, N.Y., The Overlook Press, 1981, p. 326.

3. Bricklin, *The Practical Encyclopedia of Natural Healing*, p. 386.

its practice can neither be defined nor measured. There is no nationwide consensus within the naturopathy profession on what the discipline encompasses or the preferred modes of treatment for particular conditions. Consequently, the State is without standards for ascertaining minimal levels of competency, and it is unlikely that such standards will be available in the near future. In licensing naturopaths, the State is providing the public with a false illusion of practitioner competency.

The majority of states do not license naturopaths. At one time, 14 states licensed naturopaths. By 1981, this number had dwindled to eight. Only six states now license new naturopaths. The other two states permit those already licensed to continue to work as a dying class.⁴

Utah amended its naturopathy statute as a result of its 1979 sunset performance audit of naturopathic licensing. The audit says, "It is our opinion, that licensing of naturopaths may foster an unwarranted public reliance on some unproven and invalid health practices which are encompassed by the tenets of the naturopathic profession."⁵ In 1981, the Utah Legislature amended the naturopathy statute to discontinue the licensing of new naturopaths but allowed those already licensed to continue to practice.

To protect the public, Hawaii should follow Utah's example. The State should discontinue the licensing of applicants for naturopathy after December 1985. However, those currently licensed should be permitted to renew their licenses. The State should not divest these licensed naturopaths of the right to pursue the practice of naturopathy which the State had previously granted to them. They should be allowed to continue to practice. Grounds for suspension and revocation of licenses should remain in the statute so that disciplinary action can continue to be taken in the future if needed.

Restrictions needed. The statute should be amended to restrict the practice of naturopathy for those who continue to practice. There is a lack of clarity in the statutes on whether certain practices are permitted or prohibited. These should be spelled out so that there is no question about what naturopaths are permitted to do.

4. State of Arizona, Office of the Auditor General, *A Performance Audit of the Naturopathic Board of Examiners*, A Report to the Arizona State Legislature, Report 81-8, September 1981, p. 28.

5. State of Utah, Office of the Legislative Auditor, *A Performance Audit of Naturopathic Licensing in Utah*, Report of the Utah State Legislature, No. 79-9, June 1979, p. 22.

The definition of the practice of naturopathy includes the phrase "without the use of drugs." However, what is considered a drug, or the use of a drug, or whether the naturopath is prohibited from prescribing drugs is not clear. There has also been a question on whether naturopaths can prescribe prescription contraceptives. The law should be amended to clearly prohibit the use of prescription drugs.

The law is silent on whether naturopaths may perform invasive techniques or minor surgery. Normally, naturopaths do not perform surgery. However, as noted earlier, the use of an invasive technique by a licensed naturopath once caused the death of a patient in Hawaii. The department has also been asked whether naturopaths are authorized to give injections of vitamins. Surgery and invasive techniques should clearly be prohibited.

The law is also vague on whether naturopaths may title themselves naturopathic *physicians*. The law authorizes licensed naturopaths to use the title "naturopath," "natureopath" or "N.D." It does not authorize them to call themselves naturopathic physicians although Section 455-8 does refer to "naturopathy physicians" at one point. Chapter 455 neither specifically permits nor prohibits them from calling themselves naturopathic physicians.

Currently, naturopaths list themselves as naturopathic physicians in the telephone directory. The use of the title of naturopathic physician may mislead consumers into believing that naturopaths are physicians who have education and training comparable to that received by M.D.s and osteopathic physicians. The use of the title of naturopathic physician should be prohibited.

The Licensing Program

The statutory requirements for licensure were established almost 50 years ago. They are largely irrelevant as licensing standards and are not considered by the board in its decisions on licensure. The board's procedures for licensure are of questionable legality and without written criteria. There is no evidence of their validity in assessing competency. As a result, there is no assurance that applicants who are licensed are qualified to provide the almost unrestricted health care services that are allowed by law.

Statutory requirements. Chapter 455 requires applicants to be residents for one year prior to application, to complete two years of liberal arts and sciences study

in an accredited college or university, graduate from a legally chartered naturopathy college which meets statutory requirements, and successfully complete examinations administered by the board.

The one-year residency requirement is ignored by the board, and it has little relevance to competency in naturopathy. The two year liberal arts study also provides no basis for establishing competency in the practice of naturopathy.

The requirement for applicants to graduate from a legally chartered naturopathy college is similarly meaningless. Section 455-3 of the statute requires the naturopathic colleges to have a four-year program consisting of at least 4,520 class hours of didactic instruction with minimum hour requirements in 14 specified subject areas. These educational requirements have remained unchanged since 1937.

The educational requirements are outdated in many respects. Some courses in laboratory sciences that are listed in the statute are now required as a prerequisite for admission to naturopathic colleges. Other courses like anatomy, histology, embryology, and physiology are presented by the naturopathy colleges under course titles such as human biology or basic medical science. Subjects such as bacteriology are no longer offered as such. Instead, courses are offered in microbiology. It is difficult to assess the correspondence of educational hours between the courses offered in naturopathy colleges today and the subjects and hours specified in the statute.

For this reason, the board does not consider the statutory educational requirements in its application review process. Board members simply make a cursory review of the applicant's college transcript. They acknowledge that they no longer review the transcripts to verify the minimum educational hour requirements specified in the statute. Instead, the board has substituted its requirement that applicants graduate from a board approved college.

Board approved colleges. There is no statutory basis for the requirement that applicants graduate from a board approved college. The Legislature did not give the board the power to approve colleges. The board assumed this power on its own. The statute only requires that applicants graduate from a legally chartered college, school, or university with certain course requirements.

The board has defined "legally chartered school, university or college" in its rules as a school approved by the board as meeting all the course requirements in the law and found satisfactory to the board in a number of respects.⁶

In assuming this authority, the board appears to have exceeded its authority. Administrative bodies do not have unlimited discretion in the rules they may issue. They have only such rulemaking power as is delegated to them by the Legislature. Agencies may not enlarge their powers beyond the scope intended by the Legislature.

Based on this questionable authority, the board has approved two naturopathy colleges in its rules: the National College of Naturopathic Medicine in Portland and the British College of Naturopathy and Osteopathy in London. It has approved a third informally, the John Bastyr College of Naturopathic Medicine in Seattle. It has rejected other colleges.

Lack of criteria. In exercising questionable authority to approve colleges, the board has failed to develop meaningful standards or criteria for its approval of naturopathy colleges or for procedures to be followed in approving these colleges. Its requirements for a college to be judged satisfactory includes such aspects as the college being identified and labeled as a college of naturopathy, the college having an organized sequence of study, and the college having an identifiable student body. These general requirements provide little basis for establishing the adequacy of training and education for practice as a naturopath here in Hawaii.

State licensing standards for most professions require applicants to be graduates of accredited colleges or professional schools. Accreditation is a status conferred on a college, school, or university by institutional accrediting agencies or by specialized professional associations. Institutional accreditation is usually conferred by regional associations such as the Northwest Association of Schools and Colleges, or the Western Association of Schools and Colleges. Accreditation by these bodies serves to assure the public that the institution's programs are soundly conceived, that its educational programs are intelligently devised, that its purposes are being accomplished, and that it merits continued confidence because of its organization and resources.⁷

6. State of Hawaii, Title 16, Department of Commerce and Consumer Affairs, Chapter 88, Rules Relating to Naturopaths, Chapter 455, Hawaii Revised Statutes, Section 16-88-2.

7. Kenneth E. Young, et al., *Understanding Accreditation*, San Francisco, Jossey-Bass Publishers, 1983, p. 168.

Specialized accreditation is performed by professional associations for particular professional schools or professions, such as accreditation by the American Bar Association for law schools or the accreditation of allied health programs by the American Medical Association's Committee on Allied Health Education and Accreditation. The specialized accrediting bodies establish national standards that must be met by educational programs. They serve to ensure educational quality by identifying needed professional proficiencies and the educational experiences necessary to achieve them.

Recognized institutional and specialized accrediting bodies are those that meet certain standards that have been established by the Council on Postsecondary Education (COPA). COPA is a nongovernmental organization established by the postsecondary community to grant recognition to national accrediting bodies.

Today, there is no specialized professional accrediting body for naturopathy schools or colleges. Consequently, no national standards have been established, professional proficiencies have not been identified, and it is not clear that the educational programs offered by naturopathy colleges supply the education and training needed to provide virtually unrestricted health care.

The two colleges officially approved by the board in its rules are not accredited. The third college that is unofficially approved by the board has been given candidate accreditation status by the Northwest Association of Schools and Colleges. According to the COPA, this means that the institution has provided evidence of: (1) the appropriateness of its objectives; (2) the adequacy of its organization, program, and resources when viewed against generally accepted accrediting standards; and (3) accomplishment of institutional objectives in reasonable measure.⁸ COPA cautions that institutional accreditation should not be interpreted as being equivalent to specialized accreditation of a part or program of the institution and should not be represented as such. Consequently, even with institutional accreditation, the question of the adequacy of professional education and training remains.

The board has sought to serve as the accrediting body for naturopathy colleges. However, the board fails to recognize the significance of the function and that it

8. *Ibid.*, p. 454.

requires substantial expertise, training, and other resources. The board has no national standards on which to base an evaluation. Moreover, it does not have the expertise, staff, or time to evaluate an institution's program, faculty, library facilities, equipment, and the many other aspects that are reviewed by accrediting bodies.

The British College of Naturopathy and Osteopathy was approved by the board on the basis of a visit to the college by one of the former board members. It is not clear what criteria he applied or how he assessed the educational quality of the institution. The approval came as a result of an application to the board from a graduate of that college. The application was first rejected by the board as the college was not on the board's list of approved colleges. However, the board member recommended acceptance of the application and approval of the college based on his visit to the college and his meeting with the vice-dean. The board subsequently approved the college and allowed the applicant to take an unscheduled examination after the school had been included in the rules.

At a subsequent meeting, the board approved the application of John Bastyr College of Naturopathy. Here again, it is not clear what criteria was used. According to one board member, the decision was based on the recommendation of the licensing board of the State of Washington.

Recently, a graduate of a naturopathy college in South Africa submitted an application to the board. The board deferred approval of the application because, among other reasons, he is not a graduate of a board approved college. The board has requested information concerning the educational program of the college. The board chairman admits that should the college meet the statutory quantitative educational requirements, the board would be forced to make the approval decision without formal standards.

Deficiencies in the examination. The statute requires the board to conduct examinations of applicants for licensure in subjects enumerated in the law. There are numerous problems with the board's current examination. The examination has not been professionally validated nor has it been tested for reliability. This means that there is no assurance that the examination actually tests applicants on the skills needed to provide competent naturopathic services. It also means that there is no evidence that the examination yields consistent results.

The current examination was revised by the board around 1980 with the assistance of DCCA examination branch personnel. The examination consists of 13 sections with questions in an objective format. The examination was not developed based on an occupational survey of the profession nor has it been validated in any manner. The chief of the examination branch stated that the type of data needed for a "true" validation of a naturopathic examination is not readily available, because naturopathy is a small fragmented profession nationally. He said that it would be very time consuming and expensive to professionally validate a naturopathy examination.

In addition to its lack of validity, the examination branch has not been able to test the examination for reliability because the number of candidates taking the examination at one time have been too few to provide usable data. The branch also has not performed any test item difficulty analysis of the examination.

There is only one version of the examination and since there are no retake restrictions, an applicant could pass the examination simply by becoming familiar with it. The examination branch chief admits that the reliability of the examination declines each year that the examination exists without change. Since 1980, only one of 16 applicants has been denied a license because of failure to pass the examinations.

A further problem with the naturopathic examination is that the method used to compute the results may not satisfy the statutory requirement that an applicant attain a general average of 75 percent to pass the examination. The examination branch determines the percentage score for each of the 13 parts of the examination. Then, the percent scores for the 13 parts are totaled and divided by 13 to obtain the overall average percent score for the examinations. Since there are different numbers of questions for the individual parts which are not weighted accordingly, it appears that taking an average of the averages does not result in a general average of the total examination questions.

For example, using the present computation method, the jurisprudence section with only 20 general questions has equal weight to sections such as physiology or anatomy which have more questions of greater difficulty. Under current procedures, an applicant scoring 100 percent on jurisprudence only needs to score 50 percent on physiology to maintain a 75 percent average for the two sections.

The naturopathic board members recognize the problems with the examination and have been working on content revisions since early 1984. In September 1984, the chairman obtained a sampling of questions from the naturopath examination that was recently developed by the Federation of Naturopathic Medical Licensing Boards.

The chairman feels that the examination may have value for use in Hawaii. However, we could obtain no information on the Federation of Naturopathic Medical Licensing Boards. It is not listed by the National Commission for Health Certifying Agencies (NCHCA) as a health credentialing organization.⁹ NCHCA is a private, nonprofit organization of voluntary certifying agencies that issue credentials for individual health professionals and professional associations. Members must meet lengthy and comprehensive criteria covering such areas as examination validity and reliability, safeguards to protect the public, and appropriateness of qualifications to enter the certified occupation.

There is little information on the examination and how it was developed. There is no evidence that the examination is a satisfactory measure of competency, or that it measures critical or important knowledge, skills, and abilities needed to perform at a minimum level of competence, or that it screens out those who lack the requisite level of competency.

Summary

It became apparent in our review of the regulation of naturopathy that the practice can pose risks to the health and safety of the general public. However, regulation by the State provides no assurance that those who practice the profession are competent to do so. There are no standards or criteria that can be applied to assess competency.

Since the State cannot protect the public through regulation, then there is no rational basis for regulation. Under these conditions, licensing by the State merely provides the public with a false sense of confidence that those licensed are indeed competent. Although no new licenses should be granted, those already licensed should be allowed to renew their licenses and to continue to practice under a restricted scope of practice.

9. National Commission For Health Certifying Agencies, *Reports*, v. 5, no. 2, Fall 1984, p. 7.

Recommendations

We recommend that Chapter 455, Hawaii Revised Statutes, be reenacted to permit those naturopaths who are already licensed to renew their licenses and to continue to practice. In reenacting the statute, the following amendments should be made:

- . no new licensing of naturopaths should be permitted;*
- . the scope of practice should be amended to prohibit the use of prescription drugs, the performance of surgery or other invasive techniques, and the use of the title of naturopathic physician.*

APPENDIX

RESPONSES OF AFFECTED AGENCIES

COMMENTS ON AGENCY RESPONSES

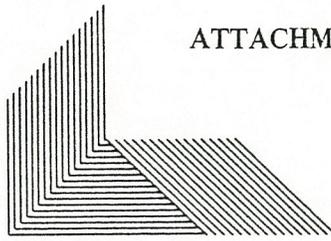
A preliminary draft of this Sunset Evaluation Report was transmitted on December 12, 1984, to the Board of Examiners in Naturopathy and the Department of Commerce and Consumer Affairs for their review and comments. A copy of the transmittal letter to the board is included as Attachment 1 of this Appendix. A similar letter was sent to the department. The responses from the board and the department are included as Attachments 2 and 3.

The board does not agree with our recommendation that the law be reenacted with amendments to restrict the scope of practice and to discontinue the licensing of new naturopaths. The board believes continued licensing of naturopaths is necessary to protect the public. The board also says that naturopaths should be entitled to use the title of "naturopathic physician" and to perform minor surgery and vitamin injections because they are qualified to do so by training. While the board acknowledges that there have been problems relating to the examination, the approval of colleges, and the scope of practice, it says that it is taking steps to correct these problems.

The Department of Commerce and Consumer Affairs states that it is in general agreement with the observation and evaluation made in the report.

ATTACHMENT 1

THE OFFICE OF THE AUDITOR
STATE OF HAWAII
465 S. KING STREET, RM. 500
HONOLULU, HAWAII 96813



CLINTON T. TANIMURA
AUDITOR

December 12, 1984

COPY

Dr. Richard Rovin, N.D., Chairperson
Board of Examiners in Naturopathy
Department of Commerce and Consumer Affairs
State of Hawaii
Honolulu, Hawaii 96813

Dear Dr. Rovin:

Enclosed are four preliminary copies, numbered 4 through 7, of our *Sunset Evaluation Report, Naturopathy, Chapter 455, Hawaii Revised Statutes*. These copies are for review by you, other members of the board, and your executive secretary. This preliminary report has also been transmitted to Russel Nagata, Director, Department of Commerce and Consumer Affairs.

The report contains our recommendations relating to the regulation of naturopathy. If you have any comments on our recommendations, we would appreciate receiving them by January 11, 1985. Any comments we receive will be included as part of the final report which will be submitted to the Legislature.

Since the report is not in final form and changes may possibly be made to it, we request that you limit access to the report to those officials whom you wish to call upon for assistance in your response. Please do not reproduce the report. Should you require additional copies, please contact our office. Public release of the report will be made solely by our office and only after the report is published in its final form.

We appreciate the assistance and cooperation extended to us.

Sincerely,

Clinton T. Tanimura
Legislative Auditor

Enclosures

ATTACHMENT 2



GEORGE R. ARIYOSHI
GOVERNOR

RUSSEL S. NAGATA
DIRECTOR

DICK H. OKAJI
LICENSING ADMINISTRATOR

BOARD OF EXAMINERS IN NATUROPATHY

STATE OF HAWAII
PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

P. O. BOX 3469
HONOLULU, HAWAII 96801

January 8, 1985

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OFF. OF THE AUDITOR
STATE OF HAWAII

Mr. Clinton Tanimura
Legislative Auditor
465 South King Street, Room 500
Honolulu, Hawaii 96813

Dear Mr. Tanimura:

The preliminary Sunset Evaluation Report concerning Naturopathy gives an interesting view of the profession by an independent researcher. The report points out various areas where the statutes or rules may be improved or strengthened. This preliminary report contained some information which is misleading and, therefore, should be corrected or deleted.

In Chapter 3, page 2, paragraphs 3 and 4, the report states possible areas for health risk for the consumer. Health risks are possible with any health care provider. The board has not received any complaints concerning these areas: misdiagnosis, improper use of botanical and homeopathic medicines, colonics, or manipulations.

"Drugless" in reference to natural therapeutics implies substance of natural origin rather than no drugs. The use of substances of natural origin (found within the animal mineral or vegetable kingdom) like botanical medicines are the expertise of the naturopathic physician. Close to two years of instruction in pharmacology and botanical medicine helps to make this so. In fact, no other doctor has even come close to the same training in botanical medicine. Recently, a Federal ruling gave naturopathic physicians prescription powers to be used in the areas of their training. (Federal Register 3, Vol. 46, No. 246, December 31, 1981.)

Prescription of herbs is an act that does require regulation and needs to be in the hands of the properly trained naturopathic physician. Herbal medicine can be toxic and should, therefore, be prescribed therapeutically by a doctor. Preventing properly qualified naturopathic physicians from being licensed in

Hawaii would embolden individuals with no naturopathic medical education and training to fill the vacuum. The desire and need for natural medicine will not decrease, only qualified practitioners who would go to states where licensing laws protect the public. Currently, there are Hawaii State citizens in naturopathic schools who might choose to practice elsewhere if the law here is not fully reestablished.

Chapter 3, page 3, brings up public safety. In Colorado, where there is no state law and licensing of naturopaths, death resulted from an improperly cleaned colonic irrigation. The point here is, Colorado does not have the excellent standards and licensing Hawaii does. The presence of the naturopathic law here in Hawaii services to protect the public from such incompetence. State licensing in Hawaii has proved itself dependable for 60 years, and the quality of naturopathic care will continue to grow and mature in coming years.

Chapter 3, page 5, paragraph 4, suggests that naturopaths should not use the title "physician" because our training is not comparable to an M.D. or osteopathic physician. This is not true.

Not only is the pre-naturopathic medical training comparable; so is the entire program. The naturopathic medical college requires at least three years of preliminary college work including two years of chemistry and one-and-a-half years of biology and botany. Program hours in the basic sciences often times exceed medical college training hours. Curriculum includes such studies as manipulation (two years), nutrition (four quarters), orthopedics, minor surgery, which includes vitamin injections, obstetrics, physiotherapy, etc. The training and licensing is directed at being a physician. The naturopathic physician has no desire to be confused with a medical physician, but rather, is constantly educating the public as to the distinct quality of his profession.

On page 3-8, it is implied that the Colleges of Naturopathy have not met any form of approved accreditation. In reality, the National College of Naturopathic Medicine, for example, is approved by the U.S. Veterans Administration, U. S. Immigration and Naturalization Service, State of Oregon Department of Education, State of Connecticut Department of Health Services, State of Washington Department of Licensing, as well as all other states that have licensing laws. Given time, this college intends to pursue full accreditation status with the Northwest Association of Secondary Schools.

The Legislative Auditor should meet with the board members to correct some of the misleading information before the final report is written or presented to the Legislature.

The board agrees that Naturopaths are primary health care providers who, like members of the other healing arts, may legally employ independent judgement in the diagnosis, prevention and treatment of diseases, illness or injuries. Incompetent practitioners or untrained persons could cause considerable and significant harm to the health, safety and welfare of the consumer; therefore, the profession should be regulated. Without this Naturopathic regulation, the floodgate for untrained persons and quacks will be opened.

It appears to the board that Chapter 455, Hawaii Revised Statutes, which regulates the practice of Naturopathy, has met the seven policies used in determining whether the program should be reestablished. The policies are found in Chapter 1, page 2, of the preliminary report.

Since 1925, the profession of Naturopathy has been regulated by the territory or State of Hawaii. The board has used its authority well in regulating the profession. The board has set high standards and requirements for future naturopathic licensees to meet; thus, they insure only quality naturopathic practitioners for Hawaii. The board has not received any reports of injuries or harm resulting from the practice of naturopathic medicine in the State of Hawaii.

The evaluation report points out several areas where the board should strengthen the statutes or rules. These are the main points:

1. Upgrade examination;
2. Establish criteria to approve colleges; and
3. Define scope of practice.

The board has recognized these problem areas. Your Legislative Auditor, who was present at some of our meetings, should have reported to you that we are addressing these problem areas. We are at various stages in correcting these problems.

We recently bought examination questions from the Federation of Naturopathic Medical Licensing Boards. Despite the Federation's small size, the examination is excellent; and we feel its certifying status will be achieved more and more in years to come.

Several discussions have been held to establish standards for approving colleges. Consideration is being given to adopting standards used by the states of Washington and Oregon who have set high standards for acceptance of schools. The Naturopathic profession as noted in the report does not have a national accreditation and until such an organization is established, the board will use high standards and correspond

January 8, 1985

with other states in determining the quality of education of naturopathic schools.

We also agree that the scope of practice should be more fully defined. For example, while the definition does not state that the naturopathic physician can perform minor surgery or vitamin injections, we believe the rules allow the naturopathic physician to "conform to the concepts and applications expressed by legally chartered schools of naturopathy or naturopathic medicine which are approved by the board." (Section 16-88-2(6).)

Curriculum at these schools include minor surgery and vitamin injections and we, therefore, believe that these are within our scope of practice.

The board plans to continue to amend the statutes and rules to clarify and improve the areas in question.

The Naturopathic profession has met all the criteria set forth by the State of Hawaii for reestablishment. Therefore, the board and law should be reestablished without any restrictions.

Sincerely,


RICHARD G. ROVIN, N. D.
Chairman, Board of Examiners
in Naturopathy

ATTACHMENT 3



GEORGE R. ARIYOSHI
GOVERNOR

RUSSEL S. NAGATA
Director
COMMISSIONER OF SECURITIES

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
1010 RICHARDS STREET
P. O. BOX 541
HONOLULU, HAWAII 96809

ROBERT A. ALM
DEPUTY DIRECTOR

January 9, 1985

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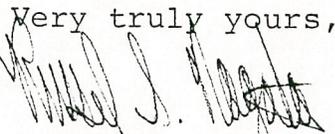
OFFICE OF THE AUDITOR
STATE OF HAWAII

Mr. Clinton T. Tanimura
Legislative Auditor
Office of the Auditor
State of Hawaii
465 South King Street, Room 500
Honolulu, HI 96813

Dear Mr. Tanimura:

Thank you for the opportunity to comment on your sunset evaluation report on naturopathy.

The Department of Commerce and Consumer Affairs is in general agreement with the observation and evaluation you have made of the Board of Naturopathy. We wish to commend your staff for the thoroughness of the report.

Very truly yours,

Russel S. Nagata
Director