

BOARD OF NATUROPATHIC MEDICINE
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF THE MEETING

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

- Date: Monday, July 25, 2011
- Time: 2:30 p.m.
- Place: King Kalakaua Conference Room
King Kalakaua Building, 1st Floor
335 Merchant Street
Honolulu, Hawaii 96813
- Present: Michael Traub, N.D., Chairperson
David R. Kern, N.D., Vice Chairperson
Kevin Gibson, N.D.
L. Martin Johnson, Psy.D.
Candace Ito, Executive Officer
Rodney J. Tam, Deputy Attorney General ("DAG")
Faith Nishimura, Secretary
- Call to Order: There being a quorum present, the meeting was called to order by Chairperson Traub at 2:35 p.m.
- Introduction of Board Members: Chairperson Traub introduced and welcomed the Board's newest member, Dr. L. Martin Johnson, who is serving as a public member.
- Election of Officers: The floor was opened for nominations for the office of Chairperson. Dr. Kern nominated Dr. Traub as Chairperson. The nomination was seconded by Dr. Gibson. Since there were no other nominations for Chairperson, the motion passed unanimously.
- The floor was opened for nominations for the office of Vice-Chairperson. Dr. Gibson nominated Dr. Kern as Vice-Chairperson. The nomination was seconded by Dr. Traub. Since there were no other nominations for Vice-Chairperson, the motion passed unanimously.

Additions and Revisions to the Agenda: None.

Approval of the May 13, 2011 Meeting Minutes: It was moved by Dr. Kern, seconded by Dr. Gibson, and unanimously carried to approve the May 13, 2011 meeting minutes with the following amendments:

On page 2, under Unfinished Business, the second paragraph, first sentence, should read as follows:

“Dr. Kern related that providing pharmacists with an explanation of the qualifications and training of naturopathic physicians would help.”

On page 2, under Unfinished Business, the third paragraph, second sentence should read as follows:

“DAG Tam stated that the formulary items listed on the naturopathic formulary **are** consistent ...”

New Business: a. Tuberculosis Testing

The Department of Health (“DOH”) expressed concerns about accepting tuberculosis (“TB”) evaluations from naturopathic physicians. Dr. Glenn M. Wasserman, Chief, Communicable Disease Division, Department of Health, and Dr. Richard J. Brostrom, Chief, Tuberculosis Control Branch, acknowledge that HRS section 455-8 authorizes naturopathic physicians to administer TB tests. Because TB is a potentially fatal communicable disease that can be spread throughout the population if untreated or improperly treated, they have expressed concerns regarding naturopathic physician’s education and training in the testing, management and treatment of TB.

The Executive Officer shared information regarding the education and examination requirements for licensure as a naturopathic physician with Dr. Wasserman and Dr. Brostrom. They were also provided with the following materials: (1) Curriculum for National College of Natural Medicine, Southwest College of Naturopathic Medicine, and University

of Bridgeport College of Naturopathic Medicine; (2) Association of Accredited Naturopathic Medical Colleges, Professional Competency Profile, August 2007; (3) American Association of Naturopathic Physicians, Naturopathic Medicine Wisdom of Nature Rigors of Science, Better Nutrition Magazine, Volume 19, 2009; and (4) The Advisor, The Journal of the National Association of Advisors for the Health Professions, Special Theme: Naturopathic Medicine, Volume 30, No. 4, December 2010.

Dr. Wasserman and Dr. Brostrom requested more specific information on a naturopathic physician's education and training in the testing, management, and treatment of TB. Therefore, earlier today, Dr. Traub and the Executive Officer met with Dr. Wasserman, Dr. Brostrom, and by teleconference, Dr. Guru Sandesh S. Khalsa, President, Association of Accredited Naturopathic Medical Colleges ("AANMC") to discuss naturopathic physicians providing TB testing.

After discussion, all parties agreed that to facilitate public health management of TB: (1) DOH is willing to participate in amending the naturopathic medicine rules on Standards of Practice, Care and Ethics, to develop public health standards; (2) an informational notice should be provided to all naturopathic physicians in Hawaii (this notice should include the requirements for testing and management of TB; encourage the referral of patients with TB to DOH; and provide contact information for disease reporting, consultations and referral of care); and (3) DOH is willing to support training/certification in placing, reading, interpreting, and managing TB skin tests.

Exhibit A of HAR chapter 11-164, entitled, "Tuberculosis Examination Procedures For All Health Care, Domiciliary Care, Adult Day Care, and Residential Facilities and Programs Licensed Under Title 11, Chapters 85-105, by the Department of Health, August 2001" was distributed to members for their information.

Dr. Traub related, and the Board agreed, that the amendments to the subchapter on the Standards of Practice, Care and Ethics should not be specific to TB.

Members reviewed the draft Standards of Practice, Care and Ethics and made note of the sections that pertain to the treatment and management of TB:

"§16-88-81(d)(2): Make appropriate referrals if requested by a patient, or if a patient requires treatment that is not within the limited practice."

"§16-88-80(a)(5): Obligation: The fundamental and primary obligation of a naturopathic physician is to the patient, and the maintenance and improvement of the patient's health and well-being."

Dr. Traub suggested revising the following section to read:

"§16-88-81(e)(2): Following all the guidelines of applicable public health agencies including:
(A) Reporting diseases; and
(B) Keeping up with public health data such as updates issued by the U.S. Centers for Disease Control and Prevention and the State Department of Health."

DAG Tam suggested including TB in the following section:

"§16-88-81(e)(3)(B): Periodic screening for specific diseases such as cancer, coronary artery disease, diabetes, osteoporosis, and thyroid dysfunction."

"§16-88-81(i)(2): Based on proper assessment including:
(A) Ruling out or identifying life-threatening or hidden conditions with appropriate history, examination and testing, including referral for specialized evaluation, when appropriate; and
(B) Allowing for timely on-going reassessment."

Pertaining to latent positive TB test results and informing patient of options for preventive care:

“§16-88-81(j) Consent to treatment. A naturopathic physician shall inform a patient of the patient’s right to informed consent and freedom of choice in health care and present the patient with all the options for medical care in an unbiased manner. A naturopathic physician may express his or her opinion as to the quality of the different types of health care options, or if requested to by the patient.”

Dr. Traub reported that DOH is in the process of rule changes. DAG Tam asked whether ND’s performing TB testing will be included in the rule changes. Dr. Traub answered in the negative.

DAG Tam advised members to have DOH approve the informative notice on the Board’s formulary before posting it on the Board’s website.

Unfinished
Business:

a. Naturopathic Formulary Investigative Committee –
Report on June 20, 2011 Committee Meeting

The Executive Officer and the Investigative Committee met by teleconference on June 20, 2011 to clarify the scope of practice for both the naturopathic physicians and pharmacists, discuss handling pharmacist inquiries, and any specific concerns about the Naturopathic Formulary. The committee’s discussion is summarized in the attached July 22, 2011 draft “Important Notice Regarding the Prescriptive Authority of Naturopathic Physicians” (“Important Notice”). Dr. Traub indicated that Mr. Adams and Mr. Inafuku have not reviewed the draft Important Notice.

Members reviewed and discussed the July 22, 2011 draft. It was moved by Dr. Kern, seconded by Dr. Johnson, and unanimously carried to approve the draft with the following revisions:

On page 4, the second paragraph, last line should be amended to reflect that the Southwest College of

Naturopathic Medicine in Tempe, Arizona has 110 total hours of pharmacology.

On page 4, the last paragraph should read as follows:

“Although there is no statutory requirement for naturopathic physicians to complete any continuing medical education, the Board of Naturopathic Medicine’s proposed Standards of Practice for naturopathic physician requires them to be current with advances in medical knowledge and skills.”

Hawaii Revised Statutes:

Dr. Traub related that he and Dr. Kern, as representatives of the Hawaii Society of Naturopathic Physicians (“HSNP”), met with Senator Rosalyn Baker earlier today to discuss possible legislation regarding insurance reimbursement and including controlled substances to the naturopathic formulary.

He related that Senator Baker suggested that communication be established between naturopathic physicians and the medical community and legislators. Dr. Traub related that HSNP is considering hiring a lobbyist.

Dr. Traub and Dr. Kern, as representatives of HSNP, also met with Senator Josh Green, M.D. regarding the addition of testosterone, a controlled substance, to the naturopathic formulary. Dr. Green related that the Senate Health Committee had concerns that other controlled substances such as pain medication may be added to the naturopathic formulary.

HSNP is currently in discussion about introducing legislation for the upcoming session.

Hawaii Administrative Rules:

a. Proposed Subchapter 11, Standards of Practice, Care, and Ethics

The Executive Officer related that the proposed draft number 5 was reviewed a second time by the Legislative Reference Bureau (“LRB”). Clerical and format amendments suggested by LRB were reviewed by DAG Tam and appropriate

changes were made. Two comments require the Board's input:

(1) HAR section 16-88-80(a)(2): Improper relationship: A naturopathic physician shall not engage in romantic or sexual relations with a current patient.

LRB commented that the terms "romantic" and "current" be clarified. Dr. Traub recalled that his previous research on naturopathic physician's code of ethics indicated that "current" would be within a year from the termination of the physician-patient relationship. Dr. Johnson related that the psychology code of ethics requires that psychologists do not engage in sexual relations with patients for at least two years after the psychologist-patient relationship is terminated.

After much discussion, members agreed to replace the term "current" with "within one year of the written documentation of the patient's release from the naturopathic physician's care". Additionally, the patient must understand that the physician-patient relationship has ended. The Board also agreed that the term "romantic" should be deleted.

(2) HAR section 16-88-81(g): LRB suggested spelling the non-western medical tradition terms "Ayurvedic" and "Oriental" with lower case letters. After discussion, the Board agreed to delete the terms "Ayurvedic" and "Oriental" because non-western medical traditions do not need to be specified.

The Board also considered comments provided by the American Association of Naturopathic Physicians ("AANP"). AANP commented that HAR section 16-88-80(a)(6)(C) pertaining to "competence" should be clarified. The phrase "best efforts to comfort the patient" appears to be too vague.

The Board agreed to amend HAR section 16-88-80(a)(6)(C) as follows: "A naturopathic physician shall dedicate sufficient time to each patient in order to provide (to the best of the naturopathic physician's ability) accurate, comprehensive, and individualized patient assessment and treatment."

It was moved by Dr. Kern, seconded by Dr. Gibson, and unanimously carried to approve the proposed draft with the amendments stated above.

Naturopathic
Formulary:

a. Controlled Substances

At its May 13, 2011 meeting, the Board requested that DAG Tam research whether naturopathic physicians are authorized to prescribe controlled substances under current law.

DAG Tam distributed Standing Committee Report No. 1074 regarding Senate Bill No. 420, Senate Draft 2, House Draft 1 from the 2009 legislative session to the Board. The House Committee on Health amended the bill by deleting provisions authorizing naturopathic physicians to prescribe controlled substances. Senate Bill No. 420, Senate Draft 2, House Draft 2, 2009 passed without the authorization to prescribe controlled substances, which indicates that the Legislature intended that the prescribing of controlled substances is not included in the scope of a naturopathic physician. This interpretation is also reflected in the Board's Important Notice regarding the prescriptive authority of naturopathic physicians.

DAG Tam asked if the HSNP has met with the Narcotics Enforcement Division ("NED") to discuss ND's prescribing controlled substances. Dr. Traub related that HSNP has tried to meet with NED, however, NED has never returned any of their calls.

b. Durable Medical Equipment

Dr. Traub suggested that the Board consider adding durable medical equipment to the naturopathic formulary. Durable medical equipment is a term used to describe any medical equipment used in the home to aid in a better quality of living. Durable medical equipment is defined in the federal Title XIX for Medicaid as follows: "The term "durable medical equipment" includes iron lungs, oxygen tents, nebulizers, CPAP, catheters, hospital beds, and wheelchairs (which may include a power-operated vehicle that may be appropriately used as a wheelchair, but only the use of such a vehicle is

determined to be necessary on the basis of the individual's medical and physical condition and the vehicle meets such safety requirements as the Secretary may prescribe) used in the patient's home (including an institution used as his home other than an institution that meets the requirements of subsection (e)(1) of this section 1819(a)(1), whether furnished on a rental basis or purchased, and includes blood-testing strips and blood glucose monitors for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes or to the individual's use of insulin (as determined under the standards established by the Secretary in consultation with the appropriate organizations); except that such term does not include such equipment furnished by a supplier who has used, for the demonstration and use of specific equipment, an individual who has not met such minimum training standards as the secretary may establish with respect to the demonstration and use of specific equipment. With respect to a seat- lift chair, such term includes only the seat-lift mechanism and does not include the chair."

The Board reviewed the definitions of "diagnosis", "naturopathic medicine", and "physical modalities" in HRS section 455-1. After discussion, the Board came to a consensus that it is not necessary to add durable medical equipment to the naturopathic formulary because naturopathic medicine encompasses diagnosis and treatment of disorders of the body as well as the prescription, administration, dispensing, and use of physical modalities. Blood-testing strips and blood glucose monitors are recognized and accepted diagnostic procedures. Additionally, the practice of naturopathic medicine includes the prescription and use of physical modalities, which would include iron lungs, oxygen tents, nebulizers, CPAP, catheters, hospital beds, and wheelchairs.

Correspondence: a. Prepaid Health Care Act

The Board reviewed e-mails from Myron Berney, N.D. dated May 19, 2001 and May 20, 2011.

After discussion, the Board came to a consensus that it has previously responded to similar inquiries regarding the Prepaid Health Care Act from Dr. Berney and its position that the subject of health insurance coverage does not fall within the jurisdiction of the Board or HRS chapter 455 remains unchanged. The Executive Office will provide the above response to Dr. Berney.

b. OpenLine – July 2011, Vol. 23, No. 2

The July 2011 issue of “OpenLine” was distributed to the members for their information.

RICO
Naturopathy
Advisory
Committee:

RICO requests that the Board review and approve RICO’s Naturopathy Advisory Committee list, effective January 1, 2012. It was moved by Dr. Gibson, seconded by Dr. Kern, and unanimously carried to approve Catherine Downey, Miles J. Greenberg, Laurie A. Steelsmith and Monique H.K. Yuen to serve on the 2012 RICO Naturopathy Advisory Committee and to acknowledge that the RICO Naturopathy Advisory Committee list also includes any additional interim appointees that RICO deems necessary to aid in its investigations.

Applications:

a. Licensure

At its May 13, 2011 meeting, the Board asked DAG Tam to research whether it could amend HAR section 16-88-12.1 so that applicants that took the Part I and II of the NPLEX prior to February 2007 would meet the examination requirements whether or not they took and passed the examination on homeopathy. DAG Tam related that he will look into this matter further.

b. Ratification

It was moved by Dr. Gibson, seconded by Dr. Kern, and unanimously carried to ratify the following applications for licensure:

- Hogan, Allison G.
- Wang, Chung-Yun C.

It was moved by Dr. Gibson, seconded by Dr. Johnson, and unanimously carried to ratify the following applications for authorization to administer parenteral therapy:

- Steelsmith, Laurie A.
- Suhaila, Lena
- McCready-Lins, Nancy J.
- Greenberg, Miles J.
- Strong, Sarah B.N.
- Brayce, Collon
- Baylac, Nicole J.
- Cholewa, Ireneus J.
- Turetzky, John M.
- Yuen, Monique, H.K.
- Dexter, Margaret D.
- Hand, Darrow M.
- Kern, David R.

It was moved by Dr. Gibson, seconded by Dr. Johnson, and unanimously carried to ratify the following applications for authorization to perform minor office procedures:

- Steelsmith, Laurie A.
- McCready-Lins, Nancy J.
- Hogan, Allison G.
- Dexter, Margaret D.

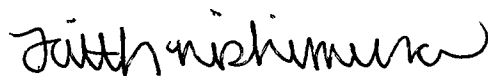
Announcements: None.

Next Meeting To be announced.

Date:

Adjournment: There being no further business to discuss, the meeting was adjourned at 4:30 p.m.

Taken and recorded by:



Faith Nishimura
Secretary

Reviewed and approved by:



Candace Ito
Executive Officer

CI:fn

Attachment

8/24/11

Minutes approved as is.

Minutes approved with changes. See Minutes of 11/14/11.

DRAFT

July 25, 2011

IMPORTANT NOTICE
REGARDING THE PRESCRIPTIVE AUTHORITY OF
NATUROPATHIC PHYSICIANS

Introduction

This "Important Notice Regarding the Prescriptive Authority of Naturopathic Physicians" is being issued jointly from the State of Hawaii Board of Pharmacy and Board of Naturopathic Medicine to inform you about important changes to the scope of practice of naturopathic physicians.

Background

Historically, naturopathic medicine has been viewed as a "drugless" profession, although this is not entirely accurate. The profession, originally founded at the turn of the 20th century, underwent a renaissance in the 1970s and began to incorporate the limited use of prescription substances that were derived from natural sources (e.g., colchicines, digoxin, codeine; antibiotics, and vaccines). The authority to use such substances was granted by the state regulatory boards that licensed naturopathic medicine in their respective jurisdictions. Hawaii lagged behind this trend until 1994 when Act 71 (SLH 1994) amended the definition of "naturopathic medicine" in HRS section 455-1 to authorize naturopathic physicians ("NDs") to use prescription vitamins, minerals, amino acids and fatty acids.

In the last twenty years, the education and training in naturopathic medical schools has placed increasing emphasis on pharmacology and prescription drug management. In addition, the naturopathic formulary in various states has expanded (e.g., Oregon adopted an inclusionary formulary that places limited use on anti-psychotics, anti-neoplastics, alcohol deterrents, miscellaneous therapeutic agents, and does not include barbiturates).

In 2009, the Hawaii Legislature enacted Act 22 (SLH 2009) ("**Act 22**"), which further expanded the prescriptive authority of NDs in HRS chapter 455. Act 22 also required the Board of Naturopathic Medicine to establish education and training requirements for parenteral therapy and standards to administer parenteral therapy prior to naturopathic physicians being able to prescribe and administer injections.¹ These administrative rules were approved in February 2011.

¹ See, HRS section 455-6(2)(C) (Supp. 2010).

Current Prescriptive Authority of Naturopathic Physicians Under Hawaii Law

a. Scope of Practice under HRS section 455-1

Act 22 amended the scope of practice of naturopathic physicians in HRS section 455-1 as follows:

“Naturopathic medicine” means the practice of the art and science of diagnosis, prevention, and treatment of disorders of the body by support, stimulation, or both, of the natural processes of the human body. The practice of naturopathic medicine includes the prescription, administration, dispensing, and use of nutrition and food science, physical modalities, manual manipulation, parental therapy, minor office procedures, naturopathic formulary, hygiene and immunization, contraceptive devices, common diagnostic procedures, and behavioral medicine of the type taught in education and training at naturopathic medical colleges; provided that the use of parenteral therapy and performance of minor office procedures shall not be allowed until the board adopts rules in accordance with chapter 91 pursuant to section 455-6.”

“Parenteral therapy” means the administration of substances by means other than through the gastrointestinal tract, including intravenous, subcutaneous and intramuscular injection.”

“Naturopathic formulary” means vitamins, minerals, dietary supplements, botanical medicines, homeopathic medicines, hormones, and those legend drugs consistent with naturopathic medical practice.”

“Legend drug” means any drug falling within section 503(b)(1) of the federal Food, Drug and Cosmetic Act and which is required to be labeled with the statement “Rx only.”

“Hygiene and immunization” means the use of preventative techniques including personal hygiene, asepsis, public health, and, to extent allowed by rule, immunizations.”

b. Naturopathic Formulary

Act 22 also authorized the Board of Naturopathic Medicine to “[a]nnually establish and publish a naturopathic formulary that has been approved by the board for prescription, administration, or dispensing by naturopathic physicians”.²

² See, HRS section 466-6(7) (Supp. 2010).

Pursuant to this new authority, the Board of Naturopathic Medicine established a Naturopathic Formulary on January 1, 2010, and included legend drugs that are consistent with naturopathic medical practice.

In May 2011, the Board of Pharmacy reviewed the Naturopathic Formulary and only objected to the inclusion of carisoprodol (a controlled substance in Hawaii) in the Naturopathic Formulary. The Naturopathic Formulary has been amended to delete this drug.

The current Naturopathic Formulary can be viewed online at:

http://hawaii.gov/dcca/pvl/news-releases/naturopathy_announcements/NaturopathicFormulary010110.pdf

c. Controlled Substances

Currently, the Hawaii Naturopathic Formulary does not include any controlled substances³ because the authority to prescribe controlled substances was not specifically included in the scope of practice of a naturopathic physician.

Enforcement of Prescriptive Authority

Act 22 established a new ground for discipline by amending HRS section 455-11 to include:

“(16) Prescribing, administering, and dispensing naturopathic formulary that are not included in the formulary established by the board under section 466-6;”

Thus, if a naturopathic physician violated HRS section 455-11(a)(16), the Board of Naturopathic Medicine could take disciplinary action against the naturopathic physician.

Education and Training in Pharmacology at Naturopathic Medical Schools

Licensure as a naturopathic physician in Hawaii requires graduation from a school, university, or college of naturopathic medicine that has received candidacy status with, or has been accredited by, a regional or a national accrediting body recognized by the United States Department of Education (“**U.S. DOE**”) and successful passage of Parts 1 and 2 of the Naturopathic Physicians Licensing Examination. There are seven (7) naturopathic colleges that meet these requirements, and all are accredited by or a candidate for accreditation by the Council on Naturopathic Medical Education (“**CNME**”). The CNME is the accrediting body, recognized by the U.S. DOE, of naturopathic medical schools.

³ In general, “controlled substances” are defined in HRS chapter 329.

Five (5) of the seven naturopathic medical colleges are additionally accredited by regional accrediting agencies recognized by the U.S. DOE.

The curriculum of naturopathic medical schools currently includes courses in pharmacology. For example, the University of Bridgeport College of Naturopathic Medicine in Connecticut has seventy-two (72) semester hours in pharmacology (even though Connecticut NDs have no prescriptive authority), the National College of Natural Medicine in Portland, Oregon has seventy-two (72) semester hours of pharmacology, and the Southwest College of Naturopathic Medicine in Tempe, Arizona has one hundred and ten (110) hours of pharmacology.

Initiating vs. Maintaining/Tapering Prescriptions

In general, the prescription of legend drugs consistent with naturopathic medicine practice does not necessarily mean that a naturopathic physician will immediately initiate a treatment using legend drugs upon diagnosis. The practice of naturopathic medicine is based upon natural medicine and preventive care. Frequently, NDs order refills of drugs that have been initiated by other prescribers, for the purpose of maintaining or tapering the drug therapy. For example, as therapeutic lifestyle changes prescribed by a naturopathic physician result in a patient's weight loss, decreased inflammation, and improved mood, antihypertensives, analgesics, and antidepressants can be safely tapered by the naturopathic physician.

However, in appropriate circumstances, naturopathic physicians can and do initiate treatment using legend drugs after diagnosis in compliance with HRS chapter 455.

Continuing Medical Education

Although there is no statutory requirement for naturopathic physicians to complete any continuing medical education, the Board of Naturopathic Medicine's proposed administrative rules on Standards of Practice, Care, and Ethics for naturopathic physicians require them to be current with advances in medical knowledge and skills.