

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, November 14, 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., Member
L. Martin Johnson, Psy.D., Member
Audrey Ng, Member
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 2:32 p.m.

Introduction of Board Members: Chairperson Traub introduced and welcomed the Board's newest member, Audrey Ng, who is serving as a public member.

Additions and Revisions to the Agenda: It was moved by Dr. Kern, seconded by Dr. Johnson, and unanimously carried to add (c) Request for Approval of Qualifying Course on Parenteral Therapy under Applications.

Approval of the July 25, 2011 Meeting Minutes: It was moved by Dr. Kern, seconded by Dr. Johnson, and unanimously carried to approve the July 25, 2011 meeting minutes with the following amendments:

On page 5, under New Business, add the following at the end of the third paragraph:

"Rule changes are an opportunity for the Board to work with the DOH to further clarify authority for NDs to perform TB testing and physical examinations."

On page 5, under New Business, the fourth paragraph should read as follows:

“DAG Tam advised members to have DOH approve the informative notice **regarding TB testing** in the Board’s formulary before posting it on the Board’s website.”

New Business:

a. Gerson Institute & Cancer Curing Society

The Better Business Bureau inquired if Gerson Therapy, an alternative cancer treatment, is required to be administered by a licensed naturopathic physician. Based upon information found on the Gerson Institute’s webpage, it appears that the Gerson Therapy Practitioner Training Program® is only offered to medical doctors, naturopathic physicians, doctors of osteopathy, nurse practitioners and physician assistants. Gerson Therapy involves using prescription and injectable medications and supplements such as thyroid hormone, injectable liver extract and injectable B12 vitamins. Thus, a Gerson Certified Caregiver or any practitioner offering Gerson Therapy would need to be licensed to prescribe and administer such prescription and injectable medications and supplements. Because Gerson Therapy is a registered trademark, any practitioner holding themselves out as a Gerson Certified Caregiver or as providing Gerson Therapy must be certified by the Gerson Institute.

DAG Tam stated that an ND that is not certified by the Gerson Institute and holds themselves out as a Gerson Certified Caregiver or offers Gerson Therapy, may be subject to investigation by the Regulated Industries Complaints Office pursuant to HRS sections 455-11(a)(5) and (6).

b. Naturopathic Physicians receiving drug samples

Members reviewed and discussed an email from Emily Jacque from Compliance Implementation Services, LLC dated October 28, 2011 inquiring whether naturopathic physicians may receive prescription drug samples. The Board of Pharmacy referred Ms. Jacque to this Board to inquire if the naturopathy law addressed her inquiry because the pharmacy law does not specifically state that naturopathic physicians are able to receive drug samples.

HRS section 461-15(a)(2) allows samples of prescription drugs and prescription drugs themselves to be furnished directly to “physicians, druggists, dentists, veterinarians and optometrists for use in their professional practice”. The Board noted that HRS

section 461-15(a)(2) does not specifically exclude naturopathic physicians from receiving drug samples. Since HRS chapter 455 authorizes naturopathic physicians to prescribe prescription drugs in their scope of practice, the Board believes that naturopathic physicians should be included in the category of "physicians" and be able to receive samples of prescription drugs that are on the naturopathic formulary.

DAG Tam stated that HRS chapter 461 is within the Board of Pharmacy's jurisdiction and recommended that the Board seek an interpretation of HRS section 461-15(a)(2) from the Board of Pharmacy regarding the distribution of prescription drug samples to naturopathic physicians. The Board agreed that it should write to the Board of Pharmacy and request an interpretation of HRS section 461-15(a)(2).

Unfinished
Business:

a. Naturopathic Formulary Investigative Committee

Dr. Traub reported that the Executive Officer and the Investigative Committee met via telephone conference on September 14, 2011. Members reviewed and discussed the July 25, 2011 draft "Important Notice Regarding the Prescriptive Authority of Naturopathic Physicians" ("Important Notice"). There were no further amendments to the Important Notice.

The Board of Pharmacy met on October 20, 2011 and came to a consensus to post the Important Notice on the Board of Pharmacy's website.

Dr. Traub indicated that the Subcommittee need not continue to meet at this time however, it could reconvene if necessary.

b. Tuberculosis Testing

Dr. Traub related that he and the Executive Officer would continue to work with the Department of Health to facilitate public health management of tuberculosis ("TB"). It was noted that HAR section 11-157-2 of the Department of Health ("DOH") does not include a naturopathic physician in its definition of "physician" and "practitioner". Thus, it may appear that naturopathic physicians are not allowed to perform immunizations and sign a physical examination report for students to enter school. To avoid confusion and to provide consistency among DOH's and the Board's laws and rules, naturopathic physicians should be included in the definition of "physician" and "practitioner" in HAR section 11-157-2.

After discussion, it was moved by Dr. Kern, seconded by Dr. Gibson, and unanimously carried make a request to DOH that the definition of "physician" and "practitioner" in HAR section 11-157-2 be amended to include naturopathic physicians and that DOH amend other applicable laws and rules to specifically allow DOH to accept school physicals and documentation of immunizations from naturopathic physicians.

Hawaii Revised Statutes:

Dr. Traub related that the Hawaii Society of Naturopathic Physicians may introduce legislation regarding: (1) insurance reimbursement and (2) authorization to prescribe controlled substances. He also reported that the American Association of Naturopathic Physicians ("AANP") is considering adopting the Board's Standards of Practice, Care and Ethics.

Hawaii Administrative Rules:

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

The Executive Officer related that the Governor has approved the Board's request to conduct a public hearing on the proposed amendments that establish standards of practice, care, and ethics for naturopathic physicians. The public hearing is scheduled on Friday, February 10, 2012 at 2:00 p.m. in the King Kalakaua Conference Room, 335 Merchant Street, 1st Floor, Honolulu, Hawaii 96813.

North American Board of Naturopathic Examiners:

The NABNE Board oversees the operation of the organization. The NABNE Advisory Council advises the NABNE Board regarding eligibility and exam administration policies. The NABNE Advisory Council meets annually and is comprised of representatives from the following organizations:

- Licensing/regulatory authorities which require that candidates pass the NPLEX Examinations
- CNME-approved naturopathic medical programs
- American Association of Naturopathic Physicians (AANP)
- Canadian Association of Naturopathic Doctors (CAND)
- Council on Naturopathic Medical Education (CNME)
- Federation of Naturopathic Medicine Regulatory Agencies (FNMRA)
- Public

The August 16, 2011 NABNE Advisory Council Meeting Agenda and the August 10, 2010 Minutes were distributed to the Board. Dr. Traub attended the August 16, 2011 meeting in Phoenix, Arizona

and reported the following "Comments and Concerns from Advisory Committee Members":

Bouchet Institute of Naturopathic Medicine ("Bouchet"): British Columbia now allows full prescribing rights for NDs except for psychotropic drugs and narcotics.

Canadian College of Naturopathic Medicine: Last year all students passed NPLEX Part I by graduation. There are a few students who did not pass NPLEX Part I this year and will not graduate if they do not pass Part I. They have ten years to complete Part 1 from the time of 1st taking but must have taken the test and passed to graduate. The school plans to have a national practical test in the future.

Hawaii: Dr. Traub asked for advice in the situation where an applicant took the NPLEX prior to February 2007 and did not take the homeopathy exam and now wants to become licensed in Hawaii. Hawaii requires the examination on homeopathy but it is no longer administered. It was suggested that the Hawaii Administrative Rules be changed to accommodate reciprocity. Dr. Traub inquired if NABNE would consider offering the add-on examination on homeopathy.

Arizona: Asked the naturopathic medical college representatives whether they ask about criminal records prior to school acceptance. The following were the responses from the respective college representatives:

- Bouchet: Requires a criminal background check prior to clinical training.
- Southwest College of Naturopathic Medicine: Requires a background check and fingerprinting.
- Bridgeport University: Requires a background check for the students' state and now will use FBI criminal background check.
- Bastyr University: Asks for self disclosure of a felony conviction. They also responded that if there is a problem with licensure, it recommends checking with the jurisdiction to see if a FBI criminal background check is required prior to clinical training.

Legislation was passed in Arizona where it is now legal for NDs to prescribe medical marijuana.

NABNE Board: With regard to its budget, 98.6% of the projected income has been generated. An increase of \$25 to the test fee was suggested by NABNE.

A new organization has been incorporated as the Federation of Naturopathic Medicine Regulatory Authorities ("FNMRA"). The purpose of the FNMRA is to provide a resource for, and to facilitate uniformity among regulatory authorities. There have been other similar organizations in the past; however these organizations did not survive due to disagreements within the organizations. Therefore, NABNE has taken it upon itself to start up the FNMRA by inviting regulatory authorities to join, and getting the website and services up and running. NABNE is providing initial funding for the FNMRA and will eventually spin it off once it becomes financially self-sustaining.

There is a new format for the NPLEX results due to confusion with the prior format of the NPLEX results. The new format will only include the individual test scale only for candidates who failed to pass the examination. Candidates who pass the examination will receive a simpler report without the individual test scale.

Dr. Traub asked the Executive Officer to follow-up with NABNE regarding his request to consider offering the add-on examination on homeopathy.

Naturopathic
Formulary:

None.

Correspondence:

- a. Emails from Myron Berney, N.D.

The Board reviewed and discussed e-mails from Myron Berney, N.D. dated July 31, 2011 through November 3, 2011. It appears that Dr. Berney's concern is in regard to insurance coverage for naturopathic medical services. The Board came to a consensus that it has previously responded to similar inquiries regarding health care insurance 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 Officer will provide the above response to Dr. Berney.

b. OpenLine – August 2011, Vol. 23, No. 3

The August 2011 issue of "OpenLine" was distributed to the members for their information.

c. The High Road – October 2011, No. 2011-2

The October 2011 issue of "The High Road" was distributed to the members for their information.

Applications:

a. Licensure

At its July 25, 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 the law allows the Board to specify the examination in its rules. It appears that the Board would be able to change the examination requirements by amending its administrative rules. DAG Tam also stated that homeopathy is within the naturopathic physician's scope of practice and the Board has required the add-on examination on homeopathy since the examination was first administered by NPLEX. Dr. Kern related that homeopathy is only one modality within the practice of naturopathy.

The Board deferred further discussion on this matter until it gets a response from NABNE as to whether they would consider administering the add-on examination on homeopathy for Hawaii applicants that took and passed the Part I and II of the NPLEX prior to February 2007.

Executive
Session:

It was moved by Dr. Kern, seconded by Dr. Gibson, and unanimously carried to enter into executive session at 4:00 p.m. pursuant to HRS sections 92-4 and 92-5(a)(1) and (4), to consider and evaluate personal information relating to individuals applying for professional license and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities.

EXECUTIVE SESSION

At 4:10 p.m., it was moved by Dr. Gibson, seconded by Dr. Johnson, and unanimously carried to return to open session. The room was reopened to the public.

Michael Traub

The applicant answered "yes" to question 2 on the applications for authorization to administer parenteral therapy and to perform minor office procedures.

Dr. Traub recused himself from decision making on this application.

After discussion, it was moved by Dr. Gibson, seconded by Dr. Kern, and carried, with the exception of Dr. Traub who recused himself, to approve Dr. Traub's application for authorization to administer parenteral therapy; and to approve Dr. Traub's application for authorization to perform minor office procedures subject to receipt of additional information from the Oregon Board of Naturopathic Medicine.

b. Ratification

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

- Taketa, Kathryn M.
- McLeod, Margarethe R.
- Hilewitz, Hadassah
- DeLellis, Kemberly J.

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

- Thurston, Travis N.
- Caputo, Daniel R.
- Hardy, Anne F.

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

- Caputo, Daniel R.

c. Request for Approval of Qualifying Course on Parenteral Therapy

The Board reviewed a request for approval of qualifying course on parenteral therapy from Virginia Osborne, N.D., International IV Nutritional Therapy for Physicians.

After discussion, it was moved by Dr. Gibson, seconded by Dr. Kern, and unanimously carried to approve Dr. Osborne's request for approval of Fundamentals and Clinical Applications of IV Nutrient Therapy held on September 8 – 11, 2011 in Boston, Massachusetts subject to receipt of the application fee.

Announcements: None.

Next Meeting Friday, February 10, 2012
Date: 2:30 p.m.
King Kalakaua Conference Room
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Adjournment: There being no further business to discuss, the meeting was adjourned at 4:25 p.m.

Taken and recorded by:

/s/ Faith Nishimura
Faith Nishimura
Secretary

Reviewed and approved by:

/s/ Candace Ito
Candace Ito
Executive Officer

Cl:fn

12/13/11

Minutes approved as is.

Minutes approved with changes. See Minutes of _____.