

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: Friday, May 11, 2012

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 2:40 p.m.

The following agenda item was taken out of order.

Additions and Revisions to the Agenda: It was moved by Dr. Kern, seconded by Ms. Ng, and unanimously carried to add (a) In the Matter of the License to Practice Naturopathic Medicine of Nicole J. Baylac; NAT 2009-2-L; Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board’s Final Order under New Business.

Approval of the February 2, 2012 Public Hearing Meeting Minutes: It was moved by Dr. Kern, seconded by Ms. Ng, and unanimously carried to approve the February 2, 2012 public hearing meeting minutes as circulated.

Approval of the February 2, 2012 Meeting Minutes: It was moved by Dr. Johnson, seconded by Dr. Kern, and unanimously carried to approve the February 2, 2012 meeting minutes with the following amendments:

On page 3 under c. Scope of practice – Psychotherapy, the first two sentences in the third paragraph should read as follows:

“Dr. Traub related that he **often** refers patients for psychotherapy. Naturopathic physicians do not **generally** regard themselves as psychotherapists, although some specialize in that area.”

It was moved by Dr. Johnson, seconded by Dr. Kern, and unanimously carried to approve the February 10, 2012 executive session meeting minutes as circulated.

New Business: Adjudicatory Matters

Chairperson Traub called for a recess from the meeting at 2:47 p.m. to discuss and deliberate on the following adjudicatory matters pursuant to HRS Chapter 91.

- a. In the Matter of the License to Practice Naturopathic Medicine of Nicole J. Baylac; NAT 2009-2-L

After discussion, it was moved by Dr. Gibson, seconded by Ms. Ng, and unanimously carried to accept the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board’s Final Order.

Following the Board’s review, deliberation and decision in this matter pursuant to Chapter 91, HRS, Chairperson Traub announced that the Board reconvene to its regular Chapter 92, HRS, meeting at 2:53 p.m.

Unfinished Business:

- a. Scope of Practice - Psychotherapy

At its February 10, 2012 meeting, the Board discussed an inquiry from Allied Managed Care whether psychotherapy is in the scope of practice of a naturopathic physician. The Board deferred discussion on this matter to look further into the definition of “psychotherapy”.

The Executive Officer related that Hawaii Revised Statutes does not define “psychotherapy”. She provided the Board with a definition of psychotherapy from two references, Doland’s Illustrated Medical Dictionary and the American Psychological Association (“APA”) Concise Dictionary for their review:

Doland's Illustrated Medical Dictionary

Treatment designed to produce a response by mental rather than by physical effects, including the use of suggestion, persuasion, re-education, reassurance, and support, as well as the techniques of hypnosis, abreaction, and psychoanalysis which are employed in the so-called deep psychotherapy.

APA Concise Dictionary

Any psychological service provided by a trained professional that primarily uses forms of communication and interaction to assess, diagnose, and treat dysfunctional emotional reactions, ways of thinking, and behavior patterns of an individual, family, or group.

There are many types of psychotherapy, but generally they fall into four major categories: psychodynamic, psychotherapy, cognitive therapy or behavior therapy, humanistic therapy, and integrative psychotherapy. The psychotherapist is an individual who has been professionally trained and licensed to treat mental, emotional, and behavioral disorders by psychological means.

The Board felt that the APA Concise Dictionary provided a clear definition of psychotherapy. Dr. Johnson noted that the definition of "naturopathic medicine" in HRS section 455-1 includes behavioral medicine. The definition of behavioral medicine includes cognitive therapy which is a subset of psychotherapy.

After a discussion, it was moved by Dr. Kern, seconded by Dr. Johnson, and unanimously carried that based upon the APA Concise Dictionary definition, psychotherapy is within the scope of practice of a naturopathic physician.

Legislation:

- a. House Bill No. 2257 Relating to Professional and Vocational Licensing
- b. House Bill No. 2258 Relating to Professional and Vocational Licensing

The Executive Officer related that both bills passed the final reading as amended in Senate Draft No. 1 and has been transmitted to the Governor. Licensing Administrator Celia Suzuki has requested feedback and input from the Board on these bills.

H.B. No. 2258, H.D.2, S.D.1 requires the Licensing Administrator to submit a report to the Legislature which details plans for the implementation of this bill should it be enacted.

Since the Board's last meeting, both bills have been amended to delete drafting administrative rules to implement this bill, should it become an Act.

The Board discussed H.B. No. 2257 H.D.2, S.D.1 which proposes to permit licensure by endorsement or licensure by reciprocity in certain situations for a nonresident military spouse; permits issuance of a temporary license if certain requirements are met; and requires the licensing authority to expedite consideration of the application and issuance of a license by endorsement, license by reciprocity, or temporary license to a qualified nonresident military spouse.

The Board noted that the licensing requirements are similar in the states that license naturopathic physicians. It also noted that it delegates to its Executive Officer the authority to issue a license upon verification that an applicant has met the education and examination requirements of the naturopathy laws and rules. Thus, unless an applicant discloses any disciplinary action or convictions or has any issues that must be addressed by the Board, complete applications are processed within 15-20 business days and the Board ratifies the approval of the application at its next meeting. The Board believes that the current processing of the applications is expeditious and does not impede an applicant's ability to obtain a license and start to practice.

The Board discussed H.B. No. 2258 H.D.2, S.D.1 which requires professional and vocational licensing boards to consider relevant military education, training, and service as part of the evaluation process toward the qualifications of a license and requires the licensing administrator of the professional and vocational licensing division of the department of commerce and consumer affairs to communicate the intent of this Act to each licensing authority and report to the legislature.

The Executive Officer related that testimony submitted by the Department of Defense stated that Washington has a similar law. Susan Gragg, Washington Department of Health, Naturopathic Physician Licensing, could not provide any further insight as to how they are evaluating military education training and service for license qualifications as they have not had any applicants wishing to use their military education training and service toward license

qualifications since the law was enacted. The Executive Officer also contacted Christa Louise, Executive Director of NABNE, who related that she was not aware of any agency or organization that could evaluate military education training and service for equivalency with a naturopathic medical doctoral degree from an accredited college.

The Board came to a consensus that there is no alternative to graduation from an accredited school with a naturopathic medical doctoral degree. An applicant wishing to use military education, training and service toward license qualifications may take their transcripts to an accredited school to be evaluated for equivalency to a naturopathic medical doctoral degree from an accredited school.

Hawaii
Administrative
Rules:

a. Proposed amendments to examination requirements for licensure

Draft #1 of the proposed administrative rules was distributed to members for their review and comments.

The proposed amendment in draft #1 deletes the requirement for the add-on examination in homeopathy for applicants that took the NPLEX prior to February 2007.

It was moved by Dr. Kern, seconded by Dr. Gibson, and unanimously carried to approve proposed draft #1.

Naturopathic
Formulary:

None.

Correspondence:

a. Mandatory Health Care Insurance

The Board reviewed and discussed an e-mail from Dr. Myron Berney dated March 28, 2012 pertaining to mandatory health care insurance.

b. Scope of Practice – Diagnosis of candida infection

The Board reviewed an e-mail dated March 16, 2012 regarding candida infection. After discussion, the Board came to a consensus on the following responses to the questions contained in the email:

1. Is candida infection an accepted diagnosis in naturopathic medicine?

Answer: Yes.

2. Can tests be done to detect candida overgrowth?

Answer: Yes.

c. Practice of homeopathy

The Board reviewed and discussed a letter dated April 18, 2012 from Mohan Magotra requesting to practice homeopathy without being licensed as a naturopathic physician.

Homeopathy is within the scope of practice of a naturopathic physician. Mr. Magotra could go through the legislative process to establish a separate license for homeopaths. Dr. Traub and Dr. Kern related that homeopathic medicines are not dangerous. Dr. Gibson related that an untrained person may not recognize a more serious health problem and this could be dangerous to consumers. Dr. Traub believes that the chance of a serious misdiagnosis is small. Dr. Johnson related that hypnotherapy is within the scope of practice. However, the Board of Psychology allows unlicensed individuals to practice hypnotherapy. Similarly, unlicensed individuals should be allowed to practice homeopathy.

The Executive Officer asked the Board how consumers would be protected from untrained homeopaths diagnosing and providing homeopathic treatments for diseases. Dr. Traub clarified that homeopaths do not prescribe homeopathic medicines based upon a diagnosis, rather they prescribe homeopathic therapies based upon symptoms. The Executive Officer noted that Mr. Magotra's website purports to treat diseases such as ischemic heart, hypertension, diabetes, and high cholesterol. The Board related that homeopaths are not trained to establish a diagnosis, patients are treated based upon the symptoms they exhibit. For example, a homeopath cannot say that they treat diabetes, but they could say that they can help better regulation of blood sugar. Dr. Johnson related that unlicensed individuals are not allowed to treat diseases with hypnotherapy. Dr. Traub suggested collaborating with the Board of Psychology by forming an Investigative Committee to discuss the parameters for unlicensed individuals to perform a modality within the scope of a licensed profession. He also related that Hawaii is the only state that

includes homeopathy within the scope of practice of naturopathic medicine.

DAG Tam related that the Board needs to consider the language of the law, as the law was amended since the Board's last decision on the practice of homeopathy; that the Board is in the process of deleting the requirement for the examination on homeopathy for applicants that took the NPLEX prior to 2007; and that homeopathy is taught in naturopathic medical school.

The Board agreed that homeopaths should not purport to diagnose and treat diseases and that defining the practice of homeopathy would provide a clear delineation between naturopathy and homeopathy. The Board deferred further discussion on this matter and asked the Executive Officer to write to Mr. Magotra to inform him that discussion on his inquiry is deferred until the next Board meeting and that the curriculum at accredited schools of naturopathic medicine includes the study and practice of homeopathy, thus it is not necessary to educate the Board on the basics of homeopathy.

d. The High Road – March 2012 No. 2012-1

The March 2012 issue of "The High Road" was distributed to the members for their information.

The Executive Officer reminded members to submit their Hawaii State Ethics Commission Financial Disclosure Form by May 31, 2012.

DAG Tam left the meeting at 4:05 p.m.

Applications:

a. Licensure/Authorization to administer parenteral therapy authorization to perform minor office procedures

Nathan Ehrlich

The applicant answered "no" to the question "Has your license ever been revoked, suspended or otherwise subject to disciplinary action?" on the application for authorization to perform minor office procedures and the application for authorization to administer parenteral therapy.

Members reviewed Dr. Ehrlich's response to the Board's April 18, 2012 letter which states that it approved a "Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final

Order" In the Matter of the License to Practice Naturopathy of Nathan Ehrlich, N.D., Case No. NAT 95-2-L on October 23, 1996.

After a discussion it was moved by Dr. Kern, seconded by Dr. Gibson, and unanimously carried to approve the applications for authorization to perform minor office procedures and authorization to administer parenteral therapy.

b. Ratifications

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

- Roberts, Hana
- Nguyen, Phuong D.

Announcements: None.

The following agenda item was taken out of order.

Election of Officers: The floor was opened for nominations for the office of Chairperson. Dr. Kern nominated Dr. Gibson as Chairperson. The nomination was seconded by Dr. Johnson. 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 Ms. Ng. Since there were no other nominations for Vice-Chairperson, the motion passed unanimously.

Next Meeting Date: Friday, September 7, 2012
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 4:20 p.m.

Taken and recorded by:

/s/ Faith Nishimura
Faith Nishimura
Secretary

Reviewed and approved by:

/s/ Candace Ito
Candace Ito
Executive Officer

CI:fn

6/8/12

[] Minutes approved as is.

[X] Minutes approved with changes. See Minutes of September 7, 2012.