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# **Sunset Evaluation Update: Naturopathy**

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

Report No. 87-2  
January 1987

**THE AUDITOR**  
STATE OF HAWAII

**SUNSET EVALUATION UPDATE**  
**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**  
**Honolulu, Hawaii**

**Report No. 87-2**  
**January 1987**

## FOREWORD

Under the "Sunset Law," licensing boards and commissions and regulated programs are terminated at specific 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 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 These programs are repealed unless they are specifically reestablished by the Legislature.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 the practice of naturopathy 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 the practice of naturopathy to protect public health, safety, or welfare. It includes our recommendation on whether the program should be continued, modified, or repealed. In accordance with Act 136, SLH 1986, draft legislation intended to improve the regulatory program is incorporated in this report as Appendix B.

We acknowledge the cooperation and assistance extended to our staff by the Board of Examiners in Naturopathy, the Department of Commerce and Consumer Affairs, and other officials contacted during the course of our examination. We also appreciate the assistance of the Legislative Reference Bureau which drafted the recommended legislation.

Clinton T. Tanimura  
Legislative Auditor  
State of Hawaii

January 1987

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## **Sunset Evaluation Update**

### **NATUROPATHY**

This report evaluates the regulation of the practice of naturopathy under Chapter 455, Hawaii Revised Statutes, to determine whether the health, safety, and welfare of the public is best served by reenactment, modification, or repeal of Chapter 455. An evaluation of the regulation of naturopathy was previously conducted by this office and our findings and recommendations were reported in January 1985 in the *Sunset Evaluation Report, Naturopathy, Chapter 455, Hawaii Revised Statutes*. This update summarizes the information presented in the 1985 evaluation, reports on developments since then, and presents our current findings and recommendations.

#### **Background on Naturopathy and Its Regulation**

Naturopathy is a system of health care based on the philosophy that the human body has the power to heal itself by restoring its natural balance. Naturopathy encompasses an evolving system of natural therapeutics which includes hydrotherapy, homeopathy, nutritional therapy, botanical medicines, psychology, physiotherapy, and spinal manipulation.

Naturopaths are primary health care providers who exercise independent judgment in diagnosing and treating illnesses. The scope of practice and the diagnostic and treatment methods can vary widely among the individual practitioners. Most naturopaths are in private practice as sole practitioners.

Today, there are 23 Hawaii licensed naturopaths: 9 practice on Oahu, 10 on the neighbor islands, and the remaining 4 are on the mainland.<sup>1</sup>

At one time, the practice of naturopathy was regulated in 14 states. Today, only nine states require licensure. In two of the nine states, naturopaths are a "dying class" as no new licenses are being issued.

Naturopathy has been regulated in Hawaii since 1925. Act 77 that year granted licenses to practice naturopathy to graduates of schools of naturopathy meeting specified minimum standards and who passed written examinations covering subjects enumerated in the law.

Originally, the Board of Health was responsible for conducting examinations and issuing licenses. However, in 1937, Act 221 established the Territorial Board of Examiners in Natureopathy to evaluate applicants and recommend to the Board of Health whether licenses should be issued. In 1969, the board was transferred to the Department of Regulatory Agencies, now the Department of Commerce and Consumer Affairs (DCCA).

The regulation of naturopathy was first subject to review in 1978. That review was based on an impact statement submitted by the board which urged that the law be reenacted to continue regulating the occupation. Based on testimony from the board, naturopaths, and the public, the Legislature enacted Act 162, SLH 1978, which extended the repeal date for Chapter 455 from December 1978 to December 1984. The Legislature concluded that repeal of Chapter 455 would be

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1. Hawaii, Department of Commerce and Consumer Affairs, *Geographic Report*, Honolulu, March 1986.

premature because testimony indicated that regulation is essential for public protection.

In extending the law, the Legislature made several changes. It required the board, which had been operating without rules, to adopt rules to implement the law. Under Act 162, the board was to conduct examinations at least twice a year and set the passing score at 75 percent. The Legislature also added more comprehensive and specific grounds for revoking and suspending licenses which paralleled the grounds for suspending or revoking the licenses of physicians or surgeons.

In 1982, Act 110 extended the scheduled repeal date of Chapter 455 to December 1985 in a general revision of the sunset review schedule.

#### **Findings and Recommendations in the 1985 Sunset Evaluation Report**

Our sunset evaluation of the regulation of naturopathy in 1985 concluded as follows:

- "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 require 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.** We found that incompetent practitioners could cause considerable and significant harm to the health, safety, and welfare of consumers. Naturopaths are primary health care providers who, like members of

other healing arts, make independent diagnostic decisions on patient treatment and referrals to other health care professionals.

Naturopaths have a broad scope of practice. The statute authorized the use of almost any method or means, without the use of drugs, in the care and treatment of the human body, with the exception of Hawaiian massage. Naturopaths were allowed to conduct laboratory and clinical tests and use X-rays and other nonsurgical methods of diagnosis. Treatment methods encompassed numerous techniques including colonic irrigations, spinal manipulations, and adjustments which could cause considerable harm if performed in an incompetent manner. The improper administration of certain natural medicines could have the same toxic or fatal effect as chemical drugs.

Our review found no complaints relating to incompetence or malpractice in Hawaii. However, there were cases in other states where malpractice in the use of certain kinds of naturopathic treatment had resulted in death.

We raised the possibility that continued licensing by the State could present more dangers than advantages. By licensing naturopaths, the State was giving recognition to the profession. This may mislead the public about the effectiveness of certain naturopathic services which may have no demonstrated medical value. The public may also be led to believe that those licensed by the State had demonstrated a minimal level of competency in the scope of practice permitted by law. However, the scope of practice permitted by law was so broad that competency in its practice could be neither defined nor measured.

**Lack of standards.** We were concerned that the State had no valid standards for determining qualifications for licensure. The statutory requirements for



licensure were established almost 50 years ago and were no longer relevant. The educational requirements were out-of-date and meaningless. The requirement for applicants to be graduates of a board-approved college was questionable because the board had no criteria for granting approval to naturopathic colleges. Finally, the examination administered by the board was outdated and had never been tested for validity and reliability.

**Recommendations and responses.** Based on our evaluation, we recommended that Chapter 455 be reenacted to permit those naturopaths who were already licensed to renew their licenses and to continue to practice. In reenacting the statute, we recommended that the following amendments be made:

- . no new licensing of naturopaths be permitted; and
- . the scope of practice 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."

The board responded to our report saying that it did not agree with our recommendation that the law be reenacted with amendments that would restrict the scope of practice. Nor did it agree that licensing be discontinued for new applicants. The board maintained that continued licensing was necessary to protect the public. It said that naturopaths should be entitled to use the title "naturopathic physician" and to perform minor surgery and vitamin injections because they were qualified to do so. The board also said that it was taking steps to correct problems with the approval of colleges and the examinations.

The DCCA responded that it was in general agreement with the observations and evaluation made in the report.

## **Subsequent Developments**

Various bills were introduced on naturopathy during both the 1985 and 1986 legislative sessions. Amendments were made to Chapter 455 which changed the regulatory scheme for naturopathy.

**Amendments by the 1985 Legislature.** Following the submission of our sunset report, hearings were held to determine whether Chapter 455 should be reenacted, modified, or repealed. The board, naturopaths, and the general public testified in support of continued licensing.

The board testified that continued regulation was necessary to ensure that only qualified and competent naturopathic physicians are licensed to practice in Hawaii. The board warned that without licensing, the number of untrained practitioners would grow and they could cause considerable physical and emotional harm to the public.

The board also testified that while it disagreed with several of the statements that were made in our sunset evaluation report, it agreed that the statute could be strengthened or clarified by defining more clearly the scope of practice of a naturopathic physician; establishing rules to approve naturopathic schools, colleges, and universities; clarifying the grading of the examination; and prohibiting naturopaths from using the title of "physician" without identifying themselves as "naturopathic physicians."<sup>2</sup>

The Hawaii Medical Association (HMA) and the Department of Health (DOH) both opposed continued regulation. They expressed agreement with our findings

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2. Presentation on House Bill No. 756 by the Board of Examiners in Naturopathy to the House Committee on Consumer Protection and Commerce, February 28, 1985.

that: (1) there is significant potential for harm to the public from incompetent naturopathic practice; (2) the State is without adequate standards for determining the competence of applicants; and (3) continued licensure may present more dangers than protection to the public. The HMA and the DOH testified that they concurred with our recommendation that no new licensing of naturopaths be permitted and that the scope of practice be restricted for those naturopaths who were already licensed.<sup>3</sup>

The Legislature enacted Act 66, SLH 1985, which extended the repeal date from December 1985 to December 1987. The Senate Committee on Consumer Protection and Commerce noted in its report that it was "concerned with the Board's inaction on resolving important issues regarding accreditation of school programs and curricula, examination criteria, and licensure. Much work has to be done to update and modernize the regulatory provisions administered by the board."

The committee report concluded:

"In light of these concerns, your Committee feels that the Board should be extended for two years by amending the bill to include a repeal date for the Board of December 31, 1987. Your Committee is also adding a requirement that no license shall be issued after the effective date of this Act until such time as new rules have been approved addressing the issues of concern."<sup>4</sup>

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3. Statement of the Hawaii Medical Association on Senate Bill No. 216 submitted by Robert Kulani Childs, M.D., for HMA Legislative Committee, March 4, 1985; and testimony on Senate Bill No. 216 presented by Leslie S. Matsubara, Director of Health, to the Senate Committee on Consumer Protection, March 4, 1985.

4. Senate Standing Committee Report No. 681 on Senate Bill No. 198, Thirteenth Legislature, 1985, State of Hawaii.

The House Committee on Consumer Protection and Commerce also said:

"Your Committee finds that the practice of naturopathy does pose a significant risk to the public. Clearly, the incompetent practitioner can cause considerable and significant harm to the health, safety, and welfare of consumers.

"Accordingly, your Committee finds that the Board of Examiners in Naturopathy must closely adhere to the recommendations set forth in Auditor's Report No. 85-8 in the next two years or face the prospect of being sunsetted."<sup>5</sup>

Act 66 amended the regulation of naturopathy in the following ways:

- . prohibited the board from issuing any new licenses until new rules were adopted and approved for examination criteria and processes and licensure;
- . required applicants to attain a score of 75 percent on all parts of the examination instead of a general average of 75 percent; and
- . deleted the durational residency and high school graduation requirements for applicants.

**Amendments by the 1986 Legislature.** The board proposed a comprehensive revision to Chapter 455 during the 1986 legislative session. This included a new definition of the scope of practice; new examination requirements; new grounds for denial, revocation, and suspension of licenses; and removal of obsolete requirements.

The board said that the proposed definition of the practice of naturopathy would be a more current and accurate description of what naturopaths actually do. It would include the use of X-rays, the taking of body fluids and tissues for diagnostic purposes, the use of minor surgery, and the prescription of natural medicine or drugs as treatment modalities. Minor surgery was defined as surgical

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5. House Standing Committee Report No. 945 on Senate Bill No. 198, S.D. 1, Thirteenth Legislature, 1985, State of Hawaii.

procedures performed outside of any major body cavity. Natural medicine was defined as substances of vegetable, mineral, and animal origin including homeopathic preparations.

The board also proposed that applicants be graduates of colleges accredited by any official state, regional, national, or professional accrediting body approved by the board. The requirements for minimum classroom hours in specified subjects would be deleted and the adequacy of educational programs would be determined by accrediting bodies with the necessary expertise in this area.

The board requested authority to contract with a professional testing agency to develop an examination for applicants. Finally, the board proposed a mandatory continuing education requirement so that licensees would be required to keep themselves current on the latest methods and techniques of the profession.

Again, the HMA and DOH testified against the bill saying that they had "strong reservations" about the bill. They pointed out that instead of following the recommendations made in the sunset evaluation report, the proposed amendments would expand the existing scope of practice by including the taking of body fluids and liquids, the practice of minor surgery, the use of prescription drugs, and the use of the title of naturopathic physician.<sup>6</sup>

HMA was also concerned about liberalizing the requirements for eligibility for licensure by accepting the opinion of virtually any accrediting body that would be

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6. Testimony on Senate Bill No. 1695-86 submitted by Robert Kulani Childs, M.D. for Hawaii Medical Association, to the Senate Committee on Consumer Protection and Commerce, February 20, 1986; and testimony on Senate Bill No. 1695 presented by Leslie S. Matsubara, Director of Health, to the Senate Committee on Consumer Protection and Commerce, February 21, 1986.

acceptable to the board. HMA said, "In view of the fact that the legislature moved just last year to suspend licensing because of gross inadequacies, it seems inappropriate to now grant the same people greater liberalization of practice restraints."<sup>7</sup>

Based on these concerns, the bill was amended to make it clear that the scope of practice would not be expanded. The definition of naturopathy was clarified by specifying that the scope of practice *excluded* surgery, the use of X-rays, and the dispensing of prescription drugs.

Act 76, SLH 1986, also deleted obsolete educational requirements, established new provisions requiring applicants to graduate from naturopathic colleges accredited by regional or national professional accrediting bodies, and authorized the board to contract for the development of an examination by a professional testing agency. In addition, continuing education requirements were established; the duties, functions, and powers of the board were redefined; and additional grounds were established for denial, revocation, and suspension of licenses.

### **Current Findings and Recommendations**

We find the following:

1. There remains a significant potential for public harm with the practice of naturopathy. State regulation should be continued to provide protection against this harm.
2. The board has initiated several changes which may result in valid criteria for assessing the competency of new applicants.

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7. Childs, Testimony on Senate Bill No. 1695-86.

3. The board has obtained statutory approval for imposing continuing education requirements as a condition for relicensure. These requirements are unrealistic and unwarranted.

4. The board's rules are outdated and no longer consistent with amendments in the statutes. The rules also include provisions that are inappropriate and should be deleted.

**The need for regulation.** In our previous evaluation, we found that regulation was needed to protect the public from the considerable and significant potential harm that could result from incompetent naturopathic practice. The various diagnostic and treatment methods authorized under the broad scope of practice could result in significant health risks to consumers in Hawaii. •

Amendments made in 1986 resolved some of our concerns relating to the scope of practice by clearly prohibiting X-rays, surgery, and the administration of drugs. Even with these restrictions, the scope of practice currently allowed under Chapter 455 presents a reduced but still significant health risk to the public should it be provided by an incompetent practitioner.

Naturopaths continue to be primary health care providers who are authorized by law to use independent judgment in the diagnosis, prevention, and treatment of disease, illness, or injury. We did not find any examples of injuries or other harm resulting from the practice of naturopathic medicine since our last evaluation. However, the practice is still potentially dangerous. Since the general public is not in a position to assess the competency of naturopaths, the State should continue to provide such assurance. We believe that continued regulation through licensure is necessary to protect the public from potential harm.

**The licensing program.** Our previous evaluation noted that there was no evidence of the validity of the licensing standards and, therefore, no assurance that applicants who were licensed were minimally competent in naturopathic medicine.

The board acknowledged that there were problems relating to the examination and the approval of colleges and it was attempting to take corrective actions. However, the board was limited in what it could do by circumstances outside its control. The profession had no professional accrediting body to approve its colleges and there was no national examination.

Since our last evaluation, some changes have occurred in the profession. In 1985, the naturopathic profession organized the American Association of Naturopathic Physicians (AANP). The AANP is a federation of state associations and societies. Its charter members include the naturopathic societies of Arizona, Connecticut, Hawaii, Oregon, Utah, and Washington.

The AANP has constituted a national board of examiners to be the controlling body for the Naturopathic Physicians Licensing Examinations (NPLEX). The NPLEX board consists of representatives of state licensing agencies, schools of naturopathy, naturopathy associations, the AANP, and a testing expert.<sup>8</sup> The NPLEX will be used as the national examination for naturopathy. In addition, a professional accrediting organization, the Council on Naturopathic Medical Education (CNME), has been reactivated.

**Accreditation.** Act 76, SLH 1986, amended Chapter 455 to provide that applicants must be graduates of a school, university, or college which has "received

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8. Bylaws of the Naturopathic Physicians Licensing Examinations Board, Revised June 10, 1986.



candidacy status with, or has been accredited by, a regional accrediting association of secondary schools and colleges or has been accredited by a national professional accrediting body approved by the board or the Commission on Accreditation of the Council of Naturopathic Medical Education." The language of this amendment is vague and gives the board too much discretion in approving accrediting bodies for naturopathic colleges. We believe that a more specific standard should be set.

Currently, the board has approved three naturopathic colleges: the National College of Naturopathic Medicine in Portland; the John Bastyr College of Naturopathic Medicine in Seattle; and the British College of Naturopathy and Osteopathy in London, England. These colleges have never been fully accredited by any institutional or specialized postsecondary accrediting agency.

The CNME was originally established in 1978 to meet the professional accreditation needs of naturopathic colleges. The CNME twice applied to the U.S. Department of Education for federal recognition as the accrediting agency for naturopathic colleges. It met with no success, and it became inactive in 1982.

The Northwest Association of Schools and Colleges (NASC), a federally recognized regional institutional accrediting agency, decided to accept applications for accreditation from naturopathic colleges. The John Bastyr College of Naturopathy was granted candidate accreditation status by the NASC.

The NASC recently adopted new eligibility standards for accreditation which exclude specialized, professional educational institutions. This left the accreditation of naturopathic colleges in an uncertain status. John Bastyr College was notified in 1985 that it did not meet the new eligibility standards. It currently has a one-year extension of its candidacy status.

As a result, the naturopathic profession reactivated the CNME in December 1985. The CNME reports that it has appointed a new executive director with expertise in accreditation issues, adopted new educational standards, and made accreditation site visits to naturopathic colleges. The CNME has applied to the U.S. Department of Education for recognition as the accrediting body for naturopathic colleges. It hopes to obtain this recognition in April 1987.<sup>9</sup>

We believe that the accreditation requirement must be clarified for two reasons. *First*, it is uncertain whether the regional institutional associations will continue to conduct accreditation reviews of naturopathic colleges. As noted earlier, the NASC has adopted new eligibility standards which would exclude naturopathic colleges. *Second*, most health professions have specialized professional accrediting bodies that are also recognized by another independent official body, such as the U.S. Department of Education. This provides some assurance that the professional accrediting body follows certain procedures and meets certain established standards in accrediting the professional schools.

It is not appropriate for the board to have the authority to approve accrediting agencies as it has no expertise in this area and it has no written criteria for approving accrediting agencies.

The law should be revised to require naturopathic colleges to be approved by a professional accrediting agency recognized by the U.S. Department of Education.

**Examinations.** In our prior sunset evaluation, we found numerous problems with the naturopathy examination. There was no evidence that the examination was

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9. Letter from James W. Moore, Executive Director, Council on Naturopathic Medical Education, to Richard Rovin, October 24, 1986.

a satisfactory measure of competency or that it was valid or reliable. At the time, the board was attempting to improve the examination, but it did not have the necessary expertise to do so. There was no national examination which could be used to replace the local examination although attempts were being made in that direction.

As a result of our evaluation, the board contacted the American Community Services, Inc. (ACSI), a professional testing organization, to develop a naturopathy examination for Hawaii. The ACSI subsequently contacted the AANP with a proposal to develop a national examination for the practice of naturopathy. The AANP accepted and gave the NPLEX board overall control over the national examination process. The NPLEX board has been working with ACSI in preparing the national examination. The examination was administered for the first time in August 1986 in Connecticut, Nevada, and Oregon.

During the 1986 legislative session, the board proposed that the statute be amended to delete the listing of specific subjects to be included in the licensing examination and to delete the minimum passing score of 75 percent. The board requested authority to contract with a professional testing agency to prepare the licensing examination and to provide for passing scores in its rules. According to board members, these changes would provide greater flexibility in developing an examination based on a job task analysis of the profession and in establishing a more valid and accurate cut score. The law was amended to give the board the authority to contract with a professional testing agency and to set passing scores by rule. However, the specific subjects to be tested and the minimum passing score were also retained resulting in a conflict between the two provisions.

If licensing is reinstated, the statute should be amended to delete the listing of specific subject areas to be tested. The designated passing score should also be deleted so that the professional expertise of the testing agency can be fully utilized in developing a valid examination.

The board voted in July 1986 to adopt NPLEX as its core examination. However, according to Act 66, SLH 1985, the board cannot officially recognize NPLEX or consider applicants for licensure until it has adopted new rules specifying the examination criteria and processes and other licensing standards.

We believe that the new examination has the potential to be a valid criterion for assessing the competency of applicants. However, it was developed over a period of only a few months, and its adequacy has not yet been clearly demonstrated. The board should ask for a report from ACSI on the results of the first NPLEX. Should ACSI and the NPLEX board be able and willing to defend the validity and reliability of the examination, the board could take steps to adopt a requirement for passing the NPLEX in its rules as a standard for licensure.

**Continuing education.** In 1986, the board requested that Chapter 455 be amended to establish a continuing education requirement, and this was done. However, we believe that such a requirement is unnecessary and misguided.

Numerous studies have shown that there is no demonstrated relationship between continuing education requirements and maintaining competency. Not only is there no evidence of any correlation between continuing education and competency or quality of care, various studies have shown that continuing education increases the cost of services.

Reviews of continuing education programs by regulatory agencies in other states have been generally negative. For example, in evaluating its continuing

education program, the Colorado Department of Regulatory Agencies found that it has not worked. The department said that continuing education was enacted "in good faith, with high expectations for success, and now . . . it has become instead a classic form of unnecessary government regulation, and we have been urging very vigorously its repeal."<sup>10</sup>

We have found numerous problems at DCCA in administering continuing education programs for other regulated occupations. These programs result in a great deal of paperwork from licensees that DCCA must review to ensure compliance with continuing education requirements. Invariably, errors are made in reviewing compliance. For example, there are always questions on whether certain business and management courses on how to manage one's professional practice may legitimately be considered for continuing education.

There is also the question on sponsorship of such programs. The naturopathy occupation is only just beginning to become organized. A professional association, the AANP, was established only last year. A professional accreditation program and national examination standards were established just this year. The profession is not yet in a position to offer continuing education courses that would be pertinent to maintaining professional competency.

Continuing education programs also operate to the detriment of practitioners outside of Oahu who have limited access to educational facilities and continuing

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10. Letter from Bruce M. Douglas, State of Colorado, Department of Regulatory Agencies, Division of Registrations, to Owen H. Yamasaki, Office of the Auditor, State of Hawaii, July 1, 1986.

education programs. Of the 23 licensed naturopaths, 10 practice on the neighbor islands, and 4 on the mainland. It will probably not be economically feasible to take continuing education offerings to the neighbor islands for one or two practitioners. Moreover, under the board's proposed rules, correspondence courses would not be accepted as meeting continuing education requirements.

In view of the lack of any demonstrated value to continuing education programs, the costs of these programs, and problems in administering these programs, we believe that their requirement is unjustified and should be removed from the statute.

**Rulemaking.** The board is in the process of revising its rules to conform with and implement the amended Chapter 455. Its initial efforts have been concentrated on examination criteria and standards for licensure. Another area of focus is the continuing education requirement. In the process of revising the rules, the board agreed at its October meeting to delete several of its current rules which are inappropriate: the rules on standards of ethics of the naturopathic profession and the requirement for letters attesting to good character. We agree with the board's decision to delete these two requirements.

The proposed rules, however, still require applicants to submit a recent photograph with their application. This licensing requirement should be removed. Photographs have no bearing on the competency of applicants.

## **Conclusion**

The practice of naturopathy has been evaluated under the sunset law three times, the first time by the board and twice by this office. Our current evaluation

agrees with our previous evaluation in finding that it continues to pose a potential danger to the health and safety of the public and should be regulated.

Since our last evaluation, certain changes have occurred in the profession that make it feasible to consider reinstating licensing for new applicants. A professional accrediting agency is again active and a new professionally developed examination has been administered. However, these new developments are as yet unproven. Once they have demonstrated their viability, then licensing can be reinstated.

### *Recommendations*

*We recommend that:*

*1. Chapter 455, Hawaii Revised Statutes, be reenacted. In reenacting the statute, we recommend that the following amendments be made:*

- . applicants be required to be graduates of naturopathic colleges accredited by, or recognized as a candidate for accreditation by, a professional accrediting agency recognized by the U.S. Department of Education;*
- . applicants be required to pass a written examination that has been developed, validated, and tested for reliability by a professional testing agency which can demonstrate the validity and reliability of the examination;*
- . the listing of subjects to be included in the examination and the passing score of 75 percent be deleted to make it clear that the board has the authority to set the passing score under its rules; and*
- . the requirement for continuing education be removed.*

2. *The board amend its rules to conform with and clarify the amendments made to Chapter 455, and in amending its rules, the board delete the requirement for a photograph of the licensing applicant.*



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## APPENDICES

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## APPENDIX A

### COMMENTS ON AGENCY RESPONSES

A preliminary draft of this Sunset Evaluation Update was transmitted on December 10, 1986, 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 response from the board is included as Attachment 2. The department did not submit a response.

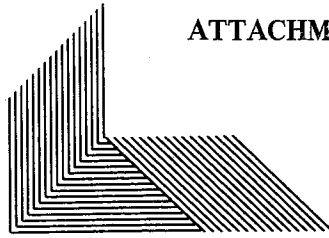
The Board of Examiners in Naturopathy agrees that Chapter 455 should be reenacted and that the passing score of 75 percent should be deleted. It also agrees with some of our concerns relating to continuing education.

The board disagrees with our recommendation that applicants be graduates of naturopathic colleges accredited by an accrediting agency recognized by the U.S. Department of Education. It says that it will be some time before the U.S. Department of Education will give this recognition and it would be a disservice to applicants to make them wait. However, the Executive Director of the Council on Naturopathic Education had stated that the U.S. Department of Education is scheduled to take up the petition of recognition in April 1987.

The board also does not agree that the validity and reliability of the new examination have not been demonstrated. It states that the professional testing organization responsible for developing the examination is preparing readily defensible, quality examinations. Finally, the board disagrees with our recommendation to delete the requirement for licensing applicants to submit a photograph.

ATTACHMENT 1

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



CLINTON T. TANIMURA  
AUDITOR

December 10, 1986

*COPY*

Dr. Rodney C. Y. Chun, Chairperson  
Board of Examiners in Naturopathy  
Department of Commerce and Consumer Affairs  
State of Hawaii  
1010 Richards Street  
Honolulu, Hawaii 96813

Dear Dr. Chun:


Enclosed are four preliminary copies, numbered 4 through 7, of our *Sunset Evaluation Update, 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 Robert Alm, Director of the 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 9, 1987. 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

John Waihee  
GOVERNOR



Robert A. Alm  
DIRECTOR

NOE NOE TOM  
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, 1987

RECEIVED

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OFFICE OF THE AUDITOR  
STATE OF HAWAII

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

Dear Mr. Tanimura:

The Board of Examiners in Naturopathy has prepared this response to the Sunset Evaluation Report.

The Board agrees with the recommendation that Chapter 455, Hawaii Revised Statutes, be reenacted and that the listing of subjects and the passing score of seventy-five per cent be deleted.

Regarding the removal of the continuing education requirement, the Board appreciates the considerations of the Auditor, and yet, the importance of keeping up to date for a primary care naturopathic physician makes the Board feel that area should not be withdrawn lightly. The Board feels the Legislature should weigh both sides of this area and make the decision.

The Board takes exception to the following three conclusions of the Auditor's report:

- (1) That applicants may not sit for the licensing examination until the accrediting body is recognized by the United States Department of Education;
- (2) That the professional testing organization has not demonstrated its validity and reliability of the examination; and

- (3) That the requirement for a photograph be deleted.

The regional institutional associations are beginning to exclude accreditation of single purpose institutions, such as Naturopathic Medical Programs. As a result, last year the Legislature approved the addition of the Council of Naturopathic Medical Education (CNME) as an accrediting body to insure the quality of the educational institutions. The CNME uses guidelines for college evaluation and has the specialty expertise and means to give a thorough analysis of the colleges equal to the regional accrediting bodies. Its evaluation process has been made available to the Board for approval and as a means for even improving upon it.

The Board is confident that the United States Department of Education will at some point approve this body, but it also realizes the advisory committee meets only twice a year and its agenda is quite full. It basically looks at structure and methodology and the Board feels the educational standards are not being compromised in the least. The CNME is unanimously empowered by the American Association of Naturopathic Physicians (AANP) and the sixteen state naturopathic associations it represents to accredit naturopathic medical institutions. Recognition by the Department of Education is worthwhile, but is secondary to the AANP's approval. Graduates of the Naturopathic Medical Schools have been awaiting these last two years during the time we have updated the law and satisfied the deficiencies, which has been done, and the Board feels it is a disservice to the public to deny them access to these new graduates any longer.

The Board is quite pleased with ACSI, a professional testing organization that the Board initially contacted almost two years ago. ACSI spent a year, not a few months, in preparation of a set of quality examinations, including a nationwide task analysis and a team of experts to assist in development. ACSI provides state of the art psychometric methods for examination preparation. Validity and reliability of these examinations are easily defended and ACSI has already been contacted regarding this. ACSI is highly reputable and is even being used in Hawaii by many of our other boards. As has been noted by the Auditor, this examination is proving to be useful nationwide as a national examination with other states already using it. The Board feels the changes recommended by the Auditor and Legislature have come to pass with valuable upgrading and standardization for the naturopathic profession.

Mr. Clinton T. Tanimura  
Page 3  
January 8, 1987

The recommendation that the Board amend its rules to delete the requirement for a photograph of the licensing applicant is one with which the Board and the Department have reservations.

We find justification with the Department that the current practice is proper and reasonable and that to delete the requirement would unduly limit a valuable source of information to the investigation division.

Thank you for the opportunity to comment on the Sunset Evaluation Report.

Very truly yours,

  
RODNEY C. Y. CHUN, N.D.,  
Chairman of the Board

## APPENDIX B

### DIGEST

#### A BILL FOR AN ACT RELATING TO NATUROPATHY

Requires applicants for licenses in the practice of naturopathy to be graduates of naturopathic colleges accredited by or recognized as accreditation candidates by a professional accrediting agency recognized by the U.S. Department of Education. Requires that the written examination be developed, validated, and tested for reliability by a professional testing agency that can demonstrate the validity and reliability of the examination. Deletes the listing of subjects to be included in the examination and the passing score requirement of 75 percent. Removes the continuing education requirement for licensing renewal.

Provides that regulation of naturopathy be extended until December 31, 1993.

# A BILL FOR AN ACT

RELATING TO NATUROPATHY.

## BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1           SECTION 1. Section 26H-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§26H-4 Repeal dates. (a) The following chapters are  
4 hereby repealed effective December 31, 1987:

- 5           (1) Chapter 458 (Board of Dispensing Opticians)
- 6           (2) Chapter 459 (Board of Examiners in Optometry)
- 7           (3) Chapter 452 (Board of Massage)
- 8           (4) Chapter 471 (Board of Veterinary Examiners)
- 9           (5) Chapter 441 (Cemeteries and Mortuaries)
- 10          (6) Chapter 463 (Board of Detectives and Guards)

11          [(7) Chapter 455 (Board of Examiners in Naturopathy)]

12          (b) The following chapters are hereby repealed effective  
13 December 31, 1988:

- 14          (1) Chapter 465 (Board of Psychology)
- 15          (2) Chapter 468E (Board of Speech Pathology and Audiology)
- 16          (3) Chapter 468K (Travel Agencies)



1 (4) Chapter 373 (Commercial Employment Agencies)

2 (5) Chapter 442 (Board of Chiropractic Examiners)

3 (6) Chapter 448 (Board of Dental Examiners)

4 (7) Chapter 436E (Board of Acupuncture)

5 (c) The following chapters are hereby repealed effective  
6 December 31, 1989:

7 (1) Chapter 444 (Contractors License Board)

8 (2) Chapter 448E (Board of Electricians and Plumbers)

9 (3) Chapter 464 (Board of Registration of Professional  
10 Engineers, Architects, Surveyors and Landscape  
11 Architects)

12 (4) Chapter 466 (Board of Public Accountancy)

13 (5) Chapter 467 (Real Estate Commission)

14 (6) Chapter 439 (Board of Cosmetology)

15 (7) Chapter 454 (Mortgage Brokers and Solicitors)

16 (8) Chapter 454D (Mortgage and Collection Servicing Agents)

17 (d) The following chapters are hereby repealed effective  
18 December 31, 1990:

19 (1) Chapter 447 (Dental Hygienists)

20 (2) Chapter 453 (Board of Medical Examiners)

21 (3) Chapter 457 (Board of Nursing)

22 (4) Chapter 460J (Pest Control Board)

(5) Chapter 462A (Pilotage)

(6) Chapter 438 (Board of Barbers)

(e) The following chapters are hereby repealed effective  
December 31, 1991:

(1) Chapter 448H (Elevator Mechanics Licensing Board)

(2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)

(3) Chapter 457B (Board of Examiners of Nursing Home  
Administrators)

(4) Chapter 460 (Board of Osteopathic Examiners)

(5) Chapter 461 (Board of Pharmacy)

(6) Chapter 461J (Board of Physical Therapy)

(7) Chapter 463E (Podiatry)

(f) The following chapters are hereby repealed effective  
December 31, 1992:

(1) Chapter 437 (Motor Vehicle Industry Licensing Board)

(2) Chapter 437B (Motor Vehicle Repair Industry Board)

(3) Chapter 440 (Boxing Commission).

(g) The following chapters are hereby repealed effective  
December 31, 1993:

(1) Chapter 455 (Board of Examiners in Naturopathy)."

SECTION 2. Chapter 455, Hawaii Revised Statutes, is amended

1 as follows:

2 1. By amending section 455-2 to read:

3 "§455-2 Application for examination; fee. Any person  
4 desiring to practice naturopathy shall apply in writing to the  
5 board upon a form prepared and furnished by the board and shall  
6 include in the application any facts concerning the applicant as  
7 the board shall require. At the time of the application each  
8 applicant shall pay an examination fee to the department. [If  
9 the board contracts with a professional testing agency to  
10 prepare, administer, and grade the examination, the payment of  
11 the] The examination fee may be paid directly to the testing  
12 agency by the department or the examinee. The examination fee  
13 shall not be refunded if the applicant fails to pass the  
14 examination.

15 No person shall be licensed to practice naturopathy unless  
16 the person has been duly examined and has passed the  
17 examination."

18 2. By amending section 455-3 to read:

19 "§455-3 Qualifications of applicants. Each applicant shall  
20 be a graduate of a school, university, or college of naturopathy  
21 which has received candidacy status with, or has been accredited  
22 by, a [regional accrediting association of secondary schools and  
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1 colleges or has been accredited by a national professional  
2 accrediting body approved by the board or the Commission on  
3 Accreditation of the Council of Naturopathic Medical Education,  
4 incorporated in Washington, D.C.] professional accrediting agency  
5 recognized by the U.S. Department of Education."

6 3. By amending section 455-6 to read:

7 "\$455-6 Powers and authority of the board. The board may:

8 (1) Adopt and use a seal to be affixed to all official acts  
9 of the board;

10 (2) Adopt, amend, or repeal rules in accordance with  
11 chapter 91 to carry out the purposes of this chapter;

12 (3) Develop standards for licensure;

13 [(4) Prepare and administer examinations;

14 (5)] (4) Issue, renew, suspend, and revoke licenses and  
15 fine licensees;

16 [(6)] (5) Investigate and conduct hearings regarding any  
17 violation of this chapter and any rules of the board;

18 [(7)] (6) Maintain a record of its proceedings; and

19 [(8)] (7) Do all things necessary to carry out the  
20 functions, powers, and duties set forth in this  
21 chapter."

22 4. By amending section 455-7 to read:

1           "§455-7 Examinations. The board shall conduct examinations  
2 not less than twice in each year [in the following subjects:  
3 anatomy; histology and embryology; chemistry and toxicology;  
4 physiology; bacteriology; hygiene and sanitation; pathology;  
5 diagnosis or analysis, including clinical, physical, x-ray,  
6 symptomatology, dermatology, and mental diseases; naturopathic  
7 theory and practice; obstetrics and gynecology; jurisprudence;  
8 clinical practice; biochemistry; therapeutics, including  
9 physiotherapy, hydrotherapy, electrotherapy, heliotherapy,  
10 phytotherapy, orthopedics; and such other] on subjects as the  
11 board may require. [If the applicant receives a minimum score of  
12 seventy-five per cent on each part of the examination, the  
13 applicant shall be considered as having passed the examination.]  
14 The board shall contract with a professional testing agency to  
15 prepare, administer, and grade examinations for licensure. Each  
16 applicant shall pass a written examination [by the board or an  
17 examination prepared] that has been developed, validated, and  
18 tested for reliability by a professional testing agency selected  
19 by the board[.] that is able to demonstrate the validity and  
20 reliability of the examination. The board shall provide in its  
21 rules the passing scores for any examination given or approved by  
22 the board."  
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1           5. By amending section 455-8 to read:

2           "\$455-8 License to practice; biennial registration[;  
3 continuing education]\_. Licenses to practice naturopathy shall be  
4 issued by the board to those who qualify according to this  
5 chapter. Naturopathic physicians licensed under this chapter  
6 shall observe and be subject to all state requirements relative  
7 to reporting births and all matters pertaining to the public  
8 health with equal rights and obligations as physicians, surgeons,  
9 and practitioners of other schools of medicine. Every licensee  
10 shall renew the licensee's license on or before December 31 of  
11 each odd-numbered year [and submit proof to the board that the  
12 licensee has met the requirement of continuing education in  
13 programs as set and approved by the board in its rules]. Failure  
14 to renew the license [and submit proof of satisfying the required  
15 continuing education program requirements on or before] not later  
16 than December 31 of each odd-numbered year shall automatically  
17 constitute a forfeiture of license; provided that the license  
18 shall be restored upon written application therefor together with  
19 payment of the renewal fee, all delinquent fees, and a penalty  
20 fee[, and upon submission of proof that the person whose license  
21 has been forfeited has satisfied all continuing education  
22 requirements for the period of time the license has been  
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1       forfeited]."

2               SECTION 3. Statutory material to be repealed is bracketed.  
3       New statutory material is underscored.

4               SECTION 4. This Act shall take effect upon its approval.

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6                               INTRODUCED BY: \_\_\_\_\_  
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