

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, August 9, 2013

Time: 2:30 p.m.

Place: King Kalakaua Conference Room
King Kalakaua Building, 1st Floor
335 Merchant Street
Honolulu, Hawaii 96813

Present: Kevin Gibson, N.D., Chairperson
David R. Kern, N.D., Vice Chairperson
Rodney Chun, 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 Gibson at 2:35 p.m.

The following agenda item was taken out of order.

Approval of February 8, 2013 Meeting Minutes: It was moved by Dr. Kern, seconded by Dr. Chun, and unanimously carried to approve the February 8, 2013 meeting minutes as circulated.

Dr. Johnson arrived at the meeting at 2:37 p.m.

RICO Naturopathy Advisory Committee: RICO requests that the Board review and approve RICO's Naturopathy Advisory Committee list, effective January 1, 2014.

The Board recommends that RICO consider the following naturopathic physicians to serve on the advisory committee:

Steven Dubey
Michael Traub

John Burke, Jr. (aka Jack Burke, Jr.)

It was moved by Dr. Kern, seconded by Dr. Johnson, and unanimously carried to recommend that Steven Dubey, Michael Traub and John Burke, Jr. be considered for appointment to the 2014 RICO Naturopathy Advisory Committee; approve Catherine Downey, N.D., Miles J. Greenberg, N.D., and Laurie A. Steelsmith, N.D. to serve on the 2014 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.

New Business: a. Cosmetic treatments

The Executive Officer received an inquiry whether botox and hyaluronic acid were included in the Naturopathic Formulary. She responded that botox was not on the formulary because at its May 13, 2011 meeting, the Board indicated that injectable dermatological agents such as Juverderm and botox were not included on the Naturopathic Formulary.

The Executive Officer noted that at its November 30, 2012 meeting, the Board amended the Naturopathic Formulary to include all biological substances for use in therapeutic injection techniques. The Board determined that botox, hyaluronic acid and Juvederm are biological substances under category 1 and 19 (V) of the Naturopathic Formulary. The Executive Officer asked the Board whether it intended the use of biological substances for cosmetic treatment and whether injectable cosmetic dermatological agents are considered to be naturopathic treatments.

The Board reviewed and discussed HAR section 16-88-80 pertaining to the naturopathic physician code of ethics. In particular, the Board found that HAR sections 16-88-80(a)(5)(A) and (F) and 16-88-80(a)(6)(B) are relevant in this matter. After discussion, the Board came to a consensus that cosmetic treatments are consistent with naturopathic medicine because 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. If a patient feels better about themselves with the cosmetic treatment, then it is beneficial to that individual patient because it enhances that patient's sense of well-being. Additionally, the Board agreed that any naturopathic physician with the appropriate advanced education and training may provide

cosmetic treatment using injectable cosmetic dermatological agents.

b. Medical certificates for On-Demand Taxi drivers

The Board reviewed and discussed an Airport Notice dated May 1, 2013 ("Notice") from the Department of Transportation, Airports Division-Kauai District ("DOT") which requires medical certificates for on-demand taxi drivers to be from a licensed physician.

Dr. Gibson noted that the Notice states, "A licensed physician is defined by the Attorney General, as a Doctor of Medicine (MD) and/or a Doctors of Osteopathic Medicine (DO)". The Notice also cites Hawaii Administrative Rules ("HAR") section 19-38-6(7) as follows:

"Taxi Driver qualification – Submit a certificate from a licensed physician indicating the applicant's condition as to visual acuity and hearing ability, and shall be, in the opinion of the Physician, free of medical conditions that may render the driver unfit for the safe operation of a motor vehicle."

DAG Tam stated that he could not find an Attorney General Opinion which defines "licensed physician". He also stated that HAR section 19-38-6(7) was repealed on October 4, 1997 and replaced by HAR section 19-38.1-6(b)(7).

DAG Tam suggested that the Board inform the DOT that the Board believes that naturopathic physicians have the authority to perform medical examinations and evaluations pursuant to HRS section 455-8.

After discussion, the Board came to a consensus to write to the DOT to inform it that naturopathic physicians have the authority to perform medical examinations and evaluations and request that the DOT Airport Notice dated May 1, 2013 be revised to include naturopathic physicians in the definition of "licensed physician" for the purposes of HAR section 19-38.1-6(b)(7).

Hawaii
Administrative
Rules:

- a. Pertaining to the definition of "Physician" and "Practitioner"
- HAR chapter 11-156, Communicable Diseases;
 - HAR chapter 11-157, Examination and Immunization; and
 - HAR chapter 11-164, Tuberculosis

The Executive Officer contacted Dr. Glenn Wasserman, DOH Communicable Disease Division Chief, in follow-up to the Board's request regarding amending HAR chapter 11-57 to include naturopathic physicians in the definitions of "physician" and "practitioner". Dr. Wasserman related that the Communicable Disease Division is in the process of revising HAR chapter 11-156 and currently plans to rescind the TB portion of HAR chapter 11-157. The remainder of HAR chapter 11-157 is with the Disease Outbreak Control Division. Dr. Wasserman provided the following definition of "physician" and "practitioner" in their current draft of the revised TB chapter:

"Physician" means a person licensed to practice allopathic (MD), osteopathic (DO) or naturopathic (ND) medicine in any of the states or territories of the United States. A person who has a license or is accredited in chiropractic, homeopathy, acupuncture, or herbal healing does not qualify as a physician in this chapter."

"Practitioner" means an advanced practice registered nurse, physician, or physician assistant, licensed to practice in any of the states or territories of the United States."

Dr. Wasserman also related that HAR chapter 11-156 already includes naturopaths in the definition of "health care provider". The Executive officer noted that the definition of "practitioner" in the current HAR chapter 11-156 does not include naturopathic physicians. It also appears that naturopathic physicians must be included in HAR chapter 11-157 to perform immunizations and TB testing. Thus, the Executive Officer wrote to Dr. Sarah Park, DOH Disease Outbreak Control Branch Chief, requesting that HAR chapter 11-157 be amended to include naturopathic physicians in the definitions of "physician" and "practitioner". The Executive Officer also requested to be notified of the public hearing for these rules.

b. HAR chapter 16-88

The Executive Officer informed the Board members that the proposed amendments to HAR chapter 16-88 will be reviewed by the Small Business Regulatory Review Board ("SBRRB") at its August 19, 2013 meeting. If its review is favorable, the SBRRB will make a recommendation to the Governor to proceed to hold a public hearing.

The following agenda item was taken out of order.

Additions and
Revisions to the
Agenda:

It was moved by Dr. Kern, seconded by Dr. Johnson, and unanimously carried to add (b) Phenylbutyrate under Naturopathic Formulary.

Naturopathic
Formulary:

a. Anti-hypertension agents

The Executive Officer related that she received an inquiry from a pharmacist whether anti-hypertension agents are included in the Naturopathic Formulary. Hypotensive agents are listed under category 10, "Cardiovascular Agents", in the Naturopathic Formulary.

The Board determined that hypotensive agents include anti-hypertension agents, and discussed whether changing "hypotensive agents" to "anti-hypertension agents" would provide clarity for users of the naturopathic formulary. After discussion, the Board agreed to retain "hypotensive agents" on the naturopathic formulary.

b. Phenylbutyrate

Dr. Gibson asked the Board to consider adding phenylbutyrate to the naturopathic formulary¹. Phenylbutyrate is a drug used for the treatment of urea cycle disorders ("UCD"). Although UCD is uncommon, it can be fatal if not treated properly. Phenylbutyrate is also prescribed off-label to treat cancer, i.e. gliomas (brain tumors). This drug is not widely used but it has been well studied for dosage and safety. Adverse reactions include nausea, vomiting, and fatigue. Phenylbutyrate has no lasting effects and dissipates with reduced dosage. It is not a controlled substance and is administered orally as a liquid or capsule as well as intravenously.

Ms. Ng arrived at 3:10 p.m.

¹ References:

Phuphanich, S., Baker S.D., Grossman, S.A., Carson, K.A., Gilbert, M.R., Fisher, J.D., Carducci, M.A. Oral sodium phenylbutyrate in patients with recurrent malignant gliomas: A dose escalation and pharmacologic study. *Neuro-oncol.* 2005 April; 7(2): 177–182.

Dartmouth-Hitchcock Norris Cotton Cancer Center Health Encyclopedia, Phenylbutyrate. 2013.

Memorial Sloan-Kettering Cancer Center, Integrative Medicine, Search about herbs: Phenylbutyrate. 2012.

The Board discussed the addition of this substance to the Naturopathic Formulary. When phenylbutyrate is administered, the body makes a natural substance that blocks the division of cancer cells; however, phenylbutyrate is not a botanical or biological substance. Phenylbutyrate could be placed under the "Renal and Genitourinary Agents" category because it is used to treat UCD. The Board discussed and was not in favor of adding a new category for "Anti-cancer agents". The Board felt that the naturopathic physician should decide how to use a drug on the naturopathic formulary. The Board asked DAG Tam whether a naturopathic physician could use a drug listed under the "Renal and Genitourinary Agents" category for the treatment of brain tumors. DAG Tam stated that the burden would be placed upon the naturopathic physician to show that the naturopathic physician has the appropriate advanced education and training to use a drug to treat a specific condition.

After discussion, it was moved by Dr. Kern, seconded by Dr. Johnson, and unanimously carried to amend item 11 of the Naturopathic Formulary as follows:

"11. **RENAL AND GENITOURINARY AGENTS**

Alpha-reductase inhibitors
Diuretics
Impotence agents
Phenylbutyrate
Uricosuric agents
Urinary antispasmodics
Vaginal Preparations"

DAG Tam left the meeting at 3:30 p.m.

Correspondence: a. Hawaii State Ethics Commission Ethics Advisory 2013-03

The Hawaii State Ethics Commission Ethics Advisory 2013-03 was distributed to the members for their information.

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 Ms. Ng. There were no other nominations for Chairperson. Dr. Gibson was elected Chairperson by acclamation.

The floor was opened for nominations for the office of Vice Chairperson. Dr. Gibson nominated Dr. Johnson as Vice Chairperson. Dr. Johnson declined the nomination. Dr. Gibson

nominated Dr. Kern as Vice Chairperson. The nomination was seconded by Ms. Ng. There were no other nominations for Vice Chairperson. Dr. Kern was elected Vice Chairperson by acclamation.

Applications:

a. Licensure

None.

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

None.

c. Ratifications

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

- Brayko, Krista A.
- Lopes, Chandy-Ann L.
- Selvey, Don
- Smith, Robert W.K.

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

- Hrncirik-Maruyama, Denisa
- Fujiyama, Nicole M.
- Smith, Robert W.K.

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

- Fujiyama, Nicole M.
- Brayko, Krista A.
- Lopes, Chandy-Ann L.
- Smith, Robert W.K.

d. Qualifying Course on Parenteral Therapy

- IV Nutritional Therapy for Physicians "Fundamentals and Clinical Applications of IV Nutrient Therapy" course offered on September 6-9, 2012

An applicant submitted a course completion certificate for the above course which was not previously approved by the Board. The certificate indicates that Clinton Pomroy, N.D. was a course instructor. The Board reviewed Dr. Pomroy's curriculum vitae.

After discussion, the Board found that the curriculum vitae submitted for Dr. Pomroy failed to demonstrate that he possesses at least one year of teaching experience at 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 ("US DOE") or at a school, university, or college that is accredited by a regional or national accrediting body recognized by the US DOE.

It was moved by Dr. Chun, seconded by Dr. Kern, and unanimously carried to defer the request for approval of the qualifying course on parenteral therapy pursuant to HAR sections 16-88-57(b) and (d). The course administrator must provide documentation that Dr. Pomroy meets the requirements of HAR section 16-88-57(d)(1) and submit an attestation that this course is the same as one that was previously approved by the Board.

- IV Nutritional Therapy for Physicians "Fundamentals and Clinical Applications of IV Nutrient Therapy" course offered in Seattle, Washington on September 5-8, 2013.

Course administrator, Virginia Osborne, N.D. submitted a brochure for the above course. The brochure stated that Brendan E. Cochran, N.D. and Michele Raithel, N.D. are course instructors. Dr. Cochran and Dr. Raithel were not previously approved by the Board as course instructors.

The Board reviewed and discussed the curriculum vitae that Dr. Osborne submitted for Brendan E. Cochran, N.D. and found that he met the qualifications of HAR section 16-88-57(d)(1).

It was moved by Dr. Kern, seconded by Ms. Ng, and unanimously carried to approve Brendan E. Cochran, N.D. as a course instructor and defer the request for approval of the

qualifying course on parenteral therapy pursuant to HAR sections 16-88-57(b) and (d). The course administrator must provide documentation that Dr. Raithel meets the requirements of HAR section 16-88-57(d)(1) and submit an attestation that this course is the same as one that was previously approved by the Board.

Announcements: None.

Next Meeting Friday, November 8, 2013
Date: 2:00 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 3:50 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

9/6/13

[] Minutes approved as is.

[X] Minutes approved with changes. See Minutes of November 8, 2013.