

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 10, 2019

Time: 2:00 p.m.

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

Present: David Kern, N.D., L.Ac., Chairperson
Kathryn Taketa-Wong, N.D., Vice Chairperson
Kristen Coles, N.D., L.Ac., Member
Christopher Fernandez, Executive Officer (“EO”)
Christopher Leong, Esq., Deputy Attorney General (“DAG”)
Jessica Mullin, Secretary

Guests: None.

Call to Order: There being a quorum present, the meeting was called to order by Dr. Kern at 2:02 p.m.

Approval of the March 20, 2019 Meeting Minutes: It was moved by Vice Chair Taketa-Wong, seconded by Dr. Coles and unanimously carried to approve the meeting minutes of the March 20, 2019 Board meeting.

Executive Officer’s Report: Executive Officer Fernandez informed the Board that the Regulated Industries Complaints Office (RICO) is asking Board Members if they know a naturopathic physician with natural child births experience and knowledge, and if they would be interested in a temporary position on their advisory committee. Board Members discussed possible practitioners that might be referred and EO Fernandez stated that he would follow-up with RICO if the members are unable to identify someone.

Applications for License: a. Ratifications

It was moved by Vice Chair Taketa-Wong, seconded by Dr. Coles and unanimously carried to ratify for licensure, the following application:

- (i) Naturopathic Physician
 - a. ND 310 Danika Cheryl Yuko Odama

Legislation: a. HB673 HD2 SD2 CD1-Relating to Medical Cannabis

Executive Officer Fernandez informed the Board that HB673 HD2 SD2 CD1 passed the legislature and was enrolled to the Governor. He noted that the bill's language was reduced to only pertain to the sale and ownership of medical cannabis dispensaries and therefore did not affect Hawaii Revised Statutes §455 pertaining to naturopathic medicine. The bill had originally contained language that would allow for Physician Assistants and Naturopathic Physicians to certify patients for medical cannabis use as well as other provisions, but during the session these were all removed.

b. SB777 SD1 HD2-Relating to Health Care Professionals

Board members reviewed the status of the bill, which would clarify the list of acceptable institutions or organizations that can meet the continuing education requirements needed by naturopathic physicians for license renewal.

EO Fernandez informed the Board that this bill did not pass during the 2019 legislative session. He continued that since the bill originated with the Senate, they had the ability to disagree with House amendments after Second Crossover. In disagreeing the Senate sent the bill to conference, but House leadership did not appoint conferees, thus no conference committee hearing was scheduled, and the bill died.

Chair Kern took the agenda out of order.

Old Business: a. Scope of Practice and Formulary

(i) Cosmetic Treatments: Botox and Dermatological Fillers

After some discussion about the use of the phrase "cosmetic treatments and dermatological fillers" in the formulary, and whether it appropriately identifies the medications that fall under the title, the Board acknowledged that it would be broad enough to be used in such a manner. It was moved by Vice Chair Taketa-Wong, seconded by Dr. Coles, and unanimously carried to use the term "cosmetic treatments and dermatological fillers" in the formulary.

(ii) Collegial Relationships: Dispensing of Testosterone

The Board discussed Naturopathic Physicians' prescriptive authority for testosterone, and whether a collegial relationship could be established with Medical Doctors ("MD") so that Naturopathic Physicians could dispense testosterone under a MD's prescriptive authority.

EO Fernandez provided information regarding a repealed section of HRS §457 governing nurses. EO Fernandez explained that the section specified prescriptive authority was not defined by the MD's scope of practice, but rather the Advanced Practice Registered Nurse's ("APRN"). EO Fernandez suggested that by the same logic, the practitioner with the most limited prescriptive authority is who the collegial relationship's prescriptive authority is founded on.

Chair Kern informed the Board that he had found information about a collegial criterion for ND-MD relationships in California but had not looked into it further. He asked EO Fernandez if further research could be done to elucidate their process in California to see if it has any applicability here in Hawaii.

After further discussion attempting to clarify several concerns such as Dr. Coles contemplating how a collegial relationship between a ND and MD would be different than a relationship between a MD and MD working in the same practice, seeing the same patients as needed, the Board decided to table the conversation until its next publicly noticed meeting when EO Fernandez can provide further research on the subject.

Ms. Mullin left the meeting room at 3:10 p.m.

(iii) Controlled Substances and Medical Cannabis Certification

Chair Kern opened the discussion by outlining the conversation carried over from the last meeting as well as contact between the Board and the Department of Public Safety ("DPS") between meetings. He stated that there seemed to be on-going differences between the Board's interpretation of how to move prescriptive authority forward to include controlled substances, e.g. testosterone, and how the Hawaii Society of Naturopathic Physicians ("HSNP") interpreted it during the session.

Vice Chair Taketa-Wong stated that she was under the impression that this was clarified already and that to gain prescriptive authority would require statutory change.

Chair Kern stated he believed it is still not clear and that he had hoped that DPS, who had intended to be present at this meeting but had a last-minute schedule conflict, would have clarified or made apparent what would need to be done. He continued to say that from correspondence thus far with EO Fernandez, who has been in contact with DPS, it appears that they take the position that outside of the prescriptive authority of Naturopathic Physicians established in HRS §455, it is unclear if they can provide registration. Furthermore, that if Naturopathic Physicians want controlled substance prescriptive authority, then they should get a law passed that would include Naturopathic Physicians either in the definition of “practitioner” in HRS §329-Uniform Controlled Substances Act or create their own stand-alone definition that would certainly direct DPS. But what was still unclear to Chair Kern is if the term “physician” found in the definition of “practitioner” in HRS §329 included Naturopathic Physicians, as he believed that Naturopathic Physicians were considered “physicians” in other areas such as: death certificates, school physicals and TB tests. He wondered if then Naturopathic Physicians were included in the HRS §329 definition of “practitioner” since they are “physicians” in such cases.

EO Fernandez reminded the Board of the definition of “physician” from HRS §329-121 MEDICAL USE OF MARIJUANA which states:

“Physician” means a person who is licensed to practice under chapter 453 and is licensed with authority to prescribe drugs and is registered under section 329-32. “Physician” does not include physician’s assistant or advanced practice registered nurse with prescriptive authority as described in section 453-5.3 or 457-8.6”

DAG Leong stated that from what he has reviewed thus far, controlled substance prescriptive authority would require a statutory change.

After some further discussion on subjects such as the history of Naturopathic Physicians in Hawaii as it pertains to the legislature, public outreach and education regarding the field, and weighing “inclusionary” versus “exclusionary” formularies, the Board decided to table the conversation until a representative from the DPS was able to attend a publicly noticed meeting. The Board also added that it was content with an “inclusionary” formulary.

Ms. Mullin entered the meeting room at 3:14 p.m.

- b. Continuing Education
 - (i) Criterion for Considering the Approval of Professional Associations to Approve Continuing Education

EO Fernandez asked the Board if they had any questions about the response from the Hawaii State Association of Progressive Naturopathic Physicians (“HSAPNP”), and asked the Board to confirm the criterion they had established for associations wishing to be recognized by the Board.

Chair Kern made clear that there is a difference between those associations who wish to approve continuing education (“CE”) and the HSAPNP, who was aiming to be a second state association. He stated that from the American Association of Naturopathic Physicians (“AANP”) bylaws, there can be only one association chartered by them and thus only one (1) association would be recognized at the national level.

“Article VII-Chartered Supporting Organizations
Section 1: State/Regional/National/International/Specialty Organizations

This Corporation may, upon written application on the form and in the manner prescribed by the Board of Directors, charter state, regional, national, international and/or specialty organization agreeing to support this Corporation and conform with its bylaws. **No more than one (1) such charter organization representing a single state, commonwealth or territory shall be recognized by the Corporation.**

Section 2: The bylaws and all amendments thereto of state, regional, international and/or specialty organizations chartered by the Corporation must be approved by this Corporation’s Board of Directors

Section 3: Chartered organization dues and/fees, if any, shall be determined by the Corporation’s Board of Directors”

[emphasis added]

Vice Chair Taketa-Wong stated that this was helpful information in guiding the Board’s understanding regarding the structured hierarchy of national and state associations.

DAG Leong agreed that if there was concern of unfairly excluding an association or proto-association wishing to become an association in Hawaii, then this information counters that concern. He stated that

according to this information, there is a clear hierarchy and that chartering, i.e. validation of, a second state association would go against the bylaws of AANP.

Dr. Coles stated that this should be made clear to HSAPNP since they raised a concerning question in their letter regarding unfair exclusions. She asked that any correspondence with HSAPNP include Chair Kern's citation of the AANP bylaws to clarify their reasoning.

Vice Chair Taketa-Wong echoed Dr. Coles stating she felt it was important to clarify this to HSAPNP.

Chair Kern requested that EO Fernandez write HSAPNP to inform them of the AANP bylaw regarding their decision not to approve HSAPNP at this time, and that this is also supported by the model developed by the American Medical Association where they restrict states to a single association as well. He clarified that anyone could create an association to organize like-minded Naturopathic Physicians, but this was a separate matter from the issue of who can approve CE as a state association, which is HSNP who is chartered by AANP.

Chair Kern also informed the Board that HSNP informed him that they are establishing a committee and is considering asking a Board member to be a part of it, to approve CE courses provided by associations that do not meet the statutory requirements. He stated that the committee would consist of 3 members, including a Board member who would review CE for approval. He said that they are implementing a deadline for submissions: December 1, 2019 after which they will not accept CE for review.

The Board lastly discussed ways of relaying information to Naturopathic Physicians regarding the biennium CE requirements, including updates to the website layout that would make it more user-friendly for Naturopathic Physicians to access approved continuing education providers.

Chair Kern took the agenda out of order.

New Business: a. Holistic Dental Association

After due consideration of the information received, it was moved by Dr. Taketa-Wong, seconded by Dr. Coles and unanimously carried to approve the following entities as acceptable associations for continuing education: The Holistic Dental Association, International Academy of Biological Dentistry and Medicine, and the International Academy of Oral Medicine and Toxicology.

- Old Business: b. Continuing Education
- (ii) Continuing Education Requirement Discussion Including
 Considering Continuing Education Waivers

The Board briefly discussed possibly drafting an administrative bill that would grant certain individuals the ability to waive continuing education requirements based on specific extenuating life circumstances. Members agreed to carry the conversation into the next meeting.

Open Forum: No public comments were made at this meeting.

Next Meeting Fri., August 23, 2019
Date: 2:00 p.m.
 Princess Likelike Conference Room
 King Kalakaua Building
 335 Merchant Street, 3rd Floor
 Honolulu, Hawaii 96813

Adjournment: There being no further business to discuss, the meeting was adjourned at 3:56 p.m.

Reviewed and approved by:

/s/ Christopher Fernandez

Christopher Fernandez
Executive Officer

Taken and recorded by:

/s/ Jessica T. Mullin

Jessica T. Mullin
Secretary

CF:jtm

06/07/19

- [x] Minutes approved as is.
[] Minutes approved with changes.