

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, December 20, 2019

Time: 2:00 p.m.

Place: Prince Leleiohoku Conference Room
King Kalakaua Building, 3rd Floor
335 Merchant Street
Honolulu, Hawaii 96813

Present: David Kern, N.D., L.Ac., Chair
Kristen Coles, N.D., L.Ac., Member
Joy Kimura, Member
Christopher Fernandez, Executive Officer (“EO”)
Relley Araceley, Executive Officer (“EO”)
Christopher Leong, Esq., Deputy Attorney General (“DAG”)
Susan Reyes, Secretary

Not Present: Kathryn Taketa-Wong, N.D., Vice Chair

Guest: Ken Farm

Call to Order: There being a quorum present, the meeting was called to order by Chair Kern at 2:06 p.m. who also welcomed Ms. Joy Kimura as the newest public member to the Board of Naturopathic Medicine.

Approval of the August 23, 2019 Meeting Minutes: It was moved by Dr. Coles, seconded by Ms. Kimura, and unanimously carried to approve the meeting minutes of the August 23, 2019 meeting as circulated.

Executive Officer’s Report: a. Disciplinary Actions from August to November 2019
EO Fernandez said at the last meeting he had reported from May to August 2019. Today he has a report for September to October 2019, showing that there were no disciplinary actions for Hawaii-licensed Naturopathic Physicians. He went on to say that November is not out yet.

RICO Advisory Committee: a. Board to approve RICO Advisory Committee list and Addendum language for the 2020 term.

It was moved by Dr. Coles, seconded by Ms. Kimura, and unanimously carried to approve the list as presented.

Executive Session: At 2:13 p.m., it was moved by Dr. Coles, seconded by Ms. Kimura, and unanimously carried to enter into executive session to consider and evaluate personal information relating to individuals applying for professional or vocational licenses in accordance with HRS §92-5(a)(1), and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, immunities and liabilities in accordance with HRS §92-5(a)(4).

EXECUTIVE SESSION

At 2:17 p.m., it was moved by Ms. Kimura, seconded by Dr. Coles, and unanimously carried to move out of executive session and the Board reconvened its scheduled public meeting.

Applications:

a. Authorization to Administer Parenteral Therapy

- i. ND 78 Diana J. Ostroff

It was moved by Ms. Kimura, seconded by Dr. Coles, and unanimously carried to approve the above application.

b. Ratifications

It was moved by Dr. Coles, seconded by Ms. Kimura, and unanimously carried to ratify for licensure, the following applications:

Naturopathic Physician

- i. ND 313 Eric Wayne Basiliere
ii. ND 314 Joel E. Kiselka

Old Business:

a. Website Updates

Discuss changes to webpage regarding the applications and continuing education pages.

EO Fernandez briefed the Board of the additions to its webpage:

- Applications section was added to clarify the (2) pathways for the parenteral therapy privilege licensure, which are by university education, or by a non-school course approved by the Board.

- Added a list of the non-school courses that have been approved by the Board to date. He informed the Board that this will be updated each time a new course is approved.
- Updated the memo regarding the CE requirements for license renewal for 2019.
- Added the current list of Board approved professional associations/organizations that approve continuing education courses. EO Fernandez informed the Board that this will also be updated when the Board approves further professional associations and organizations pursuant to HRS §455-1.

New Business:

a. 2020 Legislative Session and potential re-introduction of bills

The Board to discuss the following bills from the 2019 legislative session and naturopathic subjects that may be introduced in 2020.

i. **HB1182-Relating to Vaccinations and Conscientious Objectors**

Authorizes conscientious beliefs as basis for exemption from vaccination and immunization requirements. Authorizes licensed Naturopathic Physicians to certify exemption from immunization requirements. Requires that the first option for quarantine of an individual be quarantined inside that individual's residence.

EO Fernandez stated that this bill died at the last session and did not affect the Naturopathic Medicine chapter in the Revised Statutes.

The Board briefly discussed the bill and stated that it will not take a position on the bill if reintroduced. This bill will be tracked.

ii. **SB777 SD1 HD2-Relating to Health Care Professionals**

Clarifies the list of acceptable institutions or organizations that can meet the continuing education requirements needed by Naturopathic Physicians for license renewal.

EO Fernandez noted to the Board the following:

- This bill did not make it through conference.

- It does identify the Council on Naturopathic Medical Education or the Accreditation Council on Continuing Medical Association, but historically the AG's office has recommended to refrain from using proper names, as far as specific entities, such as accrediting entities. The reason being is if they were to change their name, then this becomes moot.
- Because the state naturopathic licensing boards were included, which includes us, it means that this board would have the authority to approve continuing education.
- If this bill passes, the Board will need to create rules.
- He concluded that it would also mean that continuing education courses would come to the Board for approval.

After some discussion, the Board will support the bill if it is taken up in conference this session as is.

iii. SB1430-Relating to Medical Cannabis

Allows Naturopathic Physicians and Physician Assistants to provide written certification for qualifying patient.

EO Fernandez said he put this on the agenda because we might see a different bill that will come through that will include Naturopathic Doctors ("ND").

Ms. Kimura asked Chair Kern what his feelings were as a ND regarding the support of recommending marijuana.

Chair Kern responded that there are many in their profession who have specialized in cancer care. And in those cases, for purposes of alleviating the effects of chemotherapy and associated nausea, there are those who are open to the idea of recommending cannabis, if it were made possible; this would probably be the primary reason that a cannabis recommendation would occur. . Otherwise, he does not believe there is any standard opinion from NDs and he would say, relative to marijuana, there is less investment on the part of NDs and more so on

CBD based products, which are considerably readily available and marketed on a regular basis.

Ms. Kimura then asked, so in general then NDs would be in support to recommend cannabis. She further stated that this was to help her become oriented to the Board as a new member.

Dr. Coles stated that NDs are trained in medical education about the pharmacogenetics of THC. So, it is within their training and it would be considered within their scope as an herbal medicine. And comparative to other physicians to recommend it, yes, it would be appropriate.

With the above in mind, Ms. Kimura asked Dr. Coles, what is her opinion on CBDs.

Dr. Coles responded that it can be an excellent herbal medicine for very specific conditions.

EO Fernandez said that this bill itself affects 329 which is the state laws on controlled substance authority. To have controlled substance authority in general, is not to only recommend cannabis, but it would also provide authority to taper someone off of opioids, for example. Naturopathic, as it stands, cannot do that. He learned that prescribing is not only giving something, but also relieving somebody of something based on the treatment plan. It is a larger scope of practice. And within this arena, there is also this cannabis recommendation.

Ms. Kimura asked EO Fernandez if he was thinking of introducing anything to support the position.

EO Fernandez stated that because we were only going to be dealing with our statute chapter there would be no introduction of a bill. The Board currently has the power to include things on the formulary that they prescribe. But, because they do not have controlled substance authority, they could not include recommendation for cannabis or opioids or anything like that. It would not be included on the formulary, which is what a ND can prescribe in Hawaii.

Chair Kern concluded that because there hasn't been shown to be a negative effect, and we see a lot of people

benefit, the challenge is that there is not a clear standardization.

EO Fernandez asked the Board if they wanted to maintain their position of supporting SB1430 that would provide NDs the authority to recommend cannabis.

The Board decided to maintain their position.

b. Request for Board to approve the National University of Natural Medicine ("NUNM") as CE provider

Chair Kern said that the Board is not in a position to approve a University as they do not fit the definition of CE in HRS §455 which includes professional associations or organizations. He stated that the existing bill SB777 from last session would expand the definition to include Naturopathic universities as well as regulatory boards.

EO Fernandez stated that he foresees having to send a lot of deficiency letters because of this language. Not only are the universities excluded from our definition of continuing education, but also Boards. Any CEs that he is observing that have approval from any regulatory boards, he cannot count these hours, because based on our definition:

"Continuing education courses" means courses approved by a professional association or organization representing a licensed profession whose program objectives are related to naturopathic medicine; provided that the professional association or organization is approved by the board."

Also, from the minutes for the October 21, 2016 Board meeting, the Board's DAG recommended that the only CEs that the Board can accept are from professional associations and organizations, because it is clearly stated. This invariably excludes regulatory boards and universities which were then removed from the list of Board approved CE approvers.

EO Fernandez said that in his discussion with Dr. Berney, he found Dr. Berney was arguing the fact that the "or" between "professional associations" and "organizations representing a licensed profession whose program objectives are related to naturopathic medicine" made them two separate things. EO Fernandez does not see how this could be the case, because

- 1) the definition states “professional association or organization approved by the board”, suggesting that the “or” acts like an “and” earlier in the definition; and
- 2) If they were considered two separate things, then “professional associations” would stand alone with no designation that it means professional associations related to naturopathic medicine. So, would that mean any professional associations can approve, even those that are not related to naturopathic medicine?

DAG Leong agreed that the term “professional” refers to both “associations” and “organizations”.

It was moved by Dr. Coles, seconded by Ms. Kimura, and unanimously carried to have EO Fernandez informally opine a response back to Dr. Berney that CE approved by naturopathic universities do not meet the definition of CE set forth in HRS 455-1.

Please be advised that in accordance with Hawaii Administrative Rules §16-201-90, the above interpretation is for informational and explanatory purposes only. It is not an official opinion or decision, and therefore is not to be viewed as binding on the Board or the Department of Commerce and Consumer Affairs.

c. Request to add CBD products to the Naturopathic Formulary

Dr. Myron Berney requests “for the benefit of the consuming public for the Hawaii Naturopathic Board to add all CBD products to the formulary. At this time, they are over the counter (“OTC”) not requiring a prescription”. “CBD promotes homeostasis. It is useful as an Anti-Cannabis-high, Anxiety, Pain and balances the cells and tissues of the body”.

Chair Kern stated that CBD supplements are OTC products that are readily available and sold. This does not require any prescriptive authority. He is not sure that the addition of CBD is appropriate to the formulary based on this OTC status of the herbal medicine.

Dr. Coles agreed, and stated that in looking at the drug formulary, she does not know that anything listed is OTC. If something were to change in how CBD is considered, we could reconsider to adding it at a later time.

Chair Kern and EO Fernandez agrees.

It was moved by Dr. Coles, seconded by Ms. Kimura, and unanimously carried to have EO Fernandez to informally opine a response back to Dr. Berney that CBD is already included indirectly on the formulary as an herbal medicine and an over-the-counter product. Therefore, the Board does not consider it needed to be specifically listed.

Please be advised that in accordance with Hawaii Administrative Rules §16-201-90, the above interpretation is for informational and explanatory purposes only. It is not an official opinion or decision, and therefore is not to be viewed as binding on the Board or the Department of Commerce and Consumer Affairs.

d. Operational Manual Policies Review, Discussion & Acknowledgement

The Board will discuss the Discrimination and Harassment Free Workplace policy and Workplace Violence Action Plan additions/replacements in the Operational Manuals, followed by signing of acknowledgement forms.

EO Fernandez briefed the Board and asked if there were any questions, if not, he requested them to sign and date the acknowledgment form and return it to secretary Reyes. The Board noted no questions and signed the acknowledgment forms.

Open Forum: Public comment on issues not on the agenda may be considered by the Board at a subsequent meeting. The Board is precluded from discussing or acting on items raised by public comment that are not already on the agenda. The public may comment by signing-in before speaking during the Public Forum section. Public comment will be limited to five (5) minutes per person.

There were not public comments.

Next Meeting Friday, January 31, 2020 at 2:00 p.m.
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Adjournment: There being no further business to discuss, the meeting was adjourned at 3:33 p.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Christopher Fernandez
Christopher Fernandez
Executive Officer

/s/ Susan A. Reyes
Susan A. Reyes
Secretary

CF:sar

01/22/20

Minutes approved as is.

Minutes approved with changes. See Minutes of _____.