

**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, January 22, 2021

Time: 2:00 p.m.

Place: Virtual Videoconference Meeting – Zoom Webinar (use link below)  
<https://dcca-hawaii-gov.zoom.us/j/98002630257>

Present: David Kern, N.D., L.Ac., Chair  
Kathryn Taketa-Wong, N.D., Vice Chair  
Kristen Coles, N.D., L.Ac., Member  
Joy Kimura, Member  
Christopher Fernandez, Executive Officer (“EO”)  
Chelsea Fukunaga, Executive Officer (“EO”)  
Christopher Leong, Esq., Deputy Attorney General (“DAG”)  
Susan Reyes, Secretary  
Kawehi Mau, Secretary  
Layjoy Lindsey, Secretary (tech support)  
Kellie Teraoka, Secretary (tech support)

Not Present: None.

Guest: Dr. Rachel Klein

Call to Order: There being a quorum present, the meeting was called to order by Chair Kern at 2:24 p.m.

Chair Kern asked if there was any comment from the public, there was none.

Approval of the December 28, 2020 Meeting Minutes and January 31, 2020 Executive Session Minutes Vice Chair Taketa-Wong asked for the following corrections to be made on the December 28, 2020 open session minutes:  
Page 4, paragraph 7, shall read: “Chair Kern requested a motion for EO Fernandez to respond to SIBO Center Lab of the National University of Natural Medicine, stating that it is the Boards informal opinion that Lactulose falls under two sections of the Formulary, section 14 and the function bowel dis-agents. Dr Taketa-Wong made a motion, then seconded by Dr. Cole. It was then unanimously decided to direct the EO to communicate the agreement in regard to the SIBO center.”

Page 2, paragraph 3, should read: "In the Matter of **Naturopathic Doctor's** License of Deborah A. Ardolf, N.D.; NAT 2019-3-L"

Page 2, paragraph 8, should read as follows "In the Matter of **Naturopathic Doctor's** License of Deborah A. Ardolf, N.D.; NAT 2019-3-L"

It was moved by Vice Chair Taketa-Wong, seconded by Dr. Coles and unanimously voted to approve the December 28, 2020 minutes as amended, as well as accept the January 31, 2020 Executive Session minutes, as is.

Executive Officer's Report:

a. DCCA Disciplinary Actions through November 2020

EO Fernandez said that there were no disciplinary actions reported for Naturopathic Physicians through November 2020.

EO Fernandez then asked the Board to amend the agenda to expand on Executive Officer's report to include section ("b"), regarding NPLEX.

It was motioned by Vice Chair Taketa-Wong seconded by Dr. Coles and unanimously voted and moved to add a section b, under the executive officer's report, to the agenda.

b. NPLEX

EO Fernandez referenced an email from the NABNE, who handle exams for Naturopathic Physicians in the USA. NABNE is developing a parenteral therapy examination, a stand-alone examination, that is more comprehensive than the coverage of the subject in the NPLEX 2 examination. New graduates are encouraged to take the examination. The first testing date will be August 2021.

EO Fernandez suggested the Board put this on a future agenda to be discussed further and stated this exam will provide more options to obtain parenteral approval if the Board completed a rule change.

Dr. Kern agreed this would be beneficial and should be added to the agenda for a future meeting.

Application Ratifications:

a. Naturopathic Physician

i. Leslie Jean Peterson.

Chair Kern asked if there was any testimony from the public, there was none.

It was motioned by Vice Chair Taketa-Wong, seconded by Dr. Coles, and unanimously voted to accept the application ratification of Leslie J. Peterson.

Legislative  
Session 2021:

Chair Kern asked if there was testimony from the public. Chair Kern recognized Dr. Rachel Klein with the Hawaii Society of Naturopathic Physicians (HSNP). Dr. Klein informed the Board HSNP has asked legislators to reintroduce the Medical Cannabis bill that was in the previous legislative session.

Chair Kern asked Dr. Klein if HSNP had any other plans for the 2021 session. Dr. Klein said there were no bills HSNP has been working on and mentioned that it has been difficult to connect with legislators with the closure of the legislation.

Vice Chair Taketa-Wong asked if SB777\_RELATING TO HEALTH CARE PROFESSIONALS from the 2019-2020 biennium will be reintroduced and if there was anyone working on having the bill reintroduced. SB777 expands the list of acceptable institutions or organizations that can approve the continuing education courses needed by naturopathic physicians for license renewal.

Dr. Rachel Klein stated there was no one working on updating the bill and HSNP has focused more on a work around that was created for licensees to use to be renewed.

Chair Kern asked if it was a carryover year for bills from previous 2020 Legislative session, why would it not be reintroduced in 2021.

EO Fernandez stated carry over bills happen within a legislative biennium, which in this case was 2019-2020. Any bills that died in 2020, would need to be reintroduced in the 2021 legislative session as a new bill. He also wished to point out that the "work around" that Dr. Klein was referring to is the process in which HSNP provides approvals for licensees for certain CEs that would not meet the definition of "Continuing education course" set forth in HRS §455-1, which states:

""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."

The courses that are not approved by a "professional association or organization", and therefore unable to be accepted by the Board as is, could be approved by HSNP since it is a professional association; this would make the courses acceptable by the Board. He noted that the Board has no role in this "work around". He added that a bill would be a clear-cut way to deal with the issue of unacceptability of those courses without the need for the work around. He was not sure why it was not reintroduced.

Vice Chair Taketa-Wong stated there was still time to introduce administrative and non-administrative bills, since the deadline is today (1/22/2021), and asked if a bill with the SB777 language could be introduced.

DAG Leong clarified the the cut off for non-administrative and administrative bills. The last day to introduce a bill would be Wednesday, January 27, 2021.

DAG Leong stated that the most logical person would be whoever introduced the bill.

EO Fernandez and Vice Chair Taketa-Wong announced it was Senator Baker.

Chair Kern asked if the HSNP would contact Senator Baker.

Dr. Klein confirmed HSNP would be happy to also assist in attempting to contact her, and they have been trying to contact other Legislators, however it has been difficult due to COVID-19 pandemic restrictions.

Chair Kern asked Dr. Klein if she would keep the Board updated on her progress.

Vice Chair Taketa-Wong stated she would be willing to contact Senator Baker, to show support to the matter.

Chair Kern suggested Vice Chair Taketa-Wong coordinate with HSNP.

Ms. Kimura offered her assistance in contacting Legislators as well with Dr. Klein.

EO Fernandez advised Board members to be mindful when providing testimony as licensed practitioner, that they are not testifying on behalf of the Board.

Dr. Coles asked if making contact would fall under the Legislative Committee established in the previous Board meeting.

EO Fernandez clarified that the point of the Legislative Committee is to give testimony, when the Board is unable to meet.

Vice Chair Taketa-Wong suggested there be a motion to support the introduction of a bill using the language of SB777, so when contacting legislators, it shows that both HSNP and the Board are both in support.

EO Fernandez suggested in the motion, the board also recommend that the term "provincial" be added to the bill since in a hearing in 2019 the term was taken out, due to legislators apparently not knowing that some Canadian schools of Naturopathic Medicine carry U.S. accreditation.

A motion was made by Vice Chair Taketa-Wong, seconded by Ms. Kimura, and unanimously approved by the Board that if a new bill is introduced containing the exact language of SB777 SD1 HD2 from 2019-2020 legislative biennium, the Board supports the intent and will provide comments requesting that the term "provincial" be reintroduced into the language, if it does not contain it.

EO Fernandez clarified for record that "province" was removed from draft HD1 in 2019.

Vice Chair Taketa-Wong confirmed.

Ms. Kimura stated the main thing is that HSNP make the request to have it introduced.

Scope of Practice:  
Examinations and  
Evaluations:

Chair Kern asked if there was testimony from the public, there was none.

Board to discuss various examinations and evaluations, e.g. physical examinations, as they relate to the scope of practice of licensed Naturopathic Physicians.

Chair Kern asked EO Fernandez if he would present the topic.

EO Fernandez informed the Board that a letter from a licensee was emailed to Chair Kern and Vice Chair Taketa-Wong asking if someone from the Board could speak directly with the Department of Health ("DOH") regarding a conflict between the definitions of "physician" in Act

197 and Hawaii Administrative Rules §11-157-2. Because the current definition of “physician” does not include Naturopathic Physicians, schools such as Kamehameha were not accepting physicals completed by Naturopathic Physicians. And then similarly, there is an issue with death certificates, because Naturopathic Physicians are not included in the “physician” definition.

EO Fernandez requested clarification from DAG Leong on definitions in ACT 197.

DAG Leong clarified that an Act’s definitions just apply to the Act.

Ms. Kimura asked what section of the HRS Act 197 was codified under.

DAG Leong stated that Act 197 does not seem to be in the HRS at this time.

Ms. Kimura stated that if Naturopathic Physicians need to be added to statutory language, a bill would need to be introduced to have them added. And the board will need to find where in the HRS.

EO Fernandez stated that he scoured DOH’s statute chapters and he couldn’t find the language of Act 197, but he can do further research.

Vice Chair Taketa-Wong stated, independent of Kamehameha school changing their forms, it is clear in HRS-455 that Naturopathic physicians are able to perform all types of medical examinations and evaluations.

Chair Kern reiterated the topic of concern which is: are Naturopathic doctors able to evaluate and provide assessments of concussions, which Kamehameha schools has specifically included in their physical examine to include concussion assessment? He states that this is something that Naturopathic doctors are qualified to do.

Vice Chair Taketa-Wong referenced the provided documents; stating the definition of a physician under Title 11, Chapter 157, the rules for examination and immunization, “Physician means a person licensed to practice medicine, osteopathic medicine or naturopathic medicine in any of the State or Territories of Hawaii”.

EO Fernandez clarified that rules are superseded by laws, and the statute would be the determining factor, which is what he is still looking for. He stated outside of Act 197, it is unclear if Naturopathic Physicians have been included in other chapters and sections of HRS in the definition of “physician”. He would like to do more research.

Dr. Coles stated that in her personal practice, she has encountered patients who were unable to use physical assessments provided by her, due to the requesting establishment questioning the ability of Naturopathic doctors. Dr. Coles feels it should be made clear Naturopathic doctors are able to perform all types of physical assessments. Dr. Coles said she was concerned by the response given by Kamehameha schools that her patient of five years needed to find a new pediatrician before being able to enroll in school.

Vice Chair Taketa-Wong followed up that patients have mentioned her assessments are more thorough than their regular pediatrician.

Chair Kern made a motion to informally interpret that the scope of practice of Naturopathic Physicians provided by HRS §455 clearly qualifies them to perform (1) all forms of pediatric examinations including sports examination, inclusive of concussion evaluations, and (2) to sign death certificates. It was moved by Vice Chair Taketa-Wong, seconded by Dr. Coles, and unanimously approved by the board.

*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.*

Ms. Kimura asked if EO Fernandez could draft a letter that states specifically the scope of practice of Naturopathic physicians, that a patient could show for clarification.

EO Fernandez stated that typically the Board responds to specific inquiries with informal opinions and interpretations. If there was a specific question asked of the Board at a publicly noticed meeting, he could then form a letter response to that inquirer. The informal opinion would also be contained in the meeting minutes that are required to be posted publicly and would be available to the public to use as they see fit.

Vice Chair Taketa-Wong asked for clarification on who needs to contact the Board, so an informal opinion can be made.

EO Fernandez reiterated anyone can request an informal opinion by contacting the Board by email or letter; in this case he reminded the Board that no request or question was directly asked of the Board. He requested that if a Board member receives a letter in which an issue is presented, to forward it to him so that he can contact the person to clarify the issue and provide them instructions on how to request an informal opinion. He then asked DAG Leong the process of formal opinions.

DAG Leong stated formal opinions would have legal filings and a hearing involved.

EO Fernandez stated that if possible, he will reach out to DOH and do more research of the Act to present at the next meeting.

Chair Kern asked if there was any more discussion.

There was none.

Next Meeting

Friday, March 19, 2021  
Virtual Videoconference Meeting – Zoom Webinar

Adjournment:

There being no further business to discuss, the meeting was adjourned at 4:08 p.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Christopher Fernandez  
Christopher Fernandez  
Executive Officer

/s/ Kawehi Mau  
Kawehi Mau  
Secretary

CF:km  
02/16/21

[ X ] Minutes approved as is.

[ ] Minutes approved with changes. See Minutes of \_\_\_\_\_.