

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, March 19, 2021
- Time: 2:00 p.m.
- Place: Virtual Videoconference Meeting – Zoom Webinar (use link below)
<https://dcca-hawaii-gov.zoom.us/j/93927454659>
- 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”)
Christopher Leong, Esq., Deputy Attorney General (“DAG”)
Kawehi Mau, Secretary
Susan Reyes, Secretary (tech support)
Micah Cadalzo, Secretary (tech support)
- Guests: Dr. Lori Kimata
Dr. Merciful Ananda
- Call to Order: There being a quorum present, the meeting was called to order by Chair Kern at 2:25 p.m.
- Chair Kern asked if there was any comment from the public. Chair Kern recognized Dr. Lori Kimata.
- After a short clarification of when she could provide her testimony, either at this time or when the Board reached the agenda item in question, Dr. Kimata chose to wait until the agenda item.
- Approval of the
January 22, 2021
Meeting Minutes: Chair Kern asked if there was any comment from the public, there were none.

After asking if there was any edits or questions by the Board on the meeting minutes, it was moved by Chair Kern, seconded by Dr. Coles and unanimously voted to approve the January 22, 2021 minutes as distributed.

Application
Ratifications:

Naturopathic Physician

Sierra S. Sugrue

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

It was motioned by Chair Kern, seconded by Ms. Kimura, and unanimously voted to accept the application ratification of Sierra S. Sugrue

Executive
Officer's
Report:

DCCA Disciplinary Actions from December 2020
through January 2021

EO Fernandez reported one disciplinary action reported for Naturopathic Physicians from December 2020 through January 2021.

EO Fernandez then informed the Board that the disciplinary actions are after the fact and the Board has already reviewed the matter.

Legislative Session 2021

EO Fernandez reported that the bills HB1394, SB1273, and SB1272 were introduced to the State Legislature, however they were not heard and therefore died.

Vice Chair Dr. Taketa-Wong stated the Board was monitoring bills, and asked, since the bills were not heard, should the Board have contacted legislators for them to be scheduled for a hearing.

Ms. Kimura stated for bills to be prioritized, someone from the public must contact the legislators to push for bills to be heard. She also informed the other members that legislators can only introduce

five bills per day, and she had heard that bills related to COVID and budget were prioritized. She suggested that these may be factors that led to the bills not being heard.

Chair Kern asked if there was any more discussion. Hearing none, he moved to the next agenda item.

Definitions to
Naturopathic
Physicians:

Chair Kern asked if there was any testimony from the public, Dr. Lori Kimata and Dr. Merciful Ananda were recognized by the Board.

Dr. Kimata stated her concern as a Naturopathic physician, that Kamehameha schools is no longer accepting school physical exams. She also noted that death certificates signed by Naturopathic physicians were also not possible stating that both issues are related to the definition of "Physician" in the applicable statutes and rules since they do not include Naturopathic physicians under that definition.

Dr. Kimata recited sub-section 8(a) of §455, Hawaii Revised Statutes ("HRS") which she felt clearly states Naturopathic physicians have the same rights as regular M.D.'s.

§455-8 License to practice; biennial registration; continuing education. (a) Licenses to practice naturopathic medicine shall be issued by the board to those who qualify according to this chapter. Naturopathic physicians licensed under this chapter shall observe and be subject to all state requirements relative to reporting births and all matters pertaining to the public health with equal rights and obligations as physicians, surgeons, and practitioners of other schools of medicine. These equal rights shall apply to all matters of public health, including the performance of medical examinations and evaluations.

Dr. Kimata stated she has encountered the issue with Kamehameha Schools, due to the school combining the school exam and the athletics exam which includes a concussion component. The component is a result of Act 262 of 2016 regarding concussions, which amends ACT 197 of 2012 and excludes Naturopathic Physicians in the definition of "licensed

healthcare provider” and subsequently does not allow them to evaluate students for concussions.

The purpose of this Act is to expand the scope of the concussion educational program under Act **197** to include youth and incorporate additional program requirements.

Dr. Kimata stated she reached out to Kamehameha and is requesting the Board of Naturopathic Medicine contact the Department of Health (“DOH”), so that the DOH may contact Kamehameha School stating that there has been an update to the 2016 concussion law.

EO Fernandez stated that after the previous meeting discussion on scope of practice and in preparation for this meeting he contacted Department of Education (“DOE”) but has not received a response at this time but anticipates one soon. He continued that although the Hawaii Administrative Rules regarding school physicals (excluding athletic physicals) are within the DOH statutes and rules, the DOE also administrates the subject. He was looking for clarification on how ACT 262 was being implemented in the schools under their Health Section.

Ms. Kimura clarified that ACT 262 defines a “licensed healthcare provider” and a Naturopathic physician is not listed. Since ACT 262 is Sessions Law, the statutes must be amended to change the definition of a “licensed health care provider” to include Naturopathic physicians.

EO Fernandez added that at the January 22, 2021 meeting the Board made the informal opinion that Naturopathic Doctors can be perform physical examinations and death certificates.

Dr. Kimata again requested that a letter from the Board to DOH be drafted stating that Naturopathic Doctors have equal rights. Dr. Kimata also suggested the HRS §455 be attached to the letter sent to Kamehameha Schools.

Vice Chair Taketa-Wong was in support of sending a letter to DOH.

Vice Chair Taketa-Wong asked Dr. Kimata if she had pending exams that needed and urgent response.

Dr. Kimata responded in the negative, stating she wanted to clear the matter up before accepting appointments for physical examinations.

It was motioned by Vice Chair Taketa-Wong, seconded by Ms. Kimura, and unanimously voted to request EO Fernandez with the support of DAG Leong send a letter to DOH stating the Board's informal interpretation that the scope of practice of Naturopathic Physicians provided by HRS §455 clearly qualifies them to perform all forms of pediatric examinations including sports examination, inclusive of concussion evaluations.

Chair Kern asked if Dr. Kimata had further discussion.

Dr. Kimata expressed concern about Naturopathic Physicians being able to sign death certificates.

Dr. Coles asked Dr. Kimata if she has been refused a death certificate.

Dr. Kimata stated she has yet to sign one but has recently been asked.

Dr. Coles stated she encountered the matter of signing death certificates in her personal practice, stating her office has previously been denied signature of a death certificate in Honolulu, however, was authorized to sign on other islands. Dr. Coles was advised that it is that a County issue not State.

The Board decided to continue discussing the matter at the next Board meeting.

Dr. Taketa-Wong asked if the Board could schedule an additional meeting to be held sooner than the next scheduled meeting, so the matter of school physicals can be cleared up before N.D's are asked to perform school physicals.

EO Fernandez stated that he and Secretary Kawehi Mau will get in contact with the Board in order to set a date which will be posted on the Board's website prior to the new meeting.

The Board acknowledged.

Next Meeting Friday, August 27, 2021
Virtual Videoconference Meeting – Zoom Webinar

Adjournment: There being no further business to discuss, the meeting was
adjourned at 3:30p.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Christopher Fernandez
Christopher Fernandez
Executive Officer

/s/ Kawehi Mau
Kawehi Mau
Secretary

CF:km
06/7/21

[] Minutes approved as is.

[X] Minutes approved with changes. See Minutes of June 4, 2021.