

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, February 4, 2022

Time: 9:00 a.m.

Place: Virtual Videoconference Meeting – Zoom Webinar (use link below) <https://dcca-hawaii-gov.zoom.us/j/99016060078>

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

Excused: None

Guest: Dr. Rachel Klein

Call to Order: There being a quorum present, the meeting was called to order by Chair Kern at 9:14 a.m.

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

Approval of the
November 17,
2021 Meeting
Minutes:

Vice Chair Taketa-Wong asked for the following corrections to be made on the November 17, 2021 open session minutes:

Page 4, Paragraph 2, should state “Dr. Rachel Klein President of Hawaii Society of Naturopathic Physicians (HSNP) was brought in to join the Board conversation on legislative matters.”

It was moved by Vice Chair Taketa-Wong, seconded by Dr. Coles and unanimously voted to approve the December 17, 2021 open session minutes as amended and the executive session minutes as circulated.

Executive
Officer's
Report:

EO Fernandez stated majority of the 2021 renewals for Naturopathic Physicians ("ND") have been received and license renewals and renewal should be ending soon.

Applications:

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

At 9:17 a.m., upon a motion by Vice Chair Taketa-Wong, seconded by Dr. Coles, 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 9:42 a.m., upon a motion by Vice Chair Taketa-Wong, seconded by Ms. Kimura, and unanimously carried to move out of executive session and the Board reconvened its scheduled public meeting.

a. Naturopathic Physician

i. Julie Parke - ND

It was motioned by Vice Chair Taketa-Wong, seconded by Ms. Kimura, and unanimously voted to defer Ms. Parke's application.

Legislative
Matters:

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

EO Fernandez stated that the 2022 Legislative session has begun and the bills the Board are tracking are as follows:

a. SB1272-Relating to Health

Authorizes naturopathic physicians with the same authority as physicians and advanced practice registered nurses in regards to providing written certifications to qualified patients for the medical use of cannabis.

b. HB1394-Relating to Health Care Professionals

Clarifies the list of acceptable institutions or organizations that can approve the continuing education courses needed by naturopathic physicians for license renewal.

c. SB1273-Relating to Health Care Professionals

Clarifies the list of acceptable institutions or organizations that can approve the continuing education courses needed by naturopathic physicians for license renewal.

EO Fernandez stated that he is unsure of the status of these carryover bills, as they were not re-introduced before the bill introduction cut-off.

Ms. Kimura clarified that since the bills are carryovers, they are still with the same committee as in the previous session.

Dr. Rachel Klein President of HSNP was brought in to join the Board conversation on legislative matters.

Dr. Klein introduced herself, thanking for the overview of the legislative session. She informed the Board that HSNP has reached out to the chairs of the bill's committees, however, have not been able to get the bills scheduled to be heard. She asked for support from the Board.

Ms. Kimura suggested Dr. Klein reach out to members of the committees as well as her personal legislators.

Dr. Taketa-Wong stated that the more the legislators get calls on the bills the more inclined the legislators are to hear the bill.

Ms. Kimura stated that the bills must be heard by both committee's before March 4, 2022, also noting that this is a re-election year for legislators.

Dr. Klein stated that the HSNP is prepared for the possibility that the bills might not be heard, due to high priority topics such as COVID-19 and Red Hill, and HSNP would work in collaboration with the EO Fernandez on a restructuring the bills for the next legislative session.

EO Fernandez stated if the Board would like to provide testimony from previous years.

Vice Chair Taketa-Wong asked that if the perspective language asked for the previous bill was revised in the newly introduced bill. Vice Chair Taketa-Wong stated if the language in the bill has not changed from the previous year, she would support providing the same testimony submitted last year.

Ms. Kimura stated the bills were copied from previous bills and asked legislators would introduce the bills under new numbers, however she was unable to introduce a companion bill.

EO Fernandez reminded the Board that the Board created a legislative committee at the last meeting that can help with legislative matters outside of meetings.

Upon a motion by Vice Chair Taketa-Wong, seconded by Dr. Coles, and unanimously carried to re-affirm the positions the Board took on bills SB1272, HB11394, and SB1273, during the 2020 legislative session.

Chair Kern asked if there was any more comment, there was none.

The Board thanked Dr. Klein for her participation and moved Dr. Klein back to an attendee.

Prescriptive
Authority:

The Board discussed its formulary, statutes (HRS section 455) and administrative rules (HAR chapter 16-88), and other resources to address whether a Hawaii licensed Naturopathic Physician can be involved with the management of a medication, when that medication is not identified on the formulary. The Board may also generally review its formulary as well.

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

Chair Kern went on to explain that the Board received an inquiry essentially asking by what degree can a ND participate in a prescriptive order of a substance not on the formulary.

EO Fernandez cited the formulary for reference in the discussion:

Be advised, that naturopathic physicians **shall only** prescribe, administer, or dispense vitamins, minerals, dietary supplements, botanical medicines, homeopathic medicines, hormones (except for testosterone), and legend drugs consistent with naturopathic medical practice **that are included in this formulary.**

DAG Leong added that the question does appear to be about whether this scenario involves prescribing, administering, or dispensing the medication not on the formulary.

As a point of clarification, Dr. Coles asked if the Board is essentially trying to decide whether a patient's taper off a non-formulary medication set up by a MD can be changed by a ND. She stated that she was concerned that the ND would be walking a fine line, since there are things that could potentially go wrong, e.g. if

the taper is not working and it needs to be re-adjusted which the ND cannot do if they cannot prescribe the medication. That can potentially cause patient harm.

Vice Chair Taketa-Wong asked if the Board were to opine, would it be for the specific scenario or has general implications.

Dr. Kern noted that the response from the Board would be regarding the specific situation but suggested it has general implications. He added that he would accept that a ND has the capacity for medical management, but with greater discernment acknowledging Dr. Coles' statement that issues can arise with medications that the ND cannot manage by law.

Vice Chair Taketa-Wong noted that many schools train NDs in the proper use and prescriptive authority of controlled substances adding that there are other states that allow NDs to prescribe controlled substances. She concluded that it depends on whether the ND has the proper training to manage medications, including controlled substances, and has a relationship with a MD or other care provider who does have prescriptive authority.

EO Fernandez looking for clarification asked if "management" of medications is separate from "prescribing", "administering", or "dispensing" medications.

Dr. Kern opined that it is separate but related, adding that tapering management should be conducted in parallel with the original prescribing physician.

Dr. Coles added that ethically, it would serve a ND well if the patient understands the full the extent of what they are allowed and not allowed to prescribe in Hawaii.

Dr. Taketa- Wong agreed stating that it needs to be clearly explained to the patient that NDs do not have prescriptive authority of controlled substances in Hawaii.

On motion from Vice Chair Taketa-Wong, seconded by Dr. Coles, the Board unanimously voted to provide the following informal opinion:

The authority of NDs licensed and practicing in Hawaii to prescribe, administer, and dispense medications does not include controlled substances nor any medication that is not listed on the formulary managed by the Board. However, this statutory limitation does not preclude a ND from working in parallel with the originating prescriber, who holds controlled substance prescriptive authority, to manage a taper of medication. The Board further opines that the patient should be made aware of the NDs capabilities and limitations to prescribe, administer, dispense, and medical management, and the ND should work within their scope of training.

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.

Chair Kern asked if there was any more discussion.

There was none.

Next Meeting: Dr. Kern noted that the Board may hold an interim meeting prior to its next scheduled meeting on Friday, May 13, 2022 2:00 p.m., and is to be determined.

Adjournment: There being no further business to discuss, the meeting was adjourned at 11:51 a.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Christopher Fernandez
Christopher Fernandez
Executive Officer

/s/ Kawehi Mau
Kawehi Mau
Secretary

CF:km

5/25/22

Minutes approved as is.

Minutes approved with changes. See Minutes of_____.