
STATE OF OREGON
OREGON BOARD OF NATUROPATHIC MEDICINE

2018 Board Retreat

June 1 - 3, 2018

A Report of Outcomes and Agreements

June 18, 2018



Oregon Board of Naturopathic Medicine

A Report on Outcomes and Agreements from the Board Retreat in Astoria, Oregon, June 1 – 3, 2018.

The Oregon Board of Naturopathic Medicine met for a Board retreat in Astoria, Oregon on June 1 – 3, 2018. The focus of the retreat was to clarify the Board’s mission and how it carries out its responsibilities.

During the session on Saturday, June 2, the Board identified the activities listed below as the principal means through which the Board fulfills its responsibilities. The Board then considered each area of activity in detail to clarify the scope of the Board’s responsibilities in each area, to agree on definitions of key concepts and terms that guide the Board’s work, and to agree on actions needed to advance or improve the Board’s performance of its duties.

Following are the areas of responsibility that the Board identified and discussed during the retreat:

- I. Licensing and Continuing Education
- II. Legislation
- III. Rules, Guidelines, and Policies
- IV. Complaints, Investigations, and Discipline
- V. Scope of Practice and Standards of Practice
- VI. Formulary Council
- VII. Outreach and Stakeholder Engagement

During the session on Sunday, June 3, Board members discussed issues related to:

- Board Administration
- How the Board can function more effectively as a team.

The following report summarizes the outcomes from the retreat in two sections:

- **Action Items**—Tasks the Board and the Executive Director agreed to undertake in the near term relative to each area of the Board’s responsibilities.
- **Agreements and Clarifications**—Conclusions from the Board’s deliberations about how the Board fulfills its responsibilities in each area of activity, together with definitions of concepts and terms that guide the Board’s activities.

Action Items

The Board and the Executive Director agreed to undertake the following near-term activities relative to each area of the Board's responsibilities.

I. Licensing and Continuing Education (CE)

The **Board** has agreed to:

1. Create rules to define disciplinary actions that will be imposed on naturopaths who do not complete the CE required for licensure.
2. Consult with regulatory Boards in Washington, California, and Arizona about CE they have approved that could be included in CE approved for naturopaths in Oregon.
3. Develop a better system for evaluating and approving CE.

II. Legislation

1. The portion of the statute creating the "Peer Review Committee", which sets forth a process for investigative review of naturopaths under investigation, needs to be deleted. This portion of the statute has not been implemented since it was passed over 20 years ago and it is inefficient and impractical. The Board's current investigative review of disciplinary investigations is more efficient and in-line with the current processes used by similarly situated Boards.

III. Rules, Guidelines, and Policies

The **Executive Director** has agreed to:

1. Compare the Rules that the Board has adopted against the Statutes governing the practice of naturopathic medicine in Oregon to ensure that they are in alignment.
2. Share the Statutes and Rules that govern the profession with licensees, together with educational materials to ensure that the profession understands the difference between the Statutes and Rules, how the Board's authority is defined, and how the Statutes define the profession's Scope of Practice in Oregon.

IV. Complaints, Investigations, and Discipline

The **Executive Director** will develop:

1. A consistent process relative to when a physician is notified that he or she is under investigation, the basis for the Board's authority to investigate a physician, and physicians' rights relative to representation by legal counsel during an investigation.
2. A consistent and timely process for communicating with complainants about the status of their complaint.

The **Board** will formally consider the following modification to the process for reviewing complaints:

1. The Executive Director may evaluate a complaint when it is filed to determine whether there is a basis for legal determination of whether a law or rule has been violated. If the fact pattern does not identify a legal issue, the Executive Director may dismiss the case, without review and approval by the Board. At any time, the Board may choose to exercise greater oversight. The Board can set up audit process of the dismissals to ensure that the Executive Director is dismissing cases appropriately.

V. Scope and Standards of Practice

1. Keivan Jinnah will draft a Standards of Practice statement for discussion at the August Board meeting.

VI. Outreach and Stakeholder Engagement

1. The Executive Director will develop an information packet for new licensees, explaining the Board's role and responsibilities.

Board Administration

1. **Mission Statement**—Keivan Jinnah and Tracy Erfling will draft a revised mission statement for the Board's review prior to the August Board meeting, in consultation with the Executive Director.
2. **Financial statements**—The Executive Director will prepare financial statements for review and approval at the August Board meeting. The most significant upcoming expense is expected to be the update and migration of the Board's database.
3. **Executive Director's Performance Review**—The Executive Director will send Board members and staff a performance review questionnaire, to be returned to the Board Chair, who will conduct the review.
4. **Staff Performance Reviews**—The Executive Director will conduct performance reviews for the Executive Director's assistant and the Board's investigator.
5. **Sexual Harassment Training**—Robin Crumpler will resend the link to the second session of the online training when it is available.
6. **Board dinners**—Board members suggested that Board members meet for dinner the night prior to the bimonthly Board meetings.
7. **Board expenses**—After each Board meeting, Robin Crumpler will send Board members an email reminder to submit their expenses.

Agreements and Clarifications

Board deliberations during the retreat came to the following conclusions about each area of the Board's responsibilities, including definitions of concepts and terms that guide the Board's activities.

I. Licensing and Continuing Education (CE)

Clarifications:

1. The statutes governing the Board's responsibilities give the Board the authority to approve CE. It is within the Board's authority to accept CE approved by other entities.
2. The Executive Director is rewriting the Board's Jurisprudence Exam to include questions regarding the complaint, investigation, and discipline process.
3. The Board accepts CE approved by the Federation of Naturopathic Medicine Regulatory Authorities (FNMRA).

II. Legislation

Agreements:

1. Although the Board is authorized to submit proposals for new legislation to the Legislature, Board members agreed that, in general, the Board should not do so because the legislative process is complex and comes with risk.
2. In general, the Board will defer to the Oregon Association of Naturopathic Physicians (OANP) as the organization with principal responsibility for proposing new legislation to advance the profession.

III. Rules, Guidelines, and Policies

Agreements:

1. The Board agreed that Guidelines should be developed primarily for the following areas of practice, with the addition of other areas as necessary:
 - Prescribing
 - Doctor-patient relations
 - Charting and medical records
 - Referrals
 - Delegation of responsibilities

Clarifications:

1. **Statutes**, formally known as the Oregon Revised Statutes, define the Board's regulatory authority. Naturopaths can be disciplined for violating Oregon Revised Statutes.
2. **Rules** are formally known as Oregon Administrative Rules (OARs). Regulatory agencies in Oregon have the authority to engage in rulemaking to implement rules that interpret their statutory authority. Agencies may adopt, amend, repeal, or renumber rules, permanently or temporarily. Naturopaths can be disciplined for violating Rules adopted by the Board.
3. **Guidelines** are adopted by the Board to educate the profession about best practices, such as for prescribing various categories of drugs. Although physicians cannot be disciplined for not following a Guideline, Guidelines can be used to inform disciplinary decisions. Guidelines are a principal means through which the Board holds naturopathic physicians accountable for their practice of medicine.
4. **Policies** define how the Board goes about fulfilling its responsibilities.

IV. Complaints, Investigations, and Discipline

Clarifications:

1. The Board's responsibility is to evaluate specific allegations of negligence or violation of statute or Rules, not whether a physician has exhibited a pattern of questionable practice. Patterns of questionable practice will typically become apparent when there are recurring complaints and investigations against the same physician.
2. When evaluating a negligent treatment complaint, the Board determines whether a reasonably prudent naturopath would have made the same decisions. The outcome may or may not be determinative of whether the naturopath engaged in negligent treatment.
3. Investigations should be based on decisions the physician made relative to the complainant.
4. To obtain the necessary information, the Board's investigator must interview all relevant parties and ask direct questions about the incident under investigation. A complainant interview should be conducted within 48 hours of a formal complaint.
5. The investigator's primary objective is to examine the fact pattern in a case and identify the legal issues that need to be addressed by the investigation.
6. The Board needs to base their disciplinary decision on whether the evidence presented meets their burden of proof of preponderance of the evidence, which is the standard required to prevail at a hearing.
7. In cases where the evidence does not rise to the preponderance of evidence to justify disciplinary action, but questions remain about a physician's practices, the Board's recourse is to send a Letter of Education.
8. In the future, newsletters will include statistics about complaints and investigations.
9. The statutes stipulate that the process from complaint to resolution is to be completed in no more than 120 days, although the process may be extended through formal notifications of continuance.
10. Checklists are being created to ensure that the investigator is following proper procedure in conducting an investigation.
11. Physicians holding a DEA license must register with the PDMP by July 1. PDMP records are being reviewed by a task force, with Letters of Education sent to those exhibiting questionable patterns of practice.
12. The revised process for handling complaints is being documented as it is developed.

V. Scope and Standards of Practice

Clarifications:

1. **"Scope of Practice"** refers to the types of treatment modalities a naturopath is allowed to provide, based on Oregon laws, as well as rules adopted by the Board. A Scope of Practice defines what the profession can and can't do.
2. **"Standards of Practice"** are defined by Guidelines, which identify best practices that naturopaths are responsible for observing. Guidelines are a principal means through which the Board holds the profession accountable for how naturopathic medicine is practiced in Oregon.
3. If the Board has not adopted a Guideline about a specific area of practice, the Board will look to relevant Guidelines developed by other comparable professional boards and associations to assess the naturopath's practices.

4. When naturopaths ask about areas of practice for which the Board has not adopted Guidelines, the Executive Director will direct them to research relevant Guidelines developed by other boards or professional associations.
5. As necessary, the Board will engage the profession in the development of Guidelines, which will also serve to educate the profession about the Board's role in regulating the profession.
6. The onus is on the physician to ensure that they are not violating laws or rules and that they are observing best practices.

VI. Formulary Council

Clarifications:

1. The extent of the formulary that naturopaths are permitted to prescribe is progressively expanding.
2. It is difficult for the Council to restrict prescribing rights for a drug once that right has been granted.

VII. Outreach and Stakeholder Engagement

Agreements:

1. Once a relationship has been established with NUNM, the Board will consider outreach activities such as:
 - Holding some public Board meetings at NUNM.
 - Making a presentation about the types of practices that violate Oregon laws and Board Rules.
 - Making a joint presentation with the OANP about the roles and responsibilities of the two organizations.
 - Presenting at grand rounds.
 - Establishing relationships with other naturopathic schools in Washington, California, and Arizona.

Clarifications:

The Board is conducting outreach to cultivate relationships with the following professional organizations:

1. **Oregon Association of Naturopathic Physicians (OANP)**—The Board's Executive Director and Board Chair have been meeting quarterly with the Executive Director of the OANP, which has significantly improved relations between the two organizations. The organizations now coordinate their communications to the profession. The Board will also be sharing data on complaints to help inform the Association's CE offerings.
2. **National University of Naturopathic Medicine (NUNM)**—The Board's Executive Director and Board Chair are working to establish a relationship with NUNM representatives. Primary objectives are to share data about complaints to inform the university's curriculum design and to explore opportunities for the Board to contribute to the University's educational offerings.
3. **Licensees**—The Board's relationship with the profession appears to be improving, particularly through the use of more frequent and informative newsletters. The Board's request for input from the profession relative to the CE Rules was well-received. The number of applicants received earlier this year for the Formulary Council has been interpreted as a sign of improving relations.

4. **State agencies and boards**—The Executive Director meets regularly with directors of state agencies and other state boards, including other health licensing boards.
5. **Federation of Naturopathic Regulatory Agencies (FNRA)**—The Executive Director participates in regular conference calls.
6. **North American Board of Naturopathic Examiners (NABNE)**—Has recently made contact.

Outstanding question:

1. What activities could the Board undertake to engage more effectively with the public?

Board Administration

Clarifications:

1. Robin Crumpler is in the process of updating the Board's website.
2. The Executive Director and the Board Chair will be compiling Board statistics this summer, primarily about complaints and investigations and pass/fail rates on licensing exams.
3. The Board is collaborating with the other boards in the office space in Portland, particularly relative to sharing resources and personnel.

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