

AGENDA ITEM 5

Naturopathic Medicine Committee Meeting February 25, 2013

Licensing:

- ◆ The Bureau/Committee licensed **578** naturopathic doctors since January 2005.
- ◆ There are **109** lapsed or inactive licensees, including **2** deceased licensees.
- ◆ There are **14** applications on file.

Licensing statistics per calendar year:

2005	2006	2007	2008	2009	2010	2011	2012	2013
149	71	65	58	52	47	67	62	7

Enforcement:

All repeat and egregious offenders are normally cited and fined within the month they are reported to the Committee. However, due to the enormous amount of time spent on the creation of the 2012 Oversight (Sunset) Report and on the conversion to the Breeze system, only the most egregious cases are being investigated/worked. There is a seven-month backlog to issue citations and fines for those who illegally use of the title "ND". I will be sending two enforcement files to the Attorney General's Office for possible prosecution under the laws and regulations of the ND Act.

Calendar Year Total Complaints

2005	2006	2007	2008	2009	2010	2011	2012	2013
9	48	46	61	52	58	81	81	7

Complaints Against NDs

2	2	4	4	3	6	11	8	1
1 Illegal use of title of Physician 1 Outside scope of practice	1 Using title of LAc w/o license 1 Arrest Spousal Abuse	1 DUI 1 Illegal use of title of Physician 1 Employing RNs/LVNs 1 Using title of LAc w/o license	2 DUIs 1 Negligence 1 Veh Vandal	2 Aid & Abet Unlic Practice 1 Illegal use of title of Physician	3 Fail to identify as ND 1 Aid & Abet Unlic Practice 1 Sexual Misconduct 1 Reselling Opened & Expired Supplements	1 Arrest Aid & Abet Unlic Phys. 1 Reported to have O/S DUI 1 Illegal use of title of Physician 1 Aid & Abet Unlic Practice 2 Misleading Adver 1 Writing Prescr w/o oversight 3 Employing RNs/LVNs 1 Direct Nat Asst to admin IVs w/o supervision and fail to provide HIPPA 4 Accusations that NDs are employing and giving orders to nurses and LVNs 1 Gross Negligence and Incompetence	1 Using title of Dr. – non-juris 1 Misleading advertising 1 Practicing outside of scope 1 Failure to provide informed consent, aid & abet unlicen practitioner 1 Not using "ND" after name 1 Sexual Misconduct 2 Claims to be board certified w/specific board,	1 Failure to secure DEA # prior to prescribing controlled substance (hormone)

Budget Update:

At the end of fiscal year 2011-2012, the Committee had 25 months in reserve (copy of Fund Condition and Year End Financial Report attached).

Budget Highlights:

1. A Budget Change Proposal was submitted in the spring of 2012, again, in hopes of securing a staff position beginning in FY 2014-2015. It was rejected at Agency in anticipation of rejection by Dept. of Finance as it reportedly did not meet DOF requirements. Due to the lack of communication between the DCA Administrative Deputy and the boards, we were not consulted on rewriting the BCP by the Budget Office and, consequently, did not receive approval of the BCP by Agency. The issue of non-communication was raised with the current DCA Administration as it was with the prior administration.
2. There is a two year delay in billing boards/bureaus by the DCA Division of Investigation (DOI). I have been trying to get an increase in the enforcement budget for the past 3 years via the BCP process. Meanwhile, the Committee paid its first enforcement billings in FY 2012-2013 in the amounts of \$4506.00 and \$2148.00 to the Division of Investigation for investigations conducted in 2010 and 2011. Surprisingly, when I scrutinized the December 2012 budget report, I found that the Committee's budget was increased from \$0 to \$9013 for DOI services in 2012 -2013: I have been unable to obtain an answer from DCA Budget Office as to how and why the Committee became budgeted. Further, that amount budgeted amount changed on the January 2013 budget report from \$9013 down to \$8872.00.
3. The Committee budget has increased slightly each year for the past 2 years due to various mandated program requirements such as participation in BreEZe.
4. Central Administrative Services increased from \$4012 to \$5843; the Franchise Tax Board has been excluded from paying pro rata to the State, so all other state departments' pro rata was increased to cover the loss in revenue.
5. Office of Information Services pro rata increased from \$4538 to \$9124: the Budget Office is still trying to secure information re: this increase
6. CCED pro rata increased from \$174 to \$7919. I asked the Budget Office to investigate this charge (not knowing what CCED was): they stated we should not have been charged and they will reverse the charges and delete the budgeted amount.
7. None of the above budget increases were discussed with the Committee by the Budget Office prior to implementation. The first month the "Budget" amounts were displayed on the monthly budget reports was December 2012, which was not received by the Committee until January 2013 (standard for all boards/bureaus): this means that our budget was increased \$30,000+ and disbursements were made at the new/increased amounts from July 2012 thru January 2013 without the Committee's knowledge and, apparently, some were made in error.
8. The Budget Office has not transferred rent for the Committee from the Committee's fund to the Osteopathic Fund for the last 36 months.
9. The Budget Office stated in 2012 that the annual reversion of approximately \$25,000 to \$30,000 each FY is a good start toward hiring at least a half-time person or maybe a full-time person in the next couple of years under what is called a "blanket". Unfortunately, the Dept. of Finance, under the direction of Governor Brown, required all state agencies to eliminate positions funded under a "blanket".
10. Still trying to purchase a color printer via the State procurement process. Since there were no acceptable color printers on the Dept. of General Services IT list for 2012-2013, and since the DCA Administrative Division does not accept new contracts after mid-January for the fiscal year, the Committee will need to wait until after July 1 to begin the procurement process - again.

Legislation

SB 1446

The Committee web site contains an overview of SB 1446 on the “Laws and Regulations” page under the heading New Laws Effective January 1, 2013. A list of approved IV educational providers as well as the process and documentation requirements can also be found under the “Licensee” tab on the Committee web site.

Staffing

In the Spring of 2013, the Committee will, once again, submit a Budget Concept Proposal (BCP) to hire an employee to assist the EO. This position, if approved, would be funded effective July 2014. The primary duties would be licensing (original applications and renewals), some administrative duties such as ordering supplies, and answering phone calls. This would leave the EO all executive, analytical, regulatory, and enforcement duties.

The EO spends a large amount of time pointing prospective and existing NDs to their scope of practice under the Act. Since there are so many other federal, state, and local laws and regulations that affect the practice of medicine, the Committee cannot and will not provide specific information regarding laws. In order to decrease the number of phone calls and e-mails regarding scope of practice and other laws, the EO developed the following statement, which was edited by legal counsel, and placed it on the Committee’s web site:

Scope of Practice Statement

“As a licensed naturopathic doctor, you are subject to the laws contained in the Naturopathic Doctor’s Act (Act), to the regulations adopted under that Act, and for all laws and regulations affecting your practice of medicine.

The Committee is contacted regularly by current and prospective licensees regarding their scope of practice. Be advised that the Committee can only point to the Naturopathic Doctors Act and its regulations and cannot give legal advice concerning those laws.

Business and Professions Code sections 3640, et seq. and California Code of Regulations, title 16, sections 4200, et seq. function as your guide to the scope of practice for naturopathic doctors in this state. However, these are not the only laws and regulations that affect your practice. As a licensed health care professional, you are governed by multiple provisions within the Business and Professions Code, Health and Safety Code, Labor Code, Corporations Code, etc., as well as federal and local laws and regulations.

The Committee is often asked if the Act and/or the naturopathic regulations allow naturopathic doctors to perform specific procedures; for example, injecting Botox or hyaluronic acid into the face. While the Committee can only point a licensee toward the laws contained in the Act and/or the naturopathic regulations, be advised that there may be other laws in other codes that regulate specific procedures, such as the Medical Practices Act which is regulated by the Medical Board of California.

Successful completion of a class does not automatically authorize you to perform that procedure under your California naturopathic license, even though you may perform that same procedure under licensure in another state.

The Committee takes no responsibility in providing a licensee with a comprehensive or definitive list of local, state, and/or federal laws and regulations and cannot speak for the Medical Board, Board of Behavioral Sciences, Board of Registered Nursing, Board of Barbering and Cosmetology, etc., and cannot advise licensees on any local, state, or federal law or regulation. It is your responsibility to determine if a procedure can or cannot be performed under your license. Legal advice may be sought from a licensed professional.”

BrEZe Project:

The Interim EO continues to participate in multiple planning and testing sessions in preparation for conversion to DCA's new automated licensing and enforcement system, BrEZe. Sessions last from 1-8 hours each and cover the topics of data conversion, licensing and enforcement workflow, system security, cashiering, and document creation.

System implementation was scheduled for July, then August, and November 2012. However, due to the complexities of programming the off-the-shelf product for multiple licensing boards and due to a lack of vendor staffing, the project “go live” date was pushed back to February 2013. Again, that date was not met and there is no specified “go live” date. There will be on-going data conversion, business process, user acceptance testing, and training classes that will require the EO to continue to spend 1-3 days per week away from executive, licensing, enforcement, and administrative duties.

Board Member Sexual Harassment Prevention Training (SHPT)

Committee members are required to complete SHPT every two years. In order to get everyone from every board and bureau on the same schedule, all DCA employees, including Committee members, must complete this training AGAIN this calendar year, 2013.

Unlike years past, you can no longer take on-line training on the Attorney General's web site; you must register for one of 3 webinars to be held in 2013. If you have difficulty registering for one of the webinars, please contact Mary Tarango at (916) 574-8283 or Latania Robinson at (916) 574-8281.

Oversight Report

Copies of the report are in the hands of both the Senate Business, Professions, and Economic Development Committee and the Assembly Business, Professions, and Consumer Protection Committee. The Naturopathic Committee will be appearing at a joint hearing of both committees on March 11, 2013. On March 1, 2013, the Naturopathic Committee should be receiving a list of 20 questions from the Senate B & P consultant; the Senate B & P Committee will then ask four or five of these questions at the hearing. Answers to those questions will be prepared by Dr. Field, Dr. Levy, and myself prior to the hearing.