

STATE OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS

Naturopathic Medicine Committee of California

Administrative Manual

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Naturopathic Medicine Committee of California

Administrative Manual

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Edmund G. Brown Jr., Governor
State of California

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This procedure manual is a general reference including a review of some important laws, regulations, and basic Committee policies in order to guide the actions of the Committee members and ensure Committee effectiveness and efficiency.

This Administrative Procedure Manual, regarding Committee Policy, can be amended by a majority of affirmative votes of any current or future Committee.

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CHAPTER 1. Introduction

Mission Statement

To protect health care consumers through the proper licensing and regulation of Naturopathic Doctors by administering and enforcing the provisions of the Naturopathic Doctors Act, pursuant to Business and Profession Code (B & PC) section 3610, et seq., in order to promote access to quality naturopathic medical care.

Brief History of Naturopathic Medicine

Hippocrates, (born 460 B.C.E.), a disciple of Aristotle, founded a school of medicine that focused on treating the causes of disease rather than its symptoms through close observation of symptoms, stressing the discovery and elimination of the cause of disease. This would become “traditional medicine” and would be practiced for more than 2000 years. Traditional medicine meant practicing “materia medica”, a Latin medical term for the body of collected knowledge about the therapeutic properties of any substance used for healing (i.e., medicines). The term derives from the title of a work by the Ancient Greek physician Pedanius Dioscorides in the 1st century AD, *De Materia Medica*. The term *materia medica* was used from the time of the Roman Empire until the twentieth century, and has been replaced in medical education by the term of “pharmacology”.

In the late 1800s, the deans of the leading American medical schools at that time (Harvard, University of Michigan, University of Pennsylvania, and Johns Hopkins University) came to prefer the German “experimental science” model as distinct from “observational science” based on the Aristotle model and often found in French and British medical schools. The focus of the experimental model medical school was to zero in on disease and not the totality of health, so preventive education fell out of favor. Research became experimentally based and replaced the traditional *materia medica*. By the 1930s and 1940s, medical schools replaced the traditional model of treating the cause of disease (using medicines observed to produce consistent outcomes) with the German model of using drugs to treat specific symptoms of disease.

Naturopathic medicine is one of the oldest continuously licensed health care professions in these United States. Dr. Benedict Lust, considered the Father of Naturopathic Medicine, “invented” naturopathy by expanding upon the European water cure and herbal therapies to develop a comprehensive philosophy and system of health that he brought to the United States around the turn of the 20th century. In 1901, Dr. Lust opened the American School of Naturopathy in Manhattan. Its approach emphasized diet, exercise, physical medicine, herbs, and homeopathy as ways to

improve and maintain good health. Naturopathic medicine grew quickly as a profession and by 1925 there were approximately 2,500 practicing naturopathic physicians and more than a dozen schools. During this period, regulations were enacted in many states, with about half of the states licensing or regulating naturopathic medicine.

Naturopathic medicine was the standard of care in the United States and Europe until the German “experimental science” or “allopathic” model of medicine became the new standard of care in the early 1930s. The continued popularity of naturopathic medicine created strong opposition from the new model of allopathic medicine, which labeled chiropractic and naturopathic medicine as “quackery.”

Naturopathic medicine experienced a significant decline in popularity from the post-World War II era until the 1970s during which time the allopathic medical model became the new “traditional medicine” along with the increased use and development of surgery, drugs, and antibiotics. The 1970s brought an increased interest in holistic and alternative health care, and naturopathic medicine experienced resurgence with expanded educational programs and state licensure. In the past 30 years, naturopathic medicine experienced dramatic re-growth in the United States, Australia, Canada, and Germany. The United States and Canada established new schools and created standardization of education, examination, and accreditation, while expanding research on the safety and efficacy of naturopathic practice.

Function of the Naturopathic Medicine Committee of California (NMC)

The Naturopathic Medicine Committee (Committee) was established October 23, 2009 under the Osteopathic Medical Board of California. Originally formed as the Bureau of Naturopathic Medicine, it began licensing naturopathic doctors in January 2005. The Committee ensures that California’s naturopathic doctors meet educational and competency standards for licensure. The Committee licenses and regulates naturopathic doctors by investigating complaints while also providing consumers and other regulatory agencies with licensing and disciplinary information.

The Naturopathic Doctors Act defines naturopathic medicine as “a distinct and comprehensive system of primary healthcare practiced by a naturopathic doctor for the diagnosis, treatment, and prevention of human health conditions, injuries, and disease.” (B & PC section 3613) Naturopathic doctors are primary care providers who use a variety of treatments including water therapy, herbs, supplements, vitamins, amino acids, homeopathic medicine, hormones, massage, minor surgery and pharmaceuticals.

The Naturopathic Medicine Committee of California is a fully functioning regulatory Committee within the Department of Consumer Affairs with the responsibility and sole authority to issue licenses to naturopathic doctors (hereafter Naturopathic Doctors or

NDs) to practice naturopathic medicine in California. The NMC is also responsible for ensuring enforcement of legal and professional standards to protect California consumers from incompetent, negligent, or unprofessional NDs. The NMC regulates NDs and the practice of naturopathic medicine. At this time, there are 678 NDs holding active licenses. Of this number, 601 are practicing within the state and 77 are residing out of state. Additionally, there are 15 NDs who maintain inactive licenses. In addition to the active and inactive status licenses, there are 118 licenses in a delinquent status. A license will remain delinquent for three years from the expiration date until the license becomes canceled. Altogether, the total number of naturopathic doctors' licenses within the jurisdiction of the NMC is 813.

Naturopathic doctors complete a rigorous four-year postgraduate medical education program at an accredited school recognized by the US Department of Education. As with conventional medical schools, the training includes biomedical sciences, for example, anatomy, physiology, and biochemistry, as well as clinical sciences such as cardiology, gastroenterology, neurology, etc. NDs also take courses in natural therapeutics including botanical/herbal medicine, clinical nutrition, counseling, homeopathy, and naturopathic manipulative therapy. Naturopathic training requires over 1,400 hours of didactic education and over 2,000 hours of clinical training and patient care in outpatient teaching clinics, plus preceptorships and internships. NDs have physician-level training and are not mid-level practitioners or allied healthcare professionals. In five western states, NDs are licensed as naturopathic physicians.

During medical school, naturopathic doctors receive about 30 hours of didactic training, as well as a great deal of applied training during clinical rotations. Unlike other medical students, naturopathic medical students also study drug-herb and drug-nutrient interactions and adverse effects. In California, NDs are required to complete 60 units of continuing medical education every two years, 20 of which must be in pharmacology.

The clinical pharmacology course series at the accredited naturopathic colleges focuses on prescribing and the medical management of patients on the most common pharmaceuticals seen in primary care settings. Each class is aligned with the concurrent system modules. A naturopathic medical program, like other medical programs, also integrates pharmacology into the curriculum for all didactic classes and clinical rotations. NDs are trained as primary care doctors and have over 1,200 supervised outpatient clinic hours built into their medical training. The majority of patients seen in clinical rotations have been prescribed pharmaceutical medications by either their current naturopathic doctor, or another health care provider (MD/DO/ND) within the community. Understanding pharmaceutical medication management and prescription, and drug-herb/drug-nutrient interactions is an essential and daily part of a naturopathic doctor's training.

California naturopathic doctors can independently prescribe natural and synthetic hormones as well as injectable nutrients. They can also prescribe all legend drugs and most controlled substances if they have a supervision agreement with a medical or osteopathic physician. Although the supervising doctor does not need to be present, see the patient, or sign off on prescriptions, they must follow the requirements set forth under B&PC section 3640.5. Most other states that license NDs allow broad independent prescriptive rights, which reflect naturopathic training. It was the intent of the legislature in California for the naturopathic licensing body to determine a permanent independent formulary for California NDs.

An ND may refer to himself/herself as a “Doctor” or “Dr.” but in doing so, must clearly state that he/she is a ND, naturopathic medical doctor (NMD), doctor of naturopathic medicine, or naturopathic doctor.

Like other primary care providers (PCPs), naturopathic doctors diagnose, prevent, and treat disease. In addition to conventional medical training, NDs are the only PCPs trained extensively in counseling, nutrition, exercise, and stress management – enabling them to fully address modifiable risk factors for chronic disease. Naturopathic doctors are licensed to perform physical exams, order laboratory tests and imaging (x-rays, MRIs, mammograms, etc.), draw blood and perform CLIA-waived laboratory testing in-office, administer IVs and injections, and prescribe drugs (including most controlled substances). Naturopathic doctors refer to other medical specialists and work collaboratively with other licensed medical professionals to offer the best patient-centered care.

To meet its responsibilities for regulation of the naturopathic medical profession, the NMC is authorized by law to:

1. Monitor licensees for continued competency by requiring approved continuing education.
2. Take appropriate disciplinary action whenever licensees fail to meet the standard of practice.

Additionally the NMC is charged with enforcement of laws proscribing unlicensed Naturopathic Medical practice.

II. History of ND Regulation and Legislation in California

Naturopathic medicine is a distinct and comprehensive system of primary healthcare practiced by a naturopathic doctor for the diagnosis, treatment, and prevention of health conditions, injuries, and disease.

SB 907 (Burton, Chapter 485, and Statutes of 2003), established the Bureau of Naturopathic Medicine, now the Naturopathic Medicine Committee within the Department of Consumer Affairs (Department) to license and regulate naturopathic doctors and enforce the Naturopathic Doctors Act. California was the thirteenth state to recognize naturopathic medicine and provide licensure to naturopathic doctors.

ABX4 20 (Strickland, 2009), placed the regulation of naturopathic medicine under the Osteopathic Medical Board of California (OMBC) as a way to streamline state government. It eliminated the advisory committee to the Bureau of Naturopathic Medicine and established a new nine member Committee within the OMBC to regulate the practice of naturopathic medicine. Under that bill, the Osteopathic Medical Board consisted of three licensed naturopathic doctors, three licensed osteopathic physician and surgeons, and three public members, all appointed by the Governor.

SB 1050 (Yee, 2010), restructured the Committee into an independent regulatory entity in all but name, reconfigured the Committees' membership to consist of five California licensed naturopathic doctors, two California licensed physician and surgeons (MD/DO), and two public members to be appointed by the Governor. The bill also removed the ND members from the Osteopathic Medical Board and replaced them with public members appointed by the Legislature.

State of California Acronyms

| | |
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| ALJ | Administrative Law Judge |
| AG | Office of the Attorney General |
| APA | Administrative Procedure Act |
| B & P | Business and Professions Code |
| CCCP | California Code of Civil Procedure |
| CCR | California Code of Regulations |
| DAG | Deputy Attorney General |
| DCA | Department of Consumer Affairs |
| DOF | Department of Finance |
| DOI | Division of Investigation |
| DPA | Department of Personnel Administration |
| OAH | Office of Administrative Hearings |
| OAL | Office of Administrative Law |
| SAM | State Administrative Manual |
| SCIF | State Compensation Insurance Fund |
| SCO | State Controller's Office |

SCSA State and Consumer Services Agency
SPB State Personnel Committee

General Rules of Conduct

All Committee Members shall act in accordance with their oath of office, and shall conduct themselves in a courteous, professional and ethical manner at all times. The Committee serves at the pleasure of the Governor, and shall conduct their business in an open manner, so that the public that they serve shall be both informed and involved, consistent with the provisions of the Bagley-Keene Open Meeting Act (hereafter referred to as Open Meeting Act) and all other statutory code sections applicable to similar boards and committees within the State of California.

- Committee Members shall comply with all provisions of the Open Meeting Act.
- Committee Members shall not speak or act for the Committee without proper authorization.
- Committee Members shall not privately or publicly lobby for or publicly endorse, or otherwise engage in any personal efforts that would tend to promote their own personal or political views or goals, when those are in direct opposition to an official position adopted by the Committee.
- Committee Members shall not discuss personnel or enforcement matters outside of their official capacity in properly noticed and agendized meetings or with members of the public or the profession.
- Committee Members shall never accept gifts from applicants, licensees, or members of the profession while serving on the Committee.
- Committee Members shall maintain the confidentiality of confidential documents and information related to Committee business.
- Committee Members shall commit the time and prepare for Committee responsibilities including the reviewing of Committee meeting notes, administrative cases to be reviewed and discussed, and the review of any other materials provided to the Committee Members by staff, which is related to official Committee business.
- Committee Members shall recognize the equal role and responsibilities of all Committee Members.
- Committee Members shall act fairly, be nonpartisan, impartial, and unbiased in their roles of protecting the public and enforcing the Naturopathic Act and the Medical Practice Act.
- Committee Members shall treat all consumers, applicants and licensees in a fair, professional, courteous and impartial manner.
- Committee Members' actions shall serve to uphold the principle that the Committee's primary mission is to protect the public.
- Committee Members shall not use their positions on the Committee for personal, familial, or financial gain. Any employment subsequent to employment as a Committee member shall be consistent with Executive Order 66-2.

CHAPTER 2. Committee Members & Meeting Procedures

Membership

(B & PC section 3621)

The Committee consists of nine members: five NDs, two physician (MD/DO) members and two public members. The Governor appoints all members. All members appointed by the Governor are subject to Senate confirmation. The members serve a four-year term and no member may serve more than two full consecutive terms, which does not include time a new member may spend filling an unexpired term of a previous member. A member shall hold office until the appointment and qualification of his or her successor, or until one year from the expirations of the term for which the member was appointed, or whichever first occurs. Each of the five ND members of the Committee must have, for at least five years preceding appointment, been a citizen of the state and in active practice.

Additionally, each ND must be a graduate of an accredited Naturopathic Medical school and hold an unrevoked license to practice naturopathic medicine in the state of California. No ND residing or practicing outside of California may be appointed to, or sit as a member of, the Committee. Both physician members must hold an unrevoked and unrestricted license to practice medicine in the state of California. No allopathic or osteopathic physician residing or practicing outside of California may be appointed to, or sit as a member of, the Committee. The public members of the Committee shall be citizens of this state for at least five years preceding his or her appointment. A public member shall not be appointed to the Committee if the person or person's immediate family in any manner owns an interest in a college, school, or institution engaged in naturopathic education, or the person or person's immediate family has an economic interest in naturopathy or has any other conflict of interest.

Committee Meetings

(B & PC Code Section 101.7)

The full Committee shall meet at least two times each calendar year. The Committee shall conduct additional meetings in appropriate locations that are necessary to transact its business. If there is good cause, the Officer at his or her discretion may exempt any Committee member from the meeting three times per year or meetings that require travel.

All meetings that are webcast must include reference to the fact that the meeting will be webcast. Additionally, pursuant to Government Code Section 11125 the Committee is required to provide written notice of meetings; such notice may include mail and/or email.

The Committee shall comply with the provisions of the Open Meeting Act. The Committee has three duties under the Open Meetings Act. First, give the required notice

of meetings to be scheduled. Second, provide an opportunity for public comment. Third, conduct meeting in an open session except where a closed session is specifically authorized. All Committee and committee meetings, with the exception of closed sessions, are open to the public. Closed session meetings must follow the same meeting notice requirements as open meetings and are specifically for matters designated under law such as discussion of disciplinary cases, pending litigation, personnel matters or other legally authorized issues.

Quorum

(Government Code Sections 11122, 11122.5)

The quorum for the Committee is five members. A roll call at the beginning of each Committee meeting shall be called to determine whether quorum is established. A quorum must be present or in attendance to constitute an act and/or decision on behalf of the Committee. If a quorum of the Committee is not in attendance, members in attendance may discuss a topic and suggest an action, but it is considered advisory and must be considered by the Committee at a time when there is quorum established. Committee meetings require a majority of committee membership for quorum. For example, if a committee has three members, two constitute a quorum.

Public Comment

(Committee Policy)

Public comment is always encouraged and allowed, however, if there are time constraints, the Committee Chair may impose a time limit per person. Due to the need for the Committee to maintain fairness and neutrality when performing its adjudicative function, the Committee shall not receive any information from a member of the public regarding matters that are currently under or subject to investigation, or involve a pending or criminal administrative action.

Meeting Notice Requirements

(Government Code Section 11120 et. seq.)

The Committee must give at least ten (10) calendar days' written notice of each Committee and sub-committee meeting, unless advisory and consists of only two persons per GC 11121. This notice shall be sent to interested parties by mail and/or email and posted on the Committee's website. The meeting notice includes the location(s) where the meeting will be held and the meeting agenda. The agenda must include all items of business to be transacted or discussed at the meeting. A brief description may not be generalized (e.g. miscellaneous topics or old business) and must provide sufficient information so that the public is aware of the item to be discussed. The notice must include the name, address, and telephone number of any person who can provide further information prior to the meeting and must contain the website address where the notice can be accessed. Additionally, the notice must

contain information that would enable a person with a disability to know how, to whom, and by when a request may be made for any disability-related accommodation.

Teleconference Meetings

(Government Code Section 11123)

Meetings held via teleconference are also subject to the same notice requirements under the Open Meetings Act. The meeting notice must be published at least ten (10) days in advance and must include the physical location of each Committee member attending the meeting remotely. Each Committee member must be present at the physical location he or she provided for the meeting notice. The public is permitted to attend the meeting at any of the locations listed on the meeting notice during an open session of the meeting. Members are no longer able to attend meetings via teleconference from their homes, offices or other convenient location unless those locations are identified in the meeting notice and agenda and the public is permitted to attend at those locations.

The public is not permitted to attend any part of the meeting that is designated as “closed session.”

Agenda Topics

(Committee Policy)

Any Committee member may suggest items for a Committee meeting agenda to the Committee Chair and Executive Officer. The Executive Officer sets the agenda at the direction and approval of the Committee Chair.

Record of Meetings (Minutes)

The minutes are a summary, not a transcript, of each Committee meeting. The minutes shall be prepared by Committee staff and submitted for review by Committee Members. Committee minutes must be approved or disapproved at a future scheduled meeting of the Committee. When approved, the minutes shall serve as the official record of the meeting. All meeting minutes shall reflect Committee member attendance and when a member has been excused or is absent. All staff in attendance including legal counsel shall also be included. Each roll call vote shall list the position of each voting member in addition to the final vote count and whether the motion passed or failed.

What Constitutes a Meeting

(Government Code Section 11122.5)

The intention of the Open Meetings Act is to prevent otherwise public business being discussed by public Committee members in private and not in a meeting that the public

has been properly provided notice and invited to attend. As result, there are restrictions on communication between multiple Committee members. The Open Meeting Act defines a meeting as a congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains. In this definition, the term state body refers to the Committee. Meetings of three or more Committee members constitute a meeting that requires 10-day prior public notice. Meetings of an advisory, two-person committee does not require public meeting notice compliance, unless that two person committee is given delegated authority to act on behalf of the full Committee. The meeting restriction also applies to emails and telephone conversations between Committee members.

If the Committee members engage in any communication regarding Committee business with more than one member, this communication would be a violation of the Open Meeting Act. The violating member may be guilty of a misdemeanor (Government Code Section 11130.7).

There are exemptions to the meeting definition. When in doubt, contact the Executive Officer or the Committee's legal counsel.

Chapter 3: Selection of Officers and Committees

Nomination of Officers

The Committee Chair may appoint a Nominations Committee prior to the first or last meeting of the calendar year, if desired, to be composed of not more than two members and may consider appointing both a public and a professional member of the Committee to the Nominations Committee. The two-member Nominations Committee is not subject to the Open Meetings Act and will be charged with recommending a slate of officers for the following year; The Committee's recommendation will be based on the qualifications, recommendations and interest expressed by Committee members. A Nominations Committee member is not precluded from running for an officer position. If more than one Board member expresses interest in an officer position, the Nominations Committee will make a recommendation to the Committee and others may be included on the ballot for a runoff if desired; the results of the Nominations Committee's findings and recommendations will be forwarded to the Committee. Notwithstanding the Nominations Committee's recommendations, Committee members may be nominated from the floor at the meeting of the Committee.

Election of Officers

Elections of the officers shall occur annually at the first or last meeting of each year.

Officer Vacancies

If an office becomes vacant during the year, the Chair may appoint a member to fill the vacancy for the remainder of the term until the next annual election. If the office of the Chair becomes vacant, the Vice Chair shall assume the office of the Chair. Elected officers shall then serve the remainder of the term.

Sub-Committees & Sub-Committee Appointments

The Chair shall establish and abolish sub-committees as he or she deems necessary at any time. The composition of the sub-committees and the appointment of the members shall be determined by the Committee Chair. The Chair can change the composition including the sub-committee Chair at any time. The number of members on each sub-committee can range from two to five members.

Sub-Committees with three or more members will be subject to following the Open Meetings Act.

Sub-Committee Meetings

Each sub-committee will be comprised of at least two members. The Committee Chair designates one member of each sub-committee as the sub-committee's chairperson. The chairperson coordinates the sub-committee's work, ensures progress toward the sub-committee's priorities, and presents reports as necessary at each meeting. During any public sub-committee meeting, comments from the public are encouraged, and the meetings themselves are frequently public forums on specific issues before a sub-committee.

Committee Member Attendance at Committee Meetings
(Committee Policy)

Committee members shall attend each meeting of the Committee and his or her assigned sub-committee meetings. If a member is unable to attend, he or she must contact the Committee Chair or the Executive Officer and ask to be excused from the meeting for a specific reason.

Public Attendance at Committee Meetings
(Government Code Section 11120 et. seq.)

Meetings are subject to all provisions of the Open Meeting Act. This Act governs meetings of the state regulatory Committees and meetings of sub-committees of those Committees where sub-committee consists of more than two members. It specifies meeting notice, agenda requirements, and prohibits discussing or taking action on matters not included on the agenda. If the agenda contains matters that are appropriate for closed session the agenda shall cite the particular statutory Section and subdivision authorizing the closed session.

CHAPTER 4: Other Policies and Procedures

Ex Parte Communications

(Government Code Section 11430.10 et. seq.)

The Government Code contains provisions prohibiting ex parte communications. An “ex parte” communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of Section 11430.10, which states:

“While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication.” Committee Members are prohibited from an ex parte communication with Committee enforcement staff while a proceeding is pending.

Occasionally, an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Committee Members. If the communication is written, the person should read only far enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, they should reseal the documents and send them to the Executive Officer. If a Committee Member receives a telephone call from an applicant under any circumstances or licensee against whom an action is pending, he or she should immediately tell the person they cannot speak to them about the matter and inform the Executive Officer and the Committee’s legal counsel.

If the person insists on discussing the case, the Committee Member may be required to recuse him or herself from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee. If a Committee Member believes that he or she has received an unlawful ex parte communication, he or she should contact the Executive Officer and the Committee’s legal counsel.

Rules for Contact with the Public, a Licensee, an Applicant, or Media

Occasionally, in your role as a Committee member you may be contacted by a licensee, colleague, applicant, member of the public, or the media regarding an issue or concern that pertains to Committee business or proceedings. Any one of these contacts may compromise your position related to future decisions about policy, disciplinary actions, or other Committee business.

In order to avoid compromising your role as a Committee member, please refrain from assisting the individual with his/her issue. Instead, offer to refer the matter to the Executive Officer or give the individual the contact information for the Executive Officer.

Refrain from engaging in discussion with the individual and make every effort to end the conversation quickly and politely. Report all such contacts to the Executive Officer as soon as possible.

Committee Members shall not intervene on behalf of a licensee or applicant for licensure for any reason. They should forward all contacts or inquiries to the Executive Officer.

Committee Members should not directly participate in complaint handling and resolution or investigations. To do so would subject the Committee Member to disqualification in any future disciplinary action against the licensee. If a Committee Member is contacted by a respondent or his/her attorney, the Committee Member should refer the individual to the Executive Officer.

Honoraria Prohibition

(Government Code Section 89503 and FPPC Regulations, Title 2, Division 6)

As a general rule, members of the Committee should decline honoraria for speaking at, or otherwise participating in, professional association conferences and meetings. A member of a state Committee is precluded from accepting an honorarium from any source, if the member would be required to report the receipt of income or gifts from that source on his or her statement of economic interest.

Committee Members are required to report income from, among other entities, professional associations and continuing education providers. Therefore, a Committee Member should decline all offers for honoraria for speaking or appearing before such entities. There are limited exceptions to the honoraria prohibition. The acceptance of an honorarium is not prohibited under the following circumstances:

- (1) When an honorarium is returned to the donor (unused) within 30 days;
- (2) When an honorarium is delivered to the State Controller within thirty days for donation to the General Fund (for which a tax deduction is not claimed); and
- (3) When an honorarium is not delivered to the Committee Member, but is donated directly to a bona fide charitable, educational, civic, religious, or similar tax exempt, non-profit organization. In light of this prohibition, members should report all offers of honoraria to the Committee Chair so that he or she, in consultation with the Executive Officer and legal counsel, may determine whether the potential for conflict of interest exists.

Conflict of Interest

(Government Code Section 87100)

No Committee member may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has financial interest. Any Committee member, who has a financial interest that may be affected by a governmental decision, shall disqualify him or herself from making or attempting to use his or her official position to influence the decision. Any Committee member who feels he or she is entering into a situation where there is potential for a conflict of interest should immediately consult the Executive Officer or the Committee's legal counsel.

Serving as an Expert Witness

(Executive Order 66.2)

Pursuant to Executive Order 66-2, no employment, activity, or enterprise shall be engaged in by any gubernatorial appointee, which might result in, or create the appearance of resulting in any of the following:

1. Using the prestige or influence of a State office for the appointee's private gain or advantage.
2. Using state time, facilities, equipment, or supplies for the appointee's private gain or advantage, or the private gain or advantage of another.
3. Using confidential information acquired by virtue of State involvement for the appointees private gain or advantage, or the private gain or advantage of another.
4. Receiving or accepting money or any other consideration from anyone other than the State for the performance of an act which the appointee would be required or expected to render in the regular course of hours of his or her State employment or as a part of the appointee's duties as a State officer.

Gifts from Licensees and Applicants

A gift of any kind to Committee Members from licensees, applicants for licensure, continuing education providers or approved schools is not permitted. Gifts must be returned immediately.

Immunity from Liability

There are a number of provisions in state law relating to the liability of public agencies and employees. Government Code Section 818.4 states "A public entity is not liable for an injury caused by the issuance, denial, suspension or revocation of, or by his failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order or similar authorization where the public entity or an employee of the public entity

is authorized by enactment to determine whether or not such authorization should be issued, denied, suspended or revoked.”

Government Code Section 821.2 states, “A public employee is not liable for an injury caused by his issuance, denial, suspension or revocation of, or by his failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order, or similar authorization where he is authorized by enactment to determine whether or not such authorization should be issued, denied, suspended or revoked.”

Specific questions related to defense, payment of a judgment, settlement, and indemnification should be discussed with the Committee’s legal counsel.

Resignation of Committee Members

(Government Code Section 1750)

In the event that it becomes necessary for a Committee member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. Written notification is required by state law. A copy of this letter shall also be sent to the Officer of DCA, the Committee Chair, and the Executive Officer.

Committee Member Addresses (DCA Policy)

Committee Member addresses and telephone numbers are confidential and shall not be released to the public without expressed authority of the individual Committee Member. A roster of Committee Members is maintained for public distribution on the Committee’s web site using the Committee’s address and telephone number.

CHAPTER 5. Committee Administration & Staff

Executive Officer

The Committee may appoint an Executive Officer. The Executive Officer is responsible for the financial operations and integrity of the Committee, and is the official custodian of records. The Executive Officer is an at will employee, who serves at the pleasure of the Committee, and may be terminated, with or without cause, in accordance with the provisions of the Bagley-Keene Open Meeting Act.

Committee Administration

Strategies for the day-to-day management of programs and staff shall be the responsibility of the Executive Officer as an instrument of the Committee.

Executive Officer Evaluation

On an annual basis, the Executive Officer is evaluated by the Committee Chair. Committee members provide information to the Chair on the Executive Officer's performance in advance of the evaluation. Once compiled the Committee Chair meets privately with the Executive Officer to provide the Committee's evaluation.

Committee Staff

Employees of the Committee, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by a myriad of civil service laws and regulations and often by collective bargaining labor agreements. Because of this complexity, the Committee delegates this authority and responsibility for management of the civil service staff to the Executive Officer as an instrument of the Committee. Committee Members may express any staff concerns to the Executive Officer but shall refrain from involvement in any civil service matters. Committee Members shall not become involved in the personnel issues of any state employee.

Committee Budget

The Executive Officer or the Executive Officer's designee will attend and testify at legislative budget hearings and shall communicate all budget issues to the Administration and Legislature.

Communications with External Organizations & Individuals

All communications relating to any Committee action or policy to any individual or organization shall be made only by the Chair of the Committee, his or her designee, or the Executive Officer.

Any Committee Member who is contacted by any of the above should inform the Committee Chair or Executive Officer of the contact immediately. All correspondence shall be issued on the Committee's standard letterhead and will be disseminated by the Executive Officer's office.

Business Cards

Business cards will be provided to each Committee Member with the Committee's name, address, telephone and fax number, and website address.

Service of Legal Documents

If a Committee Member is personally served as a party in any legal proceeding related to his or her capacity as Committee Member, he or she must contact the Executive Officer immediately.

Committee Member Orientation

(Business and Professions Code section 453)

The Committee Member orientation session shall be given to new Committee Members within one year of assuming office. B & PC §453 requires every newly appointed board member to complete a training and orientation program offered by the department regarding, among other things, his or her functions, responsibilities, and obligations as a member of a board.

Ethics Training

(Government Code section 11146.1)

California law requires all appointees to take an ethics orientation within the first six months of their appointment and to repeat this ethics orientation every two years throughout their term.

Sexual Harassment Prevention Training
(Government Code section 12950.1)

Committee Members are required to undergo sexual harassment prevention training and education once every two years.

CHAPTER 6. Committee Member Role in Disciplinary Process

Overview

Discipline is one of the principle responsibilities of the Committee in regulating the Naturopathic Medicine profession. In matters involving discipline, the Committee, Executive Officer, and staff have very distinct roles that must be adhered to in order to preserve the disciplinary process. The Committee's role is that of "decisionmaker", ultimately authorized to deny licensure or order discipline of a license. The Committee reviews two types of disciplinary actions: 1) Proposed stipulated settlements; and 2) Proposed decisions ordered by the Administrative Law Judge (ALJ) after a formal hearing of the facts in the case. In both situations, the final order and action must come from the Committee through a vote by the Committee. This vote can occur at a Committee meeting or via email.

In disciplinary actions it is the role of the Committee staff to manage the gathering of facts, to conduct investigations, consult with a medical expert who determines whether there has been a departure from the Standard of Care, and send out ballots to the Committee. If Committee members have questions, those questions should be directed to the Committee's legal counsel. The Executive Officer serves the role of the Complainant in the disciplinary process. The Complainant is the individual who has the authority to file charges against the licensee or applicant. In this role, the Executive Officer must not have contact with the Committee in order to ensure the Committee's neutrality who will then make the final decision in the case. The Office of the Attorney General is responsible for prosecuting actions on behalf of the Complainant. Additionally, for disciplinary matters only, the Office of the Attorney General serves as the legal advisor to the Executive Officer (i.e., complainant) and the Committee's legal counsel serves as legal counsel for the Committee. In all other non-disciplinary matters, the Committee's legal counsel advises both the Committee and the Executive Officer.

The Committee is subject to meeting pre-defined enforcement performance measures and is held accountable for the time it takes to manage its disciplinary cases. One way to expedite the disciplinary timeframe is that proposed decisions and settlements are sent by staff continuously to the Committee via email for their consideration and vote. This email ballot process streamlines the disciplinary process and reduces unnecessary delays that would otherwise occur if all decisions were made at scheduled Committee meetings. However, if Committee members feel they need to discuss a particular proposed decision or settlement, there is an option to mark on the ballot hold for discussion at a future Committee meeting.

Email/Mail Vote Process

(Government Code Section 11500 et. Seq.+6,)

The Committee must approve any proposed decision or stipulation before the formal discipline becomes final and the penalty can take effect. Proposed stipulations and decisions are emailed to each Committee Member for his or her vote.

Proposed ALJ decisions (following an administrative hearing), along with proposed stipulated settlements and negotiated settlements are sent to the Committee via email for their consideration and vote. Email ballot packet materials are confidential and include the following documents:

- 1) Proposed ALJ decisions: the ALJ order, accusation or statement of issues;
- 2) Proposed stipulated settlements (including Stipulated Surrender of License): settlement, accusation and petition to revoke probation or statement of issues, Deputy Attorney General's (DAG) memo.

Deliberation and decision-making should be done independently and confidentially by each Committee member. Committee members shall only use the information provided to make their determination. For cases decided via email ballot, voting members may not communicate with each other and may not contact the DAG, the respondent, anyone representing the respondent, any witnesses, the complainant (Executive Officer), the ALJ or anyone associated with the case. Additionally, Committee members should not discuss pending cases with Committee staff, except as to questions about procedure, which if the nature of the questions are legal, such questions will be referred to the Committee's legal counsel.

Completed email ballots shall be returned by the due date listed on the ballot. Delays by Committee members in returning votes, delays final discipline. Committee members should retain their email ballot materials including the completed email ballot itself in case there is further action on the case. Final orders of the Committee do not become effective immediately, the final decision must be served and the Committee could receive a request for reconsideration which would delay the disciplinary action timeline and the order from becoming final. Once the decision is final, the email ballot packet materials that Committee members receive must be confidentially destroyed.

Email/Mail Ballot Voting Options

Each email ballot will have the following voting options:

- **Adopt/Grant:** a vote to adopt the proposed ALJ decision means that you agree with the decision as written and accept the decision.
- **Reject (Non Adopt):** A vote to not adopt the proposed decision means that you disagree with one or more portions of the proposed decisions and do not want it adopted as the Committee's decision. In addition, Committee members are

instructed on the ballot to choose this option if they have questions or concerns about the proposed decision. They are asked to record their question or concerns to facilitate the discussion:_____. However, a majority vote to adopt will prevail over a minority vote to not adopt.

- **Recuse self from the case because:**

Legal Procedure by Type of Decision

Stipulations—Proposed Settlements:

- **Adopt.** If the decision of the Committee is to adopt the terms proposed in the stipulation that decision becomes effective with 30 days if reconsideration is not requested. Respondent is notified of the decision.
- **Counter Offer.** Hold for Discussion
- **Reject.** If the Committee decides to not adopt the stipulation, the respondent is notified and the matter resumes the process for formal administrative hearing process before an ALJ. A new settlement may be submitted to the Committee at a later date. If the case goes to hearing, the Committee will consider the ALJ proposed decision.

Proposed ALJ Decisions Following a Formal Hearing:

- **Adopt.** If the Committee members decide to adopt the proposed decision, the proposed decision become effective within 30 days and the respondent is notified of the decision.
- **Reject.** If the Committee members do not agree with any aspect of the ALJ's proposed decision, they have the option to "non-adopt" the proposed decision. This category should be used when you believe the penalty should be modified in some way. The Committee may choose not to adopt or reject a proposed decision of an ALJ for several reasons which might be grouped generally under the following categories: (1) The Committee finds the penalty or terms of probation inappropriate to the violations; (2) The Committee disagrees with the ALJ's determination of the issues in the case; or (3) The Committee disagrees with the ALJ's findings and determination that no grounds for discipline exist. In this case, the respondent is notified. The next step is that Committee staff will order the administrative hearing transcripts and request written arguments from the respondent. Committee members will review the transcripts, evidence, and written arguments and meet in a closed session Committee meeting with the Committee's legal counsel who will facilitate the closed session and write the Committee's decision. The Committee uses its disciplinary guidelines and applicable law when making such decisions. The Committee's decision is then

adopted by the Committee and issued as a final order of the Committee. The respondent is notified of the decision.

Explanation of Terminology

Proposed Decision:

Following a hearing, the Administrative Law Judge (ALJ) drafts a proposed decision recommending an outcome based on the facts and the Committee's disciplinary guidelines. At its discretion, the Committee may impose a lesser penalty than that in the proposed decision. If the Committee desires to increase a proposed penalty, however, it must vote to reject or non-adopt the proposed decision, read the transcript of the hearing and review all exhibits prior to making a final determination on the case.

Default Decision:

If an accusation mailed to the last known address is returned by the post office as unclaimed, or if a respondent fails to file a Notice of Defense or fails to appear at the hearing, the respondent is considered in default. The penalty in a case resolved by default is generally revocation of the license. A default decision can be set aside and the case set for hearing if the respondent petitions for reconsideration before the effective date of the decision **and** the Committee grants the petition.

Stipulated Decision:

At any time during the disciplinary process, the parties to the matter (Executive Officer and the respondent) can agree to a disposition of the case. With the Executive Officer's consent, the Deputy Attorney General will negotiate a stipulated decision (sometimes referred to as a stipulated agreement) based on the Committee's disciplinary guidelines.

Adopt:

A vote to adopt the proposed action means that you accept the action as proposed.

Reject (Non-Adopt):

A vote to reject (non-adopt) the proposed action means that you disagree with one or more portions of the proposed action and do not want it adopted as the Committee's decision. This category should be used if you believe additional or different terms or conditions of probation should be added (or deleted) or that the penalty should be modified in some other way.

If a proposed decision is rejected, the transcript will be ordered and the case scheduled for argument according to Government Code §11517 . After reviewing the record and

transcripts, the Committee can the decide the case upon the record and modify the decision as it deems appropriate, except that any cost recovery order may not be increased. If a stipulated decision is rejected, the case will be set for hearing. If a default decision is rejected, the case will be set for hearing.

Recuse: Committee Member Disqualification from Deciding Case

With some limited exception, a Committee member cannot decide a case if that Committee member investigated, prosecuted or advocated in the case or is subject to the authority of someone who investigated, prosecuted or advocated in the case. Examples of such a conflict is if a person is a family member, close personal friend, or business partner. A Committee member may be disqualified for bias, prejudice or interest in the case. When in doubt, Committee members should contact the Committee's legal counsel for guidance.

Ex Parte Communications Involving Disciplinary Actions

Ex Parte is Latin for "by or for one party; by one side." In practice, it is a limitation on the types of information and communication that Committee members may receive or make when considering a case, without both parties being present. The rationale for this limitation is to avoid any communication that would unfairly prejudice one party or unduly influence the outcome of the legal proceeding.

Communication with staff on the merits of the case, communication with those who investigated the case or communication with the ALJ could all bias the outcome and be unfairly one sided with respect to the respondent. So, the easiest way to avoid the Committee's decision from being subjected to a potential legal challenge is to avoid ex parte communication with anyone except the Committee's legal counsel about a case.

CHAPTER 7. Travel & Salary Policies & Procedures

Travel Reimbursement

Committee members will be reimbursed for their travel related to all Committee and Sub-Committee meetings. Reimbursements will be in accordance with current travel reimbursement policies. Please refer to the Committee's Policies and Department of Consumer Affairs (DCA) Travel Guide for specific travel guidelines and reimbursement policies.

Committee members must submit their travel receipts, mileage information (*if applicable*), and start and end time for each trip to the Executive Officer, who will then process each reimbursement through the State's reimbursement system CalATERS Global.

Travel Approval (State Administrative Manual Section 700 et. seq.)

Travel related to Committee and Committee meetings do not require travel approval. All other travel related to Committee business must be approved by DCA prior to the event. For any travel out of state representing the State of California, prior approval from the Governor's Office is required and must be submitted for endorsement at least 2 months prior to the intended date of departure. Please contact the Executive Officer for further information.

Travel Arrangements (Committee Policy)

Generally, government travel is restricted to either a designated carrier or the lowest priced carrier. Similarly, lodging is restricted to hotels that offer a state rate that is under the reimbursement maximum that vary by city. Committee members will only be reimbursed up to the maximum, unless they have received prior authorization for excess lodging, which must be secured prior to travel. To facilitate travel arrangements, Committee members should provide the Executive Officer with credit card information that can be used to secure lodging reservations that require a personal credit card. The Committee has no means to secure lodging reservations for Committee members without your credit card. The Executive Officer makes Committee travel arrangements for lodging and flights, so coordinate directly with the Executive Officer.

Exceptions to Travel Reimbursement Policies

Lodging

State guidelines generally prohibit reimbursement for hotel expenses within 50 miles of an individual's home address or an extra night stay following the conclusion of the Committee activity. However, an exception to this guideline may be obtained if the circumstances necessitate an overnight stay. Please contact the Committee Liaison for further details.

Airport Parking

State guidelines strongly encourage the use of the least expensive parking available (i.e. economy lot). However, if the Committee determines that additional parking costs above the lowest-cost option are in the best interests of the State, a justification explaining the necessity for additional cost must be submitted with the travel claim.

Travel Claims

(SAM Section 700 et seq.)

Rules governing reimbursement of travel expenses for Committee Members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. The Committee Liaison maintains these forms and completes them as needed.

The Executive Officer's travel and per diem reimbursement claims shall be submitted to the Committee Chair for approval. It is advisable for Committee Members to submit their travel expense forms immediately after returning from a trip and not later than thirty days following the trip and not later than the 15th of the month following the trip. Receipts are required and must be submitted with each travel reimbursement: hotel zero balance receipt, parking, transportation service (taxi, shuttle, etc.), bridge tolls, flight itineraries, gas receipts. Pre-paid gas receipts will not be accepted and must include detailed information (number of gallons, price per gallon, etc.). Meal reimbursement is limited to designated maximums per meal and depend on the time of day. While meal receipts are not required for reimbursement, it is advised to keep receipts in case your claims are audited in the future.

Salary Per Diem Amount

(B & P Code Section 103)

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Committee members is regulated by the B&P Code Section 103. Each member of the Committee shall receive a per diem in the amount provided in

Section 103 of the Business and Professions (B&P) Code. Committee members fill non-salaried positions, but are paid \$100 per day for each meeting day and are reimbursed travel expenses. In relevant part, B&P Code Section 103 provides for the payment of salary per diem for Committee Members “for each day actually spent in the discharge of official duties,” and provides that the Committee Member “shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.”

Salary Per Diem (Committee Policy)

Accordingly, the following general guidelines shall be adhered to in the payment of salary per diem or reimbursement for travel:

1. No salary per diem or reimbursement for travel-related expenses shall be paid to Committee members except for attendance at official Committee or committee meetings, unless a substantial official service is performed by the Committee member. Attendance at gatherings, events, hearings, conferences or meetings other than official Committee or committee meetings in which a substantial official service is performed the Executive Officer shall be notified and approval shall be obtained from the Committee Chair prior to Committee member’s attendance.
2. The term "day actually spent in the discharge of official duties" shall mean such time as is expended from the commencement of a Committee or committee meeting until that meeting is adjourned. If a member is absent for a portion of a meeting, hours are then reimbursed for time actually spent. Travel time is not included in this component.
3. For Committee-specified work, Committee members will be compensated for time actually spent in performing work authorized by the Committee Chair. This may also include, but is not limited to, authorized attendance at other events, meetings, hearings, or conferences. Work also includes preparation time for Committee or committee meetings and reading and deliberating mail ballots for disciplinary actions.
4. Reimbursable work does not include miscellaneous reading and information gathering unrelated to Committee business and not related to any meeting, preparation time for a presentation and participation at meetings not related to official participation of the members duties with the Committee.
5. Committee members may participate on their own (i.e., as a citizen or professional) at an event or meeting but not as an official Committee representative unless approved in writing by the Chair. Requests must be submitted in writing to the Chair for approval and a copy provided to the Executive Officer. However, Committee members should recognize that even when representing themselves as “individuals,” their positions might be misconstrued as those of the Committee.

CHAPTER 8. Committee Resources

Committee Resources

Below is a list of contacts that the Committee regularly interacts with in the course of carrying out its licensing and regulatory functions.

American Association of Naturopathic Physicians (AANP)

818 18th Street, NW, Suite 250

Washington, DC 20006

(202) 237-8150 Phone

(866) 538-2267 Toll Free

(202) 237-8152 Fax

Email: coordinator@calnd.org

Web: <http://www.naturopathic.org/>

California Board of Pharmacy (BOP)

1625 North Market Blvd., Suite N 219

Sacramento, CA 95834

(916) 574-7900 Phone

(916) 574-8618 Fax

Email: phystatus@dca.ca.gov

Web: <http://www.pharmacy.ca.gov>

California Naturopathic Doctors Association (CNDA)

5601 West Slauson Avenue, Suite 275

Culver City, CA 90230

(310) 670-8100 Phone

(815) 550-2411 Fax

Email: member.services@naturopathic.org

Web: <http://www.calnd.org/>

Department of Consumer Affairs (DCA)

Consumer Information Division

1625 North Market Blvd., Suite N 112

Sacramento, CA 95834

(800) 952-5210 Toll Free

Email: dca@dca.ca.gov

Web: <http://www.dca.ca.gov/>

Department of Consumer Affairs (DCA)

Equal Employment Opportunity Office (EEO)
1625 North Market Blvd., Suite N 330
Sacramento, CA 95834
(916) 574-8280 Phone
(916) 574-8604 Fax
Email: dca@dca.ca.gov
Web: <http://www.dca.ca.gov/>

Federation of Naturopathic Medicine Regulatory Authorities (FNMRA)

9220 SW Barbur Blvd., Suite 119, #321
Portland, OR 97219
(503) 244-7189 Phone
Email: shannonbraden@fnmra.org
Web: <http://www.fnmra.org>

Medical Board of California (MBC)

2005 Evergreen Street, Suite 1200
Sacramento, CA 95815
(916) 263-2382 Phone
(916) 263-2944 Fax
Email: webmaster@mbc.ca.gov
Web: <http://www.mbc.ca.gov>

Naturopathic Medicine Committee of California (NMC)

1300 National Drive, Suite 150
Sacramento, CA 95834-1991
(916) 928-4785 Phone
(916) 928-4787 Fax
Email: naturopathic@dca.ca.gov
Web: <http://www.naturopathic.ca.gov>

North American Board of Naturopathic Examiners (NABNE)

9220 SW Barbur Blvd., Suite 119, #321
Portland, OR 97219
(503) 778-7990 Phone
Email: info@nabne.org
Web: <http://www.nabne.org>

Osteopathic Medical Board of California (OMBC)

1300 National Drive, Suite 150
Sacramento, CA 95834-1991
(916) 928-8390 Phone
(916) 928-8392 Fax
Email: osteopathic@dca.ca.gov
Web: <http://www.ombc.ca.gov>

California Political Practices Commission (FPPC)

428 J Street, Suite 620

Sacramento, CA 95814

(916) 322-5660 Phone

1 (866) 275-3772 Toll-free advice line

Email Advice: advice@fppc.ca.govWeb: <http://www.fppc.ca.gov>