

TAB 8

Review and Approval of March 19, 2018
Committee Meeting Minutes



Naturopathic Medicine Committee

DRAFT

Meeting Minutes

March 19, 2018

**MEMBERS
PRESENT:**

David Field, ND, Lac, Chair
Tara Levy, ND, Vice-Chair
Gregory Weisswasser, ND
Greta D'Amico, ND
Dara Thompson, ND
Michael Hirt, MD

**MEMBERS
ABSENT:**

Myles Spar, MD

**STAFF
PRESENT:**

Sabina Knight, Esq., Legal Counsel
Rebecca Mitchell, Executive Officer (EO)

**MEMBERS OF THE
AUDIENCE:**

Jonathan Burke, Analyst, DCA Executive Office
Mark Ito, Budget Manager, DCA
Yeaphana LaMarr, Legislative Analyst, DCA
Judy Wolen, Consultant, CNDA

Agenda Item 1

Call to Order/Roll Call/Establishment of a Quorum

Dr. David Field, ND, Naturopathic Medicine Committee (NMC) Chair, called the meeting of the NMC to order on March 19, 2018, at 10:20 a.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 2

Public Comment on Items not on the Agenda

There were no public comments for any items not on the agenda to discuss.

Agenda Item 3

Closed Session

Pursuant to Government Codes Section 11126(a)(1), the Committee met in closed session for the evaluation of the Committee's Executive Officer.

Upon returning to open session, Dr. Field reported that the Committee waived confidential rights and reported on the following closed session topics discussed and the decisions made (Confidential pursuant to Government Code section 11126(a)(1).)

All members read their individual evaluations. All categories and ratings were reviewed. Although there are some standards that were affected by outside factors and not under the EO's control, the consensus was the EO is performing at an excellent level. The Committee graded Ms. Mitchell's performance as "Outstanding" overall.

The request for an 8% raise will be requested by the Committee through the Department of Consumer Affairs.

Motion – D'Amico / Second – Thompson, to approve request for 8% raise for EO Mitchell. Roll call vote taken, motion carried 6-0-0. (YES – Field, Levy, D'Amico, Hirt, Weisswasser, Thompson/ NO – none / Abstentions – none).

Agenda Item 4 Discussion and Possible Action regarding Adding Topical General Anesthetics to the Formulary List and for use by Naturopathic Assistants (NA)

During the December 4, 2017 meeting, agenda item #4 discussed the possible action regarding the current drug formulary draft. (Business and Professions Code section 3640(c)(1), and California Code of Regulations (CCR) Title 16, section 4236). This item was tabled because the Committee had determined that it was in the best interest of current legislative resources to suspend pursuing a scope change during the current bill cycle. However, there was mention to allow topical anesthetic to be included in the formulary and to be allowed within the scope of a naturopathic assistant (NA).

During this meeting, it was agreed that the Committee should move forward with adding the topical anesthetic to the formulary. An over-the-counter (OTC) would be authorized under list #102.

Dr. D'Amico requested a legal opinion be provided to confirm whether verbiage in 3640.3 allows NAs the use of a topical anesthetic as different than a local anesthetic. Ms. Knight will check and provide a legal opinion on this matter at a later time.

No motion at this time.

Agenda Item 5 Executive Officer Update

Ms. Mitchell reported on current regulation packages that staff is working on:

- Notice to Consumers (CCR 4231)
- Free Sponsored Health Events (CCR 4237)
- SB 1441, 1111, and Disciplinary Guidelines (CCR 4261 – 4261.1)
- Retired License Status (CCR 4229)

Ms. Mitchell also reported that the following regulations will need to be reviewed and amended:

- Fee Schedule (CCR 4240)
- Exams (CCR 4212, 4220)

The Enforcement stats were provided by Ms. Mitchell during an Enforcement update and are as follows:

- 26 open cases in various stages of the enforcement process
- 17 Unlicensed Activity (65.4%)
- 8 Licensee Cases (30.8%) – most of these cases are advertising violations
- 1 Applicant Case (3.8%)

Total licensee population:

- 645 Current In-State
- 90 Current Out-of-State
- 18 Inactive
- 163 Delinquent
- 915 total licensees under the Committee's jurisdiction.

Agenda Item 6 Discussion and Possible Action regarding Business and professions Code sections 650-657 et. seq. (discount services)

There has been confusion surrounding what constitutes a discount. Dr. D'Amico requested that the Committee analyze current law and provide some clarification. As we move forward with strengthening enforcement processes, clarification will ensure that we are enforcing current law correctly.

Income based payment (fee based on a patient's ability to pay) is allowed and not prohibited. Additionally, concierge services (retainer medicine) is not prohibited if it is done in a manner that does not violate any codes. Coupon or voucher based discounts is still unclear.

Ms. Knight suggested that further research will be needed to determine how to further clarify coupon or voucher based discounts.

The Committee has tabled this item until further research can be provided.

Agenda Item 7 Review and Approval of December 4, 2017 NMC Meeting Minutes

Upon review of the 12/04/2017 meeting minutes, it was noted that an error in the name of the DCA Budget staff needed to be amended to reflect Robert de los Reyes.

Motion – Weisswasser / Second – Thomson, to approve 12/04/2017 meeting minutes as submitted with amendments. Roll call vote taken, motion carried 5-0-1. (YES – Field, Levy, D'Amico, Weisswasser, Thompson/ NO – none / Abstentions – Hirt).

Agenda Item 8 Budget Update – DCA Budget Office

Mr. Mark Ito, Budget Manager, DCA reported that there were significant challenges with the new Fi\$cal system. DCA, along with other departments have continued to experience several

challenges while transitioning over to the new system. DCA hoped to rectify all the issues and have budget reports to the programs by year's-end, however Fiscal is just now closing month 2 and trying to process the other months moving forward. They hope to have a report that they can offer to the Committee by the next meeting.

Mr. Ito additionally reported that the current fees will need to be increased to keep the Committee's fund from becoming insolvent in 2021. The proposed fee amounts were presented in the meeting materials. Since the current fee amounts were set as ceilings during the Sunset Bill, the Committee will continue to work with the author's office as they continue to amend the bill language to clean up the fee language.

Agenda Item 9 Use of Microscopy by Naturopathic Doctors

When NDs were added to BPC 1206.5, it appears that they were not named in section (d) of the code. The Committee needs to have amendment made to this section that includes the original intent of NDs being able to use a microscope in their practice under this section. The Committee directed staff to research the original intent and find out if this can be added to an omnibus bill.

No action taken at this time.

Agenda Item 10 and 11 Legislative Update and Actions Taken

Ms. Yeaphana LaMarr, Legislative Analyst, DCA, gave a legislative update to the Committee regarding the following bills:

- AB 2215 (Kalra) – This bill would allow licensees of the Board of Veterinary Medicine to discuss cannabis use with clients. Since this is the same language that the Committee is interested in pursuing for NDs, the Committee may want to take a Support if Amended (SA) stance on this bill and work with the author to get added to the text language.

Motion – D'Amico / Second – Levy, to take a position of Support if Amended (SA) and have a conversation with the author's office to include NDs in this language. Roll call vote taken, motion carried 6-0-0. (YES – Field, Levy, D'Amico, Hirt, Weisswasser, Thompson/ NO – none / Abstentions – none).

- AB 710 (Wood) – This bill, if one of specified changes in federal law regarding the controlled substance cannabidiol occurs, would deem a physician or other authorized healing arts licensee who prescribes, furnishes, or dispenses a product composed of cannabidiol, in accordance with federal law, to follow state law governing those acts.

Motion – D'Amico / Second – Weisswasser, to take a position of Support if Amended (SA) to include NDs in bill language and to work with Wood moving forward. Roll call vote taken,

motion carried 6-0-0. (YES – Field, Levy, D’Amico, Hirt, Weisswasser, Thompson/ NO – none / Abstentions – none).

- AB 2264 (Brough) – This bill was reported to be a spot bill only and that it is not intended to move forward with the current text.

No action taken on this item.

- AB 1659 (Low) – This bill would prohibit an inactive licensee to represent themselves as having an active license. This bill also establishes the authority for any healing arts board to set a reduced fee for an inactive status license within their regulations.

No action taken on this item.

- AB 1752 (Low) – This bill, will add scheduled drugs IV and V to the CURES reporting and decreases reporting times for dispensers from seven (7) days to one (1) working day.

Motion – Levy / Second – Thompson, to take a position of Support (S) on AB 1752. Roll call vote taken, motion carried 6-0-0. (YES – Field, Levy, D’Amico, Hirt, Weisswasser, Thompson/ NO – none / Abstentions – none).

- AB 2193 (Maienschein) – This bill would require PCPs to exam/screen pregnant patients once during pregnancy and once during the postpartum period for mental illness.

Motion – Levy / Second – Thompson, to take a Watch (W) position on AB 2193. Roll call vote taken, motion carried 6-0-0. (YES – Field, Levy, D’Amico, Hirt, Weisswasser, Thompson/ NO – none / Abstentions – none).

- SB 762 (Hernandez) – This bill would waive the fees to restore an inactive license to an active status license solely to allow practice in underserved areas or for public non-profits that provides services to the underserved community.

Motion – D’Amico / Second – Levy, to take a position of Support (S) on SB 762. Roll call vote taken, motion carried 6-0-0. (YES – Field, Levy, D’Amico, Hirt, Weisswasser, Thompson/ NO – none / Abstentions – none).

Agenda Item 12

Medical Cannabis Discussion and Possible Action on Future Legislation

There has been an increase in patients seeking the ability to discuss the use of cannabis with their PCP ND. The Committee discussed the needs for changes to both the Naturopathic Doctors Act and amendments to other codes regarding medical cannabis. The Committee would like to request amendments to allow licensees to recommend cannabis or at the very least, to have the ability to discuss cannabis with their patients. This is a major concern as

many patients are using cannabis recreationally. Since the new cannabis laws in California have changed how consumers use cannabis, the Committee has determined that it would be unsafe to continue to prohibit a licensee's ability to discuss the use of any drugs or supplements, this should include cannabis.

Additionally, new medical cannabis regulations require that medical recommendations for cannabis may only be provided by a patient's primary care provider (PCP). This causes an issue for patients of NDs who do not have any other PCP. Since NDs are considered PCPs in California, this poses the issues of financial and access-of-care barriers for ND patients, which requires them to pay additional fees to seek a physician PCP for the sole reason of getting a medical cannabis recommendation.

The Committee directed staff to move forward with researching what amendments need to be made. This will be discussed further as the Committee moves forward with changes to current law prohibiting NDs ability to recommend or discuss cannabis.

Agenda Item 13 Discussion and Possible Action of the Creation of Frequently Asked Questions (FAQs) for Website

Staff reported that there has been an increase in frequently asked questions by consumers, applicants and licensees. In an effort to reduce the amount of calls and emails specific to FAQs, staff would like to add a list of FAQs to the website and offer answers and additional resources to these questions. These items included terminating or severing patient/doctor relationships and providing forms for calculating continuing education hours.

The staff presented text, information and documents that will be added to the website.

No action taken on this item.

Agenda Item 14 Diversion Program Bid Process Presentation

During the 2016 Sunset Hearing, the BPED Committee advised the Committee that it needed to have a diversion program in place for its licensees. During researching information on the bid process for contracting with a diversion service provider, it was identified that the Committee does not have authorizing language in current statute allowing the creation of such a program.

The Committee will need to seek an amendment to its Act to move forward with creating a diversion program for licensees. The Committee cannot move forward with the bid process at this time.

No action taken on this item.

Agenda Item 15 California Naturopathic Doctors Association (CNDA) Update

Ms. Judy Wolen reported an update of the California Naturopathic Doctors Association (CNDA) to the Committee. Recent changes in CNDA leadership include the new President position being taken by Chris Holder, ND and Vice President position taken by Aliza Cicerone, ND.

Additionally, Ms. Wolen reported that the Association held a CNDA Leadership day on 03/06/2018. It was reported that approximately 25 CNDA representatives held around 45 visits with legislative members and their staff to discuss major issues with the current scope and title protection for NDs.

Agenda Item 16

Establish Future Meeting Dates and Locations

- Summer Meeting – try to schedule next meeting in unison with the AANP meeting between 7/11/17 and 7/13/17 in Southern California.
- Fall Meeting – to be scheduled in October 2017 (Use Doodle survey to schedule the Fall 2018 Meeting.)

Agenda Item 17

Agenda Items for Future Meetings

The following are items that were requested to be added to future meetings:

- Action Plan (status of Strategic Plan)
- MA/NA Use

Agenda Item 18

Adjournment

There being no further business or public comment, Dr. Field adjourned the meeting at 2:37 p.m.

