

Licensing:

- ◆ The Bureau/Committee licensed **543** naturopathic doctors since January 2005.
- ◆ There are **100** lapsed or inactive licensees, including 2 deceased licensees.
- ◆ There are **23** applications on file.

Licensing statistics per calendar year:

| 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|------|------|------|------|------|------|------|---------------|
| 149 | 71 | 65 | 58 | 52 | 47 | 67 | 34 to date |

Enforcement:

There is a five-month backlog to issue citations and fines for 1st-time offenders who illegally use of the title “ND”. All repeat and egregious offenders are normally cited and fined within the month they are reported to the Committee.

Complaint statistics per calendar year:

Total Complaints

| 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|------|------|------|------|------|------|------|------------|
| 9 | 48 | 46 | 61 | 52 | 58 | 81 | 52 (Aug 1) |

Complaints Against NDs

| 2 | 2 | 4 | 4 | 3 | 6 | 11 | 5 |
|--|--|--|--|--|--|--|--|
| 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 ND using title of “Dr.” 1 Misleading Advertising 1 Practicing outside of scope 1 No Informed Consent 1 Not using “ND” in title |

| | | | | | | | |
|--|--|--|--|--|--|-------------------------------------|--|
| | | | | | | 1 Gross Negligence and Incompetence | |
|--|--|--|--|--|--|-------------------------------------|--|

The Federation of Naturopathic Medical Regulatory Authorities has been formed and is seeking the membership of the Committee. The Federation exists to facilitate information sharing and communication between entities that license/register and regulate naturopathic doctors in the U.S. and Canada. They provide a database of disciplinary actions taken by each jurisdiction to promote efficient and legitimate licensing and improve public safety and confidence. They will provide continuing education approvals, a forum for questions & group e-mails, professional development, and model disciplinary guidelines.

Note: Although every licensing board in the country is compelled to belong to the National Practitioner Data Bank, there is a \$4.95 charge per requested report (\$9.00 if there is malpractice information available) which makes the cost of inquiry against every applicant costly; belonging to the Federation will allow inquiry against all applicants without an additional charge. Link: <http://fnmra.org/>

The Committee is awaiting word from the DCA Executive Office as to whether or not joining the federation and paying its dues would be appropriate.

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, apparently, 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 have yet to secure a copy of the final document that was submitted to Agency by the Budget Office. This issue of miscommunication 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). The Committee will pay its first enforcement billing of approximately \$9,000.00 in 2012-2013 when DOI bills the Committee for an investigation conducted in 2010. Likewise, the current investigation being conducted by DOI will likely be billed in 2014-2015.
3. I am attempting to purchase a mid-level printer/scanner/copier that will allow production of high quality documents and will utilize scanning technology for data entry when it becomes available on the BreZE system. The current CMAS list, which is the official list of printers authorized by the Department of General Services, does not currently contain a suitable device. The BreZE Steering Committee was asked to

- develop a blanket exemption for use by all boards/bureaus who need to purchase desk-top devices that can utilize scanning and copying.
4. The Committee budget has increased slightly each year for the past 2 years due to various mandated program requirements such as participation in BreEZe.
 5. The Budget Office has not transferred rent for the Committee from the Committee's fund to the Osteopathic Fund for the last 34 months. To remedy the situation, a Memorandum of Understanding will be drafted between the Committee and the Board to establish an ongoing payment as well as a one-time back payment of rent.
 6. At last report, the Budget Office stated 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". So, there are no remedies available at this time for the staffing problems faced by the Committee.

Legislation

SB 71 - Leno

As part of Governor Brown's requirement for a reduction of unnecessary reports from all state agencies, DCA surveyed all boards/bureaus to identify reports that could be eliminated. As a result, B & P Sections 3627 (d), all of Section 3628, and Section 3640 were submitted by DCA to the Senate Business, Professions, and Economic Development Committee for inclusion in the 2012 omnibus bill. Instead of going into an omnibus bill, the language was deleted in the current year budget bill, SB 71- Leno. Link: http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0051-0100/sb_71_bill_20120907_enrolled.pdf See page 8.

Below is the current language; sections that are to be deleted in this bill are underlined. Please note: this will change the formulary committee to a sub-committee of the Committee, although it does not change the composition requirements; in addition, when the bill is signed, the Committee will seek a clarification of the intent of the language changes since the amended section could be interpreted as to compel the Committee to form this sub-committee instead of merely deleting the report requirement in the original language.

3627. (a) The committee shall establish a naturopathic formulary advisory subcommittee to determine a naturopathic formulary based upon a review of naturopathic medical education and training.

(b) The naturopathic formulary advisory subcommittee shall be composed of an equal number of representatives from the clinical and academic settings of physicians and surgeons, pharmacists, and naturopathic doctors.

(c) The naturopathic formulary advisory subcommittee shall review naturopathic education, training, and practice and make specific recommendations regarding the prescribing, ordering, and furnishing authority of a naturopathic doctor and the required supervision and protocols for those functions.

(d) The committee shall make recommendations to the Legislature

not later than January 1, 2007, regarding the prescribing and furnishing authority of a naturopathic doctor and the required supervision and protocols, including those for the utilization of intravenous and ocular routes of prescription drug administration. The naturopathic formulary advisory subcommittee and the committee shall consult with physicians and surgeons, pharmacists, and licensed naturopathic doctors in developing the findings and recommendations submitted to the Legislature.

3628. (a) The committee shall establish a naturopathic childbirth attendance advisory subcommittee to issue recommendations concerning the practice of naturopathic childbirth attendance based upon a review of naturopathic medical education and training.

(b) The naturopathic childbirth attendance advisory subcommittee shall be composed of an equal number of representatives from the clinical and academic settings of physicians and surgeons, midwives, and naturopathic doctors.

(c) The naturopathic childbirth attendance advisory subcommittee shall review naturopathic education, training, and practice and make specific recommendations to the Legislature regarding the practice of naturopathic childbirth attendance.

(d) The committee shall make recommendations to the Legislature not later than January 1, 2007. The naturopathic childbirth attendance advisory subcommittee and the committee shall consult with physicians and surgeons, midwives, and licensed naturopathic doctors in developing the findings and recommendations submitted to the Legislature.

3640.1. The committee shall make recommendations to the Legislature not later than January 1, 2007, regarding the potential development of scope and supervision requirements of a naturopathic doctor for the performance of minor office procedures. The committee shall consult with physicians and surgeons and licensed naturopathic doctors in developing the findings and recommendations submitted to the Legislature.

AB 2109 – Pan

This law requires a parent or guardian of a minor to either have their child immunized prior to entry to various schools/facilities, or to provide a letter/affidavit stating they were informed of the risks but opted to not have their child vaccinated and to provide a specified form signed by a specified health care practitioner stating they provided the parent with the risks and benefits of vaccinations and they opted out. This bill names naturopathic doctors as accepted health care practitioners and specifies:

(5) A naturopathic doctor who is authorized to furnish or order drugs under a physician and surgeon's supervision pursuant to Section 3640.5 of the Business and Professions Code.

Upon contacting the California Naturopathic Doctors Association, I was told that only NDs that participate in a prescription oversight agreement with an MD/DO may sign the forms. Link: http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2101-2150/ab_2109_bill_20120831_enrolled.pdf

AB 1446 – Negrete McLeod

This bill clarifies existing language regarding the administration of natural and non-prescription substances that, as defined by the FDA, become dangerous drugs due to their route of administration; it also specifies educational requirements and gives the Committee authority to approve classes. This language also allows NDs to administer epinephrine and natural and synthetic hormones.

Thanks to the efforts of the California Naturopathic Doctors Association and their lobbyists for seeking legislation to clarify the ambiguities in the law; clarifying the law gives the Committee and its licensees relief from a long-standing conundrum and will simplify enforcement by providing clear definition and educational requirements for administration of natural substances via IV. Link:

http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1401-1450/sb_1446_bill_20120831_enrolled.pdf

Affordable Care Act

According to Gene McGill of the American Association of Naturopathic Physicians, the federal Affordable Care Act contains provisions for naturopathic care, but there are no regulations written at this time that define this type of care.

BrEZe Project:

The Interim EO participated 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 most recently November 2012. However, due to the complexities of programming the off-the-shelf product for six separate licensing boards and due to a lack of vendor staffing, the project will likely not "go live" until January or February 2013. 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 licensing, enforcement, and administrative duties.

Board Member Sexual Harassment Prevention Training (SHPT)

Committee members are required to complete SHPT every two years. All Committee members must complete this training this year.

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 2012. 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.

Sunset Report

The report is in the hands of Dr. Field and Dr. Levy for their review/additions/corrections. Awet Kidane, DCA's Chief Deputy Director, offered the Department's assistance with our Sunset Report; I contacted his office to secure assistance in formatting, printing, and compiling the report; Tracy Rhine,

the Legislative Deputy Director for DCA, will be providing assistance. The report is due to the Senate Business, Professions, and Economic Development Committee no later than November 1, 2012. Hearings will be scheduled to begin in February 2013.