



Naturopathic Medicine Committee

Meeting Minutes

February 25, 2021

DRAFT

MEMBERS PRESENT: Dara Thompson, ND, Chair
Greta D'Amico, ND, Vice Chair
Minna Yoon, ND
Vera Singleton, ND
Bruce Davidson, PhD
Shirley Worrels
T. Gregory Quinn, MD

MEMBERS ABSENT: None

STAFF PRESENT: Rebecca Mitchell, Executive Officer (EO)
Sabina Knight, Esq., Program Legal Counsel, Legal Unit DCA
Karen Halbo, Esq., Regulatory Counsel, Regulatory Unit, DCA
Raquel Oden, Program Analyst
Brittany Ortega, Moderator, SOLID, DCA
Stephanie Salemi, Co-Moderator, DCA

MEMBERS OF THE AUDIENCE: None

Agenda Item 1 Call to Order/Roll Call/Establishment of a Quorum

Dara Thompson, ND, Chair, Naturopathic Medicine Committee (NMC), called the meeting of the NMC to order on February 25, 2021, at 9:01 a.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 2 Public Comment

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

Agenda Item 3 Election of Officers

The members of the Committee were provided with information of the officer vacancies, including available positions, duties and responsibilities required, along with the background biographies of each member.

A nomination for Dara Thompson, ND, was provided for the position of the Chair.

Motion – D’Amico / Second – Worrels, to elect Dr. Dara Thompson as Chair. Roll call vote taken, motion carried 6-0-0. (YES – Thompson, D’Amico, Yoon, Davidson, Worrels, Singleton / NO – none / Abstentions – None).

A nomination for Greta D’Amico, ND, was provided for the position of the Vice Chair.

Motion – Thompson / Second – Yoon, to elect Dr. Greta D’Amico as Vice Chair. Roll call vote taken, motion carried 6-0-0. (YES – Thompson, D’Amico, Yoon, Davidson, Worrels, Singleton / NO – none / Abstentions – None).

Agenda Item 4 Review and Possible Approval of December 1, 2020 Meeting Minutes

The Committee reviewed the December 1, 2020 meeting minutes. The minutes were approved with amendments of a few typographical errors.

Motion – Thompson / Second – Davidson, to approve the December 1, 2020 meeting minutes with edits. Roll call vote taken, motion carried 6-0-0. (YES – Thompson, D’Amico, Yoon, Davidson, Worrels, Singleton / NO – none / Abstentions – none).

Agenda Item 5 Discussion and Possible Action Proposed Amendments to Title 16, California Code of Regulations 4256, 4258, and 4259 (AB 2138 – Substantial Relationship and Rehabilitation Criteria Implementation) Modified Text

During the February 25, 2021 meeting, the Committee members reviewed and considered the modified regulation text. After review, the Committee agreed with Option No. 1 and voted to adopt the modified text that was sent out for 15-day public notice, as indicated in the meeting materials, and authorized the Executive Officer to complete the regulatory process and to make any non-substantive changes to the proposed regulation.

Motion – D’Amico / Second – Thompson, to approve the modified text and move forward with the regulatory process. Roll call vote taken, motion carried 6-0-0. (YES – Thompson, D’Amico, Yoon, Davidson, Worrels, Singleton / NO – none / Abstentions – none).

Agenda Item 6

Pending Regulations Status Update

Executive Officer, Rebecca Mitchell, provided the update on the AB 2138 that had modified text approved during this meeting and stated that she would continue the regulation process for the package. Also provided the information for regulations below:

- Notice to Consumers: Title 16 CCR section 4255 – Filed with OAL and will have a publication date of 2/26/2021, at that time a notice will be posted for a 45-day public comment period that will end on 4/13/2021 at 5:00 pm.
- IV and Advanced Injection Therapy Requirements: Title 16 CCR section 4235 – Language was reviewed by regulation attorney and staff will be working on the package documents.
- Fees: Title 16 CCR section 4240 – Will be part of a group package with Inactive and Retired Status since they are dependent on the fees moving forward. Staff currently working on the package documents
- Inactive Status: Title 16 CCR 4227 and 4228 – Will be part of a group package with Retired Status and the Fees package since they are dependent on the fees moving forward. Staff currently working on the package documents
- Retired Status: Title 16 CCR 4229 – Will be part of a group package with Inactive Status and the Fees package since they are dependent on the fees moving forward. Staff currently working on the package documents

Agenda Item 7

Social Media and Consumer Outreach Update

The Committee reached out to the DCA and requested consultation for a social media campaign. Ms. Cheri Gyuro, from the Office of Public Affairs created a communications plan for the Committee that will assist in spreading the Committee's message to the public and help consumers make solid choices when selecting an ND. Mr. Gyuro presented some of the updates in the respective social media sites and outlined the comprehensive plan that she has created for the Committee.

Ms. Gyuro has established a Twitter and LinkedIn account and will work on creating a Facebook, Instagram and Hootsuite to assist in posting content to three of the social media accounts at once.

Members had great feedback and really hope that the content can be posted by one of the Committee Members to help in keeping consistency in posting content.

Dr. Greta D'Amico requested that the DCA policy for internet posting be shared with the Committee to assist in keeping messaging consistent and within current policies. Ms. Gyuro suggested that the Committee use a program called Archive Social that can assist in flagging possible policy violations.

Agenda Item 8

California Naturopathic Doctors Association (CNDA) Update

Kathy Konst, Executive Director, CNDA provided an update on current dealings and upcoming events. Ms. Konst shared that they have social media presence and is eager to share any messaging that the Committee provides them with.

Ms. Konst also provided information that CNDA has been working with both EO Mitchell and the DCA leadership to get a waiver approved by Gov. Newsom that will allow independent ordering and administration of the COVID-19 vaccine for licensed naturopathic doctors. The request is currently under review with the Governor's office.

Ms. Konst also provided a presentation on the *The Realize a Healthy California (RHC)*, a non-profit organization that CNDA has created to assist with getting naturopathic healthcare and information to the public. The RHC developed a plan for a mobile health program to assist with getting primary care to those in underserved communities and hopes to have it available in early 2022.

Agenda Item 9

Naturopathic Physician Licensing Examination (NPLEX)

As originally discussed during the 12/1/2020 meeting, the North American Board of Naturopathic Examiners (NABNE) is surveying naturopathic regulatory entities to determine which agencies, if any, would allow an online Naturopathic Physicians Licensing Examination (NPLEX) instead of the current in-person, written exam.

Ms. Tracy Montez, Chief, DCA Division of Programs & Policy Review provided a presentation to the Committee outlining some of the processes that would go into transitioning away from in-person, written exams to online and/or computer-based examinations. Ms. Montez informed the Committee that there would be a need for occupational analysis and examination development, along with costs associated to the studies and development. She also advised that at this time, it is the Department's stance that national exams should remain, in-person whether written or computer-based exams and should not be online in a home-environment.

After further discussion and weighing in the additional information on risks and benefits of in-person vs. online, computer-based examinations, the Committee agreed to oppose moving away from in-person examinations.

Motion – D'Amico / Second – Thompson, to provide NABNE with recommendation to **oppose** moving away from in-person examinations. Roll call vote taken, motion carried 6-0-0. (YES – Thompson, D'Amico, Yoon, Davidson, Worrels, Singleton, Quinn / NO – none / Abstentions – none).

Agenda Item 10

Executive Officer Update

- Budget Report

- Possible Budget Change Proposal for Enforcement

Mr. Carl Beermann was in attendance to provide a brief overview of the Budget Change Proposal to the members. Mr. Beermann also provided a report on the analysis of the fund condition along with the current revenue and expenditure projections for the Committee.

- Staffing

EO Mitchell provided her report on staffing stating that the Committee was understaffed for an eight (8) month period while its sole analyst was out on an unplanned leave of absence. All the Committee's workload was diverted to the Executive Officer and processed within normal timelines. There were no backlogs during staff absence.

On 10/13/2020, staff returned to work and resumed duties on a half-time basis. The Executive Officer still covers any duties not currently performed by the analyst. However, due to a busy legislative and regulatory year and with the oversight review coming upon us, the executive officer position can no longer cover the workload of the enforcement unit. At this time, the Committee is planning to hire a part time enforcement analyst. This may become a permanent full-time position in the future depending on business needs.

At this time, staff remain working within a hybrid-telework system without any issues. There have been some slight decreases in licensing performance measures. While we always stayed well within the 45-day processing times, usually under 35 days, it does appear that the processing time have risen to 52 days. I will continue to monitor this to find out what is causing the increase in processing times and will put policies in place to ensure that we can correct the times.

EO Mitchell additionally reported that while all state agencies are being asked to reduce expenditures, the hybrid-telework option can assist with office space cost reductions in the future; in addition, the Committee can do its part in reducing carbon footprints and allowing staff a better work-home life balance. However, business needs and consumer protections are mission critical to the Committee and if needed staff may have to return to working in the office more in order to bring the times back down under the performance measure standards.

- Impact of COVID-19 on Committee Operations

EO Mitchell updated the Committee on the COVID-19 impacts, she reported that on March 30, 2020, Governor Newsom issued Executive Order N-39-20. This Executive Order authorized the Director of the Department of Consumer Affairs (DCA) to waive any of the professional licensing requirements and amend scopes of practice in Division 2 of the Business and Professions Code and regulations.

DCA 20-01 Continuing Education – Active Licensees could renew their license without meeting the CE requirement. Licensee would need to meet their CE requirement within 6 months of the end of the State of Emergency.

DCA 20-02 Reinstatement of Licensure – Inactive licensees could reactivate their license without fee and other requirements for the duration of the State of Emergency.

On September 23, 2020, Director Kirchmeyer issued an order waiving the restrictions on internet-based continuing education training for chiropractors and naturopathic doctors.

This waives California Business and Professions Code section 3635, subdivision (a)(2), to the extent it limits to 15 hours the maximum number of continuing education hours that may be completed through computer-assisted instruction, subject to the condition that such instruction consists of Internet- or web-based courses that allow participants to concurrently interact with instructors or presenters while they observe the courses. There is no expiration date on this waiver and will be rescinded upon the end of the State of Emergency.

For the first part of the year, the offices were closed to the public, but have since reopened. Additionally, sanitizing common areas, staff cubicles and high-traffic areas are being adhered to, along with social distancing, mask-wearing and using hand sanitizer when hand-washing is not available.

- Licensing Report
 - IVT Specialty Modifiers on License Cards

EO Mitchell, gave a presentation on the new changes to the IVT specialty. The Committee made the changes to the BreEZe system that allows the IV therapy specialty to show up on an NDs license. The NDF or Naturopathic Drug Furnishing number is to the right of the License number, and if appropriate, the “**IV Sp**” indicates that the licensee has met the requirements to have the IV therapy specialty added to their scope of practice.

This is also true when a license verification is conducted through the BreEZe license lookup. The Secondary status for the NDF number is present and below that, if applicable, the Specialty for IV Therapy will be indicated. This will assist pharmacists and others in knowing what scope the ND has.

EO Mitchell also provided a report of the licensing data:

- The NMC’s total licensee count as of February 23, 2021:
- Active/Current Licensees – 907
- Inactive/Current – 22
- Delinquent – 143

The total number of licensees under the NMC’s jurisdiction is 1,072.

- Enforcement Report

EO Mitchell updated the Committee on the enforcement unit. Currently, the NMC has 71 total enforcement cases open. Of the 71 cases, 25 are against licensees while the remaining 46 cases are against unlicensed individuals.

The unlicensed activity still remains the largest portion of the NMC's enforcement caseload. This is however, the lowest percentage of enforcement cases against unlicensed activity in the last 5 years. It does appear that the educational material that the Committee sends out upon an initial complaint, may be in part, assisting to lower those numbers. We hope that continuing our educational and informational outreach campaign will keep the trend of lowering the unlicensed activity within our Committee.

Unlicensed activity consists of all the following:

- Using the naturopathic doctor (ND) title
- Not providing a written disclaimer of unlicensed practice to their client and having a signed copy by the client on file.
- Providing Diagnosis
- Providing Treatment within the scope of an ND

There were 6 new cases received since the 12/1/2020 meeting and no cases have been closed in that time period.

Currently, the NMC has 25 total enforcement cases opened on ND licensees. Of the 25 cases, the breakdown of violation types are as follows:

- Advertising violations – 10 or 40%
- Failure to update address with the committee – 2 or 8%
- DUI related violations – 3 or 12% (2 of these were based on applicants who provided prior conviction information during the application process)
- Unprofessional Practice – 7 or 28%
- Records only – 1 or 4%
- Death or patient harm – 2 or 8% (although this includes death and patient harm, the 2 cases are patient harm and no deaths)

- Strategic Plan Update

EO Mitchell provided an update on what was left to complete in the Committee's [current strategic plan](#), going over each of the goal areas. Some of the items that were scheduled to be started or completed during 2020 were extended due to COVID-19 challenges.

An update will be provided to the Committee on an ongoing, quarterly basis.

- Legislative Update
 - AB 5 and Independent Contractor Issues

EO Mitchell advised that AB 5 should be something that the professional association should work with the author of AB 5 to correct leaving out NDs in the same manner as physicians. This is not a matter for the Committee to handle as this is not a consumer protection issue.

Agenda Item 11 Establish Oversight (Sunset) Review Subcommittee

After discussion about needs for the upcoming Oversight Review, the Committee decided to establish two (2) subcommittees to assist with the preparation of the Oversight Report. With two subcommittees of two (2) members each, they would be able to work in an adhoc basis.

Dr. Thompson, Chair appointed Dr. D’Amico and Dr. Yoon on one subcommittee and Dr. Thompson and Dr. Davidson on the second subcommittee.

Agenda Item 12 Future Agenda Items and Next Meeting Dates

Items for future agenda:

- Social Media Subcommittee
- Oversight (Sunset) Review
- Budget Report

The next meeting date will be scheduled for Thursday, April 29, 2021 at 9:00 a.m.

Agenda Item 13 Adjournment

There being no further business or public comment, Dr. Thompson adjourned the meeting at 1:12 p.m.