

## MEMORANDUM

<b>DATE</b>	06/26/2023
<b>TO</b>	Board Members
<b>FROM</b>	Rebecca Mitchell, Executive Officer
<b>SUBJECT</b>	<b>Executive Officer Update – 06/29/2023 Meeting</b>

This report provides the Board Members of the California Board of Naturopathic Medicine with information on the following topics:

- Board Member Vacancies
- Office Relocation
- Staffing
- Licensing Statistics
- Enforcement Statistics
- Budget Update
- Board Member Training
- Federation of Naturopathic Medicine Regulatory Authority (FNMRA) Update
- North American Board of Naturopathic Examiners (NABNE) Advisory Council Meeting, April 21, 2023, Update
- Consultation to Idaho Chapter of the American Association Naturopathic Physicians (AANP) and Idaho Department of Professional Licensing (IDOPL) Update

### **Board Member Vacancies:**

The Board is still experiencing appointment vacancies. Currently, the following Board Member positions are vacant:

- 1 professional member (ND, licensed in the state of CA) vacant since 2/2022;
- 1 physician and surgeon, (MD/DO physician) vacant since 9/2019.

Mr. Andrew Yam was appointed to the public member vacancy for the Speaker of the Assembly on 06/26/2023.

There is one professional member currently servicing their grace period which expires on 12/31/2023.

Staff is working with DCA and the Governor's Appointment Office to get the positions filled.

### **Office Relocation:**

On April 1, 2023, the Board relocated to the Department of Consumer Affairs, HQ2 office located at 1747 N. Market Blvd., Ste. 240, in Sacramento. The Board currently leases a suite that is shared with the California Board of Registered Nursing's Licensing Division.

Staff was present to complete the move of property to the new site. There were no delays to licensing or enforcement processing. Mail delivery was slightly delayed but was resolved within the first three weeks after the move. All services are now being managed with no delays or challenges.

### **Staffing:**

During the 2022 Oversight (Sunset) Review process, the Board provided information to the Legislature about the ongoing issues with unlicensed practice. Assembly Bill 2685 (Chapter 414, Statutes of 2022) was the sunset bill that changed the Committee to the California Board of Naturopathic Medicine along with providing authority to hire an additional staff member to assist with the large unlicensed activity.

Staff prepared a Budget Change Proposal requesting the authority to create an analyst position for enforcement tasks. The position was approved for a full journey level analyst at an AGPA classification. Staff has started working with DCA's Office of Human Resources to develop duty statements and the required hiring documentation. This process has been suspended temporarily.

The Board was recently advised that there should be a management level staff who can cover the delegated functions in the absence of the Executive Officer. Currently, the Board does not have a staff at an appropriate classification level to implement this mandate. The Board may need to hold off hiring for the analyst position since there may be a need to reclassify it to a manager level position. The Board would not be able to fund two analyst positions and an additional management position.

### **Licensing Statistics:**

Applications received and approved between October 1, 2022, and June 26, 2023, are as follows:

	<b>2022 – Q4</b>		<b>2023 – Q1</b>		<b>2023 – Q2</b>	
	<b>Rec'd</b>	<b>Approved</b>	<b>Rec'd</b>	<b>Approved</b>	<b>Rec'd</b>	<b>Approved</b>
<b>License Application</b>	15	35	20	24	24	15
<b>Initial License Fee</b>	32	35	15	16	19	16
<b>Renewal Application</b>	141	129	128	116	204	97
<b>Totals</b>	<b>188</b>	<b>199</b>	<b>163</b>	<b>156</b>	<b>247</b>	<b>128</b>

The table below shows the CBNM's total licensee count as of June 26, 2023. The total number of licensees under the CBNM's jurisdiction is 1,422.

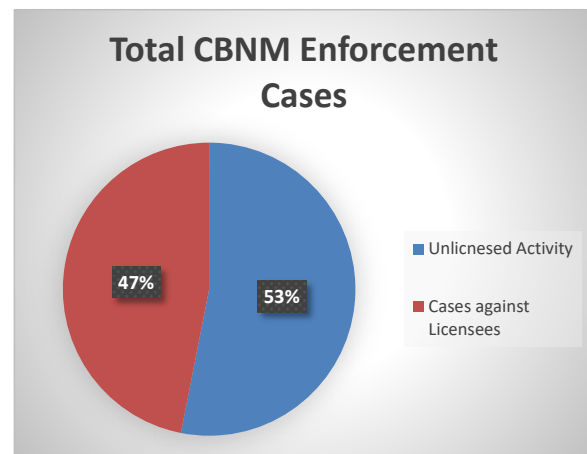
<b>License Status</b>	<b>Number of Licensees</b>
<b>Active/Current</b>	1001
<b>Inactive/Current</b>	27
<b>Delinquent</b>	116
<b>Other (Retired, etc.)</b>	278
<b>Total:</b>	<b>1,422*</b>

\* Total licensees under the CBNM's jurisdiction

## **Enforcement Statistics:**

The unlicensed activity continues to remain the largest portion of the CBNM's enforcement caseload making up 53% of cases. We hope that continued educational and informational outreach campaigns will assist in reducing the unlicensed activity. The Board is increasing educational letters to traditional naturopaths that use the ND title without the benefit of a license or who violate the Naturopathic Doctors Act. We have been successful in gaining compliance prior to the issuing of citation and fine and/or cease and desist letters.

Case Type	Qty.
Unlicensed activity	60
Cases against licensees	53
<b>Total cases</b>	<b>113</b>



The unlicensed activity consists of all the following violation types:

- Using the naturopathic doctor (ND) title (CA Bus. Prof. Code §3660)
- Not providing a written disclaimer of unlicensed practice to their client and having a signed copy by the client on file per CA business and profession section 2053.6. (CA Bus. Prof. Code §3644)
- Providing Diagnosis in violation of CA Business and Professions code section 2053.5. (CA Bus. Prof. Code §3644)
- Advising their clients to discontinue medication prescribed by licensed healthcare providers also prohibited within CA BPC section 2053.5 (CA Bus. Prof. Code §3644)
- Providing Treatment within the scope of an ND without the benefit of a license (CA Bus. Prof. Code §3644)
- Causing harm or death to clients (CA Bus. Prof. Code §3644)

CBNM had 26 new cases submitted from 11/11/2022 through 06/26/2023. Staff has been working hard on getting complaints closed. Since the last report (11/10/2022), the Enforcement Unit has closed 18 cases and revoked one (1) licensee for Unprofessional Conduct. Currently, there are several that have been resolved and are awaiting management review and closure.

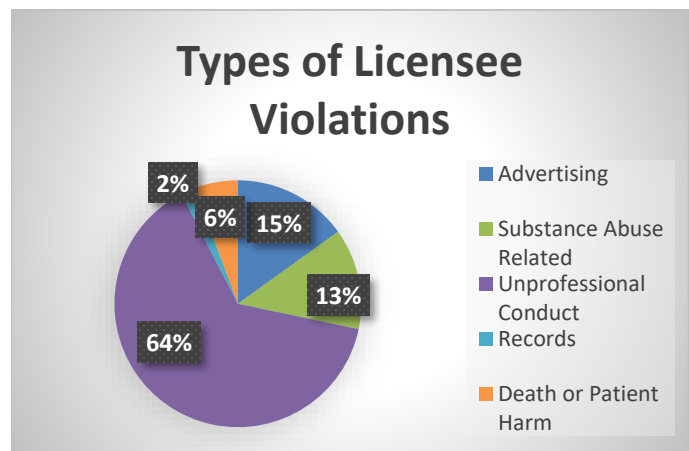
New Case Intake	Cases Closed
26 (15 UNL   9 LIC   2 APP)	18

Violation Types that make-up enforcement cases against our licensees and applicants are separated into several violation categories.

Currently, the Board has 53 total enforcement cases opened against licensees. Of those 53 cases, the breakdown of violation types are as follows:

- Advertising violations – 8 or 15%
- Failure to update address with the committee – 0
- Substance abuse related violations – 7 or 13%
- Unprofessional Conduct – 34 or 64%
- Records only – 1 or 2% (not releasing upon patient request)
- Patient harm - 3 or 6%

Types of Licensee Violations	QTY.
Advertising	8
Failure to update Address	0
Substance Abuse Related	7
Unprofessional Conduct	34
Patient Records	1
Death or Patient Harm	3
<b>TOTAL</b>	<b>53</b>



### **Budget Update:**

Staff from DCA – Budget Office will be presenting the budget update.

### **Board Member Training:**

- EEO Policy
- Board Member Orientation Training (BMOT)
- Defensive Driving Training
- Ethics
- Sexual Harassment Prevention
- Information Security

### **Federation of Naturopathic Medicine Regulatory Authority (FNMRA) Update:**

Next FNMRA meeting will be scheduled for November 2023. There is nothing new to report since the last meeting.

### **North American Board of Naturopathic Examiners (NABNE) Advisory Council Meeting, April 21, 2023, Update:**

EO Mitchell attended the NABNE Advisory Council meeting on April 21, 2023, as the representative of FNMRA to provide insight as a regulator. During the meeting, EO Mitchell provided information to the Advisory Council regarding CA AB 765 that would have prohibited NDs from utilizing long-used specialty titles such as naturopathic “pediatrician” and “gastroenterologist”.

EO Mitchell also outlined the top three issues that NABNE should focus on in the new term (1-2) years from the perspective of regulators:

- Support licensure efforts
- Monitor industry standards and ensure NABNE is following and testing for those standards
- Continue monitoring types and counts of disciplinary actions against NDs, nationwide.

EO Mitchell reported on data from the Federation of Naturopathic Medicine Regulatory Authorities (FNMRA) Disciplinary Actions Summary, outlining the number of total enforcement actions taken on NDs since 2010, nationwide.

<b>ND acts that potentially harm patient (Indirectly)</b>	15
<b>ND acts that harm patients (Directly)</b>	154
<b>ND acts related to the administration of naturopathic medicine practice</b>	60
<b>Total</b>	<b>279</b>

**Consultation to Idaho Chapter of the American Association of Naturopathic Physicians (AANP) and Idaho Department of Professional Licensing (IDOPL) Update:**

Background of Naturopathic Medicine in Idaho:

- *Idaho has an existing board that licenses naturopathic doctors as Naturopathic Medical Doctors (NMD).*
- *The State of Idaho has created through legislation, a new board that would license naturopathic doctors (ND). However, the NDs of the new board would be any healing arts practitioner, licensed under another medical profession, that chooses to become an ND. These individuals would simply use their respective active license, and licensing examination administered by their respective healing art professions as proof of competency. They would not be required to take any additional education, training, or licensing examinations in naturopathic medicine.*

*Further, after the ND license is issued, the individual could then let their original healing arts license lapse or cancel and would be able to remain practicing as a naturopathic doctor*

- *In addition, the new board will register traditional lay naturopaths.*

The Idaho Chapter of the American Association of Naturopathic Physicians (AANP) requested EO Mitchell to provide testimony and consultation to the Idaho department of Professional Licensing (IDOPL) about the challenges that

California has experienced with unlicensed activity, and the costs to create and fund a new board.

On May 31, 2023, EO Mitchell provided IDOPL with information on the challenges and costs associated with unlicensed practice. EO Mitchell informed IDOPL that although there are laws in place that allow non-licensed naturopaths to practice naturopathy, that they may not diagnose or advising their client to stop treatments prescribed by their licensed primary health practitioner. Further, lay naturopaths must provide the proper written disclaimer that is required by law for all unlicensed healing arts individuals and that a lot of the enforcement actions involve violations of these current laws.

The startup costs and how funding was provided of the former Bureau of Naturopathic Medicine was also reported to IDOPL.