



NATUROPATHIC MEDICINE ADVISORY COUNCIL

Meeting Minutes January 21, 2007

COUNCIL MEMBERS PRESENT:

Carl Hangee-Bauer, ND, Chair
Trevor Holly Cates, ND, Vice Chair
Cynthia Watson, MD
Soram Khalsa, MD
David Field, ND
Alexandra Cock, JD, Public Member

COUNCIL MEMBERS ABSENT:

Mary Hardy, MD

STAFF PRESENT:

Kurt Heppler, Legal Counsel
Tonya Blood, Bureau Chief
Francine Davies, Program Coordinator
Linda Brown, Program Coordinator

1. Welcome and Call to Order

The meeting was called to order at 11:10 a.m. Roll call was taken and a quorum was declared.

I. Approval of the September 17, 2006 Meeting Minutes

Correction to page 1, section II, second line, insert "word" before "subcutaneous".
Correction to page 3, third paragraph, second to last line, delete the word "a" between the words "has" and "several". Also, fourth paragraph, insert the word "a" after the word "was". The minutes were approved as corrected.

II. Chair Report

Dr. Hangee Bauer stated Daisy Ma has resigned as a public member of the Naturopathic Advisory Council. He wanted to publicly thank her for her service.

III. Bureau Report

Chief Tonya Blood reported that we now have 225 licensees, but five have not renewed and the Bureau has been notified that three more will not renew by the end of February. Of the NDs not renewing, some are moving to other states, one

is taking off to become a registered nurse, and one is going on maternity leave. There are usually 18 to 20 NDs with pending applications at any given time. There will be another set of NPLEX examinations in February and several people have called stating they will be sending in an application when they receive the results of those exams.

Tonya stated that the budget for this fiscal year is very tight with a projected surplus of \$386.00. The costs to run the Bureau have increased in areas where the Bureau has no control such as the \$5000.00 pro rata increase imposed this year. There are not a lot of places in which to cut expenditures. The Bureau had wanted to send brochures to all of the NDs. However, it cost the Bureau \$1500.00 for the 2500 brochures that were printed and there is no money in the budget to reorder. The 2500 are being used for outreach and being mailed to consumers upon request. Dr. Khalsa suggested that we send one to each ND and sell the rest to them. Tonya stated the Bureau does not have the authority to charge for the brochures. A second PDF version should be available on the website in a month or so that can be downloaded and printed. Legal will look into this matter further.

The Bureau Chief also stated that the Reports to the Legislature went to the Governor's Office, unmodified by Agency, on December 27, 2006. The Bureau is waiting for the Governor's Office to notify us of approval, at which time the Bureau will send copies of reports to committee members and the reports will be made available to the public on the website. The reports represent a huge amount of work by a large number of people.

Tonya also reported that recently enacted legislation mandates that we modify the websites for all state agencies. The impetus was to make the websites more user friendly to persons with disabilities. Information will be moved around and relabeled. Meeting information will continue to be posted timely on the website during this period of transition.

IV. Frequently Asked Questions (FAQ) – Draft Review

Council and departmental members reviewed four FAQ draft documents that will eventually be posted on the website. Francine stated that the FAQs must be written in simple, easy to understand language in order to meet state agency requirements for website content. The departmental process for review of material for the website is long and there will be changes in some of the wording.

There was an inquiry as to why the question and answer under "General Questions" stating NDs cannot treat cancer was part of the document. Francine replied that this question has been asked by the public, by NDs, and by potential licensees. The only statutory reference she could find was Health and Safety Code Section 109290. It was understood from discussions with departmental

staff that NDs could not treat cancer without the permission or consent of an MD. Legal will be doing a review. Dr. Hangee-Bauer said it was his understanding that NDs don't treat cancer – they do adjunctive therapies, herbal medicines, nutritional counseling, and acupuncture if licensed to support health.

A number of suggestions for corrections were made concerning the content of the draft documents. It was suggested that certain FAQs appear under more than one heading, such as displaying “Unlicensed Practice” and “General” in the “Consumer” section. Also, it would be helpful to add pertinent sections of the “Medical Practices Act” to the website.

Dr. Hangee-Bauer stated he tells his patients to submit his paid receipts to their insurance providers for reimbursement. He said with the right diagnosis and procedure codes, patients have been pleasantly surprised with the amount of reimbursement. There is no list of insurance providers who pay for or reimburse ND care. People need to consult with their providers.

There was a discussion concerning use of title and requirements for unlicensed practitioners to state that they are unlicensed in advertisements and on client disclosure forms. Use of the term “Board Certified” by unlicensed practitioners and licensed NDs was also discussed. Dr. Mazza stated that she advises NDs not to use the term and will write an article in the CNDA newsletter to that effect. Francine stated that some NDs have called and asked if they can use “NMD” (naturopathic medical doctor); since nothing in statute defines what an ND are required to call themselves, many NDs are using “NMD” and/or “Board Certified”.

V. Community Outreach Opportunities

NDs are looking for ideas on how to interface other healthcare professionals such as speaking at conferences, etc. Health fairs would be a good place for the Bureau to set up a booth to pass out brochures and answer questions. However, the budget will only allow for attendance at local affairs. Tonya said that the department's Complaint Mediation Unit participates in frequent outreach and can distribute the Bureau's brochures.

Dr. Hangee-Bauer said he spoke at a Board of Pharmacy meeting and it turned out to be a good educational opportunity. The Bureau is available to attend other Board meetings and make proactive connections as long as the meetings are local. NDs can attend meetings of different associations and educate those professionals about naturopathic medicine.

VI. Continuing Education Process

A discussion document was prepared for this meeting because the continuing education (CE) process must be complete before next year. Most boards and

bureaus have a self-certification process – there is a box on the renewal form to check and the licensee signs the certification. There is usually a 10% annual random audit of CE each year.

There was a discussion about whether or not a licensee could make up CE in a subsequent license period if they failed to complete credits on time. The naturopathic laws do not allow for make-up of CE past the renewal date – that would require a statutory change. If there was a bonafide error found during an audit, discretion could be used. A non-bonafide error could result in an accusation or violation. Due process would allow for continued practice until the Bureau took the license away. The Bureau Chief has discretion for remedy or to take action. Discretion should be used lightly. Make-up language makes that very difficult to administer.

Approving organizations for CE were discussed. The Bureau has concerns with approving courses because they are not experts. For example, the Acupuncture Board has one board member (a licensed acupuncturist) whose job it is to review and approve CE along with a staff person.

The Bureau backs a general provision to allow courses given by approved naturopathic colleges to be approved for CE without course review. Existing statute allows for CE to be approved by the Chiropractic, Medical, and Pharmacy Boards. Kurt said that there is room for the Bureau to define by regulation what they (the Bureau) can accept in the way of course content. The Bureau Chief said she has concerns in limiting the definition of course content from the Boards. For instance, the Pharmacy Board is not going to tailor any of their approved courses for naturopathic doctors. Also, naturopathic doctors need to know about drugs they do not prescribe but their patient may be taking. There was a suggestion that an ad hoc committee be formed to help the Bureau approve courses. The CNDA approves CE twice a month – The Bureau could contact Dr. Sijbrant from the Professional Development Committee for information. Dr. Hangee-Bauer volunteered to serve on the committee. Dr. Khalsa said he would be available by phone or by e-mail.

The Bureau does not have regulations in place to charge for approving CE. Reviewing CE might result in a need to increase staffing and it is unknown if enough fees could be generated to offset additional staff time. The Acupuncture and Medical Boards (among others) allow for self-certification. Option A from the discussion document looks like the best solution right now. Forms reflecting Option A have already been developed.

VII. Diversion Program

At a previous Advisory Council Meeting, Dr. Hardy suggested that a diversion and disciplinary program be put into place before it is ever needed for

naturopathic doctors with drug/alcohol/mental problems. People entering diversion programs are self-referrals and participant information is confidential. The Medical Board pays for its program (except for lab fees and 12-step program) through its license fees. The Bureau of Naturopathic Medicine could not cover the costs.

Linda reported that smaller boards and bureaus use Maximus. She will follow up with other boards and bureaus. All costs will have to be borne by the ND – however, that would be a deterrent to using the program. A statute or regulation is needed to protect the privacy of NDs in a diversion program. The cost of using the program is \$650 to \$700 per month plus fluid testing. The disciplinary actions could also require participation in a diversion program. The department might back legislation because of a risk to public safety. The initial start-up costs for a diversion program could be waived if naturopathic doctors piggybacked on to another board or bureau who already has a contract.

It was suggested that a statutory change makes sense before the program is needed, but to table the discussion about the program for a year while getting authorization for a statute change this year. Dr. Hangee-Bauer suggests a statutory change for ND confidentiality and that NDs would bear the costs of participation in a diversion program. Dr. Khalsa agreed.

IX. California Naturopathic Doctors Association - Activities

Dr. Mazza reported that the CNDA is in a state of transition. They are looking for an executive director and an executive assistant. This year's priority will be organizational restructuring.

Legislative plans are:

- (1) Sales Tax Laws: Board of Equalization (BOE) realizes there is a disparity between laws for MDs and NDs who sell supplements. Since BOE cannot support legislation on anything that would impact revenue, CNDA will be proposing legislation and BOE will support it. It was suggested to piggyback this legislation on other tax legislation this year.
- (2) CLIA Waive Tests: Prescribing is a bigger issue – CNDA will concentrate on CLIA, which is a necessity and impacts the function of NDs as primary care doctors. Specifically, they will pursue pregnancy, glucose, and occult blood tests.

CNDA is planning a Legislative Awareness Day at the Capitol to gather support.

CNDA supports the Bureau in seeking legislation for a diversion program. The Bureau will put statutory changes in motion.

X. Tentative Future Meeting Dates and Locations

The following tentative future meeting dates were set for 2007:

May 20, Sacramento

September 16, Los Angeles/Burbank

Discussion: Does the Naturopathic Advisory Committee need a May meeting? And do you want the meeting held in Sacramento? The Council will wait and see.

Alexandra Cock cannot make the May meeting and her time is up on the Council on June 30th. Additionally, Dr. Hangee-Bauer may not be able to attend the May 20th meeting. The Bureau will be in touch with the Advisory Council. The Reports to the Legislature should be out by then.

XI. Public Comment

Jeff Goin from the Coalition for Natural Health asked the status of vacancies on the Council and what is being done to fill them. CNDA said they will actively advertise vacancies on their website. There will be three vacancies by June 30th – one from each appointing power: Governor, Assembly Speaker, and Senate Rules Committee. There is no cost for the appointment or approval processes. However, costs to attend meeting are not reimbursed, and a Council member who phones in would have to agree to have their home as a public meeting place. Tonya will see if the vacancy information can be posted on the Bureau's website.

Alexandra Cock stated that it might be a struggle for public members to feel like they are making a contribution. They could do community outreach and be a voice for public issues. Kurt said there is an orientation for board members. However, Naturopathic Medicine is a bureau not a board, and the fees to attend the training and travel expenses could not be reimbursed.

XII. Adjournment

The meeting was adjourned at 1:10 PM.