



NATUROPATHIC MEDICINE ADVISORY COUNCIL

Meeting Minutes March 9, 2008

**COUNCIL MEMBERS
PRESENT:**

Carl Hangee-Bauer, ND, Chair
Trevor Holly Cates, ND, Vice Chair
Soram Khalsa, MD
David Field, ND
Mary Hardy, MD

**COUNCIL MEMBERS
ABSENT:**

Cynthia Watson, MD

STAFF PRESENT:

Dianne Dobbs, Legal Counsel
Mellonie Yang, Bureau Chief
Francine Davies, Program Analyst

I Welcome, Call to Order, and Establishment of Quorum

The meeting was called to order at 11:20 a.m. Roll call was taken and a quorum declared.

II Approval of the September 9, 2007 Meeting Minutes

The minutes were approved as written.

III Chair Report

Dr. Hangee Bauer stated he would defer the Chair Report to the end of the meeting.

IV Bureau Report

Francine introduced the new Bureau Chief, Mellonie Yang, to the Advisory Council. Chief Yang was appointed by the Governor's Office as chief of the Professional Fiduciaries Bureau and then appointed as chief of the Bureau of Naturopathic Medicine, Hearing Aid Dispensers Bureau, and Telephone Medical Advice Bureau by the Director of the Department of Consumer Affairs. She is excited to be Chief of the Bureau of Naturopathic Medicine and looks forward to

working with the Advisory Council. She previously served as a Senior Attorney for the California District Attorneys Association and worked on legislation, policy, and budget matters with the Legislature.

Francine gave the following report regarding the Bureau:

There are 296 licensees to date and projecting 300 by July 1st. Of those, 18 have lapsed, 2 are inactive, and 45 have out of state addresses. There are 26 pending licenses, 20 will probably license in the next six months.

In calendar year 2007, there were 48 complaints, 46 of those for unlicensed practice, 2 complaints against NDs.

Budget information – we are right on target, maybe a little ahead as we are slightly ahead of our target of 300 licensees by June 30th.

The new web site is up! I added, with the help of our legal staff, new forms, and revised all other form to reflect the P.O. Box address due to the Bureau's move last July. New forms include Change of Address, Active/Inactive, and Renewal forms.

We still need photos of Dr. Field, Dr. Watson, Dr. Hardy, and Dr. Khalsa for the web site. I will use the most current biography provided or use the biography from the Reports to the Legislature.

Mellonie added that the Department is putting together a conference for the week of November 17th for the boards and bureaus. They've requested the programs schedule their board or advisory council meetings either on Tuesday Nov. 18th or Thursday Nov. 20th, saving Wednesday for training opportunities for boards and bureaus. The first lady may attend Wednesday, and the Governor may also make an appearance. The conference gives boards and bureaus the opportunity to see what other boards/bureaus are doing, there will be panel discussions and workshops on Wednesday, and it will give the department and boards/bureaus a chance to network and be more visible to the public. The Department is requesting that the boards/bureaus schedule their Fall meetings during the conference. Mellonie said she realizes that there could be difficulty for the Advisory Council to schedule a meeting during this week, but it would be a good opportunity. Mellonie stated members could attend the panel discussions and workshops and other general events even if they did not hold a meeting during that week. Dr. Hardy asked if the classes were mandatory for Advisory Council members or Bureau staff. Mellonie stated that there are required trainings for Advisory Council members. Dr Hardy asked that if a member could show they participated in Sexual Harassment training any time in the past 3 years, that it could be substituted for this training. Dianne Dobbs stated that she could submit it for review by the Executive to make sure it met the requirements.

Dr Hangee-Bauer asked if some of the travel expenses could be reimbursed since the Naturopathic budget was in good shape. Francine stated the Bureau looked into reimbursement of travel expenses during the Formulary Committee meetings, but the law specifically prohibits reimbursement. Dr Field wanted to know if that would be true for mandatory attendance at the training – Francine said that the Reports to the Legislature were mandatory, as well.

Dr. Khalsa stated that members include very busy physicians and that's why the meetings are scheduled for Sundays, especially since they are volunteer positions and they are paying their own way. It would be a big hardship to attend a meeting during the week. Mellonie stated that the conference is an opportunity and she has already informed the Department of the unique status of Advisory Council meetings. Dr. Khalsa thanked her for her representation. There was a discussion about who might be able to attend or conference-in on a Monday night.

There was a question regarding the nature of the 2 complaints made against naturopathic doctors and how they were handled. Francine stated that one was referred to the Bureau by another Board. Action had not yet been taken and the Bureau cannot discuss the details of the complaint or the actions taken. Dr. Khalsa asked if there was a formal disciplinary plan as it had been discussed in prior years. Francine stated that there are regulations that spell out general and specific violations and what would be considered unprofessional conduct. Dr. Hardy asked if this was the rationale for the Application for Expert Reviewer included in today's meeting. Francine confirmed it was. Mellonie stated the Bureau was in the process of finalizing a "cite & fine" process for unlicensed persons and for specific violations as they appear in our regulations. Dr. Hardy asked for a report on the progress of developing that process by the next meeting. The 2nd complaint was made by a former employee of a ND – it is a matter outside of the department and the Bureau provided a response to the allegations based on the naturopathic laws and regulations.

Dr. Hangee-Bauer asked about the activity level of pre-NPLEX applicants before the December 31st (2007) deadline. Francine estimated there were between 20 and 30 applications.

V Legislative Update

Francine gave the following update:

SB 1048 was the department's omnibus bill in 2007, part of which would delete the 10-year re-test requirement for naturopathic doctors. That bill passed, was signed and chaptered, so the requirement was deleted.

SBX 124 information was placed in the Advisory Council packet as a heads up. It would delete the protocol for MD supervision of physician assistants and, thereby, would delete MD supervision protocol for ND prescribing since naturopathic law point to the MD/physician assistant law. No legislative action has been taken on the bill since February.

VI Discussion - Diversion Program for Naturopathic Doctors

The article from the Medical Board regarding their diversion program was characterized as depressing and informative. Dr. Hangee-Bauer pointed out the statement by Dr. Fantozzi regarding a possible statewide program for all licensed professionals. This would give the Advisory Council the opportunity to work with other boards on this issue – the Advisory Council discussed the possibility of working with the Medical Board to work on a generalized diversion program. Dr. Hardy said she would like to see the Council actively participate in helping solve this problem. A MD now found to be impaired will be disciplined, and possibly lose their license, and it will become public knowledge right away.

VII Update - Continuing Education Regulations

Francine stated that the regulations in the meeting packet would be developed into a regulations packet and that the Bureau was fortunate to have a Chief with experience in the regulations process. The Bureau would be clarifying their own process for approving continuing education courses and add language so there would be an automatic approval of any classes given by one of the approved naturopathic medical colleges.

VIII Discussion - Expert Reviewers Application Form

There was a question as to whether the form was a standard form or if it was developed specifically for naturopathic doctors. Francine stated it was a merger of the form used by the Registered Nursing Board and the Medical Board, but mostly resembles the one from the Registered Nursing Board because the one from the Medical Board goes into great detail regarding board certifications which do not exist for NDs. Francine indicated she surveyed the Washington, Oregon, and Arizona Boards to find out how their processes work – all three stated they review the complaint and then hand it off to the doctor they feel has experience in a particular area because there are no specialty board certifications. The Bureau Chief would like input from the Advisory Council on whether or not the five-year minimum practice qualification is acceptable. Since there has not been licensing for five years, the education and practice statement was added.

It was explained that the role of the expert reviewer is to review complaints for actions other than those spelled out in regulations. For example, for improper treatment or exception to a standard of practice. Since there is no established

standard of care, it would be up to the expert reviewer to establish that. The question was asked if this meant the Bureau was going to be reactive and respond to complaints as they occurred or would there be a proactive approach and establish a standard of care. Francine stated that the other states surveyed are reactive. There was a discussion about what would constitute an expert reviewer. There was an additional discussion why one would want to do this without being paid. Dr. Hardy stated that one would do it to be of service to the profession and that NDs are the ones most qualified to judge the actions of another. During the discussion, the point was made that if there is a formal hearing, the expert reviewer would not remain anonymous and would incur costs to make themselves available.

A question was posed to our legal council asking if there was anything preventing payment to expert reviewers? And could those costs be recovered from the defendant? It was suggested that expert reviewers should be compensated. Dianne stated that although there is no law prohibiting compensation, it would be a budgetary matter for the Bureau Chief. Dr. Hardy suggested that funds from cite & fine be sequestered to pay expert reviewers. Mellonie stated that the Bureau needs to consider enforcement costs (filing cases with the Attorney General's Office and Investigations) for cases coming down the line for the Bureau. Dr. Hardy suggested using licensed persons from other areas as reviewers such as using MDs to review IV practices.

Francine stated that the statistics given in the Bureau report were for license year 2007. Since the beginning of the year (2008), the Bureau has been notified by the Department of Justice of pending criminal action against one ND and there was a complaint about an ND that requires the services of an expert reviewer. After some discussion about the pay rate of expert reviewers from other boards, Dr. Hardy stated one gives their time because of professional responsibility. Dr. Hardy also suggested the Bureau look at finding expert reviewers outside the profession, such as MDs when looking at a cancer case, for instance. Using NDs from other states performing expert reviews of California NDs, or using MDs or acupuncturists in addition to an ND, would require the Bureau to be responsible for reimbursing them for their services. Instead of developing a pool of these people, the Bureau could tap into an already established set of expert reviewers here and from other states.

Dr. Field suggested adding the drug furnishing number to the application. Dr. Hardy suggested the form ask for other credentials or other specific training.

There was a discussion about how best to recruit NDs as expert reviewers. The Bureau will do a mailing with a cover letter explaining why expert reviewers are needed. There was a question as to whether or not a member of the Advisory Council can be an expert reviewer – Dianne stated there were no prohibitions. Members of Boards cannot be expert reviewers because they are the ones that

adjudicate their cases. The Advisory Council does not get involved with discipline, so there is no conflict of interest. As a general reminder, it was stated that NDs that serve as expert reviewers do so to protect the public good, not the profession. The five year practice qualification on the form was an acceptable requirement.

Dr. Hangee-Bauer volunteered to write a cover letter explaining the need for California NDs to volunteer as expert reviewers.

IX Discussion and Approval of Bureau Logo

After a short discussion, the Advisory Council members unanimously chose the cadeusus casting a shadow of a ginkgo leaf. The logo will appear on the web site and possibly on the Bureau's letterhead.

X. California Naturopathic Doctors Association (CNDA) Activities

In lieu of representation by CNDA board members, Dr. Hangee-Bauer gave a brief update of activities on behalf of the CNDA. He stated that the CNDA just went through a big change in leadership, including the new Legislature Chair, Dr. Marco Vespignani. The CNDA formed a new committee that will bring doctors with experience in to discuss new legislative proposals. The CNDA plans to introduce legislation in 2009.

The CNDA will be hosting a Merging Medicine Conference the weekend of April 12th in San Francisco on autoimmune disorders. They will also hold their membership meeting at that time.

The American Association of Naturopathic Physicians (AANP) is holding their annual conference in conjunction with the American Holistic Medical Association the third week of August in Scottsdale.

III Chair Report

Dr. Hangee-Bauer stated his first term on the Advisory Council will end in June (2008) and he wrote a letter to Governor Schwarzenegger stating he was not going to seek a second term appointment. Dr. Hangee-Bauer stated he had been on the council for four years and wanted to give other naturopathic doctors the opportunity to participate. He is also getting more responsibilities as a board member of the AANP and he needs to budget his time. He thanked everyone for his time on the council and stated he appreciates everyone he's worked with. Election of a new chairperson did not get on today's agenda, so that will have to take place at the next meeting.

Dr. Hangee-Bauer sent a letter to the CNDA and he said there is a naturopathic doctor actively applying for the position. Mellonie stated there were also positions open for public members and it would be nice to have a full council. She also thanked Dr. Hangee-Bauer for his service, as did Dr. Hardy and Dr. Khalsa.

Francine stated there were instructions for applying for a position on the Advisory Council on the Bureau's web site. Mellonie suggested that anyone applying also include letters of recommendation for the position. Dr. Cates suggested adding a note with the mailing of applications for expert reviewer stating the council is looking for public members.

XI Public Comment

None

XII Adjournment

The meeting was adjourned at 1:00 pm.