



## **Naturopathic Medicine Committee**

### **Meeting Minutes**

**April 11, 2010**

<b>COMMITTEE MEMBERS PRESENT:</b>	David Field, ND Caleb Zia, EdD Michael Hirt, MD Susan Brooks Tara Levy, ND Beverly Yates, ND KT Leung, CPA Soram Khalsa, MD-non-sworn Cynthia Watson, MD-non-sworn
<b>COMMITTEE MEMBERS ABSENT:</b>	None
<b>STAFF PRESENT:</b>	Albert Balingit, Legal Council Kimberly Kirchmeyer, Deputy Director for Board/Bureau Relations Francine Davies, Committee Staff

#### **1. Welcome & Call to Order**

The meeting was called to order at 11:27 a.m.

#### **2. Introductions**

Introductions were made by Committee Staff, Committee Members, Legal Council, and Department of Consumer Affairs (DCA) Directorate as well as members of the public.

#### **3. Establishment of a Quorum**

Roll call was taken. Albert Balingit, DCA Legal Council (Albert) asked which Committee members were sworn and which were not yet sworn. Six Committee Members were sworn and a quorum was declared.

#### **4. Election of Chairperson & Vice-Chairperson**

Dr. David Field, ND was the only person nominated as chairperson and was elected by a show of hands of those Committee Members eligible to vote. Dr. Field thanked the Committee for their confidence in him to protect the citizens of California and to move the profession of naturopathic medicine forward.

Nomination of a vice-chairperson was postponed until later in the meeting.

## 5. Chair Report

Dr. Field gave the following report:

Naturopathic medicine is in its infancy in California and has been in existence as a licensed profession for 100 years. He thanked those who served on the former Advisory Council (AC), those new members present on the Committee, and those present who served on both the AC and the Committee.

As the Bureau of Naturopathic Medicine (Bureau) was brought under the Osteopathic Medical Board, the Committee has increased responsibilities and their number one priority is to protect the citizens of California while offering the finest primary medical care available.

## 11. Naturopathic & Osteopathic Amendments: SB 1050

Before discussing SB 1050, Dr. Field asked Albert Balingit to explain AB X 420 which transformed the AC into a Committee.

Albert explained that as a Bureau, the Bureau Chief was responsible for enforcement and policy making. As a Committee, they would now be an independently responsible regulatory entity that would develop their own policies. The Committee will vote on regulations, judge and vote on enforcement actions, and be responsible for the budget. The Committee should review the budget and fund condition at each meeting.

Kimberly Kirchmeyer added that even though there is money in reserve, the Committee can only spend what is budgeted each fiscal year and there are processes that allow them to change the budget. She also reminded the Committee that the next Board Member Orientation Training would be held on June 29, 2010 at DCA headquarters and that they were also responsible for completing ethics training.

Albert explained that the Committee is under the jurisdiction of the Osteopathic Medical Board of California (OMBC) but the language of the bill creates an overlap: the executive officer (EO) of the Committee must be approved by the OMBC and that employees of the Committee are also the employees of the OMBC. SB 1050, introduced in February 2010, would exclude the two Naturopathic doctors (NDs) from the OMBC board that were added in AB X 420 and would amend the Naturopathic Doctors Act (Act) by changing the composition of the Committee effective January 1, 2011. It would also remove the requirement that the OMBC approve the Committee's choice for EO.

The Committee discussed the composition of other boards and noted that no other medical or healing arts boards are required to have MDs except the Physician Assistant Committee under the Medical Board of California, which is not a primary care board. It was suggested that the bill be amended to change the composition of the Committee to 5 NDs, 2 Public Members, and 2 MDs to bring the Committee in line with other healing arts boards, and that the provisions take place upon the termination or resignation of the MD and public member terms. Dr. Levy and Susan Brooks were appointed to draft a letter of approval for SB 1050.

## 6. Discussion/Approval of Letter of Approval/Support for the 2006 Reports to the Legislature prepared by the Bureau of Naturopathic Medicine

Dr. Field stated that NDs practice virtually as MDs in other states and that their scopes of practice include prescriptive rights, minor office procedures, and naturopathic childbirth.

Multidisciplinary professional expertise was utilized to produce the reports, especially in the area of formulary, and that the committee members made a huge sacrifice of time. Findings of

all three reports are still correct and considered valid. Dr. Field suggested that the Committee ratify the reports prepared by the bureau so that the Committee does not need to regenerate the reports per the language of AB X420.

The reports are not law, only recommendations, and have not been codified. The Committee can exact regulations in regards to the reports but must go through a public notice process. Ratifying the reports does not put the recommendations into regulations. There was no public comment and the Committee ratified the three reports to the Legislature submitted by the Bureau due January 1, 2007.

## **7. Committee Member Employment Training**

Francine walked the Committee members through their employment packages and travel claims forms.

Albert explained the requirement to complete the Form 700 found in the Governor's packet; this is required annually. He also explained the requirement to complete the Conflict of Interest Training, due every two years, and to mail the certificate to the Committee office upon completion. Board member Orientation Training is required once and Sexual Harassment Prevention Training is required every two years. Links to these requirements will be e-mailed to Committee members.

## **8. Committee Report: Move to OMBC, Licensing, Budget, Enforcement**

The Committee was not budgeted for the move to the OMBC. There was a discussion of the unplanned expenses including phone, fax, and lines, movers, cubicle build-out, and business cards, per diem, and travel expenses for Committee members.

**Budget:** At the end of 08-09, the Committee had 15 months in reserve and it is estimated that there would be 17 months in reserve at the end of 09-10, even with the increased and unexpected costs associated with the move. To avoid more money going into reserve in future years, more money will need to be budgeted including per diem and travel expenses for Committee members. Kimberly Kirchmeyer stated that the Committee needed to budget more for outreach. The Budget Office is projecting that the Committee will receive \$200,000 in revenue in 10-11.

**Enforcement:** Francine provided an overview of enforcement processes and statistics. To date, there has been only one complaint filed against a ND; the case went through the "expert reviewer" process, the ND was not found to be negligent, and the case was closed. For the sake of comparison, MDs in California have a 5-6% complaint rate. NDs in other states have lower complaint rates than other health care providers because their treatments are non-aggravating and NDs spend time educating their patients.

The Committee has only \$5000 budgeted for investigation and this needs to be increased. The Committee's budget analyst states the Committee has an additional \$50,000 to budget, so Committee staff will be working with the Budget Office to submit Budget Change Proposals (BCPs) for enforcement and travel/per diem.

## **9. DCA Director's Report**

Kimberly Kirchmeyer, Deputy Director for Board/Bureau Relations for the DCA, attended the meeting representing Director Brian Stiger. Kimberly will be working with Francine during the Bureau's transition to Committee status. In order to comply with the Consumer Protection Initiative (CPI), enforcement and unlicensed activity by the Committee will require an increase in budget line items.

Kimberly gave the Committee an overview of CPI and existing timeframes for enforcement. The DCA is looking at best practices and is working with DCA training to create the Enforcement Academy. A departmental BCP was approved that increased enforcement staff for individual boards and bureaus, but the Committee was not included. The DCA is working on a new licensing and enforcement system that will increase the efficiency of all the boards and bureaus; boards and bureaus will be charged for using the new system based on the number of licensees.

SB 1441 was adopted by the DCA and creates 16 standards regarding substance abuse that should be built into all board and bureau disciplinary guidelines. Since the Committee has no diversion program, the Committee should use the standards in lieu of a diversion program until such time as we pay for such.

The Office of Statewide Planning & Development (OSPD) was created to establish a Healthcare Clearinghouse. They are required to collect data on healthcare workers, geographic location, and ethnic diversity. The Committee should consider creating a survey to mail with renewals that would be separated out by the Cashiering Unit and routed to OSPD.

Kimberly thanked Dr. Khalsa for opening his office to provide a free meeting space today and stated all boards and bureaus were encouraged to find and use free meeting spaces.

## **10. Health Care Board's Enforcement: SB1111**

Kimberly asked the Committee for a support position on the existing language in SB 1111. The bill provides boards and bureaus with more options and shortens the length of time it takes to discipline licensees. A discussion by Committee members followed. A concern was raised regarding disgruntled or mentally ill patients filing a complaint against a licensee; it was suggested that caution should be taken when considering how the bill relates to due process for the public and for licensees. Since the bill is quite large and there are amendments in process, the Committee voted to take a "watch" position until such time as the Committees sets up a sub-committee to review legislation. Francine will draft a "watch" position letter for Dr. Field to send to the bill's author.

## **12. Discussion/Approval of Facilities Reimbursement to OMBC**

The Committee or designee will work with the OMBC in determining the rate of reimbursement to the OMBC for the Committee office located within the OMBC office.

## **13. Discussion/Approval of Exceptional Application(s) for Licensure**

This item was not discussed at the meeting.

## **14. Discussion of Selection Process of an Executive Officer**

See 15.

**15. Discussion of the appointment of an Acting Executive Officer or an Interim Executive Officer, if necessary. [Closed Session pursuant to Government Code section 11126(a)(1).]**

Legal counsel met with the Committee in closed session. The result was that the Committee voted to offer the position of Interim Executive Officer to Committee staff person Francine Davies. Francine accepted the position. Committee will meet by teleconference to determine the proper salary range for the Interim EO. The Committee chair will ask for approval of Ms. Davies as Interim EO from the OMBC.

**16. Discussion of the selection of a permanent Executive Officer if necessary [Closed Session pursuant to Government Code section 11126(a)(1).]**

See 15.

**17. Delegation Order to the Executive Officer**

The Committee voted to delegate authority to Francine Davies to act on behalf of the Committee. Albert will prepare a delegation order for Dr. Field's signature giving Francine Davies that authority.

**18. Discussion/Approval of Section 100 Regulations**

Francine provided the Committee with language that would bring existing regulations into compliance with changes made to the Naturopathic Doctors Act pursuant to AB X420. With minor comments, the Committee approved the regulatory language. Francine will prepare a regulations package in order to adopt the amended language.

**19. Discussion/Approval of Licensing, Continuing Education, & Enforcement Policies, Procedures, and Regulations**

The Committee voted to rescind the requirement for licensees to provide copies of their continuing education certificates. The certificates were a requirement of the OMBC subsequent to AB X420 which placed the Committee under the OMBC. Francine will make the necessary changes to all affected forms and instructions.

**20. California Naturopathic Doctors Association (CNDA) Update**

Association President Dr. Simon Barker, ND introduced Executive Officer Katherine Kleine, Vice-President Dr. Angela Agrios, ND, and other CNDA board members in attendance. Dr. Barker congratulated the Committee on its first meeting and asked that the Committee consider the association as a resource for information for any future Committee needs. Dr. Barker gave an overview of SB 1050 (previously discussed) and SB 1246 which would allow NDs to hire and train naturopathic medical assistants, and adds NDs to the list of persons authorized to perform CLIA "waived" tests. Dr. Barker also thanked the Committee for its support of SB 1050, with amendments.

**21. Establish Future Meeting Dates & Locations**

After a lengthy discussion, it was agreed that the Committee meetings would need to take into consideration the time constraints of the majority of Committee members and availability of legal counsel while attempting to schedule future meetings, scheduling the meetings on Sunday, when possible. Francine will e-mail the Committee members to determine the next best time to schedule a Committee meeting.

**22. Public Comment**

There was no public comment.

### **23. Agenda Items for Future Meetings**

The following items will be on a future agenda:

Committee report including legislation, budget, and enforcement updates – each meeting

Budget Office overview of budget processes and reports

Development of a Strategic Plan

Adoption of Disciplinary Guidelines

Regulatory language

IV Regulations

Election of a Co-Chair

Appointment of Committee members to sub-committees

### **23. Adjournment**

Meeting was adjourned at 4:53 PM