

Naturopathic Medicine Committee

PO Box 980490, West Sacramento, CA 95798-0490

P 916/928-4785 F 916/928-4787 | www.naturopathic.ca.gov/



Naturopathic Medicine Committee

Meeting Minutes

November 5, 2010

COMMITTEE MEMBERS PRESENT: Susan Brooks
David Field, ND
Michael Hirt, MD
KT Leung, CPA
Tara Levy, ND
Beverly Yates, ND

COMMITTEE MEMBERS ABSENT: Caleb Zia, EdD

STAFF PRESENT: Spencer Walker, Legal Counsel
Paul Riches, Deputy Director for Enforcement
Francine Davies, Acting Executive Officer (EO)

1. Welcome & Call to Order

The meeting was called to order at 9:25 a.m.

2. Establishment of a Quorum

A quorum was declared

3. Election of Vice-Chair & Secretary

This item was postponed until later in the meeting.

4. Chair Report

Dr. Field stated that the first role of the Naturopathic Medicine Committee is to protect the citizens of California and to offer them finest primary medical care available.

5. Public Comment

There was no public comment at this time. Dr. Field stated that public comment was welcome throughout the meeting where appropriate.

6. Discussion/Approval: Meeting Minutes April 11, 2010

The minutes were approved with one correction.

7. Discussion/Approval: Meeting Minutes May 8, 2010

The minutes were approved with one correction.

8. Committee Report: Licensing, Budget, Enforcement, AB 2699

Francine Davies gave the following Committee Report:

Three Budget Change Proposals (BCPs) were prepared and submitted to (1) give the Committee spending authority to pay its Committee members per diem and reimburse travel expenses, (2) increase the amount of spending for enforcement activities, and (3) add a half time position. All three BCPs, as all BCPs submitted by the Department of Consumer Affairs (DCA), were rejected. Francine stated that due to the growth in the number of licensees, the Committee will be at a tipping point as far as having enough personnel in one to two years. Likewise, the Committee will need to proceed on enforcement activities that require spending authority.

The Committee needs to develop a blueprint on how it is going to implement SB1441 – the blue print should include disciplinary guidelines and enforcement regulations. Paul Riches suggested the Committee look at disciplinary guidelines recently developed by other boards/bureaus (b/b) to use as a template. Paul's Office can also offer a template on adoption of disciplinary guidelines.

The Committee received its first complaint that warranted investigation. Francine contacted the Medical Board of California (MBC) to ask if the Committee could utilize their investigators, as suggested by DCA Executive Office, but due to the MBC case load, they are unable to take on an additional workload. The complaint was forwarded to DCA's Division of Investigation (DOI). DOI has investigators experienced in handling healing arts boards complaints.

Since April 2010, two citations and fines were issued to two people who repeatedly used the title of "ND" illegally – one citation was dismissed due to extreme personal hardship, the other remains unpaid. A suggestion was made to collect unpaid fines utilizing the Franchise Tax Board's Intercept Program. It was noted that cost recovery should be included in enforcement regulations. After discussion, the Committee agreed that the maximum fine of \$5000 should be levied against unlicensed persons representing themselves as licensed since unlicensed practice was an egregious offence and dangerous to the public.

Other items noted:

- The State of California has implemented a hiring freeze.
- The non-substantive regulations approved at the April 11, 200 meeting were approved by the Office of Administrative Law and will be available shortly on the web site.
- DCA is holding monthly teleconferences with b/b chair-persons, presidents, and executive officers.
- Francine will be attending CLEAR training in order that she is able to do complete investigations on behalf of the Committee.
- DCA is nearing completion of development of requirements for its new licensing and enforcement system. The system is scheduled for implementation in January 2013. Each b/b will pay according to the number of applications processed which will make it much more affordable for the Committee.
- There are more on-line schools offering "ND" degrees that do not qualify the student for licensure or use of the title "ND".

- There have been two instances found of licensed NDs aiding and abetting unlicensed practice of NDs. There is a “disconnect” between Committee statutes and regulations and will need to be addressed with legal counsel.

The Bureau/Committee has been licensing for six years and licensable persons who choose not to license and are using the title of “ND” are still being found. The EO is asking for guidance from the Committee on how much longer she is to overlook the unlicensed practice aspect and just compel them to license.

Paul Riches, Deputy Director for Enforcement at the Department of Motor Vehicles, stated that it is acceptable to cite and fine per occurrence. He also suggested that the Acting EO contact the Pharmacy Board to discuss mutual concerns.

Spencer stated that the issue of enforcement policies, laws, and regulations should be agendaized for discussion at a future meeting.

3. Election of Vice-Chair & Secretary

Dr. Tara Levy, ND was elected as Vice-Chair and Susan Brooks was elected as Secretary.

16. Discussion/Approval of Potential Legislation Regarding the Adoption and Implementation of the Naturopathic Advisory Council Formulary and Minor Office Procedures Reports

Dr. Field recommended that the Committee move forward on implementing the recommendations found in the Minor Office Procedures and Formulary Reports to the Legislature. The Committee, EO, legal counsel, CNDA, and DCA legislative office representative discussed how that could be accomplished. It was suggested that the Committee have conversations with the MBC, Pharmacy Board, other b/b and concerned groups such as the California Medical Association.

California NDs cannot currently practice as trained and cannot practice to the extent of NDs in the other licensing states. Every state that licenses ND has the same education and board examination requirements, yet California NDs are consistently hampered from providing quality primary care due to the limitations outlined in the reports. With the growing need in California for primary care providers and the lack of MDs and DOs to provide that care, it makes sense that California would want to encourage NDs to not only fully practice primary care medicine but also encourage their patients to be proactive in preventing disease, which is major component of naturopathic care.

Jeff Tony, representing the DCA Legislative Office, stated there was a December 3rd deadline for submission of legislative language. The first step would be to draft language and the Committee can utilize the Legislative Office for assistance.

Spencer will work with Francine on regulations to clarify some of the inconsistencies in the existing statutory language. It was also suggested the Committee identify the following: Which states allow suturing and which California licensed professional can suture. Are they supervised or unsupervised. Update the reports to include most current information for all other states and establish a sub-committee to work with the Legal Affairs Office.

Public Comment: The CNDA would be in favor of implementing the report recommendations. They suggest beginning dialogues with other interested associations.

15. Discussion/Appointment to Sub-Committees

Dr. Field and Dr. Levy formed a legislative sub-committee to gather practice data from other states in the event legislation should be proposed. Dr. Virginia Osborne, ND, volunteered as a consultant and the California Naturopathic Doctors Association (CNDA) will lend its support.

12. Budget Presentation – DCA Budget Office

Cynthia Dines, manager from the DCA Budget Office, reviewed the monthly budget report with the Committee and explained the Budget Office role in assisting the Committee. She also reviewed line-items from the current Fund Condition, noting that this report shows current and projected revenue.

Cynthia discussed the BCP process and reminded the Committee that BCP information was to remain confidential until the Governor included it in his budget on January 10th of each year.

The Budget Office is aware that the Committee, like every other b/b, is experiencing difficulty carrying out enforcement activities with a budget that does not grant adequate spending authority. The Budget Office will work with the Committee to keep the Committee within its spending authority each year. Cynthia suggested that the Committee ask the ALJ to include cost recovery in any judgement. It can also be made part of a stipulated settlement.

13. Discussion of Selection Process of an Acting, Interim, or Permanent Executive Officer

Jennifer Willis, newly hired DCA Personnel Officer, reviewed pay levels and the selection process involved with hiring an executive officer. She explained that even though the pay level for an acting EO is the same as an interim EO, an interim sees a slightly higher net pay since they are not subject to union fair share and state disability insurance. An interim EO, also referred to as exempt or E-99, also accrues slightly more vacation and life insurance. She said her office would assist in the search process and hiring process when the Committee was ready to begin the process of hiring a permanent EO.

10. DCA Director's Report – Update on SB 1441 & SB 1172, Current Topics

Paul Riches gave the DCA Deputy Directors Update. He gave an overview of the following items:

- State hiring freeze and how each department had to maintain the existing net employee level
- The BrEZe licensing and enforcement system project
- Federal Health Care Reform and building health care models using practice and personal information gathered from licensees
- Continuing Competency – assessment strategies to maintain a level of competency, especially for health care boards
- Substance abuse monitoring and oversight (SB 1441), the establishment of a substance abuse committee, enforcement standards (CPEI), probation, and diversion programs
- Template of regulations for disciplinary guidelines and substance abuse
- Investigator training & enforcement academy
- Reporting standards for licensing and enforcement
- Model regulations for temporary licenses for health care boards (AB 2699)

11. Discussion/Approval of Compliance with SB 1441: Uniform Standards Regarding Substance Abusing Healing Arts Licensees

Francine stated that she and the Committee need guidance on how to proceed with complying with all the enforcement initiative. Paul suggested the Committee develop their disciplinary guidelines and regulations to adopt those guidelines as well as substance abuse testing and charge back for enforcement costs. He also suggested Francine attend the CLEAR training and DCA Enforcement Academy. DCA is developing standards for cycle times on enforcement matters with the goal being to shorten process times.

14. Strategic Planning Session

The DCA training unit (SOLID) led the Committee through the Strategic Planning Process. The Committee completed the process during that session and approved the plan as developed. SOLID will be formatting the plan, present the plan to DCA directorate for comment/approval, and will forward the completed document to the EO when it is ready for publication.

9. California Naturopathic Doctors Association Update: Legislative Update SB 1050 & SB 1246

Simon Barker, president of the California Naturopathic Doctors Association (CNDA), gave an overview of changes in laws that affect NDs effective January 1, 2011.

- SB 1246, sponsored by the CNDA, gives NDs the ability to become lab directors for purposes of CLIA waive testing in office. The law also creates the position of “naturopathic assistant”, defining job duties and training requirements.
- SB 1050 (sponsored by the Osteopathic Medical Association) changes the composition of the Committee; it increases the number of NDs to five and reduces the number of public members and MDs to two each.

The CNDA is working on a public awareness campaign. The CNDA will conduct a Naturopathic Awareness Day at the State Capitol in February to bring awareness of naturopathic medicine to the new and returning members.

17. Discussion/Approval of Proposed Regulations: Continuing Education and the Sale of Brochures

The Committee approved the regulations as written.

18. Establish Future Meeting Dates & Locations

The next Committee meeting is scheduled for Monday, January 24, 2011.

19. Public Comment

There was no additional public comment.

20. Agenda Items for Future Meetings

Fair Political Practices Commission presentation re: Form 700
Jurisprudence Examination
Appointment of Committee members to sub-committees
Scope of Practice
Enforcement Regulations
Legislative process

21. Adjournment

Meeting was adjourned at 5:13 PM