



## Naturopathic Medicine Committee

### Meeting Minutes

September 30, 2013

**COMMITTEE  
MEMBERS  
PRESENT:**

David Field, ND, Lac  
Tara Levy, ND  
Koren Barrett, ND  
KT Leung, CPA  
Gregory Weisswasser, ND

**COMMITTEE  
MEMBERS  
ABSENT:**

Michael Hirt, MD  
Caleb Zia, EdD  
Beverly Yates, ND

**STAFF  
PRESENT:**

Spenser Walker, Esq., Legal Counsel  
Michael Santiago, Esq., Legal Counsel  
Rebecca Mitchell, Interim Executive Officer (Int. EO)  
Jeff Sears, DCA, Personnel Officer

#### 1. Welcome & Call to Order

The meeting was called to order at 10:06 a.m.

#### 2. Establishment of a Quorum

Roll Call was taken and it was determined that a quorum was present.

#### 1. Chair Report – David Field, ND, LAc:

Dr. David Field thanked all the members of the Committee and the guests of the public for being present. He stated that the Committee and CNDA should encourage any legislation that will push the naturopathic profession forward. He also directed the EO to start the regulation process for any pending issues that have been acted on during prior meetings.

#### 2. Executive Officer Report – Rebecca Mitchell

##### Licensing:

Mrs. Mitchell reported that there are currently 605 licensed naturopathic doctors since January 2005, 130 licenses are lapsed or inactive. There are currently 34 Initial

License Applications on file. She also reported that the information for AB 1588 – Military Legislation, was placed on the NMC’s home page of the website. This legislation allows Active Duty Military Personnel and their spouses/domestic partners to receive a Renewal fee waiver and expedited processing.

Enforcement:

Mrs. Mitchell reported that all repeat and egregious offenders are normally cited and fined within the month they are reported to the Committee. However, due to the massive amount of time spent on the testing and conversion to the Breeze system, only the most egregious cases are being investigated and worked. There is a nine-month backlog to issue citations and fines for those who illegally use of the title “ND”. There are currently two enforcement files at the Attorney General’s Office for possible prosecution under the laws and regulations of the ND Act.

Budget Update:

The Executive Officer reported that at the end of fiscal year 2012-2013, the Committee had 28.9 months in reserve. The EO reported on the two copies provided, one shows actual budget figures while the other includes projected budget figures if the proposed 2014-15 BCP is approved.

Budget Highlights:

1. In recent years, there have been three (3) Budget Change Proposal submitted in hopes of securing a staff position for an analyst classification and augmentation for the position. There was another submitted in Spring 2012 to secure such position beginning in FY 2014-2015. It was rejected at Agency in anticipation of rejection by Dept. of Finance (DOF) as it purportedly did not meet DOF requirements. Due to the lack of communication between the DCA Administrative Deputy and the boards, we were not consulted on rewriting the BCP by the Budget Office and, consequently, did not receive approval of the BCP by Agency. The issue of non-communication was raised with the current DCA Administration as it was with the prior administration.

A BCP was submitted again this year with the same staffing and augmentation request. The EO was provided with information that the current BCP has been approved at Agency level and is now at the DOF to be reviewed for approval.

2. In recent years there has been a problem with two-year delayed billing by the DCA Division of Investigation (DOI). For the past 3 years, the Committee has tried to increase its Enforcement budget via the BCP process. While there has been questions related to sudden increases within the line-item for investigations, the committee has been advised by DCA Budget Office that enforcement will receive appropriation when and if needed for Attorney General (AG) and DOI billings without cutting into the current budgets bottom-line.
3. The Committee’s budget has increased slightly each year for the past 2 years due to various mandated program requirements such as participation in BreEZe. The same is true for this fiscal year’s budget. There will be an appropriation for BreEZe and for the Furlough Adjustment. There has been a \$4,000 appropriation for the CURES program (SB 809) for FY 2013-14 and again for FY 2014-15, totaling \$8,000. Beginning June 1, 2014, renewals will include an

assessment of \$6 per year equaling \$12 per renewal cycle. This will be added on the renewal notice as a CURES Assessment Fee. We have been assured by Budgets that this will not need Regulation promulgated for the fee increase, as it is not part of the renewal fee. This fee will be held in a by DCA until all the contract requirements are met by the Dept. of Justice (DOJ). DOJ will use the funding for the upgrade of the current CURES IT system and staffing to support the program.

4. The Budget Office is allowing the Committee to submit a Schedule 9 in order to correct an error made during the DCA BreEZe project program-wide procurement, in which Laptops, Computers and memory upgrades were ordered and paid using current budget from the 2012-13 year end. There was an error with the original Acquisition request package and when a duplicate request was processed, the Committee's request was erroneously omitted. This error was not found out until after FY 2012-13 year-end books were closed. This created the need for the cost of the Laptop, Memory Upgrade and Printer to be taken from current year budget.

The Schedule 9 will allow for appropriations to be made for the current budget and will increase it to cover the costs.

Mrs. Mitchell also reported of the purchase of a color printer which has been submitted to Office of Information Services (OIS) for an IT Acquisition purchase. Once the IT Acquisition Justification (ITAJ) has been approved, it will be forwarded to the Procurement Unit for processing and order fulfillment. The EO hopes that this will be completed within the next two (2) weeks.

5. The Budget Office has not transferred rent for the Committee from the Committee's fund to the Osteopathic Fund for the last 36 months. The Budget Office has requested that the Osteopathic Medical Board produce a Memorandum of Understanding (MOU) to cover the issues of rent reimbursement and pro rata.

Legislation:

**SB 305:**

This is the Business and Professions Economic regulation which extended the Naturopathic Doctors Act through January 1, 2018.

Staffing:

As previously stated under the Budget report, a BCP was submitted again this year with the same staffing and augmentation request. This position, if approved by DOF, would be funded effective July 2014. The primary duties would be licensing (original applications and renewals), some administrative duties such as ordering supplies, answering phone calls and would also assist with preparation duties for enforcement, legislative and regulatory processes for the EO. This would alleviate the clerical and minor analytical duties from the EO, allowing the EO the ability to carry out all executive, regulatory changes and enforcement duties that are currently backlogged.

If the BCP is not approved by DOF, an approval was received by the Budget Office allowing the Committee the opportunity to submit a Spring Finance letter and request the position and funding via that route. Normally, Spring Finance Letters can only be submitted if there are unexpected or unforeseen reasons that would require funding or staffing, however due to changes with the Affordable Care Act and other special circumstances, the Committee falls into that criterion.

The Osteopathic Medical Board (OMBC) and prior EO have an agreement that will allow minor use of OMBC clerical staff on an intermittent basis to provide clerical support to the Committee. This will be included within the MOU, and payment reimbursement for use will be paid through pro rata channels.

BreEZe Project:

The Interim EO continues to participate in multiple planning and testing sessions in preparation for conversion to DCA's new automated licensing and enforcement system, BreEZe. Sessions last from 1-8 hours each and cover the topics of data conversion, licensing and enforcement workflow, system security, cashiering, and document creation.

As we are extremely close to the anticipated go-live date of October 8<sup>th</sup>, the need for participation by the EO has grown. The EO spends about 9/10 of her time dealing with BreEZe, but is excited for the system to be completed properly, so that its use, not only by staff, but of the licensees and consumers will be that of ease and convenience.

Board Member Sexual Harassment Prevention Training (SHPT):

Committee members are required to complete SHPT every two years. In order to get everyone from every board and bureau on the same schedule, all DCA employees, including Committee members, must complete this training AGAIN this calendar year, 2013.

Unlike years past, you can no longer take on-line training on the Attorney General's web site; you must register for one of the webinars to be held in 2013. If you have difficulty registering for one of the webinars, please contact Mary Tarango at (916) 574-8283 or Latania Robinson at (916) 574-8281. I have a list of those members still needing this training and I will be sending you an email to let you know if you have not met this requirement.

Oversight Report:

Copies of the 2012 Oversight Report are located on the Committee website under the "Forms and Publications" tab for review.

**3. Approval of Meeting Minutes: February 25, 2013**

Minutes were not available. Item to be tabled for discussion and approval at the next meeting.

**4. Approval of Meeting Minutes: July 30, 2013**

Motion/Second to approve July 30, 2013 Meeting Minutes as presented. Roll call vote taken, motion carried 5-0-0.

**5. DCA Update of Current Events – Awet Kidane, Chief Deputy Director, DCA and Christine Lally, DCA Deputy Director, Board Relations**

Chief Deputy Director Awet Kidane introduced himself to the Committee and provided an update on the new DCA BreEZe system. The system is designed with the intention of having the functionality to collect data and produce better reports on the data. Mr. Kidane suggested that while the rollout should be ready to initiate in October 2013, there will be some rough patches while small issues are worked out in maintenance builds and subsequent contracted builds.

Mrs. Mitchell inquired about the funds that were taken out of the budget already for the rollout since it had been delayed. It was noticed that no further funds were deducted since the initial payment. Mr. Kidane stated that since the funds had been earmarked for the BreEZe project rollout, when the delay of the rollout took place, the funds remained allocated solely for the rollout and would be used for the initial payment.

Dr. Field inquired whether the Committee can be compensated for the constant use of NMC staff for the development of BreEZe. Mr. Kidane stated that it wasn't probable but publically committed staffing assistance for the NMC program during the cutover process.

Deputy Director Christine Lally introduced herself to the Committee. She advised of the training requirements for Board and Committee members and requested that all committee members become compliant with the training requirements as soon as possible. Committee members were updated with a list of who has met the requirements.

**6. Disciplinary Guidelines Process – Spencer Walker, Esq., Legal Counsel**

Mr. Walker, advised the Committee on the process for the Disciplinary Guidelines (DG). Mr. Walker suggested that the Committee approve the language for SB 1441 and promulgate the adopted language into Regulations along with the DG.

A sub-committee was created to work on the DGs. Disciplinary Guidelines Sub-Committee Members: David Field, ND and Tara Levy, ND.

**7. Standard of Practice Document (AANP) Update – Gregory Weisswasser, ND**

Dr. Weisswasser reported that he is continuing his work on creating the Standard of Practice Document. He advised that he will direct the EO to disburse the document when it is ready.

**8. Intravenous (IV) Therapy Provider Approval Update – Koren Barrett, ND**

Dr. Barrett gave an update on the IV Therapy Provider Approval. At this time the following has been approved to be course providers for IV Therapy.

- International IV Nutritional Therapy for Professionals – All courses
- Bastry University – 2007 and forward, Successful completion of both standard “Medical Procedures” course and the elective “IV Therapy: Formulations, Compounding and Safety Considerations” course.
- National College of Natural Medicine – 2009 and forward.

**9. Formulary Sub-Committee Update – Koren Barrett, ND**

Dr. Barrett updated the Committee on the Sub-Committee's decision to recommend an Exclusionary Formulary instead of an Inclusionary one or the hybrid-type formulary currently in place. Dr. Field inquired if the Sub-committee could submit a substantial report to the Committee by the next meeting. The Committee would like to see the report and how it will further clarify an exclusionary formulary. Dr. Barrett stated that submitting a complete report by the next meeting would be a possibility.

The sub-committee also plans on clarifying the prescribing rights and the possibility of changing the current requirements of the physician/surgeon (MD/DO) oversight.

**10. Public Comment**

No public comment

**11. California Naturopathic Doctors Association Update – Simon Barker, ND, Legislative Co-Chair, CNDA and Judy Wolen, Contract Lobbyist with Capitol Partners, Inc.**

Ms. Judy Wolen reported on the implementation of the Non-Discrimination in Health Care Provision of the Affordable Care Act (Section 2706(a), Title XXVII of the Public Health Service Act). Mrs. Wolen wanted to ensure that the provision is implemented in a manner consistent with the intent of the law. The purpose of the section of the law, often referred to as Section 2706, is to ensure that patients are able to choose the health care provider they believe is best suited to address their health care needs as long as the provider is licensed or certified under state law and is acting within the provider's permitted scope of practice.

Ms. Wolen stated that the directive which was released in April 2013 was not entirely accurate and that there would be new guidance released in January or February 2014 to give more clarification.

Dr. Barker didn't have anything further to report although he inquired whether the committee had any plans to make changes to Minor Office Procedures/Minor Surgery. As this was not an item noticed on the agenda, this was requested to be added to the next agenda for discussion.

**12. Closed Session – Appointment of Permanent Executive Officer**

(Pursuant to Government Code Section 11126(a)(1), the Committee will meet in closed session to consider the appointment of a Permanent Executive Officer)

Members of the public were excused.

**13. Announcement Regarding Closed Session – (Pursuant to Government Code Section 11125.2)**

Dr. Field reported that the Committee waived confidential rights and reported on the following closed session topics discussed and the decisions made (Confidential pursuant to Government Code section 11126(a)(1).)

The Committee discussed the appointment of the Permanent Executive Officer.

- Motion/second to appoint Rebecca Mitchell as the Permanent Executive Officer. Roll call vote taken, motion carried (5-0-0)

Dr. Field extended the offer of the position of Executive Officer to Rebecca Mitchell; Mrs. Mitchell accepted the appointment. Dr. Field congratulated Rebecca Mitchell on her appointment, effective September 30, 2013.

#### **14. Establish Future Meeting Dates & Locations**

The next meeting will be scheduled tentatively for Monday, February 24, 2014 in Sacramento. The Committee would like to have the following meeting in southern California area. Check the possibility of using the Bastyr College facilities. The Committee would like to encourage the Bastyr students to attend.

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

- Update Minor Surgery Procedures
- SB 1441 / Disciplinary Guidelines
- Standard of Practice Document / Recommended Standard of Practice
- Recommend adoption of Proposed Formulary
- Regulation Update

#### **16. Adjournment**

There being no further business, the meeting was adjourned at 1:50 p.m.