



Naturopathic Medicine Committee

Meeting Minutes

June 06, 2016

**COMMITTEE
MEMBERS
PRESENT:**

David Field, ND, Lac, Chair
Tara Levy, ND, Vice-Chair
Greta D'Amico, ND
Michael Hirt, MD
Thyonne Gordon, PhD
Myles Spar, MD
Gregory Weisswasser, ND
Alexander Kim

**COMMITTEE
MEMBERS
ABSENT:**

Dara Thompson, ND

**STAFF
PRESENT:**

Ileana Butu, Esq., Legal Counsel
Jason Hurtado, Esq., Legal Counsel
Rebecca Mitchell, Executive Officer (EO)
Raquel Oden, Program Analyst, NMC

Persons of Interest

Kurt Heppler, Senior Staff Counsel, DCA, Legal Unit
Yeaphana LaMarr, Analyst, DCA, Legislative & Regulatory Review Unit
Judy Wolen, Lobbyist, CNDA
Elisa Chohan, Strategic Plan Facilitator, DCA, SOLID Unit

1. Welcome & Call to Order

The meeting was called to order at 10:05 a.m.

2. Establishment of a Quorum

Roll Call was taken and quorum was established. Dr. Levy joined the meeting at 10:18 a.m.; however there was no change to quorum.

3. Introduction of New Committee Members

Dr. David Field, ND, LAc, Committee Chair, welcomed the new Committee Members, Dr. Greta D'Amico, ND and Dr. Dara Thompson, ND. He also thanked Dr. Koren Barrett, ND along with Dr. Tabatha Parker, ND, for their service and dedication to the Committee. Both, Dr. Parker and Dr. Barrett are no longer on the Committee.

4. Review and Approval of April 27, 2015 Committee Meeting Minutes

The minutes for 7/27/2015 were not available for review and approval due to corrupted files and were tabled for an upcoming meeting.

5. Naturopathic Medicine Committee Strategic Plan

Elisa Chohan, Facilitator, DCA SOLID Unit led the review of the draft copy of the new 2016-19 Strategic Plan. The Committee requested minor grammatical changes, (i.e., remove periods in “Mission” and “Vision” area.

- In area #3 Legislation and Regulations – justify the left margin
- Remove the 3.3 “grandfathering issue”
- Remove the 3.5 “develop standard of practice” (per legal opinion)
- Amend 3.6 “Open communication between appropriate boards, and association in order to facilitate a greater understanding of potential legislative and regulatory changes”.
- Amend 5.6 “Develop outreach campaigns to educate public in regards to naturopathic medicine.”

Committee directed staff to develop an Action Plan in order to carry out goals and objectives outlined in the new Strategic Plan.

Motion – Levy / Second – Gordon, to make edits to the strategic plan 2016-19 draft, adopt Strategic Plan 2016-19 as amended and direct staff to develop an Action Plan. Roll call vote taken, motion carried 8-0-0. (YES – Field, Levy, D’Amico, Hirt, Gordon, Spar, Weisswasser, Kim / NO – none / Abstentions – none).

6. Executive Officer Report – Rebecca Mitchell

Licensing:

Mrs. Mitchell reported that there are currently 608 licensed naturopathic doctors since January 2005, 10 inactive licensees, 126 licenses are lapsed. There are currently 21 Initial License Applications on file.

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, enforcement became backlogged. There is a eleven-month backlog to issue citations and fines for those who illegally use of the title “ND”. The backlog has been reduced dramatically with the addition of a fulltime staff working the cases.

The Committee’s Enforcement unit had an intake of 92 complaints. Of the 92 cases, the breakdown is as follows:

- 40 cases were closed for non-jurisdiction or no merit to the complaint,
- 52 complaints are pending in various stages; these are as follows:
 - 4 (13% are against NDs (3 for advertisements, 1 unprofessional conduct)
 - 48 (87%) are against unlicensed individuals (naturopaths or others) in violation of using the title of ND and or practicing naturopathic medicine.

The investigative costs associated with these cases for the FY 2015-16 is \$60,020 which is 27.69% of the total budget.

For the reasons stated above, the staff has recommended promoting legislation for the “naturopath” title protection.

Budget Update:

The Executive Officer reported that currently, the Committee has 18.0 months (\$500,000) in reserve. As 04/30/2016, the Committee had 23.43% (\$88,568) of its \$378,000 budget remaining.

Planned receipts for FY 2015-16 revenue is \$290,000. The actual receipts for FY 2015-16 revenue will be provided after July 2016

Budget Highlights:

1. In recent years, there have been four (4) BCPs submitted in hopes of securing a staff position for an analyst classification and augmentation for the position. In 2013 a BCP to secure such position beginning in FY 2014-15 was finally approved. In July of 2014, the Committee hired an analyst to cover licensing and enforcement functions. Although the Committee requested an ongoing, permanent position, the DOF only approved the position for a three (3) year, limited term. Giving the Committee time to quantify the ongoing need for the position. The position is set to expire as of June 30, 2016.
2. The Executive Officer submitted a BCP requesting to change the current analyst position to a full-time, permanent position and \$73,000 ongoing augmentation to support the position.
3. Last month the BCP was approved and the limited term position is in the process of being converted to a fulltime permanent position. The program will be able to keep the staff that we have spent the last several months training. This is the first position added since the creation of the Committee from the Bureau.

Legislation:

SB 1155	(Morrell)	Professions and Vocations: Licenses: Military Service
SB 1195	(Hill)	Professions and Vocations: Board Actions: Competitive Impact
AB 1992	(Jones)	Pupil Health: Physical Examinations
SB 1033	(Hill)	Medical Board: Disclosure of Probationary Status
SB 538	(Block)	Naturopathic Doctors: Scope of Practice

Information was reported under Agenda Item #7.

Committee Member Training:

Committee Members were reminded to be sure to review the training requirements that were sent out. All of the required training and the frequency of the training were included within the meeting material.

5. Legislative Updates:

- **SB 538 (Block – change in author)** Naturopathic Doctors
Location of Bill: Assembly Committee on Appropriations – This bill would amend the scope of practice for Doctors of Naturopathic Medicine.

Stance: The Committee is in support of this SB 538.

- **SB 1155 (Morrell)** Professions and Vocations: Licenses: Military Service
Location of Bill: Senate Committee on Appropriations – Suspense File

This bill would require every program within DCA to waive application and initial license fees for veterans who have been honorably discharged from the California National Guard or the US Armed Forces.

Stance: At this time, the Committee does not have a quantifiable number of how many licensees fall into this category. If there is a large amount of licensees that are within this category, the revenue loss due to this bill would have a significant impact on the Committee's fund and budget.

Motion – D'Amico / Second – Levy, to support SB 1155. Roll call vote taken, motion carried 8-0-0. (YES – Field, Levy, D'Amico, Gordon, Spar, Weisswasser, Kim / NO – none / Abstentions – none).

- **SB 1195 (Hill)** Professions and Vocations: Board Actions: Competitive Impact
Location of Bill: Senate Committee on Appropriations – Bill pulled by author at this time.

This bill would do the following: 1) authorize the Departments Director to review a decision or other action of a board within the Department to determine whether it unreasonably restrains trade and to approve, disapprove, or modify the board decision or action, as specified; 2) allow the Director to veto a regulatory package for anticompetitive impacts; 3) provide state indemnification for liability of board members for antitrust violations; 4) require board to include information regarding anticompetitive impacts in their regulatory packages; 5) add competitive impact as an additional standard for the Office of Administrative Law to review; 6) prohibit the Board of Registered Nurses from employing an executive officer that is a Board licensee; 7) extend the effective date of the Board of Veterinary Medicine to January 1, 2021; 8) allow drug compounding ; 9) authorize a university license type; and 10) prohibit premise registration after five years of nonrenewal among other technical changes.

Stance: no stance.

- **AB 1992 (Jones)** Pupil Health: Physical Examinations
Location of Bill: Dead

This bill would have added chiropractic examiners, naturopathic doctors, and nurse practitioners to the list of authorized medical practitioners that may perform a physical examination required for participation in an interscholastic athletic program, as specified.

This bill failed passage in Committee on April 26, 2016.

Stance: none.

- **SB 1033 (Hill)** Medical Board: Disclosure of Probationary Status
Location of Bill: Senate Committee on Appropriations – Bill pulled by author at this time.

This bill would require physicians, doctors of osteopathic medicine, doctors of podiatric medicine, chiropractors, acupuncturists, and doctors of naturopathic medicine to disclose their probationary status on a standardized document to patients prior to a medical appointment or visit. This bill would require the licensee to obtain verification that patients were notified of the licensee's probationary status. Finally, this bill would exempt a licensee from this requirement if the patient is unable to comprehend the disclosure or sign an acknowledgment of receipt when a guardian or health care surrogate is unavailable.

This bill failed passage.

Stance: Staff suggestion to oppose this bill as it has the high potential to increase fraudulent claims against a licensee. No action taken on this bill.

- **Discussion and Possible action regarding seeking legislative amendments relating to Scope Expansion and Reciprocity / NPLEX Exam Requirements**
 - The Committee thought that an amendment to B&P Code Sections 3631 and 3633.1 would need to be made in order to allow NDs who graduated pre-1986 and took an era appropriate State Examination to be able to be licensed in California. However, legal opinion was received that the clause "or an equivalent approved by the North American Board of Naturopathic Examiners.", in B&P code Section 3631, currently allows for this situation.

No changes to B&P code Sections 3631 and 3633.1 are needed.
 - A change to B&P code Section 3630 should be amended as follows:

An applicant for a license as a naturopathic doctor shall file with the committee a written application on a form provided by the committee or online through the committee website that shows, to the committee's satisfaction, compliance with all of the following requirements:

(a) The applicant has not committed an act or crime that constitutes grounds for denial of a license under Section 480, and has complied with the requirements of Section 144.

(b) The applicant has received a degree in naturopathic medicine from an approved naturopathic medical school where the degree substantially meets the educational requirements in paragraph (2) of subdivision (a) of Section 3623.

Motion – D'Amico / Second – Levy, to amend 3630 (for cleanup) to include submitting applications through the Committee's Online BreEZe website. Roll call vote taken, motion carried 8-0-0. (YES – Field, Levy, D'Amico, Gordon, Spar, Weisswasser, Kim / NO – none / Abstentions – none).

- If SB 538 does not pass, the Committee would like to propose language for a scope expansion in order to provide the California consumers with the full-scope of naturopathic care and allow ND licensees to practice as trained.

6. California Code of Regulations – Title 16, Section 4212: License Application

CCR 4212 should be changed to comply with B&P code Section 114.5, by adding “A statement as to whether the applicant is serving in, or has previously served in the military.” and “Is your spouse serving in, or has previously served in the military.”

Also, B&P 4212(a)(8) should have the Bureau reference changed to Committee. B&P

Motion – Weisswasser / Second – Levy, to authorize the EO generate regulation package to make changes to CCR 4212 to include the military questions as stated in B&P code Sections 114.5 and 115.5. Roll call vote taken, motion carried 8-0-0. (YES – Field, Levy, D'Amico, Gordon, Spar, Weisswasser, Kim / NO – none / Abstentions – none).

7. Public Comment for Items Not on Agenda

Judy Wolen, Lobbyist for CNDA, stated that at this time CNDA is carrying SB 538 and reported that the bill is still active and in the last Committee (Assembly Appropriations). Call of bill did not receive votes as anticipated; however bill had been given option of reconsideration (2-year bill).

The Chair and Executive Officer welcomed the Committee's new legal counsel, Jason Hurtado, Esq. and thanked Ileana Butu, Esq., for her dedicated service to the Committee.

8. Establish Future Meeting Dates & Locations

The next meeting will be scheduled tentatively as follows:

- November 4, 2016 at 10:00 a.m., in San Diego (Bastyr University).
- December 5, 2016 – Sacramento, CA

9. Agenda Items for Future Meetings

- Inactive Fees and Regulations
- CCR Section 4258 Criteria for rehabilitation when considering license reinstatement or modification penalty
- Fictitious Name Permit Regulations and Fee
- Telehealth Regulations
- Amend CCR 4214 to comply with B&P code Section 30
- “Naturopath” Title Protection
- Scope Expansion for Benefit of Consumer Protection

10. Adjournment

There being no further business or public comment, the meeting was adjourned at 12:16 p.m.