



Naturopathic Medicine Committee

Meeting Minutes

February 06, 2017

**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
Dara Thompson, ND

**COMMITTEE
MEMBERS
ABSENT:**

No members absent

**STAFF
PRESENT:**

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

Persons of Interest

Yeaphana LaMarr, Analyst, DCA, Legislative & Regulatory Review Unit
Mark Ito, Budget Analyst, DCA Budget Unit
Shelly Jones, DCA, Executive Office
Sarah Huchel, Principal Consultant, Senate Committee on Business,
Professions and Economic Development

1. Welcome & Call to Order

The meeting was called to order at 10:19 a.m.

2. Establishment of a Quorum

Roll Call was taken and quorum was established.

3. Officer Elections

Due to the upcoming oversight review, the Committee chose to table this item.
Current Chair and Vice-Chair are currently working with staff for the review.

4. Public Comment for Items Not on Agenda

Public Comment included comment from CNDA which included some concerns from stakeholders which included:

- NDs providing orders to RNs
- Drug Formulary

5. Executive Officer's Update

Licensing:

Mrs. Mitchell reported that there are currently 659 licensed naturopathic doctors since January 2005, 16 inactive licensees, 173 licenses are lapsed. There are currently 22 Part-I and 15 Part-II Initial License Applications pending. There are 141 renewal applications pending.

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 76 complaints. Of the 76 cases, the breakdown is as follows:

- 20 cases were closed for non-jurisdiction or no merit to the complaint,
- 56 complaints are pending in various stages; these are as follows:
 - 15 are against NDs
 - 51 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 as of 12/31/2016 is \$14,532 of the \$31,000 enforcement encumbrance.

For the reasons stated above, the staff recommends promoting legislation or requesting within Oversight hearing for the "naturopath" title protection. Additionally, consumer outreach campaigns may alleviate the public confusion associated with "naturopath" vs. a naturopathic doctor.

Budget Update:

The Executive Officer reported that currently, the Committee has 11.2 months (\$400,000) in reserve (copy of Fund Condition and Budget Reports are attached). As of 12/31/2016, the Committee had \$180,224 of its \$335,000 budget remaining.

Planned receipts for FY 2016-17 revenue is \$229,000. The actual receipts for FY 16-17 revenue as of 12/31/2016 are \$188,660.20.

Budget Highlights:

- The fund remains unbalanced due to increased pro rata. This includes increased Division of Investigation (DOI) costs associated with enforcement. The Committee should start discussion of raising fees or implementing fees for services currently being provided at no charge. (for example Out-of-State License Verification with Osteopathic Medical Board fee is \$25)
- Addition of the Fictitious Name Permit Program as discussed under agenda item 5 will also assist in balancing out the current fund condition.

Strategic Plan / Action Plan Updates:

The Executive Officer updated on the Strategic Plan/Action Plan statuses.

- I. Explore and adopt CE approval system and coordinate with other states and allow for greater accessibility to licensees. (1.1)
 - a. Staff has started efforts in the research of other regulatory states boards' current CE requirements.

- II. Facilitate licensees' ability to track their CE for increased efficiency in the license renewal and auditing process and promote public safety by confirming compliance. (1.2)
 - a. Staff has implemented a random CE audit function within the BreEZe licensing system which will allow the Committee to confirm CE compliance.
 - b. A new Excel table has been created that will allow licensees to easily calculate CE unit totals for easier reporting online. The form will also be posted to the website under the "Licensee" tab for those that send in a paper renewal form.
 - c. Proposed regulatory language has been developed and will need Committee approval to move forward.

- III. Create a clear naturopathic doctor-physician and surgeon (ND-MD/DO) supervision agreement template for use by NDs to conform to the law regarding pharm prescribing. (1.3)
 - a. Staff is currently reviewing an agreement that is currently being used to provide as a sample for licensees to use. This document will need to be reviewed by legal.

(Committee requested to include a new Q&A section for MDs and other healing arts practioners to use)

- IV. Implement a regular and efficient CE auditing system to confirm that licensees have met their respective CE requirements. (1.4)
 - a. Staff has implemented a random CE audit function within the BreEZe licensing system which will allow the Committee to confirm CE compliance.
 - b. Proposed regulatory language has been developed and will need Committee approval to move forward.

- V. Identify and contract with naturopathic expert reviewers to assist with implementing enforcement actions by reviewing cases to determine a deviation from the standard or practice. (2.1)
 - a. Staff has created a database and contracting system to use for this goal area.
 - b. Staff is working on completing an Expert Reviewer Manual – this will need review by legal prior to use.
 - c. Staff has communicated our need/search for interested licensees by reaching out to CNDA. The association has agreed to post notice for reviewers.

(Committee requested to have a notification added to website to facilitate getting information out to individuals interested in becoming expert consultants for the Committee.)

- VI. Strengthen penalties for illegal use of ND title to protect consumers from unscrupulous practitioners. (2.2)
 - a. Staff has completed a survey of other healing art programs cite and fine penalty structure for first time offenses.
 - b. Staff is creating a new structure for Committee review and approval.
- VII. Execute timely enforcement and collection of fines to protect public safety. (2.3)
 - a. Staff is currently creating a process map for enforcement processes.
 - b. Staff is prioritizing backlog of current caseload, analyst is diligently working cases to get a baseline created in the enforcement program.
 - c. Once baseline is created, staff can monitor timelines to determine if timelines are acceptable or need adjustment.
- VIII. Explore and identify policy change that implements stronger penalties for unlicensed practice to protect the public. (2.4)
 - a. Staff has created proposed language to change statute regarding “Naturopath Title Protection.”
 - b. Staff is hopeful that this can be added to the Sunset bill to protect public against unlicensed practice.
 - c. During this meeting, the Committee can review and approved the language for title protection (BPC 3645 and 3660)
- IX. Craft and introduce Naturopathic Medicine Committee (NMC) sponsored legislation (including additional title protection and scope expansion for allowing naturopathic doctors to practice as trained) to address consumer needs and protections, and to improve public access to primary care. (3.1)
 - a. Due to the failure of SB 538, staff has drafted proposed language for “Naturopath Title Protection” as seen in Objective 2.4, along with scope expansion as written in original proposed SB 538. This allows for beneficial access to consumers and also allows consumers to receive a full scope of naturopathic medical care as they can receive in other regulating states.
 - b. Committee and staff will need to find an author if language is not included within Sunset bill.

- X. Review, update and announce regulations to clarify the Naturopathic Practice Act. (3.2)
 - a. Staff has drafted new and modified regulatory language to clarify statutes.
 - b. Regulatory language needs to be reviewed and approved by Committee.

- XI. Open communication between the NMC, appropriate boards and associations in order to facilitate greater understanding of potential legislative and regulatory changes. (3.4)
 - a. Staff has requested to be placed on the Osteopathic Medical Board (OMB) next meeting agenda in order to present educational demonstration (May 2017 – Chino, CA).
 - b. Staff will contact Medical Board of Ca (MBC) to request above presentation.
 - c. Committee is willing to consider recommendations from MBC and OMC and incorporate into proposed legislation.

- XII. Clarify workflow to establish clear priorities for Executive Officer and create efficiencies. (4.1)
 - a. Staff has created and has started implementing action plan goals.
 - b. Staff is currently sharing Action Plan progress at this and subsequent committee meetings.
 - c. Staff is creating a workflow form for analyst to complete daily in order to analyze workload and workflow effectiveness. This will also establish the need for additional staffing or where deficiencies are in the processes.

- XIII. Create operational manual for the office and positions to prepare for staff change and provide continuity. (4.2)
 - a. Staff has identified functions of the Committee that need to be mapped (clerical support, licensing, and enforcement).
 - b. Staff is combining process maps with current drafts of manuals.
 - c. Drafts of manuals are currently being developed by staff for review.
 - d. Administrative Manual has been completed and was approved by the Committee.

- XIV. Create clear expectations for responsiveness by the NMC to staff in order to improve workflow and shorten cycle times. (4.2)
 - a. Require Committee members to check email every other day regarding committee business and respond within one working business day.
 - b. Staff (EO) currently utilizes “high priority” or “action required” in email subject lines for matters requiring immediate response.

(Committee requested to include text messages.)

- XV. Secure adequate staff to support the functions and duties of the Executive Officer and the Committee. (4.4)
 - a. Staff (EO) is creating a workflow form to conduct job analysis as stated in #12 (4.1).

- XVI. Explore opportunities to educate legislators and health-related boards and associations about naturopathic medicine and NMC to inform, foster

relationships, reduce confusion, and educate the public about naturopathic medicine. (5.3)

- a. Staff has started to research and identify mediums of disseminating educational materials (i.e. pamphlets, video/PowerPoint, and comparison charts on website).
- b. Once items are drafted, staff will present materials to Committee for review and approval.

XVII. Increase the frequency of online communications and website updates (newsletter, FAQs, social media) concerning naturopathic medicine (intravenous (IV) therapy and prescription (RX) formulary) to better educate the public and licensees. (5.4)

- a. Currently staff is reviewing contents of website and determining best business practices and standards to include on website.

(Committee requested to have add email blast.)

Committee Member Training:

Committee Members are reminded to be sure to review the training requirements. All of the required training and the frequency of the training are included within this meeting material.

Once your training is complete, please be sure to submit your Certificates of Completion to the Executive Officer.

6. Discussion and Possible Action regarding the 2016/2017 Oversight Report:

The Committee discussed and adopted the following proposed language and requested to have it included in the Sunset Bill language:

- BCP 3630 (add other means of submitting applications for licensure to the Committee)
- BCP 3645 (title protection of “Naturopath” and “Naturopathic”)
- BCP 3660 (enforcement for title protection, if needed)
- Add BCP 3670.1 and 3674.1 (add Fictitious Name Permit Program to assist in tracking and monitoring naturopathic practices)

Motion – D’Amico / Second – Levy, to adopt and add to sunset bill language. Roll call vote taken, motion carried 8-0-1. (YES – Field, Levy, D’Amico, Hirt, Gordon, Weisswasser, Kim, Thompson / NO – none / Abstentions – Spar).

7. Discussion and Possible Action regarding the Proposed 2017 NMC Legislative Language: Scope of Practice

The Committee is interested in carrying legislation to allow scope as “practice as trained”. This was the original intent of the Legislature when the Act was created in 2004.

The bill process was explained by the Committee’s legislative analyst, it was suggested that the Committee work with the Legislative and Legal Affairs units to assist in creating the language.

The Committee will start to work with CNDA to consult with stakeholders and determine consumers' needs.

The Committee has received concerns from stakeholders, nurses, and consumers on the ability to have a nurse work within a naturopathic practice and take orders from an ND. This would require a change to the Nursing Act.

The Chair has appointed the following members for a legislative subcommittee:

- Dr. David Field – Chair
- Dr. Greta D'Amico

8. Discussion and Action regarding Proposed New Regulatory language to Implement a retired License Status:

This item was tabled and will be revisited at a later time.

9. Meeting Minutes for Review/Approval:

- Meeting minutes for 7/27/15 – Add outcome to Closed session

Motion – Weisswasser / Second – D'Amico, to approve 7/27/15 meeting minutes with minor amendment. Roll call vote taken, motion carried 8-0-1. (YES – Field, Levy, D'Amico, Gordon, Thompson, Weisswasser, Kim / NO – none / Abstentions – Spar).

- Meeting minutes for 1/14/16

Motion – Weisswasser / Second – D'Amico, to approve 1/14/16 meeting minutes. Roll call vote taken, motion carried 8-0-1. (YES – Field, Levy, D'Amico, Gordon, Thompson, Weisswasser, Kim / NO – none / Abstentions – Spar).

- Meeting minutes for 6/06/16

Motion – Weisswasser / Second – D'Amico, to approve 6/06/16 meeting minutes. Roll call vote taken, motion carried 8-0-1. (YES – Field, Levy, D'Amico, Gordon, Thompson, Weisswasser, Kim / NO – none / Abstentions – Spar).

- Meeting minutes for 10/06/16

Motion – Weisswasser / Second – D'Amico, to approve 10/06/16 meeting minutes. Roll call vote taken, motion carried 8-0-1. (YES – Field, Levy, D'Amico, Gordon, Thompson, Weisswasser, Kim / NO – none / Abstentions – Spar).

- Meeting minutes for 11/07/16

Motion – Weisswasser / Second – D'Amico, to approve 11/07/16 meeting minutes. Roll call vote taken, motion carried 8-0-1. (YES – Field, Levy, D'Amico, Gordon, Thompson, Weisswasser, Kim / NO – none / Abstentions – Spar).

10. Budget Update – DCA Budget Staff

Mark Ito, DCA Budget Analyst, reported on the Committee's current budget. (Included in the meeting material.)

11. Legislative Update – DCA Legislative and Regulatory Review Staff

The Committee's legislative analyst, Yeaphana LaMarr, gave an update regarding sunset hearing date scheduled for March 6, 2017. Offered her services throughout the sunset process. Advised to continue providing education of naturopathic medicine to consumers and legislature. Also advised that any legislation that the Committee creates should ensure that the consumer protection mandate should be met.

12. Establish Future Meeting Dates & Locations

The next meeting will be scheduled tentatively as follows:

- May 15, 2017 at 10:00 a.m. – Sacramento
- September 11, 2017 – Sacramento, CA

*6/10/17 – CNDA Conference

13. Agenda Items for Future Meetings

- 2018 Legislative language
- Regulations

14. Adjournment

There being no further business or public comment, the meeting was adjourned at 1:20 p.m.