



Naturopathic Medicine Committee

Meeting Minutes

November 15, 2018

MEMBERS PRESENT:	Dara Thompson, ND, Acting Chair Gregory Weisswasser, ND Greta D'Amico, ND Minna Yoon, ND Vera Singleton, ND Michael Hirt, MD Myles Spar, MD Bruce Davidson, PhD Shirley Worrels
MEMBERS ABSENT:	None
STAFF PRESENT:	Sabina Knight, Esq., Legal Counsel Rebecca Mitchell, Executive Officer (EO)
MEMBERS OF THE AUDIENCE:	Brianna Miller, Analyst, DCA Executive Office Robert de los Reyes, Budget Manager, DCA Sarah Hinkle, Budget Analyst Yeaphana LaMarr, Legislative Analyst, DCA Aliza Cicerone, ND, CNDA

Agenda Item 1 Call to Order/Roll Call/Establishment of a Quorum

Rebecca Mitchell, Executive Officer, Naturopathic Medicine Committee (NMC), called the meeting of the NMC to order on November 15, 2018, at 10:09 a.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 2 Introduction of New Committee Members

The new members of the Committee were introduced, to include Bruce Davidson, PhD, Minna Yoon, ND, Vera Singleton, ND, and Shirley Worrels.

Agenda Item 3 Election of Chair and Vice Chair

The Committee decided that they would only elect an acting Chair until the next meeting of the Committee and chose to table the election of officers at this time. Dr. Weisswasser nominated

Dr. Dara Thompson, who was unofficially acting as the Chair after the prior Chair was replaced by the Governor's Appointment Office.

Motion – Weisswasser / Second – Worrels, to elect Dr. Dara Thompson as Acting Chair. Roll call vote taken, motion carried 9-0-0. (YES – Thompson, D'Amico, Weisswasser, Hirt, Spar, Yoon, Davidson, Worrels, Singleton/ NO – none / Abstentions – None).

Agenda Item 4 Public Comment on Items not on the Agenda

There were no public comments for any items not on the agenda to discuss.

Agenda Item 5 Executive Officer Update

Ms. Mitchell reported on the following:

- Office Move and Build-out:
During a prior meeting, it was reported that both the Committee and the Osteopathic Medical Board of California (OMBC) would be looking for a new office space that would provide additional room for new staff and for added filing rooms. Both programs have worked with DCA Facilities and Dept. of General Services (DGS) to come up with options that would keep both programs within their budgets.

The current property management at National Drive agreed to a lower lease rate which includes all suite improvements. To add more staff workspace, cubicle sizes will be reduced slightly and will increase individual storage space and space functionality. The build-out also includes a new file room that is solely for the use of NMC.

The final build-out meeting is scheduled for 11/15/2018. The Executive Director of the OMBC will approve any last-minute changes from DCA Facilities and will get the schedule of the construction work.

The estimated date of construction will start the last week of November and go through the first two weeks of December. Currently there are 40 library carts and over 200 boxes of files that will need to be loaded and moved during construction. Staff will be housed over at the DCA main headquarters building. There will be limited access to files and some services from staff during this time.

- New Fees Effective 01/01/2019:
SEC. 19.
Section 3680 of the Business and Professions Code is amended to read:
3680.
(a) The application fee for a doctor of naturopathic medicine shall be no more than five hundred dollars (\$500) and may be increased to not more than six hundred dollars (\$600).
(b) The initial license fee shall be one thousand dollars (\$1,000) and may be increased to not more than one thousand two hundred dollars (\$1,200).
(c) The renewal fee for a license shall be one thousand dollars (\$1,000) and may be increased to not more than one thousand two hundred dollars (\$1,200).

- (d) The late renewal fee for a license shall be two hundred twenty-five dollars (\$225).
- (e) The fee for processing fingerprint cards shall be the current fee charged by the Department of Justice.
- (f) The fee for a duplicate or replacement license shall be thirty-eight dollars (\$38).
- (g) The fee for a certified license verification shall be thirty dollars (\$30).

Due to the way section (a) was written in statute, the Committee must change the regulations to set the new fees in regulation. All fees except the application fee can be charged effective 01/01/2019 without a change in regulations, however, the list must be updated, so all fees should be updated in one regulation package.

The Enforcement stats were provided by Ms. Mitchell during an Enforcement update and are as follows:

- 51 open cases in various stages of the enforcement process
- 31 Unlicensed Activity (61%)
- 19 Licensee Cases (37%)
- 1 Applicant Case (2%)

Case types against Licensees:

- 7 Advertising (37%)
- 1 Failure to update address (5%)
- 3 DUI/Controlled Substance violation (16%)
- 4 Failure to register for CURES (21%)
- 4 Unprofessional practice (21%)

Total licensee population:

- 673 Current In-State
- 93 Current Out-of-State
- 15 Inactive
- 154 Delinquent
- 935 total licensees under the Committee's jurisdiction.

Agenda Item 6 2007 Report “Findings and Recommendations Regarding Minor Office Procedures” – Discussion and Possible Action

Ms. Mitchell provided a copy of the 2007 Report of the “Findings and Recommendations Regarding Minor Office Procedures” to the Committee. Additionally, Ms. Sabina Knight, Committee Counsel, suggested that all members review the prior report and made a new sub-committee that can update this report in order to implement the original intent of the law, which was to create a statute that was in line with naturopathic doctor's training and education.

Ms. Mitchell gave a brief history of the scope bills and why the scope is so restrictive in California compared to the rest of the states.

Dr. Davidson asked why the Committee believes that California was behind in terms of scope compared to all of the other regulated states, when California is normally the leader in medical

treatments and modalities. Dr. Weisswasser, advised that the unlicensable naturopaths, along with the California Medical Association (CMA) opposed the original bill text, which would have allowed the title of “Naturopathic Physician” as used in the other states, and which included the use of “Naturopathic Practitioner” by those who could not be licensed as a naturopathic doctor in the state. Dr. Weisswasser also stated that there was a lot of resistance to allow a full scope until the education and training was reviewed by an advisory council made up of physician and surgeons, naturopathic doctors, and pharmacists.

The 2007 report was created to satisfy this intent; however, no actions were taken on the reports by the legislature at that time.

Agenda Item 7 2007 Report “Findings and Recommendations Regarding Prescribing and Furnishing Authority of a Naturopathic Doctor” – Discussion and Possible Action

Ms. Mitchell provided a copy of the 2007 Report of the “Findings and Recommendations Regarding Prescribing and Furnishing Authority of a Naturopathic Doctor” to the Committee. Additionally, Ms. Sabina Knight, Committee Counsel, suggested that all members review the prior report and made a new sub-committee that can update this report in order to implement the original intent of the law, which was to create a statute that was in line with naturopathic doctor’s training and education.

Ms. Mitchell gave a brief history of the scope bills and why the scope is so restrictive in California compared to the rest of the states.

The original intent for the prescribing and furnishing of the Act was supposed to be fashioned by the review of the education and training by an advisory council made up of physician and surgeons, naturopathic doctors, and pharmacists.

The 2007 report was created to satisfy this intent; however, no actions were taken on the reports by the legislature at that time.

Agenda Item 8 Discussion and Possible Action Regarding Regulations

Ms. Knight gave a brief overview of what is needed in order to develop and change regulation language. She suggested that staff bring a draft copy of the original and amended language.

- Add Title 16, CCR section 4237 – IV Therapy

The Committee requested that staff prepare a list of rules/regulations from other states ND regulating authorities so they have a standard to start forming regulations. Arizona has broadest scope and Oregon has a medium scope – these are two (2) of the main states of interest. The Committee believes it would be beneficial to that a sub-committee work on this task.

- Add Title 16, CCR section 4240 – Fees

Due to the way section (a) was written in statute, the Committee must change the regulations to set the new fees in regulation. All fees except the application fee can be charged effective 01/01/2019 without a change in regulations, however, the list must be updated, so all fees should be updated in one regulation package.

The Committee directed staff to bring proposed language back to the next meeting for discussion and action.

- Add Title 16, CCR section 4228 – Inactive Status

The Committee directed staff to bring proposed language back to the next meeting for discussion and action.

Agenda Item 9 Review and Approval of March 19, 2018 NMC Meeting Minutes

Upon review of the 03/19/2018 meeting minutes, it was noted that an error in the name of the DCA Budget staff needed to be amended to reflect Mr. Mark Ito and a clarification to the Closed Session item (pg. 2, para 1).

Motion – Weisswasser / Second – Thompson, to approve 03/19/18 meeting minutes as submitted with amendments as specified. Roll call vote taken, motion carried 9-0-0. (YES – Thompson, D’Amico, Weisswasser, Hirt, Spar, Yoon, Davidson, Worrels, Singleton/ NO – none/ Abstentions – None).

Agenda Item 10 Budget Update – DCA Budget Office

Mr. Robert de los Reyes, Budget Manager, DCA reported on the services that the Budget Office provides to the programs. Mr. De los Reyes explained the budget process to the Committee members and how the fund works. Additionally, he explained that the transition to the new accounting system occurred in July 2017, yet there are still significant challenges with the new Fi\$cal system. The estimated time to close the budget for fiscal year 2017-18 should occur by March 2019.

Dr. Davidson asked where the revenue for the Committee is derived from. Mr. De los Reyes explained that most revenue comes from license fees with a very small percentage coming from enforcement cost recovery.

Ms. Sarah Hinkle, Budget Analyst, DCA reported on the current year expenditures and revenues (figures attached in Budget Report and Analysis of Fund Condition).

Dr. Davidson asked if it matters that there are line items in the negative (red), even though the net appropriations shows that the figures are a positive number. Mr. De los Reyes stated that the Department uses bottom-line budgeting. However, if the program sees areas constantly in a negative, funds can be moved to cover the areas as long as the bottom-line shows a positive result.

Agenda Item 11 Discussion and Possible Action Regarding 2020-2024 Strategic Plan

Due to scheduling conflicts, SOLID staff did not attend the meeting to provide the Strategic Plan presentation. However, Ms. Brianna Miller, DCA Office of Board and Bureau Services, was in the audience and was able to give a brief description of the strategic planning services offered by SOLID.

Staff will contact SOLID and schedule the start of the planning sessions.

Agenda Item 12 Legislative Update

Ms. Yeaphana LaMarr, Legislative Analyst, DCA, gave a legislative update to the Committee regarding the following bills:

- AB 2193 (Maienschein) – This bill would require PCPs to exam/screen pregnant patients once during pregnancy and once during the postpartum period for mental illness. *This bill has been chaptered and will be effective July 1, 2019.*
- AB 2215 (Kalra) – This bill would allow licensees of the Board of Veterinary Medicine to discuss cannabis use with clients. This bill would prohibit the Board to take enforcement action against a licensee for discussing cannabis with the animal patient's owner. This bill has set the standard for other healing arts programs to adopt similar statutory language. *This bill has been chaptered.*
- AB 2682 (Burke) – This bill would have made changes to laws surrounding Nurse-midwives and Naturopathic Doctors who are certified to practice Naturopathic Childbirth, to repair episiotomies and lacerations of the perineum. *This bill did not pass.*
- SB 1448 (Hill) – This bill requires licensees of healing arts to provide a separate disclosure, as specified, to a patient or a patient's guardian or health care surrogate before the patient's first visit if the licensee is on probation pursuant to a probationary order made on and after July 1, 2019. *This bill has been chaptered and is effective 01/01/2019. The Committee would like to move forward in future meeting to create regulations on how to disclose a probationary action by licensees.*
- SB 1480 (Hill) – This bill has made several fee changes for programs under DCA, including increases to all of the Committee's fees and one (1) new fee. Due to the way in which this bill language was written, the Committee can start collecting almost all amended and new fees effective 01/01/2019. However, the Application Fee will need to remain at \$400 until regulations can be amended to show the new fee floor as written in statute. *This bill has been chaptered and will be effective January 1, 2019.*
- AB 2138 (Chiu) – This bill, would revise and recast existing law provisions to authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified, or convicted of a crime only if the applicant or licensee has been

convicted of a crime within the preceding 7 years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or if the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding 7 years, except as specified. This bill will prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction, as defined, for a crime, if the conviction has been dismissed or expunged, if the person has provided evidence of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. *This bill has been chaptered and is effective July 1, 2020. Statutory and regulatory changes will need to be made.*

- AB 2198 (Obernolte) – This bill expands the expenditure data (Fi\$cal) to which the public is required to have access using an Internet Web site to include special fund expenditure data. *This bill has been chaptered.*
- AB 2958 (Quirk) – This bill provides optional methods for State bodies when conducting meetings. *This bill has been chaptered.*
- AB 710 (Wood) – This bill would expressly exclude from regulation under that act, medicinal product composed of cannabidiol approved by the federal Food and Drug Administration and either placed on a schedule of the federal Controlled Substances Act other than Schedule I, or exempted from one or more provisions of that act. *This bill has been chaptered and will be effective immediately as an urgency statute.*
- AB 1659 (Low) – This bill would prohibit an inactive licensee to represent themselves as having an active license. This bill also establishes the authority for any healing arts board to set a reduced fee for an inactive status license within their regulations. *This bill has been chaptered.*

Agenda Item 13 Presentation and Overview of the Legislative Cycle

Yeaphana LaMarr, DCA, Legislative Analyst, presented a high-level review of statutory changes, and regulatory process. Ms. LaMarr also reported on the 2019 legislative calendar. These dates are important. Last day to submit bill request is January 25, 2019. Last day to introduce bills is February 22, 2019.

Agenda Item 14 California Naturopathic Doctors Association (CNDA) Updates

Dr. Aliza Cicerone, ND, Vice President and Legislative Chair, CNDA, reported on the current leadership roles within the association as follows:

- Chris Holder, ND, President
- Aliza Cicerone, ND Vice President and Legislative Chair
- Kathy Konst, Executive Director

Dr. Cicerone reported that the association no longer has a lobbyist. There have been discussions on legislative plans between the Committee and CNDA to identify resource needs for practice-as-trained scope changes.

Additionally, Dr. Cicerone reported that there are several changes in current statutes that CNDA would like to see occur; with title protection being hugely sought after. Both the association and the Committee believe that this is paramount to providing public safety to consumers who do not understand that a “naturopathic practitioner” is not a licensed naturopathic doctor.

Dr. Cicerone inquired whether the Committee had plans on consulting with a lobbyist and whether the Committee had plans to start conversations with the Board of Vocational Nursing to determine if they would be interested in promulgating changes in current law to allow NDs to hire and give orders to LVN’s.

**Agenda Item 15 Drug Formulary and Route of Administration Presentation –
Optimizing Hormones using BioTE Pellet Therapy: A
Comprehensive Approach**

Ms. Lea Wood, RN, BSN, BioTE Representative provided a presentation of BioTE, a pellet hormone therapy. In recent months, there have been several licensee inquiries regarding whether the use of this treatment would be within current ND scope. Currently, this treatment is allowed for CA registered nurses (RN) and the licensees are appalled that although ND education would allow for this treatment, that NDs are currently prohibited from performing this type of hormone pelleting.

Ms. Wood presented on how and why BioTE procedures would be utilized. This information is needed to determine what, if any, changes or clarification to existing statutes or regulations would be required.

Dr. Weisswasser asked whether there is a way to stop or alter the dosage if there were adverse reactions to the dose that is administered/implanted. Ms. Wood stated that there would not be a way to remove the pellet or reduce it after the implantation, however this is the reason that it is important to know the correct calculations on the administration of the hormones per patient.

Dr. Weisswasser also inquired whether this would be within current scope. Ms. Mitchell stated that currently when there is a new treatment introduced to the marketplace, and the treatment is in line with naturopathic medicine standards, the Committee’s responsibility is to first determine whether the substance meets the ND scope, and second, whether the route of administration is within the scope.

Dr. Thompson stated that she thought that this treatment would require a minor surgical procedure and asked if this was the case with BioTE.

Dr. Hirt explained that BioTE procedure would need a trocar which assists with implanting the pellet subcutaneously. Additionally, this procedure would need a topical anesthetic.

The Committee will research and entertain this further in order to determine if any changes need to be made to allow this procedure.

Agenda Item 16 Establish Future Meeting Dates and Locations

- Winter Meeting – Last week in Jan – first week in Feb 2019
- Spring Meeting – 1st and 2nd week in May 2019
- Summer Meeting – Did not schedule
- Fall Meeting – Did not schedule

Agenda Item 17 Agenda Items for Future Meetings

The following are items that were requested to be added to future meetings:

- Strategic Plan
- Addition of NANCEAC and Other CE Providers (amend BPC section 3635(b))
- Regulations for SB 1448 – How to disclose a disciplinary action to patients
- Officer Elections
- Regulations for IV Therapy
- Regulations for Fees
- Regulations for Inactive License
- Regulatory review for SB 2138
- Title Protection Statistics
- Future Legislative Efforts (Next Bill Cycle)

Agenda Item 18 Adjournment

There being no further business or public comment, Ms. Mitchell adjourned the meeting at 2:43 p.m.