



Naturopathic Medicine Committee

Meeting Minutes

December 1, 2020

MEMBERS PRESENT: Dara Thompson, ND, Chair
Greta D'Amico, ND, Vice Chair
Minna Yoon, ND
Vera Singleton, ND
Bruce Davidson, PhD
Shirley Worrels
T. Gregory Quinn, MD

MEMBERS ABSENT: None

STAFF PRESENT: Rebecca Mitchell, Executive Officer (EO)
Sabina Knight, Esq., Legal Counsel, Legal Unit DCA
Karen Halbo, Esq., Legal Counsel, Regulatory Unit, DCA
Raquel Oden, Program Analyst
Elizabeth Coronel, Moderator, SOLID, DCA
Tom Jurach, Co-Moderator, DCA

MEMBERS OF THE AUDIENCE: None

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

Dara Thompson, ND, Chair, Naturopathic Medicine Committee (NMC), called the meeting of the NMC to order on December 1, 2020, at 9:01 a.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 2 Public Comment

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

Agenda Item 3 Review and Possible Approval of May 28, 2020 Meeting Minutes

The Committee reviewed the May 28, 2020 meeting minutes. The minutes were approved as submitted.

Motion – Thompson / Second – Davidson, to approve the May 28, 2020 meeting minutes as submitted. Roll call vote taken, motion carried 7-0-0. (YES – Thompson, D’Amico, Yoon, Davidson, Worrels, Singleton, Quinn / NO – none / Abstentions – none).

Agenda Item 4 Discussion and Possible Action on Regarding Comments Received During the Comment Period Regarding AB 2138 – Substantial Relationship and Rehabilitation Criteria

At its March 5, 2019 meeting, the Committee approved regulatory language to implement AB 2138 (Chiu, Chapter 995, Statutes of 2018). The Committee noticed the regulation proposal on March 13, 2020 and gave the public forty-five (45) days to provide public comment ending on April 28, 2020. No hearing was requested or conducted. One (1) public comment was received on April 28, 2020.

During the May 28, 2020 meeting, the Committee members reviewed and considered the public comment and proposed responses. After the review, the Committee agreed with Option No. 1 and directed staff to reject the proposed comments, provide the responses to the comments as indicated in the meeting materials and complete the regulatory process as authorized by the following motion at the Committee’s March 5, 2019 meeting. The Committee further authorized the Executive Officer to make any non-substantive changes to the proposed regulation.

On November 6, 2020, the Committee modified the text and notice of availability of modified test of proposed regulation. On November 10, 2020 the Committee gave the public fifteen (15) days to provide public comment ending on November 25, 2020. The modified text was not discussed at this meeting and will be placed on the next agenda for Committee approval.

Agenda Item 5 Budget Update

Carl Beermann, Budget Analyst, DCA provided the budget report/update to the Committee. Mr. Beermann provided the Naturopathic Doctor’s Fund, Revenue, Expenditures and Expenditure Adjustments, and the Expenditure Projection report, which were included in the meeting materials.

Mr. Beerman was asked what the limit of reserves should be prior to reducing fees and suggested that any time a program has more than 24 months in reserves, it should start reducing revenue.

Mr. Beermann also advised that if the Committee wanted to file a Budget Change Proposal for the Enforcement unit, that the program would want to start developing the BCP in March for a June submission.

**Agenda Item 6 Report and Update from Dept. of Consumer Affairs
(DCA)**

Carrie Holmes, Deputy Director of DCA Board and Bureau Relations provided the report and update from the DCA. Ms. Holmes was appointed by Governor Newsome to her new position with the DCA on June 1, 2020. Prior to her appointment with DCA, she worked at the Senate as Legislative Director for Sen. Jim Beall after working as an Assistant Deputy with the Secretary of State. Ms. Holmes has always been passionate about consumer protection and is excited about her position with DCA.

Along with Ms. Holmes' appointment, several other appointments were made to make up the new leadership team. In Jan. 2020, Lourdes Castro Ramirez was appointed as the Secretary of the Business, Consumer Services, and Housing Agency (Agency). In March 2020, the Governor appointed Jennifer Simoes as the DCA Deputy Director of Legislation and in April 2020, Christine Lally was appointed as the Chief Deputy Director of DCA, joining the team officially in July 2020.

With Deputy Kirchmeyer having a full team in place, she can devote more time to her top priorities. One of those priorities is regulations, improving timelines and transparency. DCA's Regulations Unit was created by DCA legal to directly assist boards and bureaus with regulation packages. A regulation tracking database was created in Cherwell and is currently being tested by a few pilot programs.

Due to COVID-19, safety measures and policies were put into place to keep DCA offices open and ready to assist consumers and boards and bureaus alike. The costs associated with the state wildfires and COVID-19 will likely have lasting impacts for the next several years. Due to the budgetary issues, programs are being asked to make reductions of five (5) percent to their budgets no later than fiscal year 2021-2022.

DCA Board and Bureau Relations has made some changes to help with assisting programs leadership with carrying out their missions. The Board and Bureau Relations has put on three (3) virtual brown bag trainings to provide executive officers the opportunity to learn and discuss best practices on topics such as; appointments, managing staff remotely, and providing ADA compliant meeting materials to the public. Ms. Holmes thanked EO Mitchell for her participation in the last brown bag training. DCA asked EO Mitchell to give a presentation as a model of excellence for small boards, always providing timely and ADA compliant materials on an easy to navigate website.

Agenda Item 7

Executive Officer Update

EO Mitchell provided an update to the members as follows:

- **Staffing** – The Committee was understaffed for an eight (8) month period while its sole analyst was out on an unplanned leave of absence. During this time period, all the Committee’s workload was diverted to the EO. Everything was processed within normal timelines and there were no backlogs during staff absence. On 10/13/2020, staff was able to return to work and resume duties on a half-time basis. The EO still covers any duties not currently performed by the analyst.

Staff will remain working within a hybrid-telework system without any issues. While all state agencies are being asked to reduce expenditures, the hybrid-telework option can assist with the office space cost reductions in the future; in addition, our program will continue to due our part in reducing carbon footprints and all staff a better home-work life balance.

- **COVID-19** - On March 30, 2020, Governor Newsom issued Executive Order N-39-20. This Executive Order authorized the Director of the Department of Consumer Affairs (DCA) to waive any of the professional licensing requirements and amend scopes of practice in Division 2 of the Business and Professions Code and regulations. The following waivers were issued on March 31, 2020:

DCA 20-01 Continuing Education – Active licensees that expire between March 31, 2020 and June 30, 2020 are temporarily exempt from completing or demonstrating compliance with any continuing education requirements in order to renew a license. These licensees must satisfy any waived renewal requirements within six months, unless further extended. Additionally, these waivers do not apply to any continuing education required pursuant to a disciplinary order against a license.

DCA 20-02 Reinstatement of Licensure – Inactive licensees who are seeking to reactivate their license are temporarily exempt from completing or demonstrating compliance with any continuing education requirements. Additionally, these licensees do not need to pay any fees in order to reactivate their license. These licenses are valid for a maximum of six months, or when the State of Emergency ceases to exist, whichever is sooner. Additionally, licenses that were surrendered or revoked pursuant to disciplinary proceedings or any licensee who entered an inactive status following an initiation of a disciplinary proceeding are not eligible for this waiver.

On September 23, 2020, Director Kirchmeyer, DCA, issued an order waiving the restrictions on internet-based continuing education training for chiropractors and naturopathic doctors.

This waives California Business and Professions Code section 3635, subdivision (a)(2), to the extent it limits to 15 hours the maximum number of continuing education hours that may be completed through computer-assisted instruction, subject to the condition that such instruction consists of Internet- or web-based courses that allow participants to concurrently interact with instructors or presenters while they observe the courses.

- **Licensing** – NMC’s total licensee count as of November 23, 2020 shows the number of licensees practicing under the Committee’s jurisdiction.

Active/Current: 889
Inactive/Current: 23
Delinquent: 155
Total: 1,067

- **Enforcement** – NMC’s total enforcement statistics are as follows:

Case Type

Unlicensed Activity: 45 (69%)
Cases against Licensees: 20 (31%)
Total cases: 65

Types of Licensee Violations

Advertising: 8 (40%)
Failure to update Address(es): 1 (5%)
DUI Related: 3 (15%)
Unprofessional Practice: 5 (25%)
Records: 1 (5%)
Death/Patient Harm: 2 (10%)
Total: 20

Members requested to see the breakdown of ND complaints vs. ND population, number of cases closed vs. opened.

- **Oversight (Sunset) Review Information** - The Senate Business, Professions, and Economic Development Committee and the Assembly Business and Professions Committee have postponed sunset review oversight for a number of programs that would have otherwise been scheduled for review in 2020-2021.

SB 1474, Chaptered by Secretary of State on 09/29/2020, was amended to extend operations for the following entities for one year, until January 1, 2023:

- Naturopathic Medicine Committee
- Board of Chiropractic Examiners

- California Council for Interior Design Certification
- Occupational Therapy Board
- Physical Therapy Board of California
- Respiratory Care Board
- Speech-Language Pathology, Audiology, Hearing Aid Dispensers Board

The following entities will still be reviewed as scheduled in 2020-2021:

- Board of Registered Nursing
- Medical Board of California
- Board of Optometry
- Osteopathic Medical Board of California

Agenda Item 8 Social Media and Consumer Outreach

The Committee reached out to the DCA and requested consultation for a social media campaign. Ms. Cheri Gyuro, from the Office of Public Affairs created a communications plan for the Committee that will assist in spreading the Committee’s message to the public and help consumers make solid choices when selecting an ND. Using a comprehensive plan, the Committee can launch outreach and public awareness campaigns about how NDs are rigorously regulated for the safety of consumers, and how to obtain a fully licensed ND who is in good standing with the Committee. Utilizing these communication tools can also help the Committee get the word out when it comes to announcements about meetings, changes in the law, exam dates and much more.

Ms. Gyuro will establish a Facebook, Twitter, Instagram, and LinkedIn account for the Committee. Staff will receive two or three media training sessions with DCA Information Officers from the Office of Public Affairs. Consistent content change to assist in consumer engagement and updated Consumer’s Guide to Naturopathic Medicine on the website and links to it from social media platforms.

Agenda Item 9 Website Update

The NMC website is being updated. EO Mitchell is working with the DCA Internet Team to update the site to the newest format. The new format allows for a more ADA compliant site and keeps the look and feel of all board sites, consistent.

Agenda Item 10 Report and Update from California Naturopathic Doctors Association (CNDA)

Dr. Aliza Cicerone, ND, President and Legislative Chair of the California Naturopathic Doctors Association (CNDA) provided an update to the Committee. Dr. Cicerone stated that they just completed their Strategic Plan Annual Meeting and decided that they will be focusing on advocacy at this time. CNDA recently brought on Traci Hobson to assist with advocacy.

Currently AB 890 passed, allowing independent practice of nurse practitioners. CNDA will be ramping up their efforts with scope modernization to allow NDs to practice as trained without independently and bring California NDs in parity with all other states that currently regulate naturopathic medicine. In addition, CNDA has begun conversations with Board of Registered Nursing (BRN) to make changes necessary to allow NDs to provide orders to nurses. This would be beneficial to busy ND practices that need more skilled practitioners than what a naturopathic assistant can provide. Change will need to be made to both the Nursing Act and the Naturopathic Doctors Act.

Agenda Item 11 Discussion and Possible Action on Legislative Efforts:

- a) Nurse Oversight – Update on Discussions with professional associations
CNDA and BRN started conversations regarding the need of nurses working in naturopathic practices and NDs being able to provide orders and supervision of RNs. This is still in early phase of discussion. The Committee supports this push as there would be more skilled support in the ND office with the use of RNs. This is an added benefit for NDs and consumer protections.

- b) Scope Modernization
 - i) Independent Prescribing – Business and Professions Code (BPC) sections 3640.5 and 3640.7 – the Committee has had several subcommittee meetings to determine if independent prescribing rights are still appropriate for NDs. During these meetings, all subcommittee members agreed that NDs have been properly trained in pharmacology and should be allowed to independently prescribe many drug classes without the oversight of a physician. The subcommittees were made up of NDs, physician and surgeons and a pharmacist.
 - ii) Minor Office Procedures – BPC section 3640 – the Committee has had several subcommittee meetings to determine if minor office procedures should be allowed by NDs in California to bring parity with other states regulating the practice of naturopathic medicine. The Committee lost a physician member and due to the vacancy, the subcommittee had to be paused until another physician member can be appointed.

At the time of the vacancy, the subcommittee members identified that the NDs should be able to practice the minor office procedures that they are trained and examined for. The Committee plans to reinstate the subcommittee as soon as there is a new subcommittee member.

Agenda Item 12 Naturopathic Physicians Licensing Examination (NPLEX)

EO Mitchell provided information regarding a push to bring the NPLEX online and away from the current in-person, paper examination after the February 2020 NPLEX exam during COVID-19 challenges. Due to limited resources and serious security risks of the integrity of the test, there are several states who remain against online testing.

The Department of Consumer Affairs (DCA) Office of Professional Examination Services (OPES) strongly recommends that programs carefully evaluate online or remote proctoring using psychometric guidelines and standards. OPES cautions that this test delivery system may have unintended consequences. These consequences may include new opportunities for candidate misconduct and examination subversion, as well as potential legal issues.

Committee members requested additional information in order to make a decision.

- Find out what professions are currently allowing online examinations.
- Cost associated with the online examination.

This item was tabled until the next meeting.

Agenda Item 13 Future Agenda Items and Next Meeting Dates

Items for future agenda:

- Budget Change Proposal (BCP) for Enforcement
- Online Examinations (NPLEX)
- Possible Legislative Efforts
- Regulation Package Updates
- Create Sunset Subcommittee

The next meeting date will be scheduled for Tues., January 26, 2021 at 9:00 a.m.

Agenda Item 14 Adjournment

There being no further business or public comment, Dr. Thompson adjourned the meeting at 12:19 p.m.