

California Board of Naturopathic Medicine

Meeting Minutes

December 14, 2023

MEMBERS PRESENT: Dara Thompson, ND, Chair
Greta D'Amico, ND, Vice Chair
Minna Yoon, ND
Bruce Davidson, PhD
Vera Singleton, ND
Andy Yam
Diparshi Mukherjee, DO

MEMBERS ABSENT: None

STAFF PRESENT: Rebecca Mitchell, Executive Officer (EO)
Michael Kanotz, General Counsel, Legal Affairs Div., DCA
Yuping Lin, General Counsel, Legal Affairs Div., DCA
Kristy Schieldge, Regulations Counsel, Legal Affairs Div., DCA
Christina Richie, Budget Analyst, Budget Office, DCA
Ann Fisher, Moderator, SOLID – DCA
Alex Cristescu, Webcast Specialist, Office of Public Affairs, DCA
Aubrey Hopkins, Legislative Analyst, DCA Legislative Affairs
Raquel Oden, Program Analyst, Co-Moderator, NMC

MEMBERS OF THE AUDIENCE: N/A

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 14, 2023, at 10:00 a.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 2 Public Comment

There was no public comment during this meeting.

**Agenda Item 3 Review and Possible Approval of Board June 29, 2023,
Meeting Minutes**

EO Mitchell provided the Board members with a draft copy of the 06/29/2023 Board meeting minutes. The Board had an opportunity to review the minutes prior to the commencement of the meeting.

The Board members approved the meeting minutes with amendments taken prior to meeting.

Motion – Thompson / Second – Singleton, to approve the 06/29/2023 Board meeting minutes with amendments. Roll call vote taken; motion carried 6-0-1. (YES – Thompson, D’Amico, Singleton, Mukherjee, Davidson, Yoon / NO – none / Abstentions – Yam).

No public comments were made during this agenda item.

Agenda Item 4 Board Chair Welcome, Discussion and Possible Actions

Chair Thompson welcomed all the members and staff to the meeting. She also gave a big thank you to Vice Chair, Dr. Greta D’Amico for her “tireless dedication, meticulous in her scrutiny, and dependability” during her appointment to the Board. Vice Chair D’Amico’s term will expire as of December 31, 2023. She will be missed.

No public comments were made during this agenda item.

**Agenda Item 5 Update Discussion, and Possible Action on ND Licensee
Study: Licensee supervision of LVNs,
Physician/Licensee Protocol Agreements, and
Intravenous (IV) Therapy Practices**

EO Mitchell presented information regarding the Licensee Supervision of LVN survey. This survey was conducted between November 6 – 27, 2023 and was sent out to 1,221 licensees. The Board received responses from 313 licensees (25.63%).

All survey questions and response statistics were provided in the meeting materials.

**Agenda Item 6 Status Update on Board’s Current Rulemaking
Proposals**

EO Mitchell provided an update on the Board’s current rulemaking proposals to include:

- Name Change (Section 100) – *Ready for review by 04/30/2024.*
- Delegation of Functions - *Ready for review by 06/20/2024.*
- Fees - *Ready for review by 09/25/2024.*

- Inactive Status - *Ready for review by 09/25/2024.*
- Retired Status - *Ready for review by 09/25/2024.*
- Intravenous and injection Therapy - *Ready for review by 12/20/2024.*

Agenda Item 7 Executive Officer's Update, Discussion and Possible Action

a) Board Member Vacancies

Executive Officer (EO) Mitchell presented information regarding Board Member vacancies. Currently there are two (2) vacancies as follows:

- 1 Professional Member (naturopathic doctor) – vacant since 02/2022
- 1 physician and surgeon (allopathic or osteopathic) – vacant since 09/2019

Recent Appointments:

Mr. Andrew (Andy) Yam was appointed to the public member vacancy for the Speaker of the Assembly on June 26, 2023.

Expiring Appointments:

Dr. Greta D'Amico, N.D., who currently holds the officer position of Vice Chair, is currently service her grace period which expires on 12/31/2023.

Staff is working with DCA Board and Bureau Relations and the Governor's Appointment Office to get the positions filled.

b) Staffing

During the 2022 Oversight (Sunset) Review process, the Board provided information to the Legislature about the ongoing issues with unlicensed practice. Assembly Bill 2685 (Chapter 414, Statutes of 2022) was the sunset bill that changed the former Naturopathic Medicine Committee to the California Board of Naturopathic Medicine along with providing authority to hire an additional staff member to assist with the large unlicensed activity.

EO Mitchell developed the duty statement for the new Consumer Protection Services Analyst position. This is a fulltime, permanent position. The recruitment process has started, and the first set of candidate interviews are scheduled for December 18 - 19, 2023.

c) Licensing Statistics

EO Mitchell reported on the Board's total licensee count between July 1, 2023, and December 5, 2023, is as follows:

- Active/Current Licensees – 1020 (There is 1 suspension for Family support issues – once the licensee clears their case with family support court, they will be placed back into an active status)
- Inactive/Current – 25
- Delinquent – 131
- Other (retired/etc.) – 239

The total number of licensees under the NMC's jurisdiction is 1,415.

Additionally, the Board has reviewed and approved 48 new naturopathic doctor license applications and processed 229 license renewal applications.

d) Enforcement Statistics

EO Mitchell reported that currently the Board has 137 total enforcement cases open. Of the 137 cases, 49 are against licensees, (2 are against applicants), while the remaining 88 cases are against unlicensed individuals.

The unlicensed activity continues to remain the largest portion of the Board's enforcement caseload making up 64% of cases. The board will be increasing educational and informational outreach campaigns to assist in continuing to reduce the unlicensed activity.

The **unlicensed activity** consists of all the following:

- Using the naturopathic doctor (ND) title – (CA Bus. Prof. Code §3660)
- Not providing a written disclaimer of unlicensed practice to their client and having a signed copy by the client on file per CA business and profession section 2053.6 – (CA Bus. Prof. Code §3644)
- Providing diagnosis in violation of CA Business and Professions code section 2053.5 – (CA Bus. Prof. Code §3644)
- Advising their clients to discontinue medication prescribed by licensed healthcare providers also prohibited with CA BPC section 2053.5 – (CA Bus. Prof. Code §3644)
- Providing treatment within the scope of an ND – (CA Bus. Prof. Code §3644)
- Causing harm or death to clients – (CA Bus. Prof. Code §3644)

EO Mitchell reported that 27 new cases were submitted from 07/01/2023 through 12/05/2023. Since the last meeting, the Enforcement Unit closed 3 cases and sent 1 case to the Attorney General's Office for filing. Currently there are several cases that have been resolved and are awaiting management review and closure.

The **licensed activity** consists of all the following:

Currently, the Board has 49 total enforcement cases opened on ND licensees. Of those 49 cases, the breakdown of violation types are as follows:

- Advertising violations – 7 or 14%
- Substance-abuse related violations – 6 or 12%
- Unprofessional Conduct – 35 or 72%
- Records only – 1 or 2% (not releasing upon patient request or not recording treatment/visit properly)

e) Budget Update

Christina Ritchie, Budget Analyst presented the budget update. Ms. Ritchie reported on the Board's current budget and fund conditions. She explained to the members how the documents capture the expenditures, revenue and the projected year-end budget. There is a small reversion, and the Board will need to be careful and be conservative on spending during the last half of the fiscal year.

The Fund condition continues to be healthy but is a snapshot in time and could change depending on various changes to the program. All budget materials were made available to members and public.

Vice Chair D'Amico inquired whether the expenditures reflected the new position that was created within the board. She also wanted to know if it reflects the resultant need for a managerial level staff member in future projections.

EO Mitchell advised that the expenditure included the new enforcement analyst position which is in the recruitment status, however, there is no authority or budget for another manager level position within the board at this time.

Chair Thompson inquired about the fund balances going from \$727k in CY to \$288k in FY 2025-26 and if the board should be doing something about the decrease in the fund. Harmony DeFilippo, Budget Manager, was also present and reported that the projections are showing what would happen if the board expended the full appropriate and does not include any cost savings in reversions. Any savings from the full appropriations will help the reserve balance. Any future concerns with the fund balance declining would be worked closely between the board and the Budget Unit to address any shortcoming ahead of time.

No public comments were made during this agenda item.

Agenda Item 8

Legislative Implementation Update, Discussion and Possible Action on Chaptered Bills:

Aubrey Hopkins, Legislative Analyst, DCA Division of Legislative Affairs, provided a presentation, providing an overview of the Legislative Proposal process and additionally provided updates on the following chaptered bills:

a) AB 883 (Mathis, Ch. 348, Stat. 2023) – Business licenses: Unites States Department of Defense SkillBridge Program

This bill will require, on and after July 1, 2024, a board to expedite, and authorize a board to assist, in the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant is an active duty member of a regular component of the armed forces of the United States enrolled in the United States Department of Defense SkillBridge program, as specified, and would provide that regulations to administer those provisions be adopted in accordance with the rule making provisions of the Administrative Procedure Act. This will expedite licensure for those eligible under this new law.

b) SB 143 (Committee on Budget and Fiscal Review, Ch. 196, Stat. 2023) – State Government

This is a trailer bill that will help implement public law 117-333, which is a federal law that became effective on January 5, 2023. It allows military members and their spouses who hold professional licenses in other states to practice in California within the same professional discipline and in a similar scope of practice if they are required to relocate to California due to military orders. The DCA Office of Information Services, has worked with DCA programs to capture online information through a new online platform.

EO Mitchell advised that NDs from Idaho would not meet the requirements under this law to use their Idaho ND license to practice as an ND in California. The Idaho ND is not equivalent to a nationally recognized naturopathic doctor, does not meet the educational or examination standards to become licensed as an ND in any of the regulated states. Naturopathic Medical Doctors (NMD) from Idaho would be allowed to practice under that license under the naturopathic doctors' scope in California.

c) SB 372 (Menjivar, Ch. 225, Stat. 2023) – Department of Consumer Affairs: licensee and registrant records: name and gender changes

This bill requires all licensing entities within the Department of Consumer Affairs (DCA) to update licensee records if it receives government-issued documentation demonstrating that the individual's legal name or gender has changed. This bill will also require licensing entities to establish a process, one that considers respect for the individual's privacy and safety, to provide a licensee's or registrant's current name or enforcement action record linked to a former name upon receipt of a request that is

related to an enforcement action against the licensee or registrant or a search of licensee by previous name.

It further specifies that if a licensing entity operates an online license verification system, it must remove the individual's former name upon receipt of the government-issued documentation and specifies that the individual's former name and/or gender are deemed confidential; reissue any documents related to licensure with the individual's updated legal name and/or gender and specifies that a higher fee cannot be charged for this effort other than the fee associated with any other document reissuance; clarifies that a licensing entity does not need to modify licensure records if the individual does not request a modification or reissuance of licensing documents;

Lastly, that this bill imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. States that this is necessary in order to protect the privacy rights and safety of individuals it is necessary that this act limit the public's right of access to that information.

d) SB 544 (Laird, Ch. 216, Stat. 2023) – Bagley-Keene Open meeting Act: teleconferencing

This bill revises and repeals, until January 1, 2026, certain teleconference requirements under the Bagley-Keene Open Meeting Act (Bagley-Keene), which requires all meetings of a state body be open and public.

Requires, provides, in addition to the authorization to hold a meeting by teleconference pursuant to current Bagley Keene provisions, a state body may hold an open or closed meeting by teleconference, as described, provided the meeting complies with specified the requirements:

- A majority of the members of the state body shall be physically present at the same teleconference location. Additional members of the state body in excess of the majority of the members may attend and participate in the meetings from a remote location. A remote location is not required to be accessible to the public. The notice and agenda shall not disclose information regarding a remote location.
- Authorize a member's remote participation, if the member has a need related to a disability and notifies the state body, as specified. Under the bill, that member may be counted toward the majority of members required to be physically present at the same teleconference location.
- If a member of the state body attends the meeting by teleconference from a remote location, the member shall disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the

member, and the general nature of the members relationship with any such individuals.

- The members of the state body shall visibly appear on camera during the open portion of a meeting that is publicly accessible via the Internet or other online platform as provided.
- All votes taken during the teleconference meeting shall be by roll call. The state bodies shall publicly report any action taken by the vote or abstention on that action of each member present for the action.
- Authorizes an additional means of holding a meeting by teleconference by an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multi member advisory body, as prescribed, under specified requirements.

e) AB 1021 (Wicks, Ch. 274, Stat. 2023) – Controlled substances: rescheduling

This bill provides that if any schedule 1 controlled substance is federally rescheduled or exempted from the controlled substance act, it will automatically become lawful for health professionals to prescribe, furnish, or dispense under California law. Clarifies the exemption for cannabis products regulated under the Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) by allowing cannabis or cannabis products currently rescheduled under existing law to remain authorized.

f) AB 1707 (Pacheco, Ch. 258, Stat. 2023) – Health professionals and facilities: adverse action based on another state’s law.

This bill protects licensed healthcare professionals, clinics, and health facilities from being denied a license or subjected to discipline on the basis of a civil judgment, criminal conviction, or disciplinary action imposed by another state based solely on the application of a law that interferes with a person's right receive sensitive services that would be lawful in California. Further clarifies the exemption for a civil judgment, criminal conviction, or disciplinary action imposed in another state for which there is a similar claim, charge, or action under California law.

g) AB 1731 (Santiago, Ch. 144, Stat. 2023) – CURES database: buprenorphine

This bill exempts a health care practitioner who prescribes, orders, administers, or furnishes buprenorphine in an emergency department of a hospital from the duty to consult the state's prescription drug monitoring program (PDMP) database.

h) SB 345 (Skinner, Ch. 260, Stat. 2023) – Health care services: legally protected health care activities

This bill enacts various safeguards against the enforcement of out-of-state anti-abortion and anti-transgender laws to protect individuals seeking and providing gender-affirming health care in California.

Agenda Item 9 Strategic Planning Development Overview and Presentation

Elizabeth Coronel, Strategic Planning Manager with the DCA provided an overview of the strategic planning development overview. Ms. Coronel provided a strategic planning roadmap that included the following areas:

- Preliminary Meeting
 - Preliminary meeting with client.
 - Introduce facilitators.
 - Set schedule and decide dates.
 - Decide roles.
 - Define process.
 - Create customized development plan for client.
 - Introductory presentation.
- Environmental Scan
 - Survey external stakeholders.
 - Interview members.
 - Interview executives interview/survey staff.
 - Compile and format data.
 - Analyze data.
 - Review findings with client.
- Strategic Planning Session
 - Create facilitation plan.
 - Conduct planning session.
 - Review mission, vision, values, and goals.
 - Review environmental scan results.
 - Establish objectives.
- Strategic Plan
 - Draft strategic plan.
 - Review and finalize plan with client.
 - Client approves and adopts plan.
 - Client publishes plan and posts plan to website.
- Action Planning
 - Prioritize objectives.
 - Established time frames.
 - Determine performance metrics.
 - Assign responsibilities.
 - Draft action plan.
 - Review and finalize plan with client.

Agenda Item 10 Discussion and Possible Action of Prospective Legislative Proposals

The following items were discussed, and Board members would like to have them added to future meetings to discuss legislative proposals:

- Gain authority to modernize the IV Therapy laws and allow a recertification process.
- Gain authority to provide changes in additional continuing education language.
- Formulary Modernization to match ND education and training.

In addition, Vice-Chair D'Amico requested that staff check for any instances of the term "*Committee*" when referencing the Board in statute and make any amendments, if needed and appropriate.

Additionally, a request was made to add a link to the AANP course for the MATE Act on our website for NDs that are required to take the one-time, 8-hour course, required for U.S. DOJ DEA registration renewal.

Agenda Item 11 Discussion and Possible Action of Omnibus Legislative Proposals

The following items were discussed, and Board members would like to have them added to future meetings to discuss legislative proposals:

- Update Naturopathic Doctors Act, amend reference from "committee" to "board" (Business and Professions Code §§3610 – 3686) as an omnibus legislative proposal.

Agenda Item 12 Future Agenda Items and Next Meeting Dates

Items for next meeting include rollover items from the last meeting:

- Executive Officer Evaluation
- Board Logos (New Colors)
- Rulemaking Process

The next meeting will be scheduled for December 27, 2023, to review and possibly approve proposed omnibus bill language.

The next meetings will be scheduled for 2024 using a poll to be sent out to members.

No public comments were made during this agenda item.

Agenda Item 13

Adjournment

There being no further business or public comment, Dr. Thompson adjourned the meeting at 12:44 p.m.