

Oregon Board of Naturopathic Examiners
Board Meeting
December 7, 2009

PRESENT: Rick Marinelli, ND, Chair; Michelle Homer, ND; Elaine Gillaspie, ND; Donna Beck, ND; Sara Ohgushi, ND; Patrick Chapman, ND; Yi-Kang Hu, PhD, Public Member; Glenn Taylor, Public Member; Anne Walsh, Executive Director; John Laws, Investigator

Executive Session: **N09-11-23A, N09-11-22A**, G. Taylor Moved to dismiss without action, R. Marinelli seconded, motion passed unanimously; **N09-08-17**, G. Taylor moved to issue notice of discipline, R. Marinelli seconded, motion passed unanimously; **N09-09-20**, G. Taylor moved to continue investigation, R. Marinelli seconded, motion passed unanimously; **N09-08-15, N09-09-18**, G. Taylor moved to issue notice of proposed discipline, R. Marinelli seconded, motion passed unanimously.

New Board Members: Patrick Chapman, ND. Dr. Chapman has been in practice for six years and is eager to participate on the Board and will be filling a vacant position. Sara Ohgushi, ND. Dr. Ohgushi has been in practice for nine years and has been practicing natural childbirths for eight years. Dr. Ohgushi is replacing Elaine Gillaspie.

The Board also recognized a guest and former board member Greg Garcia.

Meeting Minutes: August 3, 2009 meeting minutes correction proposed by R. Marinelli. In discussion about increasing continuing education requirements R. Marinelli would like the record to show that M. Homer and D. Beck were in favor of proposed increases. Y. Hu inquired about the status of case **N09-05-11N** which was discussed during August meeting, J. Laws will prepare case for discussion next Board meeting.

Miscellaneous: The public comment period has passed on proposed rules **OAR 850-060-0225** and **OAR 850-060-0226**. No public comment was received on this rule. D. Beck makes motion to adopt as permanent proposed rules **850-060-0225** and **850-060-0226**, E. Gillaspie seconded, motion passed unanimously.

Discussion followed about EPT and initiating rulemaking on **850-060-0220**, giving ND's authority to prescribe medications under EPT. Y. Hu asked if rule should include protocol from DHS, R. Marinelli said "no", but CDC summary posted to Board website. R. Marinelli asks for motion to initiate rule making, G. Taylor motions, R. Marinelli seconded, motion passed unanimously.

Discussion followed about **850-040-0210** continuing education rules. There has been question about ND's using employment for continuing education as the rule no longer limits the number of hours a ND claims in one subject area or how obtained. The Board clarified that employment is not allowed for CE credit as it is not an approved activity by the Board.

Non-ND investigations: **N09-09-19N, Chamberlain** – Complaint implies individual misdiagnosed an elderly relative's breast cancer. Person does not hold medical license. The Board sent a cease and desist letter that was refused. Matter is being referred to Oregon Dept. of Justice and investigator will be coordinating with them.

N09-11-24N, Sunshine Spa and Salon – Contractor for an ND was supposedly doing "ear candling." FDA considers an "ear candle" to be a medical device. ND has stopped the contracted activity. J. Laws recommend dismissal. R. Marinelli entertains motion to dismiss, G. Taylor moves, D. Beck seconded, motion passed unanimously.

General Business:

Discussion about a **code of ethics** and whether it should be an explicit list of prohibited conduct. G. Garcia, student of bioethics at PSU, explained what a code of ethics is and how it applies to ND's. Code of ethics can be rather limited and the more "black and white" a code becomes the more difficult it is to apply to individual cases. Ethics is generally case based but a code can still outline unacceptable behavior. R. Marinelli asked if OANP should take the lead on creating an ethical code or whether the Board should. G. Garcia expressed that the optimal solution would be a national code. G. Garcia cited Canada's approach as a good example, which states that as primary caregivers they have expectations as to how they diagnosis. R. Marinelli asked G. Garcia if he could return in the future and assist the board in crafting ethical guidelines. G. Garcia will work with both Board and OANP to craft guidelines that can protect both the profession and public. Discussion followed about possible ethical peer review models and discussion groups. G. Garcia felt that the Boards role should be to build a structure that supports the scope of practice, and it would help if there was someone designated and trained to field ethical questions. The downsides of discussion groups are the likelihood that the discussion diverts to risk management and problem solving solutions which are not necessarily ethical. This may be a good topic for strategic retreat.

Renewals: ~5% have renewed so far and of those renewals 95% are problem-free

Controlled Substance Prescribing: R. Marinelli began discussion around the prescribing of controlled substances, especially opioids. The University of Wisconsin's and Federation of State Medical Boards guidelines for opioid prescribing are important resources for ND's and should be posted on website. PMP should use such documents and other information gathered to give ND's guidance.

Best Practices: A. Walsh explained that Board activity is evaluated yearly and at the February meeting there will be a Board self-evaluation.

Peer Review: R. Marinelli began discussion explaining that last year the Board filled the peer review committee and suggested that the Board should now activate that committee and have it schedule a meeting to discuss as to how they can effectively assist the Board in case review. A. Walsh will write a letter to participants. A rules committee needs at least 2 board members to help write rules and make sure that statutes are clear and rules help explain statutes and not simply repeat them. R. Marinelli asked for volunteers and Y. Hu and M. Homer were selected.

POLST (Physician Orders for Life Sustaining Treatment): R. Marinelli explained that ND's are not included in process yet but it is very early in process. One issue is that EMT's enforce POLST and ND's have no way to interact with them. The Board has an ethical responsibility to be engaged in this issue. Subject was tabled until next meeting.

Name Change: As of January 1, 2010, the Board shall be named The Oregon Board of Naturopathic Medicine to better reflect the Boards purpose as a medical regulatory board and not just an examining board.

Board Chair Appointment: It is time for the appointment of the Board Chair. R. Marinelli has been the Board Chair since 2006. A. Walsh explained the need to choose a new chair as R. Marinelli's appointment ends in February. G. Taylor asked the members of the Board how they felt about a non-ND being appointed and response was favorable as the position's main responsibility is to facilitate meetings. Y. Hu brought up the possibility of having co-chairs. After further discussion, E. Gillaspie made a motion to nominated G. Taylor to be the new chair of the Board, D. Beck seconded, motion passed unanimously. R. Marinelli's departure leaves a vacancy on formulary council and P. Chapman expressed interest in the position.

Natural Childbirth: Correspondence from Sharron Fuchs on the scope of NDs with natural childbirth certification and the practice of vaginal birth after cesarean (VBAC). S. Ohgushi and E. Gillaspie led the discussion on the education and practices of ND with natural childbirth certification. Patients are evaluated on a case-by-case basis and a VBAC is a one of the many factors considered in the care provided to a pregnant woman.

HCG: R. Marinelli began discussion explaining HCG emergent use as a weight loss supplement. Many doctors have released articles claiming its safe and effective use for weight-loss. Its label use is for female fertility but it's off label is often associated with steroid abuse. Issue has come up because certain doctors have been writing prescriptions for HCG without appropriate interaction with the patient. E. Gillaspie suggested referring issue to OANP. R. Marinelli felt the issue is covered under a ND's responsibility to meet with the patient and not delegate any of their prescribing authority to unqualified individuals.

Director's Report: A. Walsh gave all Board members a copy of the Information Security Plan for review and acknowledgement. G. Taylor encouraged new Board members to attend any State board trainings. He also stressed to be careful with communication because of public meeting laws and to ask A. Walsh if they have any concerns regarding communications.

A. Walsh explained that the Board has \$262,363 in cash reserve. J. Laws will work with the Director until a new investigator is hired. A. Walsh will be seeking a permanent part-time investigator from the legislature in February.

A. Walsh asked the Board to formally adopt the Director's authority to contract out for record review and investigations. R. Marinelli asked for a motion, D. Beck moved to give said authority to Director, G. Taylor seconded, discussion followed about possible limits on authority. G. Taylor expressed reservation about starting a precedent in regards to contractors. R. Marinelli suggested using Peer Review Committee and then having a \$500 limit to these members. R. Marinelli asked for a vote on pending motion, S. Ohgushi amended motion to include limits, G. Taylor seconded, motion passed unanimously.

A. Walsh suggested the strategic planning retreat be scheduled for June 2010. G. Taylor expressed satisfaction with past retreat using a facilitator to coordinate meeting and free up Board members. S. Ohgushi expressed reservations about being away from on-call responsibilities. A. Walsh explained how important it is to have a focused retreat to concentrate on the Board's business. The meeting is tentatively scheduled for the second weekend of June.

Public Comment: None

The Board wanted to recognized Elaine Gillaspie's service to the Board and profession through her hard work on the Board since 2004.

As there was no more business to discuss, the Board moved to close the meeting at 3:27pm. Board members worked on CE after the close of the meeting.