

North Dakota Board of Dietetic Practice Meeting
Thursday, September 13, 2012
9 a.m. – 3:30 p.m.
North Dakota Beef Commission
4023 State Street
Bismarck ND

Board Members Present: Linda Nudell, Georgianna Walker, Rita Ussatis, Kathy Larson, and Vanessa Hoines

Also present were Pat Anderson, NDBODP Executive Secretary, Edward Erickson, Assistant Attorney General and Connie Hofland, NDAND Liaison

I. Call to Order

Chair Nudell called the meeting to order at 9:05 a.m. She thanked Edward and Connie for attending.

II. Approve Agenda

Anderson requested to add under correspondence the communication from Christa Anderson. The agenda was approved.

III. Approval of May 9, 2012 Minutes

The minutes were approved as written.

IV. Board Briefing on Agenda Items for AAG

- a. Review Survey Results for Complaint Process Comments** (refer to attachment) – The return rate was very good with 134 respondents. The summary can be helpful in guiding decisions regarding the complaint process and future education for licensees.
- b. Summary of Comments from Kay Mavko** (refer to report from Walker) – the items were reviewed and discussed with the following comments in ().

Suggested Website Improvements

- Add complaint form with submission process and procedure (the Board will do this)
- Publish minutes from meetings (This was started with the January 2012; minutes will be posted after they have been approved)
- Post schedule of upcoming meetings (the board will continue to have meetings listed as needed and a determined schedule will not be done)
- Post auditor's report (the board determined this is not necessary as it is available if someone asks to review it)
- Make your business public

Complaint Procedure Recommendations

- Incorporate complaint procedure into Rules (no action at this time)
- Develop a complaint form, add to website (action will be done for this)
- Questioned the statement about confidentiality; is patient information confidential when included in a complaint? (it would be protected)
- Executive secretary to docket any complaints (Executive Secretary could establish this)
- Consider subcommittee review of complaint prior to the whole board (there isn't a need for a subcommittee)
- For standards of practice case – need a process to hire experts (Edward could be the process)
- Have regular training from AG on adjudication of cases (Education will be provided for the Board – we have started today)
- Refer to ND physician and pharmacist websites for user friendly process
- Survey licensees regarding barriers to submitting complaints as lack of complaints was a big concern and membership needs to know how to file a complaint (Survey has been done)

Law and Rules Recommendations

- Use Model Practice Act from AND (Connie discussed that it is being revised and it is only open to states that are going for licensure or have sunset clauses).
- Add MNT and NCP definitions to Rules (added to a possible list of rule changes)
- Change wording from “accredited” schools to “U.S. regionally accredited” for LNs (discussed; no action taken)
- Change name to Academy of Nutrition and Dietetics (Edward has made the technical changes to present to the legislative committee)
- Use broader language: “as adopted by AND”
- Code of Ethics – needs updating to 2009 version (Edward will need to compare the current version in the practice act to the most updated one. The first step will be to determine if this will be a technical change that the legislative committee will approve or if this will require a rules amendment.) Edward stated that you cannot delegate a future code of ethics so we could not include “as adopted by AND” to cover subsequent changes. Anderson will contact AND to obtain a copy of the code of ethics that was cited in our practice act. Anderson will follow up with Erickson, hopefully by next week.
- Ask AAG if LNs can be held to the RDs code of ethics? (Edward stated that it probably was appropriate for LNs but if it wasn't it could be adapted for LNs.)
- Suggested addition of “general nonmedical nutrition information to #10 of exemptions on page 4 (Would have to open the law to make this change)
- How to handle situation if a limited permit licensee fails the RD exam, is supervision under an RD required? (There is nothing in the law that would require this)
- Could add a “moral character” clause (There is the code of ethics in the law)
- Publish guidelines, bulletins, hold meetings with state associations, use FAQ feature as informal ways to educate licensees and suggest changes (Do in Dietetic Updates and in 2013)

Application and Renewal Recommendations

- Discontinue copy of CDR card, verify via online data base (This change has been made)
- Take full SS# off renewal forms, just use last 4 digits after the initial application (Done)
- Discontinue the education information on renewals (Done)
- Add truthfulness attestation statement on all applications and renewals (Done)
- Increase fee for limited permit (Would require a rules change)

c. Generate Questions for AAG

Q. What is the process for changing in our bill and rules the name change of the American Dietetic Association to the Academy of Nutrition and Dietetics?

- A. Erickson explained that some things such as a name change can be changed through a “technical bills procedure”. This is different from a rules amendment and the first step would be to bring this to the legislative committee. Erickson will prepare this for the legislative committee. Erickson will also provide them with the address change for BODP.

Q. Could the ADA code of ethics that is listed in the rules (June 1, 1999) be changed to the most recently revised code of ethics through a technical bills procedure instead of a rules amendment?

- A. Erickson stated that usually you cannot delegate a future code of ethics. He recommended that BODP get him a copy of the code of ethics that is listed in the rules and he will compare that to the most recent code of ethics to determine the differences. Action: Anderson will contact AND and forward a copy of the code of ethics to Erickson. Erickson will make recommendations to the Board after he has reviewed the changes.

Q. Could LNs be held to the code of ethics in our law? Is it appropriate for them?

- A. Erickson stated that it probably was appropriate but if it isn't then it could be adapted for LNs.

Q. What is the time line for a rules change? Bill change?

- A. A change in the rules is a 9 month process. It is also expensive with at least \$1600 in notification and legal fees. Erickson recommended that if there are several rule changes that you do them all at once rather than individually. December 1 is the deadline to file bills (note -this is not a rule change but a bill change).

d. Model Practice Act from AND

Hofland had attempted to obtain a Model Practice Act from AND. She was informed that AND is not releasing it and that it currently is undergoing revision.

V. Meeting with AAG – Edward Erickson

- a. **Disciplinary Action for Unlicensed Care** – Erickson presented information on whether the Board could take disciplinary action against a dietitian that works for the Indian Health Service (IHS) that is providing unlicensed care. Erickson stated that the Federal government reserves the right to regulate IHS and that this would be difficult over an IHS area. The Federal IHS requires that dietitians be only licensed in 1 state but that they can work anywhere in the U.S. When a dietitian voluntarily gets a license in ND then the Board can take disciplinary action. If the dietitian is unlicensed in ND the Federal government has the exclusive authority to regulate. The only thing the board could do would be to not grant a license.
- b. **Discussion of Potential Practice Issues** – The correspondence from Angela Brekken was brought forth for discussion with Erickson (refer to email). Erickson stated that “weight loss falls into multiple practice areas; our role is to protect the public.” Erickson suggested that Brekken send a formal complaint to the chiropractic board and ask, is this protein-based weight loss plan that targets insulin control within the scope of the profession? It would have to be proven by the chiropractic board that this was willful negligence. Action: Anderson will follow up with Brekken and inform her of Erickson’s opinion suggesting that she go to the chiropractic website and pursue a formal complaint.

Erickson was asked if a dietitian would need to be licensed that resides in another state but provides dietetic services through telemedicine or web site services to ND residents. Erickson stated that where the patient is, is where the license is needed. Long arm jurisdiction requires this in ND.

- c. **Rule and/or Law Changes** – With the expense involved with a rule change it was suggested that if the board would like to make some changes to the rules that we pursue them all at the same time. Potential rule changes were listed:
- Add detail to the definitions in the law
 - Increase the fees
 - Review the code of ethics; is it appropriate for LNs?
 - May want to require CPEU requirement if degree is greater than so many years to show evidence of remedial education.
 - May want to include US regionally accredited institutions. Edward stated that ND has a law on using a false degree.

Action: Anderson will consult CDR to find out what education requirements are needed after registration has expired in order to retest. Are there education requirements after so many years?

- d. **Review the Complaint Process** – Kay Mavko had recommended that BODP develop a complaint form and add it to our web site. Hofland provided for the board several complaint forms that other boards have. Hoines moved that we model our complaint form after the Ohio Board of Dietetics; Ussatis seconded the motion; the motion passed.

Action: Anderson will create a fillable pdf complaint form. Instead of a signature the person could type in their real name.

The procedure for the complaint process was discussed. Once Anderson receives the complaint form, the form should be sent to the AAG. The AAG then determines if this complaint is something that BODP can address.

VI. Financial Reports

- a. **FY 2012 Y-T-D Expense to Budget Report** – Total Y-T-D expenses Oct. 1, 2011 – September 6, 2012 has been \$24,092.30. The budget is \$31,025 (refer to report with detailed expenditures compared to budget line items). Anderson reported that although licensure fees have significantly increased our investment income has significantly decreased. This along with increased budget operating expenses will lead to a net loss this fiscal year – projected at \$2500.
- b. **Income for 2012 Budget** – Total Y-T-D expenses Oct. 1, 2011 – September 6, 2012 has been \$22,280.51 (\$21,875 in licensure fees and \$405.51). The projected income is \$24,000.
- c. **Balance Statement as of September 6, 2012** – CDs - \$97443.94; Money Market - \$1698.69; Checking - \$16,771.30
- d. **Transaction Detail for Administrative Expenditures Oct. 1, 2011 – August 31, 2012** – Anderson provided a transaction detail report October 1, 2012 – September 6, 2012 for the Board to review. There were no costs identified as inappropriate.
- e. **Customer Sales Report FY 2012** – Anderson presented the customer sales (income from licensure fees) report for October 1, 2011 – September 6, 2012. Licensure fees are up \$1625 Y-T-D over last fiscal year.

VII. Unfinished Business

- a. **BODP Flyer** – Anderson provided a copy to the board of the flyer that was developed and distributed during the Breastfeeding Coalition conference in August. Ussatis will use the flyer information, update it and email to Anderson for inclusion in the next NDNC and NDAND newsletters.

- b. **Audit – Reclassification of Fund Balances** – Anderson reported that in our budgeting process the Board needs to determine if all the funds will be left as unassigned or if there will be some funds assigned for specific purposes. Larson moved that all of our funds be unassigned funds; Hoines seconded the motion; motion passed.
- c. **Sponsorship Application Changes** - Tabled; Larson will revise the sponsorship application and email changes to Anderson.
- d. **Online Renewal (Results from survey)** – The survey results regarding whether licensees would be willing to pay an additional fee of \$5-\$10 was: 38/134 – Yes (28.4%); 90/134 – No (67.2%); 6/134 – Nonapplicable (4.5%). Erickson suggested we look at the Respiratory Care Association as they have an online renewal process. Anderson mentioned that banks typically have around 3-4% in merchant fees and that an account could be established through Gate City to do this.

VIII. Correspondence

- a. **Angela Brekken** – this was previously addressed in the meeting.
- b. **Leona Yellowbird** – Yellowbird graduated in 2002 and recently applied for a limited permit. Anderson had been informed that Yellowbird had not passed the CDR exam and was planning to take the test again. A limited permit was issued to Yellowbird since nothing in our rules permit the denial of a permit if the education requirements have been met. Anderson will contact CDR to find out what education requirements are necessary if an application to take the exam is made several years after receiving a dietetics degree.
- c. **Bev Benda** – Correspondence was shared from Bev Benda concerning the late fee assessed for her late licensure renewal application. No action was taken by the Board and the late fee has been assessed according to the rules.
- d. **Thank You from Breastfeeding Coalition** – Anderson read the thank you from the Breastfeeding Coalition for support of their conference.
- e. **Christa Anderson** – Correspondence was received from Christa Anderson, LRD at Altru Hospital in Grand Forks. Christa Anderson is wondering if BODP would provide a letter that states the stance of the Board for order writing privileges of dietitian. Pat Anderson will follow up with a response to Christa Anderson and refer to the May 2010 issue of the Dietetic Update that answered a similar question. (May 2010 DU – The Board of Dietetic Practice cannot specifically answer your questions however we do recommend that you refer to the ADA Scope of Dietetics Practice Framework which can be found at www.eatright.org under the “For Members” tab to guide you in answering your questions. Specifically you should review the decision aids in Block Three to determine if you are within the scope of practice. If there are no federal, state, institutional or accreditation standards which prohibit it, the next step is review personal

training and education to ensure competency. Your institution should determine whether you are competent to perform the duties that you define in your scope of practice).

IX. New Business

- a. FY 2013 Budget** – The 2013 budget was proposed as follows: Board Education - \$2000; Legal Fees - \$5000; Liability Insurance - \$600; Meetings - \$3000; Miscellaneous - \$100; CPEU Sponsorship - \$9000; Executive Secretary (non-meeting) Mileage - \$150; Executive Secretary Contract - \$10,200; Accountant Services - \$0; Postage - \$550; Printing - \$600; Telephone - \$350; Website - \$625; Supplies - \$350. Licensure fees and income investments was estimated at \$23,000. Ussatis moved to accept the budget of \$32,525; Larson seconded the motion. The motion passed. Questions that were asked: 1) Can we charge a handling fee for persons that request information about their licensure status (i.e. a former licensee that asks to have a form completed that will be sent to another licensure board regarding their license status in ND). Action: Anderson will contact Hofland to see if she thinks we could charge a handling fee. 2) Is there a recommendation of reserves for our CD investments?
- b. CEUs for LNs** – Anderson reported that a licensed nutritionist had sent in continuing education information and listed nutritional science courses through Logan College of Chiropractic. Action: The licensee should be asked for the course content and objectives, the instructor's name and credentials, and the syllabus.
- c. Board Contact Information** – Anderson reviewed board contact information and updated as necessary.
- d. Elections (Board Chair, LRD CE Chair, LN CE/Licensing Chair, Fiscal Chair)** – Larson moved that Walker be elected as Board Chair; Hoines seconded the motion; the motion passed. Hoines moved that Nudell be elected as LRD Chair; Walker seconded the motion; the motion passed. Nudell moved that Larson be elected as Fiscal Chair; Ussatis seconded the motion; the motion passed. Hoines moved that Ussatis be elected as LN Chair; Larson seconded the motion; the motion passed.
- e. Dietetic Update**
- November 2012 – Walker will break down the survey results into categories and report on this. Also suggested was to include the sponsorship flyer (updated by Ussatis) and to list the suggestions from Kay Mavko and the things that have been done by the Board.
 - February 2013 – Walker will send topic groups to Larson for Larson to write an article.
- f. Report of non-licensure renewals/planned action** – Anderson reported that several licensees have been sent a letter regarding the upcoming expiration of their license. Our policy states that once their license has expired that a written warning letter from the Board will be mailed certified and signed receipt. Anderson expressed the concern of the cost in doing this. Walker

moved that the dietitian be contacted by phone, mail or email rather than a certified letter; Ussatis seconded the motion; the motion passed.

- X. **Next Meeting** – will be organized at a later date.
- XI. **Adjourn** – the meeting was adjourned at 3:30 p.m.
- XII. **Audit of LRD and LN CPEU Records** – 5 LRDs and 1 LN were audited.

Respectfully Submitted,

**Pat Anderson, LRD, RD
NDBODP Executive Secretary**