

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p><small>(All Comments submitted on this regulation will appear on IRRC's website)</small></p>		<p><b>INDEPENDENT REGULATORY REVIEW COMMISSION</b></p> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p><b>RECEIVED</b></p> <p>NOV 30 2021</p> <p>Independent Regulatory Review Commission</p> </div>
<p>(1) Agency <b>Department of State, Bureau of Professional and Occupational Affairs, State Board of Medicine</b></p>		<p>IRRC Number:  <b>3324</b></p>
<p>(2) Agency Number: <b>16A</b> Identification Number: <b>4953</b></p>		
<p>(3) PA Code Cite:  <b>49 Pa. Code §§ 16.1, 16.11—16.13, 18.13a, 18.15, 18.15a and 18.901—18.913</b></p>		
<p>(4) Short Title: <b>Registration of Naturopathic Doctors</b></p>		
<p>(5) Agency Contacts (List Telephone Number and Email Address):                  Primary Contact: Shana Walter, Board Counsel, State Board of Medicine, Department of State, P.O. Box 69523, Harrisburg, PA 17106-5923 (phone 717-783-7200) (fax 787-0251); <a href="mailto:shanwalter@pa.gov">shanwalter@pa.gov</a>.                  Secondary Contact: Cynthia K. Montgomery, Regulatory Counsel, Department of State, P.O. Box 69523, Harrisburg, PA 17106-5923 (phone 717-783-7200) (fax 787-0251) <a href="mailto:cymontgome@pa.gov">cymontgome@pa.gov</a>.</p>		
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> Proposed Regulation  <input type="checkbox"/> Final Regulation  <input type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation;  <input type="checkbox"/> Certification by the Governor  <input type="checkbox"/> Certification by the Attorney General</p>
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>The proposed rulemaking will promulgate regulations to implement the Naturopathic Doctor Registration Act (NDRA) (63 P.S. §§ 272.101—272.301). The rulemaking sets forth necessary definitions utilized in the rulemaking; application, renewal and reinstatement requirements; require the display of registration; sets forth acceptable professional titles and prohibited titles; requires informed consent and disclosure of financial interests in products and services; and requires the maintenance and production of naturopathic medical records. The rulemaking also sets forth standards for advertising; ethical conduct; prohibits sexual misconduct and sets forth potential grounds for discipline as well as the sanctions which may be imposed by the Board. Additionally, it establishes fees for initial registration and biennial renewal of registration. The Board is also taking this opportunity to remove outdated references relating to “drugless therapists.”</p>		

(8) State the statutory authority for the regulation. Include specific statutory citation.

The primary statutory authority to regulate the registration of naturopathic doctors is the Naturopathic Doctor Registration Act (NDRA) (63 P.S. 272.101—272.301). Specifically, section 207 of the NDRA provides that “[t]he board shall enforce and administer the provisions of this act and shall promulgate regulations that are consistent with the intent of this act.” (63 P.S. § 272.207) Further, section 203(b) of the NDRA (63 P.S. § 272.203(b)) provides the authority of the Board to require naturopathic doctor registrations to be renewed “in a manner and at such intervals as the board shall determine by regulation.” Sections 202(6) and 203(c) of the NDRA (63 P.S. §§ 272.202(6) and 272.203(c)) set forth the authority of the Board to set fees for initial registration and biennial renewal of registration. The Board sets all fees by regulation.

The Board is also taking this opportunity to update its regulations and to remove outdated provisions in the Board’s existing regulations relating to “drugless therapists” under the authority of Section 8 of the Medical Practice Act of 1985 (act) (63 P.S. § 422.8), which provides, in part, that, “[t]he board, in the exercise of its duties under this act, shall have the power to adopt such regulations as are reasonably necessary to carry out the purposes of this act.” This authority necessarily includes the power to repeal provisions of the regulations that are no longer necessary.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No. The proposed rulemaking is not mandated by any federal or state law or court order, or federal regulation.

The Board’s decision to eliminate references to drugless therapists was guided, but not required, by *Reisinger v. Com., State Bd. of Med. Ed. & Licensure*, 399 A.2d 1160 (Pa. Cmwlth. 1979).

*Reisinger* involved an individual trained as a chiropractor and naturopathic doctor who petitioned for licensure as a “drugless therapist,” but was denied because the Board determined that the Board no longer had the authority to license drugless therapists. On appeal, the Commonwealth Court agreed, holding that although the Board could continue to register and regulate persons engaged in the practice of drugless therapy, “the Board lacks the authority now to license Drugless Therapists.” Since 1951 (1 month after the State Board of Chiropractic began operations), the Board has continued to biennially register/renew existing drugless therapist licenses and has continued to regulate their practice, but has not issued new licenses. No individual currently holds an active license as a drugless therapist from the Board. The last remaining individual who held an active license as a drugless therapist did not renew his license in 2016 and it is the Board’s understanding that he died in December of 2014, shortly after submitting his renewal application for the 2015-2016 renewal period. The prior two most recent licensees of the Board last renewed their licenses in 2008. Therefore, it appears that all individuals who held a license as a drugless therapist have either retired from practice or are deceased and it is no longer necessary to keep any references to drugless therapists in the Board’s regulations. This is especially true now that the Board will be registering individuals as naturopathic doctors under this rulemaking.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The proposed rulemaking is necessary to implement the NDRA – legislation which has not been the subject of previous regulation. Those entitled to registration will benefit from the regulations in that it will set forth the requirements for registration and renewal; provide guidance and standardization to common issues such as advertising, ethical guidelines, informed consent and financial disclosures.

For purposes of this rulemaking, the Board assumes that between 100 and 250 individuals will initially meet the requirements for registration as a naturopathic doctor set forth in the NDRA and the proposed rulemaking. The two closest accredited naturopathic medicine schools are located in Connecticut and Illinois, respectively. It is impossible to determine how many individuals may elect to locate/relocate to the Commonwealth now that there will be state-authorized registration. The Board assumes that after it completes the initial round of registering individuals currently satisfying the requirement for registration, it will receive approximately 10 new naturopathic doctor applications each year.

Consumers of the services of naturopathic doctors will benefit by the regulations because they would be assured that a registered naturopathic doctor meets the qualifications contained in the NDRA and the regulations and will be bound by the Code of Ethics and other standards set forth in the regulations. The general public would also benefit from the ability to file complaints related to unethical or unprofessional conduct by registered naturopathic doctors.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no Federal standards for the licensing or registration of naturopathic doctors.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

A review of the laws and regulations of the various states in the Northeast region indicates that only Connecticut, Maine, Maryland, New Hampshire, Rhode Island and Vermont currently regulate naturopathic doctors. In Massachusetts, a law providing for the licensure of naturopathic doctors was passed in 2017, but no licenses have been issued yet. It is our understanding that they are in the process of promulgating regulations at this time. Delaware, New York, New Jersey, Ohio and West Virginia do not regulate naturopathic doctors. The following is a review of the requirements for naturopathic doctors in those states in the Northeast region that regulate their practice.

### **Connecticut:**

The Connecticut State Board of Naturopathic Examiners regulates the practice of naturopathy in that state. To practice naturopathy, one must be licensed as a naturopathic physician. In order to be eligible for licensure, an applicant must have: Completed two (2) years of pre-professional college education; graduated from a school of naturopathy approved by the Connecticut State Board of Naturopathic Examiners and Department of Public Health, with award of the Doctor of Naturopathy degree. Approved schools include only those schools accredited or in candidate status with the Council on Naturopathic Medical Education (CNME); and successfully completed both the Basic Sciences (Part I) and Clinical Sciences Examination (Part II) of the Naturopathic Physician Licensing Examination (NPLEX). The initial application fee is \$565. The license is renewable annually at a fee of \$570. "Reinstatement" of a lapsed license requires a fee of \$565. Unlike Pennsylvania, Connecticut has a true "practice act" and defines the practice of naturopathy as "the science, art and practice of healing by natural methods as recognized by the Council of Naturopathic Medical Education and that comprises diagnosis, prevention and treatment of disease and health optimization by stimulation and support of the body's natural healing processes, as approved by the State Board of Naturopathic Examiners, with the consent of the Commissioner of Public Health, and shall include (1) counseling; (2) the practice of the mechanical and material sciences of healing as follows: The mechanical sciences such as mechanotherapy, articular manipulation, corrective and orthopedic gymnastics, physiotherapy, hydrotherapy, electrotherapy and phototherapy; and the material sciences such as nutrition, dietetics, phytotherapy, treatment by natural substances and external applications; (3) ordering diagnostic tests and other diagnostic procedures as such tests and procedures relate to the practice of mechanical and material sciences of healing as described in subdivision (2) of this subsection; (4) ordering medical devices and durable medical equipment; and (5) removing ear wax, spirometry, tuberculosis testing and venipuncture for blood testing. For purposes of this section, "natural substances" means substances that are not narcotic substances, as defined in subdivision (30) of section 21a-240, do not require the written or oral prescription of a licensed practitioner to be dispensed and are only administered orally." CT ST Chapter 373, § 20-34. There do not appear to be any restrictions on the use of titles.

### **Maine:**

The Maine Board of Complementary Health Care Providers licenses naturopathic doctors in that state. The initial licensure fee is \$180, with an annual renewal fee of \$180. To be eligible for a license to practice naturopathic medicine, the applicant must be a graduate of an approved naturopathic medical college and pass or have passed a competency-based examination approved by the board, covering the appropriate naturopathic subjects, including basic and clinical sciences.

Maine also has a true practice act in that a person may not practice naturopathic medicine or profess to be a naturopathic doctor without holding a license. The scope of practice of a naturopathic doctor in Maine is set forth by statute as follows: A naturopathic doctor may use and order for preventative and therapeutic purposes the following natural medicines and therapies: food, food extracts, vitamins, minerals, enzymes, digestive aids, whole gland thyroid and other natural hormones, plant substances, all homeopathic preparations, immunizations, counseling, hypnotherapy, biofeedback, dietary therapy, naturopathic manipulative therapy, naturopathic physical medicine, therapeutic devices, barrier devices for contraception and office procedures. Naturopathic doctors may also prescribe medications, including natural antibiotics and topical medicines; may use physical examinations for diagnostic purposes including phlebotomy, clinical laboratory tests, speculum examinations and physiological function tests, excluding all endoscopies and physiological function tests requiring infusion, injection, inhalation or ingestion of medications to perform tests; may order ultrasound, x-ray and electrocardiogram tests but must refer to an appropriate licensed health care professional for conducting and interpreting the tests;

may prescribe therapeutic devices or use noninvasive diagnostic procedures commonly used by allopathic or osteopathic physicians in general practice; and have a limited scope of prescriptive authority (nonprescription and noncontrolled drugs) . ME ST T. 32 § 12522. In Maine, a licensee must use the title “naturopathic doctor.” Naturopathic doctors have the exclusive right to the use of the terms “naturopathic doctor,” “naturopathic,” “naturopath,” “doctor of naturopathic medicine,” “doctor of naturopathy,” “naturopathic medicine,” “naturopathic health care,” “naturopathy” and the recognized abbreviation “N.D.” Use of the title “physician” by the licensee is prohibited.

### **Maryland:**

The Maryland State Board of Medicine licenses naturopathic doctors in that state. The qualifications for a license as a naturopathic doctor includes possession of a doctorate in naturopathic medicine from an approved naturopathic medical program; successful completion of the licensing examination, Part I and Part II, administered by NABNE or its successor agency and demonstration of oral and written competency in English. In addition, a naturopathic doctor must have a “consultation and collaboration agreement” with a licensed physician. The initial application fee is \$790, and the biennial renewal fee is \$512. In Maryland, a naturopathic doctor may order and perform physical and laboratory examinations for diagnostic purposes, including phlebotomy, clinical laboratory tests, orificial examinations, electrocardiograms with over read by a cardiologist, and physiological function tests; order diagnostic imaging studies and interpret the reports of diagnostic imaging studies; dispense or order natural medicines (foods, vitamins, enzymes, botanicals, homeopathics, etc.); administer natural medicines (foods, vitamins, enzymes, botanicals, homeopathics, etc.); administer auto–injectable epinephrine; administer or perform hot or cold hydrotherapy, naturopathic physical medicine, electromagnetic energy, and therapeutic exercise for the purpose of providing basic therapeutic care services, except that if a referral to another licensed provider is appropriate for ongoing rehabilitation or habilitation services, the naturopathic doctor shall make the referral; provide health education and health counseling; and perform naturopathic musculoskeletal mobilization. COMAR 10.32.21.08. An individual licensed to practice naturopathic medicine in Maryland may not use the title “physician”. Titles include: “doctor of naturopathic medicine”, “doctor of naturopathy”, “naturopathic doctor”, “naturopath” or “N.D.”.

### **Massachusetts:**

Although Massachusetts has not issued any licenses yet, the Massachusetts General Assembly passed the law requiring the licensure of naturopathic doctors in 2017. It is our understanding that the Board of Registration in Naturopathy is in the process of promulgating regulations and establishing fees. The law in Massachusetts requires an applicant for initial licensure as a naturopathic doctor to have graduated from and hold a doctor of naturopathic medicine or doctor of naturopathy degree from an approved naturopathic medical college; provided, however, that an applicant shall have satisfactorily completed a minimum of 1,200 hours of board-approved clinical training before graduation from that college. In addition, an applicant for a license shall have successfully passed a competency-based national naturopathic licensing examination approved by the board. The practice of naturopathic health care in Massachusetts includes: the prevention and treatment of human illness, injury or disease through education, dietary or nutritional advice and the promotion of healthy ways of living; the use of non-invasive physical examinations and the ordering of clinical and laboratory procedures from licensed clinics or laboratories to evaluate injuries, illnesses and conditions in the human body; dispensing, administering, ordering and prescribing natural medicines of mineral, animal or botanical origin, including food products or extracts, vitamins, minerals, enzymes, digestive aids, natural hormones, plant substances, homeopathic preparations, natural antibiotics, topical medicines and nonprescription drugs, therapeutic devices and barrier contraceptives to

prevent or treat illnesses, injuries and conditions of the human body; the use of manual mechanical manipulation of body structures or tissues, in accordance with naturopathic principles; the use of naturopathic physical medicine to maintain or restore normal physiological functioning of the human body; and mandatory tracking and documentation of the immunization status of a patient under 18 years of age and the required referral of that patient to a primary care or collaborative care physician where evidence exists that the individual has not been immunized. It does not include: performing surgery or invasive procedures or examinations, abortions or the use of radiation, radioactive substances or local, general or spinal anesthesia; prescribing, dispensing or administering a drug classified as a controlled substance or prescription drug; the practice of acupuncture and traditional chinese medicine; or the practice of emergency medicine, except as a person rendering gratuitous services in an emergency or for the care of minor injuries.

### **New Hampshire:**

In New Hampshire, the Naturopathic Board of Examiners licenses individuals to practice naturopathic medicine. To qualify for a license as a “doctor of naturopathic medicine” one must be a graduate of a naturopathic medical college which is accredited by the Council on Naturopathic Medical Education or another such accrediting agency recognized by the federal government; and pass a competency based examination prescribed by the board covering the appropriate naturopathic subjects; or be a graduate of a naturopathic medical college which has been approved by the board as having appropriate education standards for naturopathic medical programs which granted degrees prior to 1981. In addition, the individual shall take and pass a New Hampshire jurisprudence examination to ensure that licensed naturopathic doctors understand the laws, rules, and scope of practice. The initial application fee is \$300. The license is renewed biennially at a fee of \$300. In New Hampshire, doctors of naturopathic medicine are authorized to use for preventive and therapeutic purposes the following natural medicines and therapies: food, food extracts, vitamins, minerals, enzymes, digestive aids, whole gland thyroid, plant substances, all homeopathic preparations, topical medicines, counseling, hypnotherapy, biofeedback, dietary therapy, naturopathic physical medicine, therapeutic devices, and barrier devices for contraception; may use for diagnostic purposes physical and orifical examinations, X-rays, electrocardiograms, ultrasound, phlebotomy, clinical laboratory tests and examinations, and physiological function tests; and may prescribe nonprescription medications and therapeutic devices or use noninvasive diagnostic procedures commonly used by medical practitioners in general practice.

Doctors of naturopathic medicine shall not prescribe, dispense, or administer any legend or controlled substances, except those natural medicines as authorized by this chapter; perform surgical procedures; practice emergency medicine, except as a good samaritan rendering gratuitous services in the case of emergency and except for the care of minor injuries; practice or claim to practice medicine and surgery, osteopathy, dentistry, podiatry, optometry, chiropractic, physical therapy, or any other system or method of treatment not authorized in this chapter. Doctors of naturopathic medicine with specialty certification in naturopathic childbirth pursuant to RSA 328-E:12 shall be authorized to use oxytocin and pitocin. Licensees shall use the title “doctor of naturopathic medicine” and the recognized abbreviation “N.D.” Doctors of naturopathic medicine shall have the exclusive right to use of the terms: “doctor of naturopathic medicine,” “naturopathic doctor,” “naturopath,” “doctor of naturopathy,” “naturopathic medicine,” “naturopathic health care,” “naturopathy,” and “N.D.” See NH Rev ST Chapter 328-E (relating to naturopathic health care practice).

**Rhode Island:**

In Rhode Island, the Department of Health houses the Board of Licensure of Naturopathy. To qualify for a license to practice naturopathy, an applicant shall have been granted a degree of doctor of naturopathy from an approved naturopathy college; pass an examination approved by the board including but not limited to Part I (biomedical science examination) and Part II (clinical science examination) of the Naturopathic Physicians Licensing Examinations or successor; and have in place a written collaboration and consultation agreement with a licensed physician. The initial application fee is \$310. The license is renewed biennially at a fee of \$310. A license authorizes a licensee, consistent with naturopathic education and training and competence demonstrated by passing the doctor of naturopathy licensing examination, to: order and perform physical and laboratory examinations for diagnostic purposes; dispense or order natural substances of mineral, animal, or botanical origin, including food, extracts of food, nutraceuticals, vitamins, amino acids, minerals, enzymes, botanicals and their extracts, botanical substances, homeopathic substances, and all dietary supplements and nonprescription drugs as defined by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., that use various routes of administration, including oral, nasal, auricular, ocular, rectal, vaginal, and transdermal; administer natural substances of mineral, animal, or botanical origin, including food, extracts of food, nutraceuticals, vitamins, amino acids, minerals, enzymes, botanicals and their extracts, botanical substances, homeopathic substances, and all dietary supplements and nonprescription drugs as defined by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., using transdermal routes of administration; administer or perform hot or cold hydrotherapy, electromagnetic energy, and therapeutic exercise for the purpose of providing basic therapeutic care services, except that if a referral to another licensed provider is appropriate for ongoing rehabilitation or habilitation services, the doctor of naturopathy shall make the referral; provide health education and health counseling; and perform naturopathic musculoskeletal mobilization. A person licensed as a doctor of naturopathy in Rhode Island may use the designation "DN."

**Vermont:**

In Vermont, a naturopathic physician must be licensed by the Vermont Office of Professional Regulation. To qualify for a license as a naturopathic physician, the individual must hold a degree of doctor of naturopathic medicine, or a degree determined to be essentially equivalent to such degree, from an approved naturopathic medical college and pass a two-part Naturopathic Physicians Licensing Exam (NPLEX), unless the applicant is exempt from examination. The fee for initial licensure is \$100, while the biennial renewal fee is \$240. The act in Vermont is a true practice act, in that one may not practice naturopathic medicine without holding a license as a naturopathic physician. The act defines the "practice of naturopathic medicine" to mean "a system of health care that utilizes education, natural medicines, and natural therapies to support and stimulate a patient's intrinsic self-healing processes, and to prevent, diagnose and treat human health conditions, injuries and pain. In connection with such system of health care, an individual licensed [as a naturopathic physician] may: A) Administer or provide for preventative and therapeutic purposes nonprescription medicines, topical medicines, botanical medicines, homeopathic medicines, counseling, hypnotherapy, nutritional and dietary therapy, naturopathic physical medicine, naturopathic childbirth, therapeutic devices, barrier devices for contraception and prescription medicines authorized by law; and B) use diagnostic procedures commonly used by physicians in general practice, including physical and official examinations, electrocardiograms, diagnostic imaging techniques, phlebotomy, clinical laboratory tests and examinations, and physiological function tests. A licensed naturopathic physician in Vermont is authorized to work independently and does not require supervision by any other health care professional. In Vermont, a person licensed as a naturopathic physician may use the designations "N.D.," "doctor of naturopathic medicine," "naturopathic doctor," "doctor of naturopathy," or "naturopathic physician."

Based on a review of these requirements, the Board does not believe that this proposed rulemaking will place Pennsylvania at a competitive disadvantage in that the qualifications for licensure in each of these states (a degree in naturopathic medicine and passage of the national examination) are essentially the same as the NDRA requires for the registration of naturopathic doctors in the Commonwealth. In addition, the fees associated with registration proposed in this rulemaking are considerably lower than those in effect in the states listed above.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

All of the Board's rulemaking proposals are discussed in public committee meetings which are routinely attended by representatives of the public and the regulated community. The Board circulated four (4) exposure draft revisions to over 200 individuals/organizations and held seven (7) committee meetings over approximately 18 months in an effort to solicit and reach consensus within the public and regulated community on as many points as possible. The following individuals/organizations attended the public committee meetings and/or provided specific comments on drafts:

- **Henriette Alban, ND**
- **Leia Anderson**
- **Angie Armbrust**
- **Alex Bonner**
- **Rachel Bright, ND**
- **The Honorable Jay Costa, Jr.**
- **Susan DeSantis, PA-C**
- **Marty Edwards, ND**
- **Lynn Feinman**
- **Andrew Harvan, Esq.**
- **Dwayne Haus**
- **Bob Henry**
- **John L. Herr**
- **Gay Hilton, ND**
- **Traci Hobson, Esq.**
- **Jeremy Irvine**
- **Julie Lachman, ND**
- **Kerry Lange**
- **Betty A. Magill**
- **Mary Marshall**
- **Ted Mowatt, CAE**
- **Barbara Myers, ND**
- **Edward L. Nielsen, M.H.S**
- **PA Academy of Nutrition and Dietetics**
- **Heather DeLuca**  
**PA Assoc of Naturopathic Physicians**
- **Michael Reece, ND**
- **Cynthia Rish**
- **Wesley J. Rish, Esq.**
- **Milena Safran**
- **Timothy Salotto, ND**
- **Heather Shultz**
- **Michael Siget, Esq.**
- **Randy Stevens**
- **Lisa C. Stevenson, Esq.**
- **Heidi Weinhold, ND**
- **Marie Winters, ND**

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

The Board does not currently license or register naturopathic doctors. According to the Pennsylvania Department of Labor & Industry's Center for Workforce Information and Analysis, naturopathic physicians are self-employed or work primarily in general medical/surgical hospitals, in offices of physicians, for home health care services, or work in government (Federal and state).

For the business entities listed above, small businesses are defined in Section 3 of the Regulatory Review Act, Act 76 of 2012, which provides that a small business is defined by the U.S. Small Business Administration's (SBA) Small Business Size Regulations under 13 CFR Ch. 1 Part 121. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). Per the SBA's Table of Small Business Size Standards, the small business threshold for offices of physicians (621111) is \$12 million or less in average annual receipts. For a general medical/surgical hospital (622110) to be considered a small business, the threshold would be \$41.5 million or less in average annual receipts. For home health care services (621610), the small business threshold would be \$16.5 million in average annual receipts.

According to the SBA's 2020 Small Business Profile, there are 1,074,787 small businesses in Pennsylvania, making up 99.6% of all Pennsylvania Businesses (implying 1,079,104 total businesses). Of the 1,074,787 small businesses, 849,036 small businesses are non-employers, 196,444 employ less than 20 employees, and additional 29,307 employ between 20 and 499 employees. Thus, the overwhelming majority of businesses in Pennsylvania are considered small businesses by the SBA.

It is anticipated that the effects of the regulation will be primarily on individuals who are self-employed or employed in small businesses. All persons who seek registration as a naturopathic doctor will be required to comply with the regulations and therefore will be required to file applications and pay fees and adhere to the standards set forth in the regulations. Those individuals who do not seek registration will be prohibited from holding themselves out as a "naturopathic doctor" or "doctor of naturopathic medicine." For purposes of this rulemaking, the Board estimates that between 100 and 250 individuals may initially apply for registration as a naturopathic doctor, followed by 10 additional applicants annually. It is unknown how many individuals that currently hold themselves out as naturopathic doctors or doctors of naturopathic medicine will be unable to meet the qualifications for registration set forth in the NDRA and the regulations and therefore will need to stop using those titles.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

All persons who seek registration will be required to comply with the regulations and those who do not seek registration will be prohibited from holding out as a "naturopathic doctor" or "doctor of naturopathic medicine." It is anticipated that approximately 100 - 250 persons will seek registration and will be required to comply with the regulations. It is unknown how many will not be eligible for registration or will voluntarily elect to not register and therefore will be prohibited from holding themselves out as a "naturopathic doctor" or "doctor of naturopathic medicine."

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The primary financial impact of the regulation falls on individuals who seek registration, as they will be required to pay a \$100 fee for initial registration and a \$50 biennial renewal fee. Only those registrants that allow their registration to lapse would be required to pay the \$100 reactivation fee. As these fees are imposed on individuals, the only impact on businesses, including small businesses would be incurred if employers of naturopathic doctors assume the licensure related costs for their employees, or if a naturopathic doctor is self-employed.

Individuals who are currently holding themselves out as a “naturopathic doctor” or “doctor of naturopathic medicine” who either do not qualify for registration under the NDRA and these regulations or who choose not to register with the Board would be impacted by the prohibition on continuing to use those titles. To do so would risk enforcement action and the possibility of the imposition of a civil penalty of up to \$10,000.

According to the prime sponsor of the NDRA bill, the registration of naturopathic doctors will help to fill the medical void in many communities lacking general practice doctors. In addition, these individuals are highly trained specialists in the areas of nutrition, herbal medicine, homeopathy, and are the only group of medical providers trained in herb-drug and herb-nutraceutical interactions. In many states, naturopathic doctors work side by side with medical doctors to provide integrative care and routinely consult with MDs on drug-herb interactions and natural alternatives to conventional care. In Pennsylvania, hospitals have already begun to integrate the services of naturopathic doctors. The Cancer Treatment Centers of America in Philadelphia has several naturopathic doctors on staff to provide integrative care for its patients. U.P.M.C. Shadyside Hospital has a center for integrative medicine with an N.D. on staff and Hershey Medical Center has some of its students do rotations with naturopathic doctors.

The registration of naturopathic doctors will help patients who are seeking naturopathic medical care select qualified practitioners. Registration of naturopathic doctors would give Pennsylvania residents a choice in their health care and provide for an integrative model of healthcare. The patients of Pennsylvania registered naturopathic doctors will be able to access this type of care and be assured that their treatment providers meet the minimum qualifications provided for by the NDRA. In addition, the Commonwealth of Pennsylvania needs to attract additional quality care providers who will help to reduce the burden of chronic disease.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The benefits set forth in (17) above clearly outweigh the minimal costs associated with registration of naturopathic doctors and biennial renewal of those registrations as set forth in (19) below.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulated community of naturopathic doctors will incur costs associated with initial registration and with biennial renewal of registration. For purposes of this rulemaking, the Board estimates that between 100 and 250 individuals may initially apply for registration as a naturopathic doctor, followed by 10 additional applicants annually. Thus, the estimated costs to the regulated community were calculated by the Board as follows:

FY 21-22 – 100 to 250 initial applicants at \$100 = \$10,000 to \$25,000

FY 22-23 – Biennial renewal of 100 to 250 registered naturopathic doctors at \$50 = \$5,000 to \$12,500  
Plus, an additional 10 applicants at \$100 = \$1,000

FY 23-24 – An additional 10 applicants at \$100 = \$1,000

FY 24-25 – Biennial renewal of 120 to 270 registered naturopathic doctors at \$50 = \$6,000 to \$13,500  
Plus, an additional 10 applicants at \$100 = \$1,000

FY 25-26 – An additional 10 applicants at \$100 = \$1,000

FY 26-27 – Biennial renewal of 140 to 290 registered naturopathic doctors at \$50 = \$7,000 to \$14,500  
Plus, an additional 10 applicants at \$100 = \$1,000

The Board does not anticipate any additional legal, accounting or consulting procedures would be required.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no expected costs or savings for local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The State Board of Medicine will incur IT development costs associated with developing the PALS initial application for registration of naturopathic doctors; biennial renewal/reactivation applications; and NABNE integration (for uploading of exam scores), currently estimated at \$29,680 - \$35,616. It is anticipated that this cost will be incurred in the current fiscal year in anticipation of implementation upon publication of the final-form rulemaking. Ongoing costs associated with administering the new registration will be incurred, but will be covered by the fees imposed on the regulated community through the regulation.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The only paperwork required to be submitted related to the implementation of the regulation would be the initial, renewal and reactivation applications.

(22a) Are forms required for implementation of the regulation?

Yes.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

It is anticipated that the initial registration and biennial renewal processes will be implemented through the PA Licensing System (PALS) at [www.pals.pa.gov](http://www.pals.pa.gov). Attached is "checklist" items indicating the information that will be required for initial registration; the verification of education form; and the checklist items for biennial renewal/reactivation of a naturopathic doctor registration.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	<b>Current FY 21-22</b>	<b>FY +1 22-23</b>	<b>FY +2 23-24</b>	<b>FY +3 24-25</b>	<b>FY +4 25-26</b>	<b>FY +5 26-27</b>
<b>SAVINGS:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>						
<b>COSTS:</b>						
<b>Regulated Community</b>	<b>\$10,000 - \$25,000</b>	<b>\$6,000 - \$13,500</b>	<b>\$1,000</b>	<b>\$7,000- \$14,500</b>	<b>\$1,000</b>	<b>\$8,000 - \$15,500</b>
<b>Local Government</b>						
<b>State Government</b>	<b>\$29,680- 35,616</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Total Costs</b>	<b>\$39,680 - \$60,616</b>	<b>\$6,000 - \$13,500</b>	<b>\$1,000</b>	<b>\$7,000- \$14,500</b>	<b>\$1,000</b>	<b>\$8,000 - \$15,500</b>
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>						

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

<b>Program</b>	<b>FY -2 18-19</b>	<b>FY -1 19-20</b>	<b>FY -1 20-21 (projected)</b>	<b>Current FY 21-22 (budgeted)</b>
State Board of Medicine	\$8,320,597.59	\$7,791,240.60	\$7,917,000.00	\$8,025,000.00

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Assuming that all potential applicants for registration as a naturopathic doctor either are small businesses or are employed by small businesses, approximately 100 – 250 small businesses could be subject to the regulation. The direct costs required for compliance with the proposed regulation involves the initial licensure fee of \$100 and the biennial renewal fee of \$50 for any naturopathic doctor seeking registration under the NDRA. These costs may be passed on to consumers of naturopathic medical services, but this impact would be minimal. The paperwork requirements entail the completion of the initial online application and the biennial renewal application. Completing these online forms do not require any specific type of professional skills. Thus, the probable effect on small businesses is the need to register and pay associated fees for naturopathic doctors that are small businesses or work for small businesses. The Board could perceive of no less intrusive or less costly alternative method for implementing the statutory mandates of the NDRA that would be consistent with the legislative intent.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

There are no special provisions developed to meet the particular needs of any of the identified groups.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

**Scope of Practice:**

There are two provisions in the NDRA that would seem to indicate that a registration is required to practice naturopathic medicine. Section 203(a) of the NDRA provides for the issuance of a registration “entitling the applicant to practice naturopathic medicine in this Commonwealth.” Additionally, section 204(a)(10) of the NDRA makes it a violation for a registrant to “[act] outside the scope of a registration.” However, the NDRA omits any definition for “naturopathic medicine” or other indication of the scope of practice of a registered naturopathic doctor. Investigation by the Board regarding the scope of practice for naturopathic doctors in other jurisdictions indicated a general lack of consistency among jurisdictions. By

way of example, the State of Maine authorizes the prescription of designated non-controlled legend drugs from the following categories: homeopathic remedies, vitamins and minerals, hormones, local anesthesia, and immunizations. (M.R.S.A. § 12522(5)) and the State of Oregon authorizes "...(a) administering, dispensing or writing prescriptions for drugs;..." (O.R.S. § 685.030); whereas the States of Alaska and North Dakota prohibit persons practicing naturopathic medicine from prescribing, giving, dispensing, or recommending prescription drugs." See A.S. § 08.45.050 and N.D.C. 43-58-08(1)(a). Some jurisdictions prohibit any surgical procedures (see e.g. North Dakota, N.D.C. 43-58-08(1)(a)), some permit naturopathic doctors to repair superficial lacerations, lesions, abrasions and remove superficial foreign bodies (Hawaii, H.C. §16-88-70).

The delegation of legislative power "requires that the basic policy choices involved in 'legislative power' actually be made by the Legislature as constitutionally mandated." *Tosto v. Pennsylvania Nursing Home Loan Agency*, 460 Pa. 1, 331 A.2d 198, 202 (1975), quoting *Chartiers Valley Joint Schools v. Allegheny County Board of School Directors*, 418 Pa. 520, 529, 211 A.2d 487, 492 (1965). One of the reasons for the doctrine is that it ensures that "'basic policy choices' be made by duly authorized and politically responsible officials." The Board can perceive no greater 'basic policy choice' regarding the regulation of a practice than to provide at least some basic framework to determine what does, and what does not constitute practice of the profession. This is especially true given the apparent lack of a commonly accepted nature of the practice of naturopathic medicine.

Additionally, the Board notes that, overall, the NDRA seeks to regulate which individuals may hold themselves out as a naturopathic doctor; thus, it is a title protection act, and not a true practice act. The legislative history indicates that when the Senate voted on the amended bill (HB 516), Senator Costa remarked, "Mr. President, I rise to ask for an affirmative vote on House Bill No. 516. House Bill No. 516 is a bill that was introduced by our friend and colleague from Allegheny County, Representative Mustio, and I have introduced a companion bill here in the Senate that addresses the same issue. Essentially, what the original bill did, Mr. President, was to allow for or tried to create a licensing provision in the legislation. Mr. President, over the course of time it became apparent that the best course of action at this point in time might be instead of doing the licensure provision, but rather do title protection and registering with the State Board of Medicine." See, Senate Journal of October 25, 2016, at pages 997-998. Likewise, when the House voted to concur in the Senate amendments, Representative Mustio, the prime sponsor of the bill, remarked, "Thank you Mr. Speaker. The Senate amended HB 516 to delete all the licensure and scope of practice provisions and make the legislation a simple registration and title protection act." See, House Journal of October 26, 2016, at page 2120. Unfortunately, the Senate amendments did not delete "all" of the licensure and scope of practice provisions. It appears to the Board that the amendments to the bill overlooked sections 203(a) and 204(a)(10) of the NDRA.

Consequently, after much debate on the topic, the Board elected to not enact any regulations which address the authorized scope of practice. To the extent the General Assembly wishes to create a scope of practice, it may clearly do so under its constitutionally recognized legislative power and the Board may promulgate additional regulations at that time. Until such time, the Board will determine alleged violations of section 204(a)(10) based on the receipt and ruling on expert testimony submitted on the topic. If the intent was, as it appears by the above-quoted legislative history, that the NDRA simply be title protection and registration, the Board would recommend that the General Assembly further amend section 203(a) to clarify that the registration "entitles the applicant to hold out as a naturopathic doctor," and delete section 204(a)(10) to eliminate the authority of the Board to discipline for exceeding the "scope" of a registration.

Removal of outdated regulations related to drugless therapists:

Finally, the proposed regulation will also remove all regulatory references to “drugless therapists.” The Board last issued a new license to practice as a drugless therapist in 1951 (1 month after the State Board of Chiropractic began operations) and has no authority to issue new drugless therapist licenses. *See, Reisinger v. Com., State Bd. of Med. Ed. & Licensure*, 41 Pa. Cmwlth. 553, 399 A.2d 1160 (1979). No individual currently holds an active license as a drugless therapist from the Board. The last remaining individual who held an active license as a drugless therapist did not renew his license in 2016 and it is the Board’s understanding that he died in December of 2014, shortly after submitting his renewal application for the 2015-2016 renewal period. The prior two most recent licensees of the Board last renewed their licenses in 2008.

The Board considered maintaining reference to Drugless Therapists in its regulations; however, one of the commonly accepted activities of rulemaking is to review the need and effectiveness of regulations and to either plan for the elimination of unneeded regulations via sunset provisions, or to delete unnecessary and outdated regulations when conducting regular regulatory review. As it appears that no new drugless therapist licenses may be issued, and all individuals who held a license as a drugless therapist have either voluntarily retired from practice or are deceased, the Board has determined that it is no longer necessary to keep any references to drugless therapists in the Board’s regulations and has elected to delete the appropriate provisions.

The Board believes the proposed rulemaking reflects the least burdensome acceptable alternative consistent with the statutory mandates of the NDRA for the registration of naturopathic doctors.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

The Board could perceive of no less stringent compliance or reporting requirements, or deadlines for compliance or reporting for individuals based on the size of business for which they work. Excluding a naturopathic doctor from all or any part of the registration requirements would be contrary to the statutory intent of the NDRA and the public interest.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

No data serves as the basis for this proposed rulemaking.

(29) Include a schedule for review of the regulation including:

- A. The length of the public comment period:.....**30 days**
- B. The date or dates on which any public meetings or hearings will be held: **The Board meets in public session 9 times each year – the remaining dates for 2021 are October 26 and December 14, 2021. See item (30) below for 2022 meeting dates. All regulatory proposals are discussed at regularly scheduled board meetings.**
- C. The expected date of delivery of the final-form regulation: ..... **Winter 2021-2022**
- D. The expected effective date of the final-form regulation:..... **Winter 2021-2022, upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.**
- E. The expected date by which compliance with the final-form regulation will be required: ..... **Winter 2021-2022, upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.**
- F. The expected date by which required permits, licenses or other approvals must be obtained: ..... **N/A**

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Board continuously evaluates the effectiveness of the Board’s regulations and implementation of regulations. The Board discusses all regulatory proposals in conjunction with its regularly scheduled public meetings, typically on the afternoon of the board meeting. The Board meets nine times a year. The Board is scheduled to meet on the following remaining dates in 2021: October 26 and December 14, 2021. Board meeting dates in 2022 are: February 1, March 15, April 19, May 24, June 21, July 26, September 13, October 25 and December 13, 2022.

**PENNSYLVANIA STATE BOARD OF MEDICINE**

**VERIFICATION OF DOCTORAL DEGREE FROM A NATUROPATHIC SCHOOL**

Complete Section 1 of this page and forward to the college or university where you completed your naturopathic doctoral program.

**SECTION 1 – TO BE COMPLETED BY APPLICANT**

<b>NAME:</b>	Last:	First:	Middle:					
<b>ADDRESS:</b>	Street:							
City:	State:		Zip:					
<b>DATE OF BIRTH:</b>	Month	Day	Year					
<b>SOCIAL SECURITY NUMBER:</b>								
<b>NAME OF SCHOOL:</b>								
<b>DATES OF ATTENDANCE:</b>	<b>FROM:</b>	Month	Day	Year	<b>TO:</b>	Month	Day	Year

Submit the verification of naturopathic doctoral degree form to your school and request the school return the completed form and an official transcript directly to the Board.

**THIS FORM MAY NOT BE COMPLETED/SUBMITTED TO THE BOARD PRIOR TO GRADUATION**

**SECTION 2 – TO BE COMPLETED BY DIRECTOR OF NATUROPATHIC DOCTORAL PROGRAM**

<b>NAME OF PROGRAM:</b>					
<b>ADDRESS:</b>	Street:				
City:	State:	Zip:			
<b>I CERTIFY THAT THE ABOVE-NAMED INDIVIDUAL HAS SUCCESSFULLY COMPLETED A CNME ACCREDITED NATUROPATHIC DOCTORAL PROGRAM, WHICH INCLUDED AT LEAST 4,100 TOTAL CREDIT HOURS IN BASIC AND CLINICAL SCIENCES AND NATUROPATHIC PHILOSOPHY AND MODALITIES AND INCLUDED AT LEAST 1,200 HOURS OF SUPERVISED CLINICAL TRAINING.</b>					
<b>DEGREE AWARDED:</b>		<b>GRADUATION DATE:</b>	Month	Day	Year
<b>SIGNATURE OF PROGRAM DIRECTOR:</b>					
<b>DATE:</b>	Month	Day	Year		

Upon completion, school must return this completed form directly to the Pennsylvania State Board of Medicine.

**DO NOT RETURN THIS FORM TO THE APPLICANT**

**Regular Mailing Address  
STATE BOARD OF MEDICINE  
P.O. BOX 2649  
HARRISBURG, PA 17105-2649**

**Courier Delivery Address  
STATE BOARD OF MEDICINE  
2601 NORTH THIRD STREET  
HARRISBURG, PA 17110**

NATUROPATHIC DOCTOR INITIAL APPLICATION

PALS CHECKLIST ITEMS

CHECKLIST NAME	INSTRUCTIONS
Application	All applications are processed in order of submission. If this application is not completed within six months, updates of certain sections and/or supporting documents will be required. If the application has not been completed within one year from the date it was received, applicants will be required to submit a new application (another application processing fee) and supporting documents, as necessary.
Application Fee	NON REFUNDABLE FEE in the amount of \$100, made payable by credit/debit card. If the application has not been completed within one year from the date it was received, applicants will be required to submit a new application (another application processing fee) and supporting documents, as necessary.
CHILD ABUSE CE	All health-related licensees/certificate/registrants and funeral directors are considered “mandatory reporters” under section 6311 of the Child Protective Services Law (23 P.S. § 6311). Therefore, all persons applying for issuance of an initial license, certificate or registration from any of the health-related boards (except the State Board of Veterinary Medicine) or from the State Board of Funeral Directors are required to complete, as a condition of licensure, certification or registration, 3 hours of approved training by the Department of Human Services (DHS) on top of the child abuse recognition and reporting. After you have completed the required course, the approved provider will electronically submit your name, date of attendance, etc. to the Bureau. For that reason, it is imperative that you register for the course using the information provided on your application for licensure/certification/registration. A list of DHS-approved child abuse education providers can be found on the Department of State website.
CRIMINAL HISTORY CHECK	Provide a recent Criminal History Records Check (CHRC) from the state police or other state agency that is the official repository for criminal history record information for every state in which you have lived, worked or completed professional training/studies for the past five (5) years. The report(s) must be dated within 90 days of the date the application is submitted. For applicants living, working or completing training/studies in Pennsylvania, your CHRC request will be automatically submitted to the Pennsylvania State Police upon submission of this application. The PATCH fee will be included at checkout. Your PA CHRC will be sent directly to the Board/Commission. You will be notified if additional action is required. For individuals living, working or completing training/studies outside of Pennsylvania during the past five (5) years, in lieu of obtaining individual state background checks, you may elect to provide BOTH a state CHRC from the state in which you currently reside, AND your FBI identity History Summary Check available at <a href="https://www.fbi.gov/services/cjis/identity-history-summary-checks">https://www.fbi.gov/services/cjis/identity-history-summary-checks</a>

	Please note: For applicants currently living, working or completing training/studies in California, Arizona or Ohio: Due to the laws of these states, the Board is not an eligible recipient of CHRC's or your CHRC will not be issued to you for upload to the Board. Please obtain your Federal Bureau of Investigation (FBI) Identity History Summary Check available at the link noted above.
CURRENT CPR CERTIFICATION	Please upload a copy of the front and back of your current CPR certification obtained through the American Red Cross, the American Heart Association or a similar health authority or professional body approved by the Board.
DATABANK REPORT	Provide an official notification of information (Self-Query) from the National Practitioner Data Bank. Please refer to the NPDB website for additional information. When you receive the "Response to your Self-Query, you will need to upload it to your online application. The reported will need to be uploaded, where prompted, in order to submit your application.
EDUCATION VERIFICATION	Forward the Verification of Education form to your school/university to complete. You are only required to verify the level of education completed which qualifies you for this license. The school must return the completed verification form directly to the Board. The form will be available for download and printing when the application is submitted.
EDUCATIONAL TRANSCRIPTS	Request that your school provide an official transcript <b>directly to the Board</b> . If the official transcript does not provide detailed information regarding the courses attended from which the applicant's eligibility is determined, the Board retains the right to request a copy of the school curriculum.
EXAM RESULTS	Request the NABNE to submit the certifying examination scores for Parts I and II directly to the Board. If you graduated prior to 1986, arrange for the State Board office to submit proof of a passing score on a state naturopathic examination.
LETTER OF GOOD STANDING	Contact the licensing authorities of the states, territories or countries where you hold or eve held a license, certificate, permit, registration or other authorization to practice a health-related profession (whether active, inactive, expired or current) and request letters of good standing/verification of licensure in that state or jurisdiction. The letter must include the following: license issue and expiration date, license status (current or expired) and disciplinary standing. The letter(s) of good standing must be sent directly to the Board.
RESUME/ CURRICULUM VITAE	You will need to upload, where prompted, a current Curriculum Vitae listing all periods of employment or unemployment (i.e. child rearing, research, etc.) from graduation from naturopathic school to present. The list must be in chronological order, include the month and year, and indicate the state/territory in which the employment occurred. The resume/ curriculum vitae will need to be uploaded in order to submit your application.
BACHELOR'S DEGREE TRANSCRIPTS	Request that your school provide an official transcript <b>directly to the Board</b> verifying that you obtained a bachelor's degree from a <b>regionally accredited or pre-accredited college or university or the equivalent</b> .

## Legal Questions

- 1 Do you hold or have you ever held a license, certificate, permit, registration or other authorization to practice in any health-related profession in any state or jurisdiction?
- 2 Please provide the profession and state or jurisdiction.
- 3 Have you withdrawn an application for a professional or occupational license, certificate, permit or registration, had an application denied or refused, or for disciplinary reasons agreed not to apply or reapply for a professional or occupational license, certificate, permit or registration in any state or jurisdiction?
- 4 Have you had disciplinary action taken against a professional or occupational license, certificate, permit, registration or other authorization to practice a profession or occupation issued to you in any state or jurisdiction or have you agreed to voluntary surrender in lieu of discipline?
- 5 Do you currently have any disciplinary charges pending against your professional or occupational license, certificate, permit or registration in any state or jurisdiction?
- 6 Do you currently have any criminal charges pending and unresolved in any state or jurisdiction?
- 7 Have you ever had practice privileges denied, revoked, suspended or restricted by a hospital or any health care facility?
- 8 Have you ever had your DEA registration denied, revoked or restricted?
- 9 Have you ever had provider privileges denied, revoked, suspended or restricted by a Medical Assistance agency, Medicare, third party payor or another authority?
- 10 Have you ever been charged by a hospital, university, or research facility with violating research protocols, falsifying research, or engaging in other research misconduct?
- 11 Have you engaged in, the intemperate or habitual use or abuse of alcohol or narcotics, hallucinogenics or other drugs or substances that may impair judgment or coordination?
- 12 Since May 19, 2002, have you been the subject of a civil malpractice lawsuit? If yes, please submit a copy of the entire Civil Complaint, which must include the filing date and the date you were served. Submit a statement which includes complete details of the complaints that have been filed against you.

13 Docket Number

14 Filing Date:

15 Date you were served:

## Standard Questions

- 1 Name of Naturopathic School
- 2 Address of Naturopathic School
- 3 Will any of your supporting documents be submitted under another name or names?
- 4 Please list the other name(s)

You must submit a copy of a legal document verifying the name(s). The following are acceptable name change verification documents:

(1) Marriage Certificate:

- (2) Divorce decree which indicates the retaking of your maiden name:
- (3) Other "legal" document indicating the retaking of a maiden name:
- (4) For a "legal" name change, a copy of the court document must be provided.

5 List all of the states you have lived or worked in during the last 5 years.

Provide a recent Criminal History Records Check (CHRC) from the state police or other state agency for every state in which you have lived, worked, or completed professional training/studies for the past five (5) years. The report(s) must be dated within 90 days of the date the application is submitted. For applicants living, working, or completing training/studies in Pennsylvania, your CHRC request will be automatically submitted to the Pennsylvania State Police upon submission of this application. The PATCH fee will be included at checkout. Your PA CHRC will be sent directly to the Board/Commission. You will be notified if additional action is required. For individuals living, working, or completing training/studies outside of Pennsylvania during the past five (5) years, in lieu of obtaining individual state background checks, you may elect to provide BOTH a state CHRC from the state in which you currently reside, AND your FBI Identity History Summary Check, available at <https://www.fbi.gov/services/cjis/identity-history-summary-checks>.

Please note: For applicants currently living, working, or completing training/studies in California, Arizona, or Ohio: Due to the laws of these states, the Board is not an eligible recipient of CHRC's or your CHRC will not be issued to you for upload to the Board. Please obtain your Federal Bureau of Investigation (FBI) Identity History Summary Check, available at the link noted above.

## Questions

**1** Have you served in the U.S. Armed Forces?

**2** Thank you for your service. Would you like to register with the PA Veterans Registry? The PA Veterans Registry provides veterans with information about federal, state and local benefits, programs and services that are available to Pennsylvania veterans and links veterans with resources that can provide assistance. Registration is quick and easy, and provides the Department of Military and Veterans Affairs (DMVA) with a way to contact you regarding the benefits and services you may be eligible for. If you check "Yes," you will receive an email with instructions to assist you in registering.

## NATUROPATHIC DOCTOR RENEWAL/REACTIVATION

CheckList Name	Instructions
<b>Application</b>	Practicing on an expired license may result in disciplinary actions and additional monetary fees.
<b>Application Fee</b>	A fee of <b>\$50.00</b> is required. Please note that all fees are non-refundable.
<b>Child Abuse CE</b>	All health-related licensees/certificate holders and funeral directors are considered "mandatory reporters" under section 6311 of the Child Protective Services Law (23 P.S. § 6311). Therefore, all persons applying for renewal of a license or certificate from any of the health-related boards (except the State Board of Veterinary Medicine) or from the State Board of Funeral Directors are required to complete, as a condition of biennial renewal, 2 hours of approved training on the topic of child abuse recognition and reporting. After you have completed the required course, the approved provider will electronically submit your name, date of attendance, etc. to the Bureau. For that reason, it is imperative that you register for the course using the information provided on your application for licensure/certification. A list of approved child abuse education providers can be found on the Department of State Website.

**Renewal Questions:**

**Legal Questions:**

- 1. Since your initial application or last renewal, whichever is later, have you had disciplinary action taken against a professional or occupational license, certificate, permit, registration or other authorization to practice a profession or occupation issued to you in any state or jurisdiction or have you agreed to voluntary surrender in lieu of discipline?**
- 2. Do you currently have any disciplinary charges pending against your professional or occupational license, certificate, permit or registration in any state or jurisdiction?**
- 3. Since your initial application or last renewal, whichever is later, have you withdrawn an application for a professional or occupational license, certificate, permit or registration, had an application denied or refused, or for disciplinary reasons agreed not to apply or reapply for a professional or occupational license, certificate, permit or registration in any state or jurisdiction?**
- 4. Since your initial application or your last renewal, whichever is later, have you had your DEA registration denied, revoked or restricted?**
- 5. Since your initial application or your last renewal, whichever is later, have you had provider privileges denied, revoked, suspended or restricted by a Medical Assistance agency, Medicare, third party payor or another authority?**
- 6. Since your initial application or your last renewal, whichever is later, have you had practice privileges denied, revoked, suspended, or restricted by a hospital or any health care facility?**
- 7. Since your initial application or your last renewal, whichever is later, have you been charged by a hospital, university, or research facility with violating research protocols, falsifying research, or engaging in other research misconduct?**
- 8. Since your initial application or last renewal, whichever is later, have you engaged in the intemperate or habitual use or abuse of alcohol or narcotics, hallucinogenics or other drugs or substances that may impair judgment or coordination?**
- 9. Since your initial application or your last renewal, whichever is later, have you been the subject of a civil malpractice lawsuit?**
- 9. a - Have you previously reported the complaint to the Board?**  
**If yes, provide the state, county, and docket number.**
- 9.b - If no, upload a copy of the entire Civil Complaint, which must include the filing date and the date you were served.**

**Standard Questions:**

1. Are you submitting a name change with this renewal?

You must submit a copy of a legal document verifying the name(s). The following are acceptable name change verification documents:

(1) Marriage Certificate:

(2) Divorce decree which indicates the retaking of your maiden name:

(3) Other "legal" document indicating the retaking of a maiden name:

(4) For a "legal" name change, a copy of the court document must be provided.

2. With the exception of the one you are currently renewing, do you hold, or have you ever held, a license, certificate, permit, registration or other authorization to practice a profession or occupation in any state or jurisdiction?

Please provide the profession and state or jurisdiction.

3. Do you hold current valid CPR certification in Adult CPR? Courses for CPR certification must be obtained through the American Red Cross, the American Heart Association or an agency substantially similar approved by the Board. Note: Online CPR courses are not acceptable to fulfill this requirement.

**Questions:**

1. Have you served in the U.S. Armed Forces?

# FEE REPORT FORM

**Agency:** State - BPOA

**Date:** July 17, 2019

**Contact:** K. Kalonji Johnson, Commissioner  
Bureau of Professional & Occupational Affairs

**Phone No.** 783-7194

## Fee Title, Rate and Estimated Collections:

Naturopathic Doctor Initial Registration Application: \$100.00

Estimated yearly revenue: \$1,000 (10 applications x \$100.00)

## Fee Description:

The fee will be charged to every applicant for registration as a Naturopathic Doctor.

## Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Medicine to process an application and (2) defray a portion of the Board's administrative overhead.

## Fee-Related Activities and Costs:

Staff time-process application	(.25hr)	\$12.30
Board Administrator review	(.25hr)	\$16.96
Board Attorney review	(.25hr)	\$26.88
Board Member review	(.25hr)	\$26.00
Transaction fee		\$2.40
Administrative Overhead:		\$14.00
	Total Estimated Cost:	\$98.54
	Proposed Fee:	\$100.00

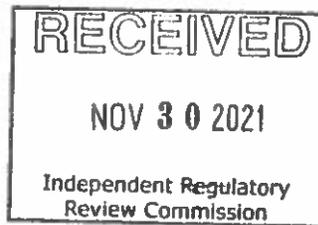
### **Analysis, Comment, and Recommendation:**

It is recommended that a fee of \$100.00 be established for processing an application for registration as a Naturopathic Doctor.

Board Staff –Staff receives and reviews the application by ensuring all documents are received, complete and correct. Staff downloads supporting documents (exam scores, letters of good standing, etc). Staff matches supporting documents with the respective application, or creates a miscellaneous mail number in the licensing system and files the supporting documents. Staff makes appropriate notations in the applicant's file through the licensing system. If any documents are not received and/or are incorrect, staff creates and mails/emails a discrepancy letter. In addition to evaluating the materials received, applications may require staff to complete additional research or clearance reports online. Applications with disciplinary/legal issues will require staff to review lengthy legal documents. When complete, staff forwards applications with disciplinary/legal action to the Board's Legal Counsel for review. Counsel may request the application be reviewed by the Board or possibly the Professional Health Monitoring Program. For applications that require Board review, staff prepares and scans the application to be placed on the Board's meeting agenda. When an application is ready to be issued, staff issues the license through the licensing system.

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)



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<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: <b>Amy M. Elliott</b> (DEPUTY ATTORNEY GENERAL)</p> <p><small>Digitally signed by Amy M. Elliott DN: cn=Amy M. Elliott, o=Pennsylvania Office of Attorney General, ou=Chief Deputy Attorney General, email=ae Elliott@attorneygeneral.gov, c=US Date: 2021.11.03 13:46:09 -0500</small></p> <p><u>11/5/21</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>State Board of Medicine</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>16A-4953</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>Mark B. Woodland</u> Mark B. Woodland, M.S., M.D.</p> <p>TITLE <u>Board Chair</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u>[Signature]</u></p> <p><u>September 8, 2021</u> DATE OF APPROVAL</p> <p>Deputy General Counsel (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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PROPOSED RULEMAKING

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF MEDICINE

TITLE 49 PA CODE  
CHAPTERS 16 AND 18  
§§ 16.1, 16.11—16.13, 18.13a, 18.15, 18.15a and 18.901—18.913

REGISTRATION OF NATUROPATHIC DOCTORS

The State Board of Medicine (Board) proposes to amend Chapters 16 and 18 (relating to State Board of Medicine – General Provisions; and State Board of Medicine – Practitioners Other Than Medical Doctors) to read as set forth in Annex A. Specifically, the Board is proposing amendments to §§ 16.1, 16.11—16.13, 18.13a, 18.15, 18.15a, and the addition of Subchapter M (relating to registration of naturopathic doctors) to Chapter 18 at §§ 18.901—18.913.

#### *Effective Date*

The proposed amendments will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

#### *Statutory Authority*

The primary statutory authority to regulate the registration of naturopathic doctors is the Naturopathic Doctor Registration Act (NDRA) (63 P.S. §§ 272.101—272.301). Specifically, section 207 of the NDRA (63 P.S. § 272.207) provides that “[t]he board shall enforce and administer the provisions of this act and shall promulgate regulations that are consistent with the intent of this act.” Further, section 203(b) of the NDRA (63 P.S. § 272.203(b)) provides the authority of the Board to require naturopathic doctor registrations to be renewed “in a manner and at such intervals as the board shall determine by regulation.” Sections 202(6) and 203(c) of the NDRA (63 P.S. §§ 272.202(6) and 272.203(c)) set forth the authority of the Board to set fees for initial registration and biennial renewal of registration. The Board sets all fees by regulation.

The Board is also taking this opportunity to update its regulations and to remove outdated provisions in the Board’s existing regulations relating to “drugless therapists” under the authority of Section 8 of the Medical Practice Act of 1985 (act) (63 P.S. § 422.8), which provides, in part, that, “[t]he board, in the exercise of its duties under this act, shall have the power to adopt such regulations as are reasonably necessary to carry out the purposes of this act.” This authority necessarily includes the power to repeal provisions of the regulations that are no longer necessary.

#### *Background, Need for and Description of the Proposed Amendments*

The Board proposes to amend § 16.1 (relating to definitions) to update the definitions of “act” and “Board-regulated practitioner.” The definition of “act” is simply being amended to update the citation to the Medical Practice Act of 1985 (63 P.S. §§ 422.1—422.53). The definition of “board-regulated practitioner” would be amended to remove references to “drugless therapists” and to add several license classifications which are currently missing from the definition. Specifically, the licensure classifications of respiratory therapist, genetic counselor, prosthetist, orthotist, pedorthist, orthotic fitter and naturopathic doctor would be added to the definition of “board-regulated practitioner” in § 16.1. Persons applying for a registration issued by the Board would also be included in the definition of “board-regulated practitioner.”

Additionally, the proposed regulation will remove all regulatory references to “drugless therapists.” The Board last issued a new license to practice as a drugless therapist in 1951 (1 month after the State Board of Chiropractic began operations) and no longer has the authority to issue new drugless therapist licenses. *See Reisinger v. Com., State Bd. of Med. Ed. & Licensure*, 399 A.2d 1160 (Pa. Cmwlth. 1979). *Reisinger* involved an individual trained as a chiropractor and naturopathic doctor who petitioned for licensure as a “drugless therapist,” but was denied because the Board determined that it no longer had the authority to license drugless therapists. On appeal, the Commonwealth Court agreed, holding that although the Board could continue to register and regulate persons engaged in the practice of drugless therapy, “the Board lacks the authority now to license Drugless Therapists.” *See id.*, 399 A.2d at 1163. Since 1951, the Board has continued to biennially register/renew existing drugless therapist licenses and has continued to regulate their practice, but has not issued new licenses. No individual currently holds an active license as a drugless therapist from the Board. The last remaining individual who held an active license as a drugless therapist did not renew his license in 2016 and it is the Board’s understanding that he died in December of 2014, shortly after submitting his renewal application for the 2015-2016 renewal period. The prior two most recent licensees of the Board last renewed their licenses in 2008. Therefore, it appears that all individuals who held a license as a drugless therapist have either retired from practice or are deceased. Therefore, it is no longer necessary to keep any references to drugless therapists in the Board’s regulations. This is especially true now that the Board will be registering individuals as naturopathic doctors under this rulemaking.

As such, the Board proposes to amend § 16.11 (relating to licenses, certificates and registrations) to remove the reference to biennial registration of a drugless therapist license, and to add the initial registration as a naturopathic doctor and the biennial registration of a naturopathic doctor. Section 16.12 (relating to general qualifications for licenses and certificates) would be amended to update its title and to extend its provisions to initial registrations issued by the Board. In addition, the fees associated with biennial renewal of the drugless therapist license would be removed from § 16.13 (relating to licensure, certification, examination and registration fees), and the fees associated with naturopathic doctor registration, including the proposed initial registration fee of \$100 and biennial registration renewal fee of \$50, would be added.

Next, the Board proposes amendments to Chapter 18, Subchapter B (relating to the registration and practice of acupuncturists and practitioners of Oriental medicine) to address the overlap between the practice of a naturopathic doctor and an acupuncturist or practitioner of Oriental medicine. Specifically, §§ 18.13a and 18.15a (relating to requirements for licensure as a practitioner of Oriental medicine; and scope of practice of acupuncturists and practitioners of Oriental medicine) would be amended to point out that these regulations do not limit the practice of a naturopathic doctor when recommending herbs, minerals and other supplements according to traditions other than Oriental medicine traditions. In addition, § 18.15 (relating to practice responsibilities of acupuncturist and practitioner of Oriental medicine) would be amended to provide an exception to the prohibition on the use of the title “doctor” for an acupuncturist who is also registered as a naturopathic doctor.

The Board proposes to add a new Subchapter M (relating to registration of naturopathic doctors) to Chapter 18 to implement the provisions of the NDRA. Section 18.901 (relating to purpose) simply notes that this subchapter implements the registration of naturopathic doctors as required under the NDRA. Section 18.902 (relating to definitions) would define necessary terms used in Subchapter M, including “authorization to practice,” “CNME - Council on Naturopathic Medical Education,” “merchandise,” “naturopathic doctor,” “NABNE - North American Board of Naturopathic Examiners,” “NDRA,” NPLEX - Naturopathic Physicians Licensing Examinations,” and “regionally accredited or pre-accredited college or university.” Next, the Board proposes to include the process and requirements to apply for a registration as a naturopathic doctor in § 18.903 (relating to application for naturopathic doctor registration), including the qualifications for registration as a naturopathic doctor as set forth in section 202 of the NDRA (63 P.S. § 272.202). The Board also proposes to include the requirement that an applicant for registration as a naturopathic doctor shall have completed at least 3 hours of approved education/training in child abuse recognition and reporting requirements, as required under section 6383(b)(3)(i) of the Child Protective Services Law (CPSL) (23 Pa.C.S. § 6383(b)(3)(i)). The Board is currently pursuing a separate rulemaking (16A-4941) setting forth the requirements for approved courses in child abuse recognition and reporting and intends to add an appropriate cross-reference once that rulemaking is final.

The Board is also proposing to include the requirements for the biennial renewal of the naturopathic doctor registration in § 18.904 (relating to biennial registration of naturopathic doctor) as required by section 203(b) of the NDRA (63 P.S. § 272.203(b)). Section 203(b) of the NDRA provides for renewal “in a manner and at such intervals as the board shall determine by regulation.” As such, the Board is proposing that all registrations of naturopathic doctors will expire on December 31<sup>st</sup> of each even-numbered year, to correspond with the expiration of all existing licenses issued by the Board. The Board proposes to set forth the manner of renewing in subsection (b), which sets forth the requirements for renewal as informed by the existing practice of the Board. The Board also proposes to require, as a condition of biennial renewal, the completion of at least 2 hours of approved continuing education in child abuse recognition and reporting, as required under section 6383(b)(3)(ii) of the CPSL.

Similarly, the Board is proposing to provide for reactivation of inactive and expired registrations in § 18.905 (relating to inactive status; reactivation of inactive and expired registration). Again, the manner in which expired and inactive registrations are reactivated is informed by the Board’s existing practices and includes payment of applicable fees and the completion of the required continuing education in child abuse recognition and reporting.

Section 18.906 (relating to display of registration) would set forth the requirement that a naturopathic doctor prominently display the certificate of registration and evidence of biennial renewal in a publicly accessible location at the registrant’s regular place of business and have evidence of current registration available for inspection when providing services at other locations.

In § 18.907 (relating to acceptable titles and professional designations by registrants and non-registrants; prohibited titles) the Board clarifies the acceptable titles that may be used by registered naturopathic doctors, as well as non-registrants who may hold themselves out as naturopaths, traditional naturopaths and similar titles. Section 201 of the NDRA (63 P.S. § 272.201) provides that “[i]t shall be unlawful for an individual to use the title of “naturopathic doctor” or “doctor of naturopathic medicine” unless that person is registered as a naturopathic doctor with the board.” The proposed § 18.907 would also make it clear that a naturopathic doctor who uses the designation “Dr.” shall further identify himself or herself as a “naturopathic doctor,” “registered naturopathic doctor” or “doctor of naturopathic medicine” and may not use any term or designation that would imply that the naturopathic doctor is authorized to practice medicine or any other health care profession, unless the naturopathic doctor also holds a current and active authorization to practice the other profession issued by the appropriate licensing authority of this Commonwealth.

Next, the Board proposes to address informed consent and required disclosures in § 18.908 (relating to informed consent and disclosure of financial interests). In this section, the Board proposes to require that the informed consent include notice that the naturopathic doctor is not a physician. Further, in subsection (b), the Board proposes a requirement that a naturopathic doctor inform the patient if the naturopathic doctor will receive any financial incentive for referring a patient to a purveyor of merchandise or services, or for recommending any merchandise to a patient.

In § 18.909 (relating to naturopathic records) the Board proposes standards for the creation and retention of patient records and would authorize a naturopathic doctor to charge patients no more than the applicable costs for production of health records as annually adjusted by the Secretary of Health and published in the *Pennsylvania Bulletin*. It would further prohibit a naturopathic doctor from requiring payment for naturopathic services rendered as a condition of releasing records to a patient or the patient’s designee.

Section 18.910 (relating to advertising) would set forth information that must be included in all advertisements for naturopathic services, as well as standards for what may not be included in advertisements. Items that must be included in all advertisements include the name of the naturopathic doctor as registered with the Board and the words “naturopathic doctor” or “doctor of naturopathic medicine.” Prohibitions include misrepresentations and other statements that are likely to mislead or deceive, those that create false or unjustified expectations as to results and those that imply that a manifestly incurable condition can be cured or that guarantee a cure of any condition. The Board is also prohibiting statements recommending any modality or service that is inconsistent with the health, safety and welfare of the public. In addition, a registered naturopathic doctor may not include the term “physician” unless also licensed as a physician or physician assistant by the Board or the State Board of Osteopathic Medicine.

The Board proposes § 18.911 (relating to Code of Ethics) to establish the ethical principles for registered naturopathic doctors in this Commonwealth. This proposal was informed by the ethical standards of other health care professions regulated by the Board and the ethical standards for licensed naturopathic doctors in other states and by national organizations such as the American Association of Naturopathic Physicians. These standards include items relating to competence, confidentiality and privacy, informed consent and maintenance of professional boundaries. Specific unethical conduct is prohibited such as making misrepresentations relating to credentials, qualifications or affiliations; engaging in fraudulent, dishonest or deceitful conduct; exploiting the professional relationship including a person, sexual, romantic or financial relationship; and engaging in sexual misconduct.

Section 18.912 (relating to sexual misconduct) is proposed to make it clear that sexual misconduct, to include sexual exploitation of a current or former patient or of an immediate family member of a patient, and sexual behavior with a current patient, constitute unprofessional conduct and subjects the naturopathic doctor to disciplinary action.

Finally, the Board proposes § 18.913 (relating to grounds for discipline) to set forth the grounds for discipline of a naturopathic doctor, including those reasons set forth in section 204 of the NDRA (63 P.S. § 272.204), and additional reasons such as engaging in fraud in obtaining a registration as a naturopathic doctor; false or deceptive advertising; aiding, assisting, employing or advising an unregistered individual to hold themselves out in a manner which states or implies that the individual is a naturopathic doctor; paying or receiving a commission, bonus, kickback or rebate or engaging in a fee splitting arrangement based on patient referrals; promoting the sale of services, drugs, devices, appliances or goods to a patient so as to exploit the patient for financial gain; offering to treat or cure a disease by a secret method; failing to maintain records; and failing to cooperate with a lawful investigation of the Board. Subsection (b) summarizes the panoply of potential disciplinary and corrective actions that the Board may impose for violations as authorized by the NDRA, the act and 63 Pa.C.S. § 3108(b) (relating to civil penalties), including denying an application for registration, administering a public reprimand, imposing probation or other restrictions on a registration, requiring other corrective actions or assessing monetary civil penalties and costs of investigation.

#### *Fiscal Impact and Paperwork Requirements*

The only fiscal impacts of this proposed rulemaking are the fees imposed upon naturopathic doctors for initial registration (\$100) or biennial renewal (\$50). Naturopathic doctors applying for initial registration, biennial renewal of registration or reactivation of an inactive or expired registration will be required to submit online applications and submit required documentation to the Board.

*Sunset Date*

The Board continuously monitors the effectiveness of its regulations. Therefore, no sunset date has been assigned.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 30, 2021, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor.

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Shana Walter, Counsel, State Board of Medicine, P.O. Box 69523, Harrisburg, Pennsylvania 17106-9523, or by email to [RA-STRegulatoryCounsel@pa.gov](mailto:RA-STRegulatoryCounsel@pa.gov), within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please include in the subject line “16A-4953 (Registration of Naturopathic Doctors)” when submitting comments.

Mark B. Woodland, M.S., M.D., Chairman  
State Board of Medicine

**ANNEX A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 16. STATE BOARD OF MEDICINE – GENERAL PROVISIONS**

**Subchapter A. BASIC DEFINITIONS AND INFORMATION**

**§ 16.1. Definitions.**

The following words and terms, when used in this chapter and Chapters 17 and 18 (relating to State Board of Medicine—medical doctors; and State Board of Medicine—practitioners other than medical doctors), have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

*Act*—The Medical Practice Act of 1985 (63 P. S. §§ 422.1—[422.45] 422.53).

\* \* \* \* \*

*Board-regulated practitioner*—A medical doctor, midwife, physician assistant, [drugless therapist,] athletic trainer, acupuncturist, practitioner of Oriental medicine, perfusionist, respiratory therapist, genetic counselor, prosthetist, orthotist, pedorthist, orthotic fitter, naturopathic doctor or an applicant for a license, registration or certificate that the Board may issue.

\* \* \* \* \*

**Subchapter B. GENERAL LICENSE, CERTIFICATION AND REGISTRATION  
PROVISIONS**

**§ 16.11. Licenses, certificates and registrations.**

\* \* \* \* \*

- (c) The following registrations are issued by the Board:
- (1) Registration as a supervising physician of a physician assistant.
    - (1.1) Initial registration as a naturopathic doctor.
  - (2) Biennial registration of a license without restriction.
  - (3) Biennial registration of an extraterritorial license.
  - (4) Biennial registration of a midwife license.
  - (5) Biennial registration of a physician assistant license.
  - (6) [Biennial registration of a drugless therapist license.] (Reserved).
  - (7) Biennial registration of a limited license-permanent.

\* \* \* \* \*

- (18) Biennial registration of an orthotic fitter license.
- (19) Biennial registration of a naturopathic doctor registration.

**§ 16.12. General qualifications for licenses, registrations and certificates.**

To qualify for [a] an initial license, registration or certificate issued by the Board, an applicant shall establish that the following criteria are satisfied:

\* \* \* \* \*

**§ 16.13. Licensure, certification, examination and registration fees.**

\* \* \* \* \*

(d) *Acupuncturist licenses:*

(1) *Acupuncturist:*

Application.....\$30

Biennial renewal.....\$40

(2) *Practitioner of Oriental medicine license:*

Application.....\$30

Biennial renewal.....\$40

(e) *[Drugless therapist license:*  
Biennial renewal..... \$40] (Reserved).

\* \* \* \* \*

(q) *Orthotic Fitters:*  
Application for orthotic fitter license .....\$25  
Biennial renewal of orthotic fitter license .....\$75  
Application for reactivation of orthotic fitter license .....\$25  
Application for orthotic fitter temporary permit .....\$25

(r) *Naturopathic doctor registration:*  
Application for initial registration..... \$ 100  
Biennial renewal..... \$ 50

\* \* \* \* \*

**CHAPTER 18. STATE BOARD OF MEDICINE—PRACTITIONERS OTHER THAN  
MEDICAL DOCTORS**

**Subchapter B. REGISTRATION AND PRACTICE OF ACUPUNCTURISTS AND  
PRACTITIONERS OF ORIENTAL MEDICINE**

**§ 18.13a. Requirements for licensure as a practitioner of Oriental medicine.**

\* \* \* \* \*

(d) This subsection does not apply to a medical doctor licensed as an acupuncturist nor does it restrict the practice of medicine by a medical doctor.

(e) This section does not limit the practice of a naturopathic doctor who is also licensed as an acupuncturist when recommending herbs, minerals and other supplements, or combinations, according to traditions other than Oriental medicine traditions.

**§ 18.15. Practice responsibilities of acupuncturist and practitioner of Oriental medicine who is not a physician.**

(a) *Responsibilities to patient.* In relation to the acupuncture patient, the acupuncturist and the practitioner of Oriental medicine:

\* \* \* \* \*

(b) *Identification of acupuncturist or practitioner of Oriental medicine.* An acupuncturist who is not a medical doctor shall wear a tag or badge with lettering clearly visible to the patient bearing the acupuncturist’s name and the title “acupuncturist” or “practitioner of Oriental medicine,” as appropriate. The use of the [word doctor] words “doctor,” “physician” or any title or abbreviation implying licensure as a physician on this tag or badge is prohibited; provided, however, that an individual licensed as an acupuncturist who also possesses a current and active registration as a naturopathic doctor may utilize the title “Doctor of Naturopathic Medicine.” “Naturopathic Doctor” or the abbreviation “N.D.” in addition to the title “acupuncturist.”

**§ 18.15a. Scope of practice of acupuncturists and practitioners of Oriental medicine.**

\* \* \* \* \*

(c) This subsection does not limit the scope of practice of a medical doctor who is registered as an acupuncturist.

(d) This section does not limit the scope of practice of a naturopathic doctor when recommending herbs minerals and other supplements, or combinations, according to traditions other than Oriental medicine traditions.

(Editor’s note: The following Subchapter is proposed to be added and printed in regular type to enhance readability.)

**Subchapter M. REGISTRATION OF NATUROPATHIC DOCTORS**

**§ 18.901. Purpose.**

This subchapter implements the Naturopathic Doctor Registration Act (63 P.S. §§ 272.101—272.301) pertaining to the registration of naturopathic doctors.

**§ 18.902. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Authorization to practice*—A license, registration, certificate, permit, authorization or approval issued by a state or Federal agency which authorizes the holder to advertise, engage in, or both advertise and engage in the practice of a profession or occupation.

*CNME*—Council on Naturopathic Medical Education—The accrediting body which accredits schools of naturopathic medicine for the education of naturopathic doctors.

*Merchandise*—Items that can be sold including vitamins, supplements, food, food extracts, homeopathic remedies, botanical medicines, herbs and natural substances.

*Naturopathic doctor*—An individual who holds an active registration issued by the Board under the NDRA.

*NABNE*—North American Board of Naturopathic Examiners—The organization which administers the Naturopathic Physicians Licensing Examinations (NPLEX).

*NDRA*—The Naturopathic Doctor Registration Act (63 P. S. §§ 272.101—272.301).

*NPLEX*—Naturopathic Physicians Licensing Examinations - The licensing examination accepted by the Board as a prerequisite to registration, consisting of Part I – Biomedical Science Examination and Part II – Core Clinical Science Examination, or its successor recognized by the Board.

*Regionally accredited or pre-accredited college or university*—A college or university which is accredited or pre-accredited by one of the following:

- (1) Accrediting Commission of Career Schools and Colleges.
- (2) Accrediting Council for Continuing Education and Training.
- (3) Accrediting Council for Independent Colleges and Schools.
- (4) Council on Occupational Education.
- (5) Distance Education Accrediting Commission.
- (6) Higher Learning Commission.
- (7) Middle States Commission on Higher Education.
- (8) Middle States Commission on Secondary Schools.
- (9) New England Commission of Higher Education.
- (10) New York State Board of Regents and the Commissioner of Education.
- (11) Northwest Commission on Colleges and Universities.
- (12) Southern Association of Colleges and Schools, Commission on Colleges.
- (13) Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges.
- (14) Western Association of Schools and Colleges, Senior Colleges and University Commission.

(15) Any other regional or national accrediting agency which has been recognized by the United States Department of Education as being a reliable authority concerning the quality of education or training offered by the institutions of higher education or higher education programs they accredit.

**§ 18.903. Application for naturopathic doctor registration.**

(a) An applicant for a registration to practice naturopathic medicine shall submit, on an application made available by the Board, a completed application for a registration, including the necessary supporting documents and pay the application fee in § 16.13 (relating to licensure, certification, examination and registration fees).

(b) Except as otherwise provided by law, the Board will issue a registration to practice naturopathic medicine to an applicant who meets all of the following requirements:

(1) Holds a bachelor's degree from a regionally accredited or pre-accredited college or university or the equivalent.

(2) Holds a doctoral degree from a naturopathic school accredited by the CNME which consists of at least 4,100 total credit hours in basic and clinical sciences and naturopathic philosophy and modalities, including at least 2,500 hours of academic instruction and at least 1,200 hours of supervised clinical training. Proof of the degree shall be sent directly from the applicant's education program and include an official transcript.

(3) Has passed Parts I and II of a competency-based national naturopathic licensing examination administered by the NABNE or a successor agency. An applicant who graduated prior to 1986 shall demonstrate a passing score on a state naturopathic examination.

- (4) Holds a current basic cardio-pulmonary resuscitation (CPR) certificate issued by the American Heart Association, American Red Cross or a similar health authority or professional body approved by the Board.
  - (5) Has completed at least 3 hours of approved education/training in child abuse recognition and reporting requirements as set forth in 23 Pa.C.S. § 6383(b)(3)(i) (relating to education and training).
  - (6) Is of good moral character.
- (c) The Board may deny an application for registration as a naturopathic doctor upon any of the grounds for disciplinary action in § 18.913 (relating to disciplinary action for applicants and naturopathic doctors).

**§ 18.904. Biennial registration of naturopathic doctor.**

- (a) The registration of a naturopathic doctor will expire biennially on December 31 of each even-numbered year in accordance with § 16.15 (relating to biennial registration; inactive status and unregistered status). A naturopathic doctor may not use the title of "naturopathic doctor," "doctor of naturopathic medicine" or any other term implying that the individual is currently registered as a naturopathic doctor unless the individual holds a current and unexpired registration.
- (b) As a condition of biennial renewal, a naturopathic doctor shall:
  - (1) Submit a completed application, including payment of the biennial registration fee in § 16.13 (relating to licensure, certification, examination and registration fees).
  - (2) Disclose on the application any authorization to practice as a naturopathic doctor in another state, district, territory, possession or country.
  - (3) Disclose on the application disciplinary action pending before, or taken by, the appropriate licensing, registration or certification authority in another jurisdiction since the

most recent application for biennial registration, whether or not authorized to practice or advertise in that other jurisdiction.

(4) Affirm that the applicant holds a current basic cardio-pulmonary resuscitation (CPR) certificate issued by the American Heart Association, American Red Cross or a similar health authority or professional body approved by the Board.

(5) Certify that the applicant has completed at least 2 hours of approved continuing education in child abuse recognition and reporting as set forth in 23 Pa.C.S. § 6383(b)(3)(ii).

**§ 18.905. Inactive status; reactivation of inactive or expired registration.**

(a) A naturopathic doctor may request in writing that the Board place the registration on inactive status. Confirmation of inactive status will be forwarded to the registrant. A naturopathic doctor may not use the title of "naturopathic doctor," "doctor of naturopathic medicine" or any other term implying that the individual is currently registered as a naturopathic doctor while on inactive status.

(b) To reactivate an inactive or expired registration, the registrant shall apply for reactivation by completing an application for reactivation on a form made available by the Board. The registrant shall:

(1) Pay the current biennial registration fee specified in § 16.13 (relating to licensure, certification, examination and registration fees) and any applicable late fees required under section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225).

(2) Disclose whether the registrant used the title of "naturopathic doctor," "doctor of naturopathic medicine" or any other term implying that the individual was currently

registered as a naturopathic doctor in the Commonwealth of Pennsylvania while the registration was inactive or expired.

(3) Disclose on the application any authorization to practice as a naturopathic doctor in another state, district, territory, possession or country.

(4) Disclose on the application disciplinary action pending before or taken by the appropriate licensing, registration, or certification authority in another jurisdiction since the most recent application for biennial registration, whether or not authorized to practice or advertise in that other jurisdiction.

(5) Submit evidence the registrant holds a current basic cardio-pulmonary resuscitation (CPR) certificate issued by the American Heart Association, American Red Cross or a similar health authority or professional body approved by the Board.

(6) Verify completion of at least 2 hours of approved continuing education in child abuse recognition and reporting in the 2 years immediately preceding the application for reactivation as set forth in 23 Pa.C.S. § 6383(b)(3)(ii).

(b) A registrant who has not had clinical contact with patients for 4 years or more shall demonstrate current competency and qualification to hold forth as a naturopathic doctor by demonstrating a passing score on the NPLEX examination, completed within 12 months of the application to reactivate the registration.

(c) Payment of applicable late fees required under section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225) does not preclude the Board from taking disciplinary action for utilizing the title of "naturopathic doctor," "doctor of naturopathic medicine" or any other term implying that the individual was currently registered as a naturopathic doctor while holding an inactive or expired registration.

**§ 18.906. Display of registration.**

Each naturopathic doctor registrant shall prominently display the certificate of registration and evidence of biennial renewal in a publicly accessible location at the registrant’s regular place of business. The registrant shall have evidence of current registration available for inspection by authorized agents of the Board and by persons receiving services when the naturopathic doctor provides services at locations other than the registrant’s regular place of business.

**§ 18.907. Acceptable titles and professional designations by registrants and non-registrants; prohibited titles.**

(a) An individual must have a current, active and unsuspended registration to claim to be, or hold oneself out as, a naturopathic doctor, registered naturopathic doctor, doctor of naturopathic medicine or use any similar title implying that the individual holds a current registration as a naturopathic doctor in this Commonwealth.

(b) An individual who has not registered with the Board may claim to be, and hold oneself out as, a naturopath or a traditional naturopath and use any similar title implying that the individual practices naturopathy so long as the title does not also imply that the individual is a naturopathic doctor registered with the Board.

(c) A naturopathic doctor who uses the designation “Dr.” shall further identify himself or herself as a “naturopathic doctor,” “registered naturopathic doctor” or “doctor of naturopathic medicine” and may not use any term or designation that would imply that the naturopathic doctor is licensed or authorized to practice medicine and surgery, dentistry, podiatry, optometry, psychology, nursing, physical therapy, acupuncture, chiropractic, genetic counseling, athletic training, massage therapy or any other health care profession, unless that individual also holds a

current and active authorization to practice the other profession issued by the appropriate licensing authority of this Commonwealth.

**§ 18.908. Informed consent and disclosure of financial interests.**

(a) A naturopathic doctor shall obtain written informed consent from the patient prior to providing naturopathic services to the patient. The informed consent shall include notification to the patient that the naturopathic doctor is not a physician. This subsection shall not apply to registrants who are also currently and actively licensed to practice as a physician in this Commonwealth.

(b) A naturopathic doctor shall disclose to patients and prospective patients if the naturopathic doctor receives any commission, rebate, referral fee or similar financial incentive in connection with the referral of a patient to purveyors of merchandise or services, or for recommending any merchandise to a patient.

**§ 18.909. Naturopathic records.**

(a) A naturopathic doctor shall maintain patient records that accurately describe the patient's concerns, evidence the naturopathic doctor's plan of service and implementation of service and document the patient's response to any services provided.

(b) All patient records for minors and adults shall be retained for a minimum period of 7 years from the date of the service for which a naturopathic record entry is required. Patient records for minor patients shall also be retained until 1 year after the minor patient reaches majority, even if this means that the naturopathic doctor retains the record for a period of more than 7 years.

(c) Upon written request, a naturopathic doctor shall make true, correct and legible copies of the written records of service available to the patient or the person or persons designated by the patient.

(d) Payment for naturopathic services rendered may not be required as a condition to making the written records of service available to the patient or the patient’s designee. A naturopathic doctor may require pre-payment of the costs to copy and produce the naturopathic records. The maximum applicable copying and reproduction costs for naturopathic service records shall be the same as those costs applicable to production of health records as annually adjusted by the Secretary of the Department of Health and published in the *Pennsylvania Bulletin*.

**§ 18.910. Advertising.**

- (a) Any advertisement by a naturopathic doctor shall contain both of the following:
- (1) The name of the naturopathic doctor as registered with the Board.
  - (2) The words “naturopathic doctor” or “doctor of naturopathic medicine.”
- (b) Advertisements by a naturopathic doctor may not contain any of the following:
- (1) The word “physician” unless the naturopathic doctor is also currently and actively licensed as a physician or physician assistant in this Commonwealth.
  - (2) Any words or phrases indicating or implying that the naturopathic doctor is “board certified” or “board eligible” unless the certification body is also disclosed.
  - (3) Statements containing misrepresentations of facts.
  - (4) Statements that cannot be verified by the Board for truthfulness.
  - (5) Statements likely to mislead or deceive because of their context or because the statements make only a partial disclosure of relevant facts.
  - (6) Statements intended to, or likely to, create false or unjustified expectations of favorable results.
  - (7) Statements containing representations or implications that can reasonably be expected to cause an ordinary prudent person to misunderstand or be deceived.

- (8) Statements that are untruthful and improbable or contain misstatements, falsehoods, misrepresentations, distorted or fabulous statements as to cures.
- (9) Statements that misrepresent the nature, characteristics or qualities of natural substances or services provided by a naturopathic doctor.
- (10) Statements that a manifestly incurable condition can be cured or that guarantee a cure of any condition.
- (11) Statements promoting herbal, natural or dietary supplements as drugs.
- (12) Statements recommending any modality of service that is inconsistent with the health, safety and welfare of the public.

**§ 18.911. Code of Ethics.**

- (a) Naturopathic doctors shall concern themselves primarily with the welfare of the patient.
- (b) A naturopathic doctor who suffers from a physical, mental or emotional impairment, including substance abuse, that impacts the individual's ability to practice naturopathic medicine shall seek professional treatment and refrain from the practice of naturopathic medicine until the impairment no longer exists or reasonable accommodations can be made.
- (c) A naturopathic doctor shall:
  - (1) Respect and maintain the privacy and confidentiality of the patient.
  - (2) Disclose the patient's records or information about the patient only with the patient's consent or as required by law.
  - (3) Adequately safeguard confidential patient information, including storage and disposal of records.
  - (4) Provide sufficient information to a patient to allow the patient to make an informed decision regarding care, including:

- (i) The purpose and nature of a naturopathic evaluation or service regimen.
  - (ii) Alternatives to naturopathic care.
  - (iii) Side effects and benefits of a proposed service regimen.
  - (iv) The estimated cost of services.
  - (v) The right of the patient to withdraw from services.
- (5) Maintain professional boundaries, even when the patient initiates crossing the boundaries of the professional relationship.
- (6) Decline to administer service if the naturopathic doctor believes that a service is contraindicated or unjustified.
- (7) Make referrals only to registered naturopathic doctors or other qualified and duly licensed health care providers.
- (8) Accurately inform the patient, other health care professionals and the public of the limitations of the practice of naturopathic medicine.
- (9) Adequately assess the patient to determine if contraindications against naturopathic service exist and refer the patient to an appropriate health care practitioner.
- (10) At all times respect the patient's dignity, autonomy and privacy.
- (11) Cooperate with any lawful investigation conducted by the Board, including:
- (i) Furnishing information requested in a timely manner as directed by the Board.
  - (ii) Complying with a subpoena.
  - (iii) Responding to a complaint at the request of the Board.
  - (iv) Providing meaningful and timely access to relevant patient records.
- (12) Report to the Board misconduct in the practice of naturopathic medicine.

- (d) A naturopathic doctor may not:
- (1) Misrepresent credentials, qualifications or affiliations, and shall attempt to correct others who misrepresent the naturopathic doctor's credentials, qualifications or affiliations.
  - (2) Knowingly engage in or condone behavior that is fraudulent, dishonest or deceitful.
  - (3) Engage in a commercial activity which conflicts with the duties of a naturopathic doctor.
  - (4) Perform naturopathic medicine on a patient if a contraindication against naturopathic service exists.
  - (5) Intimidate, threaten, influence or attempt to influence any person regarding any violation of law or regulation.
  - (6) Aid or abet any individual violating or attempting to violate any provision of law or regulation.
  - (7) Accept a patient for service, or continue unnecessary service, when the patient cannot be reasonably expected to benefit from the service.
  - (8) Receive remuneration from, or provide remuneration to, or split a fee, for either making or accepting a referral of the patient to or from another health care provider.
  - (9) Make a guarantee or promise about the efficacy of a particular course of care, the naturopathic doctor's practice or the anticipated results of care.
  - (10) Exploit the professional relationship by either of the following:
    - (i) Continuing service unnecessarily.
    - (ii) Charging for a service not provided or different from what was actually provided.

(11) Exploit a relationship with a patient, staff member or student for the naturopathic doctor's personal advantage including, but not limited to, a personal, sexual, romantic or financial relationship.

(12) Engage in sexual misconduct.

(e) A naturopathic doctor may not perform a service or provide a service that the naturopathic doctor is not qualified to perform, or which is beyond the scope of the naturopathic doctor's education, training, capabilities or experience.

(f) A naturopathic doctor may not construe any failure to specify a particular ethical, legal or professional duty in this subchapter as a denial of the existence of other ethical, legal or professional duties or responsibilities that are equally as important and generally recognized in the naturopathic medicine profession.

**§ 18.912. Sexual misconduct.**

(a) Sexual exploitation by a naturopathic doctor of a current or former patient, or of an immediate family member of a patient, constitutes unprofessional conduct, is prohibited and subjects the naturopathic doctor to disciplinary action under section 204(8) of the NDRA (63 P.S. § 272.204(8)).

(b) Sexual behavior that occurs with a current patient, other than the naturopathic doctor's spouse, constitutes unprofessional conduct, is prohibited and subjects the practitioner to disciplinary action under section 204(8) of the NDRA.

(c) When a naturopathic doctor was involved with the management or directly provided naturopathic services to a patient other than the naturopathic doctor's spouse for a mental health disorder, any sexual behavior with that patient which occurs prior to the 2-year anniversary of the

termination of the professional relationship constitutes unprofessional conduct, is prohibited and subjects the naturopathic doctor to disciplinary action under section 204(8) of the NDRA.

(d) A practitioner who engages in conduct prohibited by this section will not be eligible for placement into an impaired professional program in lieu of disciplinary or corrective actions.

(e) Consent is not a defense to conduct prohibited by this section.

**§ 18.913. Grounds for discipline.**

(a) The Board shall have the authority to impose disciplinary or corrective measures on a naturopathic doctor or applicant for registration as a naturopathic doctor for the reasons set forth in section 204 of the NDRA (63 P.S. § 272.204) and any of the following:

(1) Fraudulently or deceptively obtaining, or attempting to obtain, or using a registration or assisting another in fraudulently or deceptively obtaining or using a registration.

(2) Using false, deceptive or misleading advertising.

(3) Advertising, practicing or attempting to practice under a name other than the naturopathic doctor's name as registered with the Board; provided, however, that a naturopathic doctor may advertise utilizing a business name if the advertisement also includes the naturopathic doctor's name as registered by the Board.

(4) Aiding, assisting, employing or advising any unregistered individual to hold himself or herself out in a manner which states or implies the unregistered individual is a naturopathic doctor.

(5) Paying or receiving any commission, bonus, kickback or rebate, or engaging in any split-fee arrangement in any form with a licensed physician, organization, agency or other person, either directly or indirectly, for patients referred to other health care providers.

- (6) Promoting the sale of services, drugs, devices, appliances or goods to a patient so as to exploit the patient for financial gain.
  - (7) Failing to keep written records justifying the course of service of a patient.
  - (8) Offering, undertaking or agreeing to cure or treat a disease by a secret method, treatment, product or medicine.
  - (9) Failing to cooperate with a lawful investigation of the Board.
- (b) When the Board is empowered to take disciplinary or corrective action under the provisions of the NDRA, the Board’s regulations or other statutory or regulatory authority, the Board may impose one or more of the following disciplinary or corrective actions as set forth in section 206 of the NDRA (63 P.S. § 272.206), section 42 of the act (63 P.S. § 422.42) and 63 Pa.C.S. § 3108 (relating to civil penalties):
- (1) Deny the application for registration.
  - (2) Administer a public reprimand with or without probation.
  - (3) Revoke, suspend, limit or otherwise restrict a registration.
  - (4) Require the registrant to submit to the care, counseling or treatment of a physician or a psychologist designated by the board.
  - (5) Require the registrant to take refresher educational courses or demonstrate passage of the NPLEX examination, or both.
  - (6) Stay enforcement of any suspension and place the registrant on probation with the right to vacate the probationary order for noncompliance.
  - (7) Impose a civil penalty of up to \$1,000 in accordance with the NDRA.
  - (8) Impose a civil penalty of up to \$10,000 in accordance with 63 Pa.C.S. § 3108(b); provided, however, that the Board will not impose a civil penalty under the NDRA and



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF MEDICINE  
Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-7155

November 30, 2021

The Honorable George D. Bedwick, Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harristown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation  
State Board of Medicine  
16A-4953: Registration of Naturopathic Doctors

Dear Chairman Bedwick:

Enclosed is a copy of a proposed rulemaking package of the State Board of Medicine pertaining to Registration of Naturopathic Doctors.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark B. Woodland".

Mark B. Woodland, M.S., M.D., Chairperson  
State Board of Medicine

MBW/smw:bmz  
Enclosure

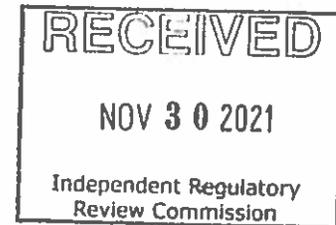
cc: K. Kalonji Johnson, Commissioner of Professional and Occupational Affairs  
Pamela Iovino, Deputy Secretary of Regulatory Programs  
Marc Farrell, Deputy Director of Policy, Department of State  
Cynthia Montgomery, Deputy Chief Counsel, Department of State  
Jacqueline A. Wolfgang, Regulatory Unit Counsel, Department of State  
Shana M. Walter, Co-Counsel, State Board of Medicine  
Dana M. Wucinski, Co-Counsel, State Board of Medicine  
State Board of Medicine

## Zappasodi, Brittany

---

**From:** Blauch, Tammy <tblauch@pasen.gov>  
**Sent:** Tuesday, November 30, 2021 11:40 AM  
**To:** Zappasodi, Brittany; Smeltz, Jennifer  
**Subject:** RE: DELIVERY: REGULATIONS 16A-4824, 16A-5140, 16A-6919, 16A-4941, 16A-4953

Hello Brittany,  
Yes, our office has received your email with the latest regulations.



*Tammy Blauch*

Executive Secretary  
Office of Senator Robert M. Tomlinson  
Room 286 Main Capitol Building  
Harrisburg, PA 17120  
(717)-787-5072  
Fax: (717)772-2991  
[tblauch@pasen.gov](mailto:tblauch@pasen.gov)

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**From:** Zappasodi, Brittany <bzappasodi@pa.gov>  
**Sent:** Tuesday, November 30, 2021 8:40 AM  
**To:** Smeltz, Jennifer <jmsmeltz@pasen.gov>; Blauch, Tammy <tblauch@pasen.gov>  
**Subject:** DELIVERY: REGULATIONS 16A-4824, 16A-5140, 16A-6919, 16A-4941, 16A-4953  
**Importance:** High

Ⓢ CAUTION : External Email Ⓢ

**Please provide written (email) confirmation of receipt of the delivery of the attached rulemakings.**

Please be advised that the State Board of Funeral Directors, the State Board of Nursing, the State Board of Social Workers, Marriage and Family Therapists, and Professional Counselors and the State Board of Medicine are delivering the following final rulemakings:

- 16A-4824: Child Abuse Reporting Requirements
- 16A-5140: Child Abuse Reporting Requirements
- 16A-6919: Child Abuse Reporting Requirements
- 16A-4941: Child Abuse Reporting Requirements

Also, please be advised that the State Board of Medicine is delivering the following proposed rulemaking:

- 16A-4953: Registration of Naturopathic Doctors

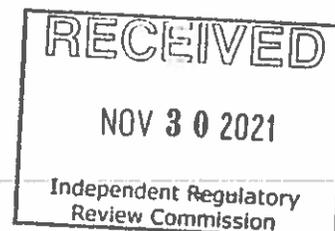
**Brittany Zappasodi** | Legal Assistant II  
Office of Chief Counsel | Department of State

## Zappasodi, Brittany

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**From:** Livingston, Jerry <Jerry.Livingston@pasenate.com>  
**Sent:** Tuesday, November 30, 2021 9:16 AM  
**To:** Zappasodi, Brittany; Vazquez, Enid  
**Subject:** RE: DELIVERY: REGULATIONS 16A-4824, 16A-5140, 16A-6919, 16A-4941, 16A-4953

**Follow Up Flag:** Follow up  
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Received, thank you.

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**From:** Zappasodi, Brittany <bzappasodi@pa.gov>  
**Sent:** Tuesday, November 30, 2021 8:39 AM  
**To:** Livingston, Jerry <Jerry.Livingston@pasenate.com>; Vazquez, Enid <Enid.Vazquez@pasenate.com>  
**Subject:** DELIVERY: REGULATIONS 16A-4824, 16A-5140, 16A-6919, 16A-4941, 16A-4953  
**Importance:** High

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**Brittany Zappasodi** | Legal Assistant II  
Office of Chief Counsel | Department of State  
Governor's Office of General Counsel  
P.O. Box 69523 | Harrisburg, PA 17106-9523  
Phone 717.783.7200 | Fax 717.787.0251  
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## Zappasodi, Brittany

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**From:** Wilson, Marlene <MWilson@pahouse.net>  
**Sent:** Tuesday, November 30, 2021 9:20 AM  
**To:** Zappasodi, Brittany  
**Subject:** RE: DELIVERY: REGULATIONS 16A-4824, 16A-5140, 16A-6919, 16A-4941, 16A-4953

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Received. Thank you.



*Marlene Wilson, Esquire  
Senior Committee Executive Director  
House Professional Licensure Committee  
Rep. Jake Wheatley, Jr., Chairman  
Phone: (717) 787-4032  
Internal Phone: 6253  
Email - [mwilson@pahouse.net](mailto:mwilson@pahouse.net)*



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**From:** Zappasodi, Brittany <bzappasodi@pa.gov>  
**Sent:** Tuesday, November 30, 2021 8:40 AM  
**To:** Wilson, Marlene <MWilson@pahouse.net>  
**Subject:** DELIVERY: REGULATIONS 16A-4824, 16A-5140, 16A-6919, 16A-4941, 16A-4953  
**Importance:** High

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**Brittany Zappasodi | Legal Assistant II**

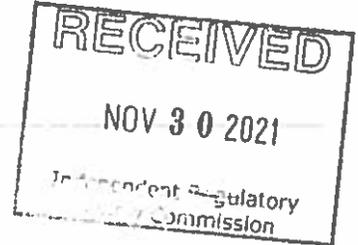
## Zappasodi, Brittany

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**From:** Nicole Sidle <Nsidle@pahousegop.com>  
**Sent:** Tuesday, November 30, 2021 9:07 AM  
**To:** Zappasodi, Brittany; Emily Hackman  
**Subject:** RE: DELIVERY: REGULATIONS 16A-4824, 16A-5140, 16A-6919, 16A-4941, 16A-4953

Received.

**From:** Zappasodi, Brittany <bzappasodi@pa.gov>  
**Sent:** Tuesday, November 30, 2021 8:39 AM  
**To:** Nicole Sidle <Nsidle@pahousegop.com>; Emily Hackman <Eepler@pahousegop.com>  
**Subject:** DELIVERY: REGULATIONS 16A-4824, 16A-5140, 16A-6919, 16A-4941, 16A-4953  
**Importance:** High



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Office of Chief Counsel | Department of State  
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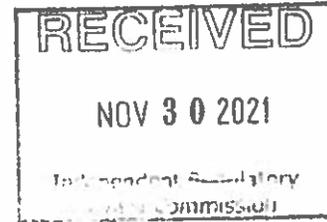
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## Zappasodi, Brittany

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**From:** Bulletin <bulletin@palrb.us>  
**Sent:** Tuesday, November 30, 2021 8:52 AM  
**To:** Zappasodi, Brittany  
**Cc:** Code&Bulletin  
**Subject:** [External] RE: DELIVERY: REGULATION 16A-4953



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Good morning Brittany,

Thank you for sending this rulemaking. Someone from our office will contact you regarding publication in the Pennsylvania Bulletin.

Take care,

**Ernest L. Engvall | Legal Assistant**  
[eengvall@palrb.us](mailto:eengvall@palrb.us) | 717.783.1531  
Legislative Reference Bureau  
Code and Bulletin Office

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**From:** Zappasodi, Brittany <bzappasodi@pa.gov>  
**Sent:** Tuesday, November 30, 2021 8:42 AM  
**To:** Bulletin <bulletin@palrb.us>  
**Subject:** DELIVERY: REGULATION 16A-4953  
**Importance:** High

**Please provide written (email) confirmation of receipt of the delivery of the attached rulemaking.**

Please be advised that the State Board of Medicine is delivering the following proposed rulemaking:

- 16A-4953: Registration of Naturopathic Doctors

**Brittany Zappasodi | Legal Assistant II**  
Office of Chief Counsel | Department of State  
Governor's Office of General Counsel  
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