

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Department of Health and Mental Hygiene  
(DLS Control No. 16-078)**

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**Overview and Legal and Fiscal Impact**

The regulations set forth how an individual becomes licensed as a naturopathic doctor and how naturopathic doctors are regulated and disciplined.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

**Regulations of COMAR Affected**

**Department of Health and Mental Hygiene:**

Board of Physicians: Licensure, Regulation, and Discipline of Naturopathic Doctors:  
COMAR 10.32.21.01-.20

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**Legal Analysis**

**Background**

Chapters 153 and 399 of 2014 established the Naturopathic Medicine Advisory Committee within the State Board of Physicians and required the licensure of naturopathic doctors beginning March 1, 2016. In accordance with Title 14, Subtitle 5F of the Health Occupations Article the regulations govern how an individual becomes licensed as a naturopathic doctor and how naturopathic doctors are regulated and disciplined.

**Summary of Regulations**

**10.32.21.02 – Definitions**

This regulation establishes certain definitions, including the following definitions not found in statute: attestation, articular manipulation, collaborate, collaboration and consultation agreement, consult, corrective and orthopedic gymnastics, diagnostic imaging, electromagnetic energy, electrotherapy, goods, hydrotherapy, mechanical sciences of healing, mechanotherapy, natural medicine, *non-bona fide* treatment, phototherapy, physiological function tests, sexually exploitative relationship, and therapeutic deception.

### **10.32.21.03 – Naturopathic Medicine Advisory Committee**

This regulation establishes the Naturopathic Medicine Advisory Committee and mirrors the requirements of § 14-5F-07 of the Health Occupations Article. In addition, the regulation specifies the experience of working with naturopathic doctors that is required by one of the practicing licensed physicians or practicing licensed doctors of osteopathy. Specifically, the regulation requires the committee member to have met one of the following criteria (1) worked in the same clinical practice as a licensed naturopathic doctor; (2) named in an attestation submitted by a licensed naturopathic doctor; (3) employed by a naturopathic medicine program accredited by the Council on Naturopathic Medical Education; (4) graduated from a certain accredited naturopathic medical program and holding a naturopathic doctor or naturopathic physician license in another state in addition to holding a medical doctorate or doctor of osteopathy physician's license; (5) was a diplomate of the American Board of Integrative Medicine or the American Board of Integrative Holistic Medicine, or a graduate of any fellowship program in Integrative Medicine approved by the American Board of Integrative Medicine or the American Board of Medical Specialties; or (6) accrued at least 20 Category 1 continuing medical education credits, in the two years before serving, in certain topics.

### **10.32.21.04 – Qualifications for Initial Licensure**

Regulation 10.32.21.04 sets forth the qualifications for initial licensure as a naturopathic doctor and is identical to the requirements of § 14-5F-11 and 14-5F-12 of the Health Occupations Article.

### **10.32.21.05 – Written Attestation**

This regulation is identical to the requirements for a written attestation as set forth in § 14-5F-12(4) of the Health Occupations Article, with the additional requirement that the attestation include a description of the scope of practice between naturopathic doctors and physicians.

### **10.32.21.06 – Documentation for Initial Licensure**

Regulation 10.32.21.06 provides the requirements for a completed application including, among other items, verification of naturopathic medical education; documentation of completion of certain examination requirements; a listing of specified disciplinary or adverse actions taken against the applicant; certain fees; verification of certain licenses held by the applicant; certain information from the National Practitioner Data Bank; certain documentation of competency in English; documentation of any job held by the applicant, beginning with the date of completion of naturopathic medical school; and documentation of a plea of guilty or *nolo contendere*, a conviction, or receipt of probation before judgment for certain criminal acts. The regulation also provides for, if required by the board and at the applicant's expense, a physical or mental examination, or both, by a physician or evaluation program for treatment of impaired naturopathic doctors, or both, chosen by the board to determine the applicant's ability to practice naturopathic medicine.

This regulation also establishes the procedure to be followed in processing an application, requiring the board to determine whether an application is complete within 60 days after receipt of the application. If the board determines that an application is not complete, the board must send a notice of deficiency to the applicant and the applicant must correct the deficiency within 60 days or any other period specified in the notice. The regulation provides for the circumstances under which an applicant may not withdraw an application without permission of the board and the issues that may be considered by the board in determining whether to allow the withdrawal of a licensure application.

#### **10.32.21.07 – Exceptions to Licensure Requirements**

This regulation provides for the individuals who do not need to be licensed to practice naturopathy in the State and is identical to the requirements of § 14-5F-10(B) of the Health Occupations Article.

#### **10.32.21.08 – Scope of Practice and 10.32.21.09 – Prohibited Actions**

Regulations .08 and .09 provide for the authorized scope of practice, and the prohibited actions of a licensed naturopathic doctor. The regulations are identical to the requirements of the § 14-5F-14 of the Health Occupations Article.

#### **10.32.21.10 – Renewals, Reinstatement, and Inactive Status**

This regulation provides that the term of a license renewal is two years from the date of renewal and is identical to the requirements of § 14-5F-16 of the Health Occupations Article. The regulation also provides for the procedures to be followed by the board and an individual when a license is revoked or suspended and are identical to the requirements of §§ 14-5F-22 and 14-5F-24 of the Health Occupations Article. Although the title of the regulation includes “inactive status” the regulation does not include the procedures to be followed if an individual is placed on inactive status. However, the inactive status procedures are codified in § 14-5F-16 of the Health Occupations Article.

#### **10.32.21.11 – Continuing Education Requirements**

This regulation requires a licensed naturopathic doctor to take 50 hours of continuing education credits during every two-year renewal period that are in certain courses approved by certain organizations.

#### **10.32.21.12 – Grounds for Discipline**

Regulation 10.32.21.12 lists the grounds for discipline of a naturopathic doctor and is identical to § 14-5F-18 of the Health Occupations Article.

### **10.32.21.13 – Sanctioning Guidelines**

This regulation establishes the maximum and minimum sanctions that may be imposed by the disciplinary panel for each disciplinary ground.

### **10.32.21.14 – Investigations and Hearings**

This regulation outlines the investigation and hearing process to be used by the board or a disciplinary panel and is identical to the process codified in §§ 14-5F-18, 14-5F-20, 14-5F-21, 14-5F-23, and 14-5F-25 of the Health Occupations Article.

### **10.32.21.15- Cost of Bringing an Action against a Licensee**

This regulation provides that if a licensee is found after a hearing to have violated any provision of § 14-5F-18 of the Health Occupations Article, the board shall impose a fee that approximates the board's cost of bringing the proceeding against the licensee. The hearing costs may include the following expense items (1) services rendered by court reporters; (2) transcriptions of the hearing record by court reporters; (3) expenses related to witnesses appearing for the State; (4) obtaining or reproducing documents, exhibits, or other evidentiary items; (5) hearing-related *per diems* and expenses for board members; or (6) any other expenses directly related to the investigation and prosecution of the disciplinary action against the licensee.

### **10.32.21.16 – Unauthorized Practice of Naturopathic Medicine and Title and Identification as Naturopathic Doctor**

This regulation prohibits an individual from practicing, attempting to practice, or offering to practice naturopathic medicine in the State without a license. An individual who violates the regulation is guilty of a felony and on conviction is subject to (1) a fine not exceeding \$10,000 or imprisonment not exceeding five years or both; and (2) a civil fine of no more than \$50,000 to be levied by the board. The regulation also prohibits a naturopathic doctor from making certain representations to the public or using certain titles or initials unless the individual is licensed to practice naturopathic medicine, in accordance with § 14-5F-30 of the Health Occupations Article. Finally, the regulation requires a naturopathic doctor engaged in the private practice of naturopathic medicine to wear an identification badge that identifies that individual as a naturopathic doctor and to identify himself or herself to all patients as a naturopathic doctor.

### **10.32.21.17 – Reporting Requirements**

This regulation restates the provisions of § 14-5F-19 of the Health Occupations Article that require certain persons to file a written report with the board if the person has information that gives the person reason to believe that a licensed naturopathic doctor is or may be (1) medically or legally incompetent; (2) engaged in the unauthorized practice a naturopathic medicine; (3) guilty of unprofessional conduct; or (4) mentally or physically unable to engage safely in the practice of naturopathic medicine.

### **10.32.21.18 - Advertising**

This regulation prohibits advertisements that include certain statements and advertising that does not comply with certain State and federal laws.

### **10.32.21.19 – Code of Ethics**

This regulation establishes a code of ethics to be followed by naturopathic doctors practicing in the State. A violation of the code of ethics may result in the board taking disciplinary action pursuant to § 14-5F-18 of the Health Occupations Article.

### **10.32.21.20 – Fees**

This regulation provides, starting March 1, 2016 that the initial application fee for a naturopathic doctor is \$790 and the biennial license renewal fee is \$486. In addition, a licensed naturopathic doctor will have to pay a Maryland Health Care Commission Fee as determined by the commission.

## **Legal Issues**

The regulations present no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The Department of Health and Mental Hygiene cites §§ 14-5F-01 through 14-5F-32 of the Health Occupations Article as statutory authority for the regulations. More specifically, the regulations are authorized by §§ 14-5F-04, 14-5F-05, and 14-5F-08. Section 14-5F-04 requires the State Board of Physicians to adopt regulations for the licensure and practice of naturopathic medicine, while § 14-5F-05 requires the board to set reasonable fees for the issuance and renewal of licenses and the other services the board provides to naturopathic doctors. Section 14-5F-08 requires the Naturopathic Medicine Advisory Committee to develop and recommend to the board regulations to carry of Title 14, Subtitle 5F of the Health Occupations Article and to develop and recommend to the board a code of ethics for licensed naturopathic doctors and continuing education requirements for license renewal.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

## **Technical Corrections and Special Notes**

Although regulation 10.32.21.10 is titled “Renewals, Reinstatement, and Inactive Status”, there is no mention of inactive status in the regulation. The Board may wish to amend the title of the regulation.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

### **Agency Estimate of Projected Fiscal Impact**

The regulations implement provisions of Senate Bill 314 and House Bill 402 of 2014 (enacted as Chapters 153 and 399), which required individuals, by March 1, 2016, to be licensed by the State Board of Physicians in order to practice naturopathic medicine and established a Naturopathic Medicine Advisory Committee within the board. The board began licensing naturopathic doctors on March 1, 2016; therefore, the regulations reflect current practice. Additionally, any fiscal impact has already been assumed in the fiscal and policy notes for that legislation, as discussed below.

The fiscal and policy notes for Senate Bill 314 and House Bill 402 of 2014 assumed a significant special fund revenue increase for the board beginning in fiscal 2016 from new licensing fee revenues. The fiscal and policy notes also assumed that licensing fee revenues would be sufficient to cover estimated board expenditures, including the cost of hiring one full-time administrative officer in fiscal 2015, which would transition to a part-time (50%) position in fiscal 2017. However, due to uncertainty as to the specific fees the board would ultimately assess, the fiscal and policy notes did not quantify the anticipated revenue from licensing fees; the fiscal and policy notes acknowledged that, although fees might be set as high as \$5,140, statute required the board to set *reasonable* fees that *approximate* the cost of maintaining the licensure program.

The board advises that, in order to address concerns about the reasonableness of fees for naturopathic doctors, the regulations establish the same licensing fees for naturopathic doctors as for physicians. The board advises that it anticipates \$20,540 in licensing fee revenue from naturopathic doctors in fiscal 2016 (26 individuals at an initial licensing fee of \$790 each). The board also anticipates eight new licensees per fiscal year, with license renewal in even-numbered fiscal years. Additionally, the board hired one full-time administrative officer to oversee the licensing of naturopathic doctors in fiscal 2016; prior to fiscal 2016, existing board staff were diverted from other tasks to assist with the licensing process. Although the estimated licensing fee revenue does not cover estimated board expenditures, the board advises that it can absorb these costs. The Department of Legislative Services concurs.

### **Impact on Budget**

There is no impact on the State operating or capital budget.

### **Agency Estimate of Projected Small Business Impact**

The department advises that the regulations have a meaningful impact on small businesses in the State. The Department of Legislative Services notes that any impact on small businesses has already been assumed in the fiscal and policy notes for Senate Bill 314 and House Bill 402 of 2014.

## **Contact Information**

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