

MARYLAND REGISTER

**Proposed Action on Regulations**

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| <b>Transmittal Sheet</b><br><br><b>PROPOSED<br/>OR REPROPOSED</b><br><br><b>Actions on Regulations</b> | <b>Date Filed with AELR<br/>Committee</b> | <b>TO BE COMPLETED BY<br/>DSD</b>              |
|  | 05/10/2016                                | Date Filed with Division of<br>State Documents |
|  |   |  |
|  |   | Document Number                                |
|  |   | Date of Publication in MD<br>Register          |
|  |   |  |

**1. Desired date of publication in Maryland Register: 6/24/2016**

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**

10 32 21 01-.20

**3. Name of Promulgating Authority**

Department of Health and Mental Hygiene

**4. Name of Regulations Coordinator**

Michele Phinney

**Telephone Number**

410-767-5623

**Mailing Address**

201 W. Preston Street

**City State Zip Code**

Baltimore MD 21201

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**5. Name of Person to Call About this Document**

Mark Woodard

**Telephone No.**

410-764-2460

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**6. Check applicable items:**

New Regulations

Amendments to Existing Regulations

    Date when existing text was downloaded from COMAR online: .

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

:                                      Md. R

(vol.)    (issue)                                      (page nos)                                      (date)

Under Maryland Register docket no.: --P.

**7. Is there emergency text which is identical to this proposal:**

Yes  No

**8. Incorporation by Reference**

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

**10. Children's Environmental Health and Protection**

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

**11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by David Finkler, Assistant Attorney General, (telephone #410-767-5578) on April 20, 2016. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Van T. Mitchell

**Title**

Secretary

**Telephone No.**

410-767-6500

**Date**

May 10, 2016

**Title 10**  
**DEPARTMENT OF HEALTH AND MENTAL HYGIENE**  
**Subtitle 32 BOARD OF PHYSICIANS**

**10.32.21 Licensure, Regulation, and Discipline of Naturopathic Doctors**

Authority: Health Occupations Article, §§14-5F-1—14-5F-32, Annotated Code of Maryland

**Notice of Proposed Action**

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The Secretary of Health and Mental Hygiene proposes to adopt new Regulations .01—.20 under a new chapter, COMAR 10.32.21 Licensure, Regulation, and Discipline of Naturopathic Doctors.

This action was considered by the Board of Physicians at an emergency meeting on February 16, 2016, notice of which was given on the Board of Physicians website on February 12, 2016. Other provisions of these regulations were approved at a public meeting held July 29, 2015, notice of which was given by publication on the Board of Physicians website, <http://www.mbp.state.md.us/forms/jul15FULLagenda.pdf>, from July 15, 2015 through July 29, 2015, pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to regulate how an individual becomes licensed as a naturopathic doctor and to regulate and discipline naturopathic doctors in general in accordance with Chapters 153 and 399, Acts of 2014.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**

The naturopathic doctor applicants will be assessed an initial licensure fee and thereafter a renewal fee.

| <b>II. Types of Economic Impact.</b> | Revenue (R+/R-)     |           |
|--------------------------------------|---------------------|-----------|
|                                      | Expenditure (E+/E-) | Magnitude |
| <hr/>                                |                     |           |
| A. On issuing agency:                |                     |           |
| Board of Physicians                  | (E+)                | \$103,905 |
| B. On other State agencies:          | NONE                |           |
| C. On local governments:             | NONE                |           |

|   | Benefit (+)<br>Cost (-) | Magnitude |
|---|-------------------------|-----------|
| D. On regulated industries or trade groups: | (-)                     | \$20,540  |
| E. On other industries or trade groups:     | NONE                    |           |
| F. Direct and indirect effects on public:   | NONE                    |           |

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

A. The revenue projected over two fiscal years is \$124,445, and includes employee salaries, benefits, materials, equipment, technology, travel and other fees directly associated with the regulatory oversight of naturopathic doctors. If the estimated 26 naturopathic doctors were to pay all expenses related to regulatory oversight by the Board, the cost would be \$4,786 per licensee (Board expenses \$124,445 divided by 26 projected licensees). However, the Board voted on February 16, 2016 to set the licensing fee at \$790, which results in a total of \$20,540 (26 projected licensees x \$790) and the Board will absorb the expenses not covered by the lower fee.

D. See A.

**Economic Impact on Small Businesses**

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

An analysis of this economic impact follows. The Board of Physicians is not supported by the general fund and therefore each health occupation is required to cover expenses related to regulation (Health Occupations Article, §14-205(a)(12), Annotated Code of Maryland (Supp.2015). The projected operating expenses for FY 15 and FY 16 is \$124,445. With only 26 projected licensees, the initial licensure fee should be \$4,786 per licensee. However, the Board voted a licensing fee of \$790, and will absorb the expenses not covered by the new fee of \$790.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499; TTY:800-735-2258, or email to [dhmh.regs@maryland.gov](mailto:dhmh.regs@maryland.gov), or fax to 410-767-6483. Comments will be accepted through July 25, 2016. A public hearing has not been scheduled.

## Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 2017
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?  
No
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:  
The implementation cost and regulatory expenses are being funded in part by the revenue from the fees and is being absorbed in part by the Board with existing resources from other licensees.
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
- G. Small Business Worksheet:

Attached Document:

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## Title 10

# DEPARTMENT OF HEALTH AND MENTAL HYGIENE

## Subtitle 32 BOARD OF PHYSICIANS

### *10.32.21 Licensure, Regulation, and Discipline of Naturopathic Doctors*

Authority: Health Occupations Article, §§14-5F-1—14-5F-32, Annotated Code of Maryland

#### **.01 Scope.**

*This chapter governs how an individual becomes licensed as a naturopathic doctor and how naturopathic doctors are regulated and disciplined.*

#### **.02 Definitions.**

A. *In this chapter, the following terms have the meanings indicated.*

B. *Terms Defined.*

(1) *“Approved naturopathic medical program” means a naturopathic medical education program:*

(a) *In the United States that:*

(i) *Provides the degree of Doctor of Naturopathy or Doctor of Naturopathic Medicine;*

(ii) *Offers a 4-year graduate level full-time didactic and supervised clinical training;*

(iii) *Is accredited or has achieved candidacy status for accreditation, by the council on naturopathic medical education or an equivalent federally and Board recognized accrediting body for naturopathic medical education programs; and*

(iv) *Is part of an institution of higher education that is either accredited, or is a candidate for accreditation, by a regional or national institutional accrediting agency recognized by the United States Secretary of Education;*

(b) *In a diploma-granting, degree-equivalent college or university in Canada that:*

(i) *Offers graduate level, full-time didactic and supervised clinical training; and*

(ii) *Is accredited, or has achieved candidacy status for accreditation, by the council of naturopathic medical education or an equivalent federally and Board recognized accrediting body for participation in government-funded student aid programs; or*

(c) *Has provincial approval for participation in government-funded student aid programs.*

(2) *“Attestation” means a statement of intent.*

(3) *“Articular manipulation” means manipulation of the joints up to but not including manipulation beyond the elastic limit and exclusive of low amplitude, high velocity thrusts, also known as Grade V manipulations.*

(4) *“Board” means the State Board of Physicians.*

(5) *“Collaborate” means a cooperative relationship between naturopathic doctors and licensed physicians, which does not imply or create a supervisory relationship between the licensed physician and the naturopathic doctor.*

(6) *“Collaboration and consultation agreement” means an agreement whereby a naturopathic doctor and physician will collaborate and consult regarding a patient’s care, but in which the:*

(a) *Patient does not enter the care of the consulted physician;*

(b) *Consultation does not create a physician-patient relationship; and*

(c) *Consulted physician does not direct patient care or engage directly in the care of the patient.*

(7) *“Committee” means the Naturopathic Medicine Advisory Committee.*

(8) *“Consult” or “Consultation” means a process whereby a naturopathic doctor seeks the advice or opinion of a licensed or certified health care provider as needed in the treatment of a patient, which may include discussion of the:*

(a) *Patient’s diagnosis;*

(b) *Differential diagnoses and diagnostic method;*

(c) *Current naturopathic treatment;*

(d) *Patient’s response thus far to naturopathic treatment;*

(e) *Potential medical and other options outside the naturopathic doctors scope of practice that might benefit the patient;*

(f) *Patient’s potential response to diagnostic and treatment options outside the naturopathic doctor’s scope of practice; and*

(g) *Patient’s expected prognosis.*

(9) *“Corrective and orthopedic gymnastics” means therapeutic exercises, stretching, and other movement therapies intended to promote healing and rehabilitation.*

(10) *“Diagnostic imaging” includes, but is not limited to, X-ray, ultrasound, mammogram, bone densitometry, computed tomography (CT scans), magnetic resonance imaging (MRI scans), endoscopic exam, and all other forms of nuclear imaging.*

(11) *“Electromagnetic energy” means electric and magnetic energy administered through the use of a therapeutic device, including, but not limited to, transcutaneous electrical nerve stimulation, microcurrent electrical muscle stimulation, diathermy, infrared, ultra-violet treatments, and other devices which utilize electrical or magnetic force for therapeutic effect.*

(12) *“Electrotherapy” means treatment through application of electric energy administered through the use of therapeutic devices, including, but not limited to, transcutaneous electrical nerve stimulation, microcurrent electrical neuromuscular stimulation, and other devices which utilize electrical force for therapeutic effect.*

(13) *Goods.*

(a) *“Goods” means items that can be sold.*

(b) *“Goods” includes, but is not limited to, natural medicines referenced in Health Occupations Article, §14-5F—14(a)(3) and (4), Annotated Code of Maryland.*

(14) *Hydrotherapy.*

(a) *“Hydrotherapy” means external and internal applications of hot and cold water, ice, and steam for therapeutic purposes.*

(b) *“Hydrotherapy” includes, but is not limited to, hot or cold compresses, hydrocollator packs, hot or cold baths or showers involving the full body or specific body parts.*

(15) *“Licensed naturopathic doctor” means a naturopathic doctor who is licensed by the Board to practice naturopathic medicine.*

(16) *“Mechanical sciences of healing” means techniques and therapies which attempt to promote healing via mechanical or physical applications.*

(17) *“Mechanotherapy” means treatment by mechanical means including the use of durable medical and therapeutic devices.*

(18) *“Naturopathic doctor” means an individual who practices naturopathic medicine.*

(19) *Naturopathic Medicine.*

(a) "Naturopathic medicine" means the prevention, diagnosis, and treatment of human health conditions, injury, and disease using only patient education and naturopathic therapies and their therapeutic substances recognized by the council of naturopathic therapies and therapeutic substances recognized by the Council of Naturopathic Medical Education.

(b) "Naturopathic medicine" includes:

(i) Counseling;

(ii) The practice of the mechanical sciences of healing, including mechanotherapy, articular manipulations, corrective and orthopedic gymnastics, hydrotherapy, electrotherapy, and phototherapy; and

(iii) The practice of the material sciences of healing, including nutrition, phytotherapy, treatment by natural substances, and external applications.

(20) "Naturopathic musculoskeletal mobilization" means the treatment by manual and other mechanical means of all body tissues exclusive of high-velocity thrusts at or beyond the end range of range of normal joint motion.

(21) "Natural medicine" means medicine derived from mineral, animal, or botanical origin.

(22) "Non-bona-fide treatment" means when:

(a) A naturopathic doctor treats or examines a patient in a way that involves sexual contact when there is no medical reason for the procedure; or

(b) The procedure falls outside a naturopathic doctor's scope of practice.

(23) "Prescription drug" means any drug defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§503(b), as amended, if the drug's label is required to bear the statement "Rx only".

(24) "Phototherapy" means treatment through application of light, including visible light, ultraviolet light, infrared, natural sources of light and artificial sources of light.

(25) "Phytotherapy" means treatment by use of botanical medicines.

(26) Physiological Function Tests.

(a) "Physiological function tests" means all tests performed to assess and diagnose physiological processes in all bodily systems.

(b) "Physiological function tests" include, but are not limited to, respiratory testing, heart rate, percent body fat, body composition, and others, as consistent with naturopathic medical education.

(27) "Sexually exploitative relationship" means a naturopathic doctor taking advantage of an unequal relationship between the naturopathic doctor and patient, staff member, or student.

(28) "Therapeutic deception" means representation by a naturopathic doctor that sexual contact or sexual activity by or with a patient is consistent with or part of a patient's treatment.

### **.03 Naturopathic Medicine Advisory Committee.**

A. The Committee shall consist of five members appointed by the Board as follows:

(1) Two members shall be individuals who:

(a) Practice naturopathic medicine;

(b) Are certified by the North American Board of Naturopathic Examiners;

(c) Have a minimum of 2 years' experience in naturopathic medicine; and

(d) By March 1, 2016 or thereafter, are licensed as a naturopathic doctor;

(2) One member:

(a) Shall be a consumer member;

(b) Shall be a resident of Maryland;

(c) May not be or ever have been licensed to practice a health occupation in Maryland; and

(d) May not have a substantial personal, business, professional, or pecuniary connection with naturopathic education, business, or practice;

(3) One member shall be a practicing:

(a) Licensed physician; or

(b) Doctor of osteopathy who is a member of the Board; and

(4) One member shall be a practicing licensed physician or practicing licensed doctor of osteopathy with experience working with naturopathic doctors by having met one or more of the following criteria:

(a) Worked in the same clinical practice as a licensed naturopathic doctor;

(b) Named in an attestation submitted by a licensed naturopathic doctor;

(c) Employed by a naturopathic medicine program accredited by the Council on Naturopathic Medical Education;

(d) Worked with, or supervised, a naturopathic resident completing a naturopathic medical residency accredited by the Council on Naturopathic Medical Education;

(e) Graduated from a naturopathic medical program accredited by the Council on Naturopathic Medical Education and holding a naturopathic doctor or naturopathic physician license in any state that licenses Naturopathic Doctors or Naturopathic Medical Doctors in addition to holding a medical doctorate or doctor of osteopathy physician's license;

(f) Was a Diplomate of the American Board of Integrative Medicine, a graduate of any fellowship program in Integrative Medicine approved by the American Board of Integrative Medicine, a graduate of any fellowship program

*in Integrative Medicine approved by the American Board of Medical Specialties, or a diplomate of the American Board of Integrative Holistic Medicine; or*

*(g) Accrued at least 20 Category 1 continuing medical education credits, in the 2 years before serving, in topics of natural, nutritional, holistic or integrative medicine delivered by a professional association whose primary mission is the advancement of one of these fields.*

*B. The Committee shall:*

*(1) On request, review selected applications for licensure or reinstatement of naturopathic doctors and make recommendations to the Board as to what action to take on the applications;*

*(2) Review each written attestation;*

*(3) Make recommendations to the Board regarding regulations governing naturopathic doctors;*

*(4) Advise the Board on matters related to the practice of naturopathic medicine;*

*(5) Develop and recommend to the Board examination standards consistent with the statutory requirement;*

*(6) Develop and recommend to the Board a code of ethics for licensed naturopathic doctors; and*

*(7) Develop and recommend to the Board continuing education requirements for license renewal and reinstatement.*

#### **.04 Qualifications for Initial Licensure.**

*A. To qualify for a license, an applicant shall meet the following requirements:*

*(1) Be of good moral character;*

*(2) Be at least 21 years of age;*

*(3) Have a doctorate in naturopathic medicine from an approved naturopathic medical program;*

*(4) Pass a competency based national naturopathic licensing examination part I and part II administered by the North American Board of Naturopathic Examiners or its successor agency that is consistent with federal standards of education and training;*

*(5) Be physically and mentally capable of safely practicing naturopathic medicine with or without reasonable accommodation; and*

*(6) If an applicant is licensed, certified, or registered to practice naturopathic medicine or any other health occupation in another state, be in good standing with the applicable state licensing, certification, or registration authority.*

*B. To apply for a license, an applicant shall:*

*(1) Submit an application to the Board on a form that the Board requires;*

*(2) Pay to the Board an initial application fee as specified in Regulation .20 of this chapter;*

*(3) Submit to the Board a written attestation as provided in Regulation .05 of this chapter; and*

*(4) If the applicant has been licensed, certified, or registered to practice naturopathic medicine in another state, submit all evidence relating to:*

*(a) Any disciplinary action taken or any administrative penalties assessed against the applicant by the appropriate state licensing, certification, or registration authority; and*

*(b) Any consent agreements into which the applicant entered that contain conditions placed on the applicant's professional conduct and practice, including any voluntary surrender of a license.*

*C. The Board shall issue a license to an applicant who meets the requirements of this regulation.*

#### **.05 Written Attestation.**

*A. An applicant shall complete and submit to the Board a Board-approved written attestation that:*

*(1) States that the applicant has a collaboration and consultation agreement with a physician licensed in this State under Health Occupations Article, Title 14, Annotated Code of Maryland;*

*(2) Includes the name and license number of the physician with whom the applicant has a collaboration and consultation agreement;*

*(3) States that the applicant will require patients to sign a consent form in plain language that:*

*(a) The naturopathic doctor's practice of naturopathic medicine is limited to the scope of practice identified in Health Occupations Article, §14-5F-14, Annotated Code of Maryland; and*

*(b) Describes the differences in scope of practice between naturopathic doctors and physicians;*

*(4) States that naturopathic doctors shall refer patients to and consult with physicians and other health care providers licensed or certified under the Health Occupations Article as needed; and*

*(5) In cases where the naturopathic doctor diagnoses a patient with a life threatening condition, states that the naturopathic doctor shall:*

*(a) Counsel and discuss with the patient the potential benefits offered by other physicians or other healthcare professionals; and*

*(b) Attempt to make the appropriate referral.*

*B. An applicant shall inform the physician named as a collaborating physician in the attestation that the physician has been named.*

#### **.06 Documentation for Initial Licensure.**

*A. The applicant shall submit an application on a form supplied by the Board.*



- B. A completed application shall include:*
- (1) Verification of naturopathic medical education;*
  - (2) Documentation of successful completion of the examination requirements as described in Regulation .04A(4) of this chapter, including submission of all of the applicant's scores sent directly to the Board from the examination authority or authorities;*
  - (3) A statement from the applicant listing all disciplinary or adverse actions taken against the applicant by a:
    - (a) Hospital, related institution, alternative health system, or employer;*
    - (b) Medical board;*
    - (c) Licensing authority;*
    - (d) Court; or*
    - (e) Adjudicatory body;**
  - (4) All application and licensing fees payable to the Board at the time the application is submitted to the Board;*
  - (5) The applicant's Social Security number, which the Board shall use only for evaluation and identification of applicants and licensees, but may not disclose in any other context;*
  - (6) Verification of licensure from all states where the applicant has ever held a license;*
  - (7) Verification of voluntary licensure nonrenewal or voluntary surrender of license while the applicant was in good standing and not under disciplinary charges or investigation at the time the license was surrendered from states where the applicant no longer holds a license;*
  - (8) A passport quality photograph;*
  - (9) Information in the National Practitioner Data Bank including, but not limited to, the following:
    - (a) Medical malpractice judgments against the applicant;*
    - (b) Settlements made by the applicant in naturopathic medical malpractice actions; and*
    - (c) Actions taken against the applicant or the applicant's license by state disciplinary or licensing authorities;**
  - (10) Documentation of competency in English by any of the following:
    - (a) Documentation of graduation from a recognized English-speaking high school or undergraduate school after at least 3 years of enrollment;*
    - (b) Documentation of graduation from a recognized English-speaking professional school;*
    - (c) Documentation of a passing score on the naturopathic licensing examination administered by the North American Board of Naturopathic Examiners; or*
    - (d) Documentation of receiving:
      - (i) A score of at least 26 on the "Speaking Section" of the Internet-Based Test of English as a Foreign Language; or*
      - (ii) A score of Advanced or higher on the Oral Proficiency Interview;***
  - (11) A chronological list of:
    - (a) All activities, beginning with the date of completion of naturopathic medical school through the date of application, listed by month and year, that account for all periods of time, and include each job held, regardless of whether the job was:
      - (i) Medically related or not; and*
      - (ii) Compensated or not;**
    - (b) Any other activity engaged in, including all periods of unemployment;*
    - (c) Any actions, by a state licensing or disciplinary board, or a comparable body in the armed services, denying an application for licensure, reinstatement, or renewal;*
    - (d) Any actions taken against the naturopathic doctor's license, by a state licensing or disciplinary board, or a comparable body in the armed services, including but not limited to limitations of practice, required education, admonishment, reprimand, suspension, or revocation for an act that would be grounds for disciplinary action under Health Occupations Article, §14-5F-18, Annotated Code of Maryland;*
    - (e) Any investigation or charge brought against the naturopathic doctor by a licensing or disciplinary body or comparable body in the armed services;*
    - (f) Any medical or health professional license for which the naturopathic doctor has applied if the application was withdrawn for reasons that would be grounds for disciplinary action under Health Occupations Article, §14-5F-18, Annotated Code of Maryland; and*
    - (g) Any investigation or charge brought against the naturopathic doctor by a hospital, related institution, or alternative health care system that would be grounds for action under Health Occupations Article, §14-5F-18, Annotated Code of Maryland;**
  - (12) A plea of guilty or nolo contendere, a conviction, or receipt of probation before judgment for a criminal act including:
    - (a) A plea of guilty or nolo contendere, a conviction, or receipt of probation before judgment for an alcohol or controlled dangerous substance offense, including but not limited to driving while under the influence of alcohol or controlled dangerous substances; and*
    - (b) An arrest which would provide a basis for investigation or charge which would be grounds for disciplinary action under Health Occupations Article, §14-5F-18, Annotated Code of Maryland;**
  - (13) A physical or mental condition that currently impairs the naturopathic doctor's ability to practice medicine;*

(14) The filing or settling of a medical malpractice action in which the naturopathic doctor is, or has been, named as a defendant within the past 5 years;

(15) The following additional information:

(a) Copies of the complaints, pleadings, and judgments in all malpractice claims if the applicant has had 3 or more claims in the 5 years before the filing of the application for licensure;

(b) Copies of all arrests, disciplinary actions, judgments, and final orders which occurred or were issued within the 7 years before submitting the application for licensure for driving while intoxicated, driving while under the influence of a chemical substance or medication, or any license probation, suspension, or revocation; and

(c) All naturopathic medical licensure, certification, and recertification examination results and the dates when these examinations were taken;

(16) 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;

(17) On forms supplied by the Board, a release granting the Board access to relevant information from appropriate individuals, other institutions, and government agencies including, but not limited to:

(a) The National Practitioner Data Bank;

(b) Hospitals; and

(c) Other licensing bodies;

(18) On forms supplied by the Board, a release of any information which is not statutorily protected;

(19) Certificates and verifications from the certifying or verifying authority sent directly from: the national licensing authority, the naturopathic educational institution, and other state's licensing boards to the Board for applicants; and

(20) The certified translation of any of the documents required under this chapter, at the applicant's expense, for any documents required by this chapter that are in a language other than English.

C. Application Processing. The Board has designated a 4-month period for acting on applications as follows:

(1) Within 60 days after receipt of an application, the Board shall determine whether an application is complete;

(2) If the Board determines that the application is not complete, the Board shall send a notice of deficiency to the applicant;

(3) On receipt of the notice, the applicant shall correct the deficiency within 60 days or any other period specified in the notice; and

(4) If the applicant fails to correct the deficiency within the required period, the application will be closed and the applicant shall be required to:

(a) Submit a new application; and

(b) Pay the required fees specified in Regulation .20 of this chapter.

D. Withdrawal of Application.

(1) An applicant may not withdraw an application for initial licensure, renewal of a license, or reinstatement of a license without permission of the Board, if:

(a) The applicant is currently charged in another jurisdiction with conduct which would be grounds for discipline under the Health Occupations Article, §14-5F-18, Annotated Code of Maryland, if the applicant were licensed in this State;

(b) The applicant is under investigation in another jurisdiction for an allegation concerning conduct that would be grounds for discipline under Health Occupations Article, §14-5F-18, Annotated Code of Maryland, if the applicant were licensed in this State; or

(c) The Board is investigating the applicant or application or has issued a notice of intent to deny licensure.

(2) In determining whether to allow the withdrawal of a licensure application, the Board may consider such factors as the following:

(a) Issues of competence or conduct which caused the matter to be investigated;

(b) Duty to protect the public in other jurisdictions from duplicative expenditures on investigation of licensure applications; and

(c) Truthfulness of the applicant during the application process.

#### **.07 Exceptions to Licensure Requirements.**

The following individuals do not need to be licensed in order to practice naturopathy in Maryland:

A. An individual who is employed by the United States Government to practice naturopathic medicine while practicing within the scope of that employment;

B. A student who is enrolled in an approved naturopathic medical program while the student is participating in a course of study under the supervision of a licensed naturopathic doctor or a licensed professional in the field of study;

C. An individual who is licensed in another state to practice naturopathic medicine in the state for purposes of litigation may examine a patient, offer recommendations, and provide testimony; or

D. A naturopathic doctor licensed by and residing in another jurisdiction, if the naturopathic doctor is engaged in consultation with the naturopathic doctor in the state about a particular patient and does not direct patient care.

#### **.08 Scope of Practice.**

*A license authorizes a licensee, consistent with naturopathic education, training, and competence demonstrated by passing the Naturopathic Physician Licensing Examination, to:*

*A. Order and perform physical and laboratory examinations for diagnostic purposes consistent with the education and training of naturopathic doctors, including:*

- (1) Phlebotomy;*
- (2) Clinical laboratory tests;*
- (3) Orifical examinations;*
- (4) Electrocardiograms with over read by a cardiologist; and*
- (5) Physiological function tests;*

*B. Order diagnostic imaging studies, interpret the diagnostic imaging reports and have access to the images from these studies. Naturopathic doctors shall not perform the imaging procedures nor directly interpret the images themselves;*

*C. Dispense, order, or administer natural medicines, including, but not limited to, food, extracts of food, nutraceuticals, vitamins, amino acids, minerals, enzymes, botanicals and their extracts, and botanical medicines, homeopathic medicines and all dietary supplements and nonprescription drugs as defined by the Federal Food, Drug, and Cosmetic Act, as follows:*

*(1) Except for intravenous administration, the naturopathic doctor may order or dispense natural medicines that use various routes of administration, including:*

- (a) Oral;*
- (b) Nasal;*
- (c) Auricular;*
- (d) Ocular;*
- (e) Rectal;*
- (f) Vaginal;*
- (g) Transdermal; and*
- (h) Intramuscular; and*

*(2) The naturopathic doctor may only administer natural medicines through transdermal administration;*

*D. 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;*

*E. Provide health education and health counseling; and*

*F. Perform naturopathic musculoskeletal mobilization.*

#### **.09 Prohibited Actions.**

*An individual who is solely licensed as a naturopathic doctor may not:*

*A. Prescribe, dispense, or administer any prescription drug;*

*B. Perform surgical procedures;*

*C. Unless licensed under the Health Occupations Article, Annotated Code of Maryland, practice or claim to practice as:*

- (1) A medical doctor or physician;*
- (2) An osteopath;*
- (3) A dentist;*
- (4) A podiatrist;*
- (5) An optometrist;*
- (6) A psychologist;*
- (7) A nurse practitioner;*
- (8) A physician assistant;*
- (9) A chiropractor;*
- (10) A physical therapist;*
- (11) An acupuncturist; or*
- (12) Any other health care professional;*

*D. Use general or spinal anesthetics;*

*E. Administer ionizing radioactive substances for therapeutic purposes;*

*F. Perform chiropractic adjustments or manipulations that include high velocity thrusts at or beyond the end range of normal joint motion unless the licensee is also a licensed chiropractor; or*

*G. Perform acupuncture unless the licensee is also a licensed acupuncturist.*

#### **.10 Renewals, Reinstatement, and Inactive Status.**

*A. The term of a license renewed by the Board is 2 years from the date of renewal.*

*B. A license expires at the end of its term unless the license is renewed as provided by the Board.*

*C. At least 1 month before the license expires, the Board shall send to the licensee a renewal notice that states:*

- (1) The date on which the current license expires;*

(2) The date by which the renewal application shall be received by the Board for the renewal to be issued before the license expires; and

(3) The amount of the renewal fee as specified in Regulation .20 of this chapter.

D. The Board shall renew the license of a licensee who:

(1) Submits a renewal application on the form that the Board requires;

(2) Pays a renewal fee as specified in Regulation .20 of this chapter;

(3) Is otherwise entitled to be licensed;

(4) Meets the continuing education requirements as set forth in Regulation 11 of this chapter; and

(5) Provides evidence of biennial cardiopulmonary resuscitation certification.

E. If a license is revoked or suspended, the naturopathic doctor shall surrender the license to the Board on demand. At the end of a suspension period, the Board shall return to the licensee any license surrendered under this section.

F. If the disciplinary panel has revoked or suspended the license of a licensee, the Board may not reinstate the license until the Board is satisfied that the individual:

(1) Has complied with all the terms and conditions in the final order; and

(2) Is capable of safely engaging in the practice of naturopathic medicine.

G. The Board may not reinstate the license of an individual whose license was revoked by the Board within 6 months after the date of the revocation.

### **.11 Continuing Education Requirements.**

A. Requirements. A licensed naturopathic doctor shall take 50 hours of continuing education credits during every 2 year renewal period.

B. The courses selected shall be approved by any of the following:

(1) The American Association of Naturopathic Physicians;

(2) The Maryland Association of Naturopathic Physicians;

(3) The Accreditation Council for Continuing Medical Education;

(4) The Accreditation Council for Pharmacy Education; or

(5) A naturopathic doctor's licensing authority or professional association of another state which meets the standards adopted by the American Association of Naturopathic Physicians.

### **.12 Grounds for Discipline.**

Subject to the hearing provisions Health Occupations Article, §14-405, Annotated Code of Maryland, the Board, on the affirmative vote of a majority of its members then serving as a quorum of the Board, may deny a license to any applicant, or a disciplinary panel, on the affirmative vote of a majority of a quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license of any licensee if the applicant or licensee:

A. Is habitually intoxicated, or is addicted to or habitually abuses any narcotic or controlled dangerous substance, as defined in Criminal Law Article, §5-101, Annotated Code of Maryland, or any drug without a valid prescription or indication, or provides professional services while under the influence of alcohol or using any narcotic or controlled dangerous substance, as defined in Criminal Law Article, §5-101, Annotated Code of Maryland;

B. Has been found to be mentally incompetent by a physician if the mental incompetence impairs the ability of the applicant or licensee to undertake the practice of naturopathic medicine in a manner consistent with the safety of the public;

C. Has entered into a consent agreement with or has been assessed an administrative penalty by a licensing authority in another state;

D. Fraudulently or deceptively obtains, or attempts to obtain, or uses a license for the applicant, the licensee, or another;

E. Has a license revoked or suspended, or was otherwise acted against, including the denial of licensure, by the licensing authority of another state;

F. Uses false, deceptive, or misleading advertising;

G. Advertises, practices, or attempts to practice under a name other than the applicant's or licensee's own name;

H. Aids, assists, employs, or advises any unlicensed individual to practice naturopathic medicine;

I. Willfully makes or files a false report or record in the practice of naturopathic medicine;

J. Willfully or negligently fails to file a report or record as required by law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;

K. Pays or receives any commission, bonus, kickback, or rebate, or engages 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 health care providers;

L. Exercises influence within a patient-doctor relationship for purposes of engaging a patient in sexual activity;

M. Engages in sexual misconduct with a patient;

N. Fails to keep written medical records justifying the course of treatment of a patient;

O. Engages in an act or omission that does not meet generally accepted standards of practice of naturopathic medicine or of safe care of patients, whether or not actual injury to a patient is established;

P. Delegates professional responsibilities to an individual when the licensee delegating the responsibilities knows or has reason to know that the individual is not qualified by training, experience, or licensure to perform the responsibilities;

Q. Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;

R. Breaches patient confidentiality;

S. Is guilty of unprofessional or immoral conduct in the practice of naturopathic medicine;

T. Offers, undertakes, or agrees to cure or treat a disease by a secret method, treatment, or medicine;

U. Knowingly fails to report suspected child abuse in violation of § 5-704 of the Family Law Article;

V. Sells, prescribes, gives away, or administers drugs for illegal or illegitimate purposes;

W. Denies or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;

X. Fails to cooperate with a lawful investigation of the Board;

Y. Abandons a patient; or

Z. Violates any provision of this title or this chapter.

### **.13 Sanctioning Guidelines.**

A. Subject to provisions of Regulation .09A and B of this chapter, the disciplinary panel may impose sanctions as outlined in §B of this regulation on physicians for violations of Health Occupations Article, §§14-404(a), 14-504, and 1-302, Annotated Code of Maryland.

#### **B. Range of Sanctions.**

| <i>Ground</i>  | <i>Maximum Sanction</i>              | <i>Minimum Sanction</i>   |
|--|--------------------------------------|---|
| <i>(1) Is habitually intoxicated, or is addicted to or habitually abuses any narcotic or controlled dangerous substance</i>  | <i>Revocation</i>                    | <i>Suspension until physician is in treatment and has been abstinent for 6 months</i> |
| <i>(2) Has been found to be mentally incompetent by a physician, and that incompetence impairs the ability to practice naturopathic medicine</i>   | <i>Revocation</i>                    | <i>Suspension until mental incompetence is addressed to the Board's satisfaction</i>  |
| <i>(3) Has entered into a consent agreement with or has been assessed an administrative penalty by a licensing authority in another state</i>  | <i>Comparable to Penalty Imposed</i> | <i>Comparable to Penalty Imposed</i>  |
| <i>(4) Fraudulently or deceptively obtains, attempts to obtain, or uses a license for the applicant or another</i>   | <i>Revocation</i>                    | <i>Reprimand and probation for 2 years</i>  |
| <i>(5) Has a license revoked or suspended, or was otherwise acted against, including the denial of licensure, by the licensing authority of another state</i>  | <i>Revocation</i>                    | <i>Comparable to Penalty Imposed</i>  |
| <i>(6) Uses false, deceptive, or misleading advertising</i>  | <i>Revocation</i>                    | <i>Reprimand</i>  |
| <i>(7) Advertises, practices, or attempts to practice under a name other than the applicant's or licensee's own name</i>   | <i>Revocation</i>                    | <i>Reprimand</i>  |
| <i>(8) Aids, assists, employs, or advises any unlicensed individual to practice naturopathic medicine</i>  | <i>Revocation</i>                    | <i>Reprimand</i>  |
| <i>(9) Willfully makes or files a false report or record in the practice of naturopathic medicine</i>  | <i>Revocation</i>                    | <i>Reprimand</i>  |
| <i>(10) Willfully or negligently fails to file a report or record as required by law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report</i>  | <i>Revocation</i>                    | <i>Reprimand</i>  |
| <i>(11) Pays or receives any commission, bonus, kickback, or rebate, or engages 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 health care providers</i> | <i>Revocation</i>                    | <i>Reprimand</i>  |
| <i>(12) Exercises influence within a patient-doctor relationship for purposes of engaging a patient in sexual activity</i>   | <i>Revocation</i>                    | <i>Reprimand</i>  |
| <i>(13) Engages in sexual misconduct with a patient</i>  | <i>Revocation</i>                    | <i>Reprimand</i>  |
| <i>(14) Fails to keep written medical records justifying the course of treatment of a patient</i>  | <i>Revocation</i>                    | <i>Reprimand</i>  |
| <i>(15) Engages in an act or omission that does not meet generally accepted standards of practice of naturopathic medicine or of safe care of patients, whether or not actual injury to a patient is established</i>   | <i>Revocation</i>                    | <i>Reprimand</i>  |

|  |            |                                     |
|--|------------|-------------------------------------|
| (16) Delegates professional responsibilities to an individual when the licensee delegating the responsibilities knows or has reason to know that the individual is not qualified by training, experience, or licensure to perform the responsibilities | Suspension | Reprimand                           |
| (17) Promotes the sale of services, drugs, devices, appliances, or goods to a patient as to exploit the patient for financial gain   | Revocation | Reprimand                           |
| (18) Breaches patient confidentiality  | Revocation | Reprimand                           |
| (19) Is guilty of unprofessional or immoral conduct in the practice of naturopathic medicine   | Revocation | Reprimand and probation for 2 years |
| (20) Offers, undertakes, or agrees to cure or treat a disease by a secret method, treatment, or medicine   | Revocation | Reprimand                           |
| (21) Knowingly fails to report suspected child abuse in violation of Section 5-704 of the Family Law Article   | Suspension | Reprimand                           |
| (22) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate purposes  | Revocation | Reprimand                           |
| (23) Denies or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive   | Revocation | Reprimand                           |
| (24) Fails to cooperate with a lawful investigation of the Board   | Revocation | Reprimand and probation for 3 years |
| (25) Abandons a patient  | Revocation | Reprimand                           |
| (26) Violates any provision of this title or any of these regulations adopted by the Board   | Revocation | Reprimand                           |

**.14 Investigations and Hearings.**

A. Except as otherwise provided in State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, before the Board or a disciplinary panel takes any action under Health Occupations Article, §14-5F-18(a), Annotated Code of Maryland, the Board shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board or disciplinary panel in accordance with the hearing requirements of Health Occupations Article, §14-405, Annotated Code of Maryland.

**B. Crime Involving Moral Turpitude.**

(1) On the filing of certified docket entries with the Board by the Office of the Attorney General, a disciplinary panel shall order the suspension of a license if the licensee is convicted or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process, if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, a disciplinary panel shall order the revocation of a license on the certification by the office of the attorney general.

C. The Board shall investigate any complaint filed with the Board that alleges that there are grounds for action under Health Occupations Article, §14-5F-18, Annotated Code of Maryland.

D. An investigation and any reports and recommendations related to the investigation are confidential, subject to the exceptions under §E of this regulation..

E. On the request of a person who has made a complaint to the Board, the Board shall provide the person with information on the status of the complaint.

F. The Board shall give notice and the Board or disciplinary panel hold the hearing in accordance with the Administrative Procedure Act.

G. The individual may be represented at the hearing by counsel.

H. Over the signature of an officer or the administrator of the Board or disciplinary panel, the Board or disciplinary panel may issue subpoenas and administer oaths in connection with any investigation under Health Occupations Article, §14-5F-18, Annotated Code of Maryland, and any hearings or proceedings before the Board or disciplinary panel.

I. If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

J. If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, the Board or disciplinary panel may hear and determine the matter.

K. Any person aggrieved by a final decision of the Board or a disciplinary panel under Health Occupations Article, §14-5F-01 et seq., Annotated Code of Maryland, in a contested case, as defined in the Administrative Procedure Act, may take a direct judicial appeal.

(1) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

(2) An order of the Board or a disciplinary panel may not be stayed pending judicial review.

(3) The Board may appeal from any decision that reverses or modifies an order of the Board or a disciplinary panel.

L. The Board may issue a cease and desist order for:

(1) Practicing naturopathic medicine without a license or with an unauthorized person; or

(2) Supervising or aiding an unauthorized person in the practice of naturopathic medicine.

**.15 Cost of Bringing an Action against a Licensee.**

A. If, after a hearing, a licensee is found to have violated provisions of Health Occupations Article, §14-5F-18, Annotated Code of Maryland, the Board shall impose a fee on the licensee that shall approximate the Board's cost of bringing the proceedings against the licensee.

B. The hearing costs may include any or all of 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.

**.16 Unauthorized Practice of Naturopathic Medicine and Title and Identification as Naturopathic Doctor.**

A. Except as otherwise provided in this chapter, an individual may not practice, attempt to practice, or offer to practice naturopathic medicine in this State without a license. An individual who violates this section:

(1) Is guilty of a felony and upon conviction is subject to a fine not exceeding \$10,000 or imprisonment not exceeding 5 years or both; and

(2) Is subject to a civil fine of no more than \$50,000 to be levied by the Board.

B. Unless an individual is licensed to practice naturopathic medicine, the individual may not:

(1) Represent to the public by title, by description, of service, methods, or procedures, or otherwise, that the individual is licensed by the Board to practice naturopathic medicine;

(2) Use the title "doctor of naturopathic medicine", "doctor of naturopathy", "naturopathic doctor", or "naturopath"; or

(3) Use the initials "N.D.," "ND", "NMD", or "N.M.D." after the name of the individual.

C. An individual licensed to practice naturopathic medicine in this State may not use the title "physician".

D. A naturopathic doctor engaged in the private practice of naturopathic medicine in the state shall:

(1) Wear an identification badge tag or badge which identifies that individual as a naturopathic doctor; and

(2) Identify himself or herself to all patients as a naturopathic doctor.

E. An individual may not identify himself or herself as a naturopathic doctor unless licensed by the Board.

**.17 Reporting Requirements.**

A. A licensed naturopathic doctor, a licensed health care practitioner, a health care facility as defined in Health General Article, §19-114, Annotated Code of Maryland, located in the State, and a State agency shall 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 of naturopathic medicine;

(3) Guilty of unprofessional conduct; or

(4) Mentally or physically unable to engage safely in the practice of naturopathic medicine.

B. This report shall be filed within 30 days of an individual or entity becoming aware of this information.

C. A health care facility shall report promptly to the Board if:

(1) A licensed naturopathic doctor voluntarily resigns from the staff of the health care facility, voluntarily limits the licensee's staff privileges, or fails to reapply for hospital privileges at the health care facility; and

(2) The action of the licensee occurs while the licensee is under formal or informal investigation by the health care facility for possible medical incompetence, unprofessional conduct, or mental or physical impairment.

**.18 Advertising.**

An advertisement may not contain:

A. A statement containing misrepresentation of facts;

B. Statements that cannot be verified by the Board for truthfulness;

C. Statements likely to mislead or deceive because in context the statements make only a partial disclosure of relevant facts;

D. Statements intended to, or likely to, create false or unjustified expectations of favorable results;

*E. Statements containing representations or implications that in reasonable probability can be expected to cause an ordinary prudent person to misunderstand or be deceived;*

*F. Statements containing representations that a naturopathic doctor is willing to perform any procedure which is illegal under the laws or regulations of this State or the United States;*

*G. Statements that are untruthful and improbable or contain, misstatements, falsehoods, misrepresentations, distorted, or fabulous statements as to cures;*

*H. Statements that misrepresents the nature, characteristics, or qualities of natural medicines or services provided by a naturopathic doctor pursuant to Health Occupations Article, §14-5F-14(a)(3), (4), (5), (6), or (7), Annotated Code of Maryland;*

*I. Statements that a manifestly incurable condition can be permanently cured;*

*J. Statements promoting herbal, natural, or dietary supplements as drugs contrary to the laws, rules, and regulations of the Federal Food, Drug, and Cosmetic Act as amended by the Dietary Supplement Health and Education Act of 1994;*

*K. Advertising that does not comply with state or federal law, including the:*

*(1) Federal Trade Commission Act, Section 12 of 15 U.S.C. §52;*

*(2) Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§301-397;*

*(3) Maryland Food, Drug, and Cosmetic Act, Health General Article, §21-207, et seq., Annotated Code of Maryland; and*

*(4) Commercial Law Article, §14-2902, Annotated Code of Maryland;*

*L. Statements recommending any modality of care that is inconsistent with the health, safety, and welfare of the public; or*

*M. Statements made as defined in Health General Article, §§21-247 and 21-248, Annotated Code of Maryland.*

#### **.19 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) Use professional discretion and integrity in relationships with a member of the health care community;*

*(2) Be professional in conduct, with honesty, integrity, self-respect, and fairness;*

*(3) Remain free from conflict of interest while fulfilling the objectives and maintaining the integrity of the naturopathic doctor profession;*

*(4) Provide accurate fee information to the patient, the individual responsible for payment for treatment, and the insurer;*

*(5) At all times respect the patient's dignity, autonomy, and privacy;*

*(6) Practice naturopathic medicine only as defined in the scope of practice set forth in Health Occupations Article, §14 5F-14(a), Annotated Code of Maryland;*

*(7) Cooperate with any lawful investigation conducted by the Board, including:*

*(a) Furnishing information requested in a timely manner as directed by the Board;*

*(b) Complying with a subpoena;*

*(c) Responding to a complaint at the request of the Board; and*

*(d) Providing meaningful and timely access to relevant patient records; and*

*(8) Report to the Board conduct in the practice of naturopathic medicine that indicates a violation of:*

*(a) This chapter;*

*(b) Health Occupations Article, Title 14-5F, Annotated Code of Maryland; or*

*(c) Any other law, including, but not limited to, aiding or abetting the unauthorized 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, or involves moral turpitude;*

*(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 doctor treatment exists;*

*(5) Discriminate against a patient or a health care provider based on race, religion, age, gender, sexual orientation, national origin, or disability;*

*(6) Intimidate, threaten, influence, or attempt to influence any person regarding any violation of law or regulation; or*

*(7) Aid or abet any individual violating or attempting to violate any provision of law or regulation.*



*E. A naturopathic doctor shall:*

- (1) Use professional judgment in the use of evaluation and treatment procedures;*
- (2) Decline to administer treatment if the naturopathic doctor believes that a treatment is contraindicated or unjustified;*
- (3) Terminate a professional relationship with a patient in an appropriate manner, such as:*
  - (a) Providing the patient with sufficient notice to permit the patient to obtain the services of another professional;*
  - (b) Assisting the patient by providing referrals if appropriate; or*
  - (c) Continuing to provide emergency treatment to the patient if treatment is required before a reasonable time has passed to allow the patient to obtain the services of another health care provider;*
- (4) Maintain a written record of treatment of the patient under the naturopathic doctor's care for at least:*
  - (a) 5 years after the termination of treatment; and*
  - (b) 5 years after the patient becomes 18 years old, if applicable;*
- (5) Make the written records of treatment available to the patient upon request, in compliance with applicable laws for disclosure of medical records;*
- (6) Make arrangements for another professional to provide for the needs of the patient during anticipated absences when the naturopathic doctor is unavailable to the patient;*
- (7) Make referrals only to 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 medical treatment exist and refer the patient to an appropriate health care practitioner;*
- (10) Exercise independent professional judgment in the treatment or evaluation of the patient regardless of whether the patient was referred by another health care provider;*
- (11) Ensure clear and concise professional communications with patients regarding:*
  - (a) Nature and duration of treatment;*
  - (b) Diagnoses;*
  - (c) Costs;*
  - (d) Billing; and*
  - (e) Insurance; and*
- (12) Administer fair and equitable fees to patients regardless of status or insurance.*

*F. A naturopathic doctor may not:*

- (1) Accept a client for treatment, or continue unnecessary treatment, when the patient cannot be reasonably expected to benefit from the treatment;*
- (2) 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;*
- (3) Make a guarantee or promise about the efficacy of a particular treatment, the naturopathic doctor's practice, or the result of a treatment unless supported by scientific principles accepted by the profession; or*
- (4) Exploit the professional relationship by:*
  - (a) Continuing treatment unnecessarily; or*
  - (b) Charging for a service:*
    - (i) Not provided; or*
    - (ii) Different from those actually provided.*

*G. A naturopathic doctor shall:*

- (1) Maintain professional boundaries, even when the patient initiates crossing the boundaries of the professional relationship; and*
- (2) Respect and maintain professional boundaries and respect the patient's reasonable expectation of professional conduct.*

*H. A naturopathic doctor may not:*

- (1) 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;*
- (2) Engage in a sexually intimate act with a patient; or*
- (3) Engage in sexual misconduct, which includes, but is not limited to:*
  - (a) Therapeutic deception;*
  - (b) Non-bona-fide treatment; and*
  - (c) A sexually exploitative relationship.*

*I. A naturopathic doctor may not engage in inappropriate behavior with other practice staff including sexual advances, harassment, discrimination, exploitation, retaliation, and other unprofessional conduct.*

*J. 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 treatment, including:
  - (a) The purpose and nature of an evaluation or treatment regimen;
  - (b) Alternatives to treatment;
  - (c) Side effects and benefits of a treatment regimen proposed and alternatives to that treatment;
  - (d) The estimated cost of treatment and alternatives to treatment;
  - (e) The right of the patient to:
    - (i) Withdraw from treatment at any time, including the risks associated with withdrawing from treatment;
    - (ii) Decline to participate in treatment if an aspect of the treatment will be recorded, documented, photographed, observed, or otherwise used in an educational program; or
    - (iii) Terminate any treatment contract at any time, for any or no reason, with no fee or penalty incurred;
- (5) Obtain the full informed consent of a patient participating in a human research program, without communicating a direct or implied penalty for the patient's refusal to participate in the program and with due regard for the patient's autonomy and dignity;
- (6) Comply with applicable federal and state laws for human research programs; and
- (7) Promptly and efficiently respond to any patient or Board request for records.

**K. A naturopathic doctor shall:**

- (1) Obtain additional training, information, and supervision as needed to perform a new technique or service in a new specialty area or when employing a new treatment modality; and
- (2) Be current in the qualifications to practice, including meeting continuing education requirements as set forth in Regulation 11 of this chapter.

*L. The naturopathic doctor may not perform a treatment 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, experience, and scope of practice.*

*M. A naturopathic doctor may not construe any failure to specify a particular ethical, legal, or professional duty in this chapter 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.*

*N. A violation in this chapter may result in the Board taking action pursuant to Health Occupations Article, §14-5F-18, Annotated Code of Maryland.*

**.20 Fees.**

*Starting on March 1, 2016, the fees are as follows:*

*A. Initial application fee . . . . . \$790;*

*B. Renewal Fee:*

*(1) Biennial license renewal fee . . . . . \$486; and*

*(2) The Maryland Health Care Commission fee as determined by Maryland Health Care Commission under*

*COMAR 10.25.03*

**VAN T. MITCHELL**

**Secretary of Health and Mental Hygiene**

**FEE JUSTIFICATION FOR  
PROPOSED COMAR 10.32.21**

(1) Explain/justify why an increase or decrease is necessary:

This is a new fee required for the administration and regulatory oversight of a new profession.

(2) How much money is needed to operate effectively or to eliminate an operating fund deficit?

The Board estimates that \$124,445 is required to operate the new program effectively.

(3) In what year was the most recent fee increase?

There has never been a prior fee increase as this is a new fee.

(4) Is the fee revenue retained by the Proposing Unit or passed through to a national organization that administers a uniform licensing exam?

The fee is retained by the Board to administer the new program.

(5) Describe any measures taken to mitigate the need for increased revenue:

The Board has not requested or received any revenue from the prospective licensees to cover the costs associated with the Board's operations spent on establishing the new program since the fall of 2014. The Board has absorbed these expenses with existing resources and existing revenues.

(6) Describe any special circumstances that have had an adverse impact on the Proposing Unit's operating expenses.

This is a new fee for a new allied health profession with no anticipated revenue from prospective licensees until 2016. However, since the fall of 2014 through the present, the Board has borne all costs related to establishing a new program without receiving any new fees. The Board has absorbed these expenses with existing resources and existing revenues.

(7) Describe any consideration given by the Proposing Unit as to the hardship a fee increase may have on the regulated profession.

This is not a fee increase rather it is a new fee on a new allied health profession. The Board voted on February 16, 2016, at an emergency meeting, to establish the Naturopathic Doctor licensure fee of \$790, which is the same fee for physicians. This new fee does not cover the all expenses associated with the regulatory oversight of this new allied health profession. The Board will have to absorb the costs not covered by the new fee with existing resources and revenues.

(8) Describe any efforts to solicit the opinions of licensees regarding the Proposing Unit's effectiveness and performance.

Fees were discussed on several occasions at the Naturopathic Doctor Advisory Committee and committee members provided input at these discussions. The Naturopathic Doctor members of the Advisory Committee expressed concern with the prior recommended fee of \$4,786 for initial licensure, but ultimately voted to recommend the higher fee. The Maryland Naturopathic Doctor Association objected to the higher fee in a letter from September 14, 2015.