

**TITLE 16. CALIFORNIA BOARD OF NATUROPATHIC MEDICINE  
DEPARTMENT OF CONSUMER AFFAIRS**

**INITIAL STATEMENT OF REASONS**

**Hearing Date:** No hearing scheduled.

**Subject Matter of Proposed Regulations:** Fees

**Section(s) Affected:** Amend Section 4240 in Article 7 of Division 40 of Title 16 of the California Code of Regulations.

**Background and Statement of the Problem**

The California Board of Naturopathic Medicine (“Board”) licenses, regulates, and investigates complaints against naturopathic doctors in California, totaling approximately 430 licensees. The Board is a state agency vested with the authority to regulate the practice of naturopathic doctors (Bus. & Prof. Code, § 3612). The Board’s mandate and highest priority is to protect the public (Bus. & Prof. Code, § 3620.1). It is the Board’s duty to enforce and administer the Naturopathic Doctors Act (Chapter 8.2 (commencing with section 3610 of Division 2 of the Business and Professions Code (BPC)) (Act). The Board is authorized to establish necessary rules and regulations for the enforcement of the Act and the laws subject to its jurisdiction. (BPC § 3622.)

The Board’s funding source is classified as special funds, and as such the Board’s revenues and expenditures are generated from regulating the profession of naturopathic doctors. Pursuant to Business and Professions Code sections 3622 and 3680, the Board has the statutory authority to collect fees to carry out its consumer protection mandate, support the functions of the Board as they relate to regulating naturopathic doctors (ND) and maintain an adequate balance in its contingency fund. The fees of the Board are required to be sufficient to support the functions or operational needs of the Board. The State of California State Administrative Manual (SAM), section 9210, provides that it is state policy for departments to recover full costs whenever goods or services are provided to others. Section 9210 of the SAM specifies that full costs include “all costs attributable directly to the activity plus a fair share of indirect costs which can be ascribed reasonably to the good or service provided.”

In 2018, it was identified that the Board had a structural imbalance in its Naturopathic Doctor’s Fund (“Fund”), which would mean that the Board was projected to run out of revenue to meet its operational needs. Legislation was enacted pursuant to Senate Bill 1480 (“SB 1480” -- Chapter 571 of the Statutes of 2018) to authorize fee increases to help ensure that the Board was able to meet its operational needs. Effective January 1, 2019, the Board implemented the provisions of SB 1480. SB 1480 amended the Board’s

fee structure to maintain the operation of the Board and restore funds in its reserve by increasing the application, initial licensing, and renewal fees, and establishing a fee for a certified license verification at BPC section 3680.

The Department of Consumer Affairs Budget Office (Budget Office) has since identified that the fees enacted by the 2018 legislation are no longer adequate to cover the Board's expenditures and do not address the increase in future operational costs. The Budget Office projects that the Board will deplete its existing reserve fund by Fiscal Year 2026-2027 and recommends increasing the Board's application, initial licensing, and renewal fees to help address costs.

This proposal is necessary to help ensure the Board has sufficient resources to maintain the highest priority of consumer protection and recover costs for administration and enforcement of the Act. The proposed regulations would increase the Board's application, initial licensing, and renewal fees to the statutory maximums, which will help to alleviate the Board's structural imbalance and help recover costs for services provided to applicants.

### **Anticipated benefits from this regulatory action**

These changes would raise application, initial licensing, and renewal fees to the statutory maximums. California residents would benefit from the proposed regulation because the fee increases will enable the Board to carry out its statutory mandate of public protection by licensing, regulating, and disciplining NDs. Raising fees would help address a structural imbalance in the Board's budget, ensure the Board's regulated public is aware of the fees, and attempt to create a consistency between the Board's expenditures to regulate licensees and protect the public and the fees assessed for carrying out those functions. The Board's highest priority is consumer protection, and the proposed revisions will allow the Board to continue its important consumer-focused functions in the short term while the Board seeks legislative authority to increase statutory maximums for the fees it collects in the long term.

### **Specific purpose and rationale for each proposed adoption, amendment or repeal:**

#### **Amend Section 4240**

As indicated below, the Board is increasing the fees listed in CCR section 4240 for the ND application, initial licensing, and renewal fees to the statutory maximums. This increase will, in part, reimburse the Board for its costs for the licensing services it provides. With these fee increases, it will begin to reduce the structural imbalance and prolong fund solvency.

The Board's proposal makes the following changes:

Purpose for Fee Increases and Other Changes to Sections 4240(a), (b), and (c): The Board proposes to increase fees as follows:

- The proposal increases the application fee for a Doctor of Naturopathic Medicine from \$400 to \$600 at subsection (a).
- The proposal increases the initial license fee from \$800 to \$1,200 and updates the associated table showing how the new fee would be prorated according to the applicant's birth month and the date the license is issued per BPC section 4222 in subsection (b).
- The proposal increases the biennial renewal fee for naturopathic doctors licensees from \$800 to \$1,200 in subsection (c).
- The Board proposes to strike the word "Committee" and replace it with the words California Board of Naturopathic Medicine and add the shortform word "Board" to subsection (b).

Rationale for Fee Increases and Other Changes to 4240(a), (b) and (c): Pursuant to Business and Professions (BPC) Code section 3680, the Board has statutory authority to assess fees, including those proposed. The revenue generated from the fees is placed in the Naturopathic Doctor's Fund ("Fund" -- BPC section 3681) and is utilized by the Board to perform the duties and functions authorized by the Act. In 2018 changes were made to Business and Professions Code section 3680 to bring the Fund back to a balanced structure, which became effective January 1, 2019 (amended by Stats. 2018, Ch. 571, Sec. 19 (SB 1480).

SB 1480 increased the application fee maximum to \$600 and automatically increased and set the minimum fees for the initial license fee to \$1,000 and the renewal license fee to \$1,000, with authority to increase by regulation to specified caps as provided in BPC section 3680. The Board's regulations were not updated to reflect this legislative fee increase, but the Board administratively implemented the fee increases as authorized by BPC section 3680.

Despite the fee increases in 2019, the Board's Fund suffers a continued structural imbalance and faces insolvency as early as July 2026. The underlying data entitled "CA Board of Naturopathic Medicine Fund Analysis of Fund Condition (Status Quo)" demonstrates the Fund Condition without the proposed fee increases. The underlying data entitled "CA Board of Naturopathic Medicine Fund Analysis of Fund Condition (Fee Increase to Statutory Caps Effective 1/1/25)" demonstrates the Board's Fund Condition with the proposed fee increases.

The Board's current operating costs exceed the revenue being collected and the Board is using its reserve fund to meet its structural imbalance. This proposed regulatory change will ensure the Board will be able to meet future expenses while incrementally replenishing the reserve fund. The proposed amendments to the Board's fee schedule will help to reduce the Board's structural budget imbalance in the near future, recover costs, and allow the Board additional time to continue operations and analyze future operational needs, which should allow the Board enough time to seek authority to increase statutory fee levels to completely eliminate the structural imbalance. In the

interim, the Board is proposing the following increases to continue operations for the near future (see Underlying Data: CA Board of Naturopathic Medicine Fund Analysis of Fund Condition reports – Status Quo and Fee Increase to Statutory Caps).

The Board has conducted a cost analysis to justify the proposed increases to these fees through desk audits for each item proposed to be increased in this rulemaking. The outcome of the desk audits confirmed that the actual costs to process and administer the Board's ND application, and costs associated with the licensing and renewal fees exceeds the current fee charged for this category of \$400 (for the ND application fee at subsection (a)), \$800 (for the initial license fee at subsection (b)), and \$800 (for the renewal fee at subsection (c)), as well as the statutorily authorized maximum fees per BPC section 3680 at \$600, \$1,200 and \$1,200 respectively. The analysis indicates that the actual costs to administer and/or process these items is \$616 (ND Application), \$1,236 (initial license), and \$1,236 (license renewal), respectively.

Updating the regulation will make it more consistent with the actual costs for providing these services and in compliance with the SAM manual directives discussed above (in the section entitled "Background and Problem to be Addressed") to establish a fee to meet the reasonable regulatory costs of providing these services. For a breakdown of these costs and the services required to complete each item, see the – Underlying Data "Workload Cost Analysis for ND Application, Initial License and License Renewal."

In addition, Board regulations at CCR section 4222 provides, in part: "the initial license fee shall be prorated from the month of issuance to the month in which the second birthday of the licensee occurs after the issuance of the license." Existing regulation at subsection (b) of this section prorates the fee in accordance with the existing initial license fee for the convenience of the ND applicants and staff and to ensure compliance with CCR section 4222. This proposal would continue that policy by prorating the initial license fee for user convenience in accordance with the proposed fee initial licensing fee increase to \$1,200 and calculated for each month in the calendar year. For better comprehension and organizational structure, the Board proposes to strike the words "Month Fee Received by the 15<sup>th</sup>" and "If received after the 15<sup>th</sup>, use the next month fee" to the table outline format newly added to this section. This would make it easier for applicants and staff to understand and use the existing proration table format, which is updated to account for the proposed \$1,200 fee as part of the monthly fee calculation.

Finally, the Board proposes to strike the word "Committee" from subsection (b) and replace it with the words "California Board of Naturopathic Medicine (Board)" and its shortform reference "Board" to avoid confusion and make it consistent with the name change that occurred when the Board's name changed from a Committee to a Board under Assembly Bill 2685 (Stats. 2022, ch. 414), effective January 1, 2023.

Purpose for Amendments to CCR Sections 4240(d), (f), and (g): This proposal would strike out existing fees at subsections (d) and (f) that were superseded by statutory changes and add a new subsection (g) to list the certified license verification fee. The Board proposes to add these updated fees set forth in statute at BPC section 3680 at subsections (d), (f) and (g) for a late renewal fee for a license (currently set by BPC section 3680(d) at \$225), the fee for a duplicate or replacement license (currently set by

BPC section 3680(f) at \$38), and the fee for a certified license verification (currently set by BPC section 3680(g) at \$30). The fees would be restated in these sections for the convenience of the regulated community and staff.

Factual Basis/Rationale for Amendments to CCR Sections 4240(d), (f) and (g): The fees proposed to be added at subsections (d), (f) and (g) are listed in Business and Professions Code section 3680 and would therefore not constitute a fee increase but a restatement of existing law. Nevertheless, these fee items are being added to the Board’s regulations for greater notice and the convenience of the regulated public by providing all licensing fees in one convenient location.

**Underlying Data:**

1. 2016 Sunset Review Report: Pages 21-22 and 29-30
2. Agenda, Relevant Meeting Materials, and Minutes of the Board’s March 28, 2024 Board Meeting
3. Workload Cost Analysis for ND Application, Initial License and License Renewal
4. “CA Board of Naturopathic Medicine Fund Analysis of Fund Condition” (Status Quo and Fee Increase to Statutory Caps Effective 1/1/25)

**Business Impact:**

This regulation may have an economic impact on businesses, specifically, the Board’s licensees and applicants. This determination is based upon the following facts. The regulation would increase fees charged to ND license applicants and ND licensees. To the extent these applicants apply for licensure or licensees opt to renew their licenses, the proposed regulations will impact them as described in the following tables and in the Economic Impact Assessment described below.

<b>Proposed Regulatory Section and Corresponding Business and Professions Code (BPC) Section Fee Authority</b>	<b>Current Fee</b>	<b>Proposed Fee and Statutory Limit</b>	<b>Increase Amount</b>
§ 4240(a): ND license Application Fee (BPC §§ 3680(a))	\$400	\$600	\$200
§ 4240(b): Initial License Fee (BPC § 3680(b))	\$1,000	\$1,200	\$200
§ 4240(c): Renewal Fee (BPC § 3680(c))	\$1,000	\$1,200	\$200

However, the proposed regulations will not have a significant statewide adverse economic impact on businesses, including the ability to compete with other businesses in California, because the fee increases are considered to be minor compared to the income of most applicants and licensees in this profession. As described above, this proposal represents incremental increases of \$200, as noted above, for application, initial license, and renewal license fees.

## Economic Impact Assessment/Analysis:

The Board concludes that this regulatory proposal will have the following effects:

- (1) It will not create or eliminate any jobs within the State of California;
- (2) It will not create new, or eliminate existing, businesses within the State of California; and,
- (3) It will not expand businesses currently doing business within the state of California, because these costs are considered minor compared to the income of most applicants and licensees in these professions and for the businesses who may hire NDs. As described above, this proposal represents a \$200 increase for ND application, initial license, and renewal license fees.

The regulations are estimated to result in additional costs of approximately \$122,000 per year as follows:

Type	Application per Year*	Increase Amount	Increase Revenues
Initial Application	90	\$200	\$18,000
Initial License	88	\$200	\$17,600
Renewal License	432	\$200	\$86,400
<b>Total Revenues:</b>			<b>\$122,000</b>

\*Based on 3-year historical data

The proposed regulations affect individuals and some small businesses who hire NDs financially, but the effects will be minimal and absorbable. The affected individuals are applicants for ND licenses, and NDs renewing their licenses. The number of applications for ND licensure have been relatively stable for years. The Board does not anticipate that the number of applications or licenses will change significantly as a result of these proposed regulations. Even though a minimal financial impact will occur, it is anticipated that these regulations will not affect the creation of jobs, nor eliminate jobs within the State of California, because the cost increases for application, licensure, and renewal would be minor and absorbable relative to the average income of this profession.

The Board also concludes that this proposal will have the following effects:

- It will benefit the health and welfare of California residents because the proposal will increase the Board's revenue and funding available to continue uninterrupted the Board's enforcement, investigative, licensing, and public outreach operations.
- This regulatory proposal does not affect worker safety or the State's environment because the proposed regulations are not relative to workers' safety or the environment. This regulatory proposal focuses on an increase in fees to help to reduce the Board's current structural imbalance and does not affect worker safety or the State's environment.

## Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

**Consideration of Alternatives:**

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

No alternatives were considered because the Board's fund will become insolvent in the near future without a fee increase. If the Board reduces its annual expenditures to mitigate the structural fund imbalance, the Board would be forced to cut mission critical functions, which will jeopardize the public safety of California consumers.

**Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:**

No such alternatives have been proposed, however, the Board welcomes comments from the public.