

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

PROPOSED REGULATORY LANGUAGE

Board Name Change and Other Technical Clean Up

Legend: Added text is indicated with an <u>underline</u> . Deleted text is indicated by strikeout .
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Amend Sections 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216, 4218, 4220, 4222, 4226, 4228, 4230, 4234, 4236, 4242, 4244, 4246, 4248, 4250, 4252, 4254, 4255, 4256, 4258, 4259, 4260, 4264, and 4268 of Division 40 of Title 16 of the California Code of Regulations to read as follows:

Article 1. General Provisions

§ 4200. Introduction.

These regulations are adopted by the ~~Naturopathic Medicine Committee~~ (“~~Committee~~”) California Board of Naturopathic Medicine (“Board”) to implement and make specific the Naturopathic Doctors Act, commencing with Section 3610 of the Business and Professions Code.

Note: Authority cited: Section 3622, Business and Professions Code. Reference: Sections 3610 and 3620, Business and Professions Code.

§ 4202. Location of Principal Office.

The principal office of the ~~Naturopathic Medicine Committee~~ California Board of Naturopathic Medicine is located at ~~1300 National Drive, Suite 150~~ 1747 North Market Blvd., Suite 240, Sacramento, California 95834.

Note: Authority cited: Sections 3620 and 3622, Business and Professions Code. Reference: Section 3610, Business and Professions Code.

§ 4204. Filing of Addresses.

Each licensee or certificate holder shall have on file at the principal office of the ~~Committee Board~~ his or her~~their~~ correct mailing and street addresses, which must include a physical business or residence address. In addition, each licensee or certificate holder shall designate an address of record that shall be public information, which may consist of a post office box number or other viable mailing address. Each licensee or certificate holder shall within fourteen (14) days notify the ~~Committee Board~~ in writing of any changes in ~~his or her~~their mailing or street addresses or address of record, giving both the old and new addresses.

Note: Authority cited: Sections 3620 and 3622, Business and Professions Code.
Reference: Section 3624, Business and Professions Code.

§ 4206. Definitions.

For the purpose of the regulations contained in this division, the term:

- (a) “Act” means the provisions of the Naturopathic Doctors Act, Chapter 8.2 (commencing with Section 3610) of Division 2 of the Business and Professions Code.
- (b) “Approved naturopathic medical school” means an educational institution that offers a naturopathic medical educational program approved by the ~~Committee Board~~.
- (c) ~~“Committee”~~ “Board” means the ~~Naturopathic Medicine Committee California Board of Naturopathic Medicine under the Osteopathic Medical Board~~ within the Department of Consumer Affairs.
- (d) “Certificate holder” means a person issued a certificate of registration by the Committee pursuant to Section 3624 of the Code.
- (e) “Citizen” means a resident of California.
- (f) “Code” means the Business and Professions Code.
- (g) “Executive Officer” means the Executive Officer of the ~~Naturopathic Medicine Committee~~ California Board of Naturopathic Medicine.
- (h) For the purposes of subdivision (c) of Section 3644 of the Code, “family member” means the spouse, child, ward (of an appointed guardian within the meaning of

Part 2, Chapter 1 of the Probate Code, beginning with § 1500), parent or sibling of the person providing the aid.

- (i) "Licensee" means a person issued a naturopathic doctor's license by the ~~Committee Board~~.

Note: Authority cited: Sections 3620 and 3622, Business and Professions Code.
Reference: Sections 3610, 3624, 3625, 3630 and 3644, Business and Professions Code.

§ 4208. Complaint Disclosure.

(a) The ~~Committee Board~~ shall establish and maintain a complaint history report to provide members of the public with complaint information that has been filed with the ~~Committee Board~~ against persons that are licensed by the ~~Committee Board~~ or unlicensed persons that are subject to its jurisdiction.

(b) A complaint that is determined to meet the criteria listed in subsection (e) shall be incorporated into the complaint history report no later than ten (10) days after the conditions of disclosure have been met. Any person may request a complaint history report by telephone, facsimile, electronic mail, in person, or in writing. Such requests for information shall be responded to within ten (10) days. Complaint history reports shall be made available to the requester in writing or by telephone.

(c) The complaint history report shall contain information about complaints meeting the conditions of disclosure listed in subsection (e) and, if applicable, shall include:

- (1) License status and history;
- (2) Total number of complaints meeting conditions of disclosure;
- ~~(23)~~ Date and nature of the complaints;
- ~~(34)~~ Total number of disciplinary, enforcement and public corrective actions taken by the ~~Committee Board~~;
- ~~(45)~~ Brief summary of disciplinary, enforcement and public corrective actions taken by the ~~Committee Board~~ and Citations that have been satisfactorily resolved shall be reported as such;
- ~~(56)~~ Current status of pending Accusations, Statement of Issues, and Citations filed by the ~~Committee Board~~;
- ~~(67)~~ Current status of criminal prosecution resulting from a complaint received by the ~~Committee Board~~;

(78) Information which is statutorily mandated to be disclosed;

(89) A description of the type of public information not included in the report, i.e., civil judgements, criminal convictions, unsubstantiated complaints; and

(910) Disclaimers indicating the report does not constitute endorsement or non-endorsement of a person, and that the report may not contain all available information.

(d)(1) The complaint history report shall not include any personal information about the complainant or the person against whom the complaint was filed.

(2) Disclosure of a pending Accusation, Statement of Issues, or Citation against a person under investigation or in the process of legal action shall contain a disclaimer stating that the pending administrative action(s) against the person is/are alleged and no final legal determination has yet been made. The report may also include further disclaimers, or cautionary statements, regarding such pending cases.

(e) The ~~Committee Board~~ shall disclose complaint information in a complaint history report when the ~~Committee Board~~ has determined that the complaint information has a direct and immediate relationship to the health and safety of another person and that one or more of the following have occurred:

(1) The complaint(s) is serious and that disclosure could provide protection to the public;

(2) Disclosure of "pattern" complaints may protect the consumer and/or prevent additional harm to the public;

(3) The complaint(s) has been referred to the Attorney General for filing of an Accusation or Statement of Issues; or

(4) The complaint(s) has been referred to other law enforcement entity for prosecution.

(f) Information about a complaint shall not be disclosed in the complaint history report if it is determined by the Executive Officer that any of the following apply:

(1) Disclosure is prohibited by statute or regulation;

(2) Disclosure might compromise an investigation or prosecution; or,

(3) Disclosure might endanger or injure the complainant or a third party.

Note: Authority cited: Sections 3620 and 3622, Business and Professions Code.
Reference: Sections 129(e), 148 and 3622, Business and Professions Code; and
Section 6253, Government Code.

Article 2. Applications

§ 4210. Place of Filing.

A completed application for a license or certificate of registration shall be filed with the ~~Committee~~ Board at its principal office.

Note: Authority cited: Sections 3620 and 3622, Business and Professions Code.
Reference: Sections 3624 and 3630, Business and Professions Code.

§ 4212. License Application; Process.

(a) A person who desires a license as a naturopathic doctor shall submit an application to the ~~Committee~~ Board on a form prescribed by the ~~Committee~~ Board that includes all of the following:

(1) The applicant's name, mailing and street addresses, telephone numbers, social security number, date and place of birth and the institutions attended that provided naturopathic medical education.

(2) As to any other health care license or certificate currently or previously held by the applicant:

(A) The date that a license or certificate was first issued to the applicant, the name of the body that issued the license or certificate, and the status of the license or certificate.

(B) A statement as to whether or not the applicant has ever been denied a health care license or certificate.

(C) A statement as to whether or not any type of disciplinary action has ever been taken against a health care license or certificate.

(D) A statement as to whether the applicant ever voluntarily surrendered a health care license or certificate.

(3) The date, jurisdiction and official results of any naturopathic licensing examinations taken by the applicant, including the Naturopathic Physicians Licensing Examination (NPLEX).

(4) A statement as to whether or not the applicant has any condition which in any way impairs their ability to practice naturopathic medicine with reasonable skill and safety, including but not limited to a condition that required admission to an inpatient psychiatric treatment facility, an alcohol or chemical substance dependency or addiction, an emotional, mental or behavioral disorder(s) or other condition.

(5) Official transcripts embossed with the registrar's seal from an approved naturopathic medical school indicating that the applicant received a degree or diploma from the school.

(6) A statement as to whether the applicant ever been convicted of any crime other than a minor traffic violation.

(7) A statement as to whether the applicant intends to furnish or order drugs pursuant to Sections 3640.5 or 3640.7 of the Code and Section 4236. An applicant who intends to furnish or order drugs shall submit written evidence to the ~~Bureau~~Board that the licensee has completed at least forty-eight (48) hours of instruction in pharmacology that included the pharmacokinetic and pharmacodynamic principles and properties of the drugs to be ordered or furnished under the provisions of the Act. To comply with this requirement, the instruction must have been offered by one of the following:

(A) An approved naturopathic medical school;

(B) An institution of higher learning that offers a baccalaureate or higher degree in medicine, nursing, pharmacy, or public health; or

(C) An educational institution or provider with standards and course content that are equivalent to the instruction provided by subparagraph (A) or (B), as determined by the ~~Committee~~Board.

(8) Proof of completion of Live Scan fingerprinting or for out-of-state applicants a set of original certified fingerprints and fee specified in Section 4240.

(9) A passport-size photograph of the applicant taken within six months immediately preceding filing the application.

(10) A certification under the penalty of perjury as to the contents of the application and any attachments thereto, signed and dated by the applicant.

(11) A statement authorizing release to the ~~Committee Board~~ of the information enumerated in the application and any attachments thereto.

(12) The application fee as specified in Section 4240. The application fee is not refundable.

Note: Authority cited: Sections 3620, 3622 and 3680, Business and Professions Code.
Reference: Sections 30, 144, 480, 3620, 3630, 3631, 3633, 3680 and 3681, Business and Professions Code.

§ 4214. Certificate of Registration (Section 3624); Application; Duration.

(a) A person who desires a certificate of registration shall submit an application to the ~~Committee Board~~ on a form prescribed by the ~~Committee Board~~ that includes:

(1) The applicant's name, mailing and street addresses, telephone numbers, and social security number; or individual taxpayer identification number.

(2) The following documents from the dean of a naturopathic medical school or naturopathic medical education program approved by the ~~Committee Board~~ pursuant to section 4230 of this article:

(A) A written statement that the applicant holds a faculty position at the school and has the necessary qualifications to hold that position.

(B) A written certification that specifies the applicant will be under ~~his or her~~ the dean's direction and will not be permitted to practice naturopathic medicine unless such practice is incidental to and a necessary part of the applicant's duties in relation to the faculty position.

(C) A list of the applicant's duties in the faculty position.

(3) Documentary evidence that the applicant is either a citizen of the United States or is legally admitted to United States.

(b) Within thirty (30) working days of receipt of an application for a certificate of registration as a part of an appointment to a position pursuant to Section 3624 of the Code, the ~~Committee Board~~ shall inform the applicant in writing that it is either complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application. An application is considered complete if it is in compliance with the requirements of Section 3624 of the Code and this section.

(c) Within sixty (60) days from the date of filing of a completed application, the ~~Committee Board~~ shall inform the dean in writing of its decision regarding the application and, if appropriate, shall issue the faculty member a certificate of registration.

(d) A certificate of registration shall expire two years after the date of issuance. To renew the certificate, the certificate holder, prior to the expiration of the certificate, shall:

(1) Send a written renewal request to the ~~Committee Board~~.

(2) Provide the ~~Committee Board~~ with a statement from the dean of the approved naturopathic medical school that specifies the certificate holder still holds the faculty position for which the certificate was issued and identifies changes in the certificate holder's duties, if any.

(e) The dean of an approved naturopathic medical school shall immediately notify the ~~Committee Board~~ if a certificate holder no longer holds the faculty position for which the certificate was issued.

(f) Renewal of the certificate is the responsibility of the certificate holder.

Note: Authority cited: Sections 3620 and 3622, Business and Professions Code.
Reference: Sections 3620 and 3624, Business and Professions Code.

§ 4216. Review of License Application and Processing Times.

(a) Within one hundred (100) working days after receipt of an application pursuant to section 3630 of the Code for license as a naturopathic doctor, the ~~Committee Board~~ shall inform the applicant, in writing, whether the application is complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application. An application is considered complete if it is in compliance with Sections 3630 through 3633.1 of the Code and Section 4212 of this article.

(b) Within one hundred (100) working days from the date of filing a complete application, the ~~Committee Board~~ shall inform the applicant in writing of the decision regarding the application for licensure as a naturopathic doctor.

Note: Authority cited: Sections 3620 and 3622, Business and Professions Code.
Reference: Sections 30, 144, 480, 700-704, 3620, 3630, 3631, 3633, 3636, 3644 and 3681, Business and Professions Code.

§ 4218. Abandonment of Application.

An application for a license or a certificate shall be deemed abandoned and the application fee forfeited when the applicant fails to complete the application within one year after it is originally received by the ~~Committee~~Board or within one year after the date of the last notification of deficiency, whichever is later.

Note: Authority cited: Sections 142 and 3622, Business and Professions Code.
Reference: Sections 142 and 3630, Business and Professions Code.

Article 3. Examinations

§ 4220. Examination.

(a) An applicant shall successfully pass the licensing examination prior to being licensed. The licensing examination shall consist of Part I and Part II of the Naturopathic Physicians Licensing Examination (NPLEX), as administered by the North American Board of Naturopathic Examiners (NABNE), except that successful completion of Part I of the NPLEX is not required for those individuals issued a waiver by NABNE, or NABNE deems the form of the examination “era appropriate.” The passing score on the NPLEX shall be determined by a criterion-referenced passing score procedure.

(b) The criterion-reference passing score procedure shall meet the standards and guidelines set forth in Section 139 of the Code and the Standards for Educational and Psychological Testing.

(c) Subdivision (a) shall not apply to applicants who have:

(1) Filed an application for licensure with the ~~Committee~~Board no later than December 31, 2007; and,

(2) Graduated from an approved naturopathic medical school prior to January 1, 1986; and,

(3) Passed a naturopathic licensing examination administered by another state. The results of the other state's licensing examination shall be submitted directly to the ~~Committee~~Board by the other state's licensing agency or board.

Note: Authority cited: Section 3622, Business and Professions Code. Reference: Sections 139, 3630, 3631, 3633 and 3633.1, Business and Professions Code.

Article 4. Licenses

§ 4222. Duration and Renewal of License.

- (a) 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.
- (b) A naturopathic doctor's license shall expire at 12 midnight on the last day of the birth month of the licensee during the second year of a two-year term if not renewed.
- (c) To renew an unexpired license, a licensee shall, before the time at which the license would otherwise expire, apply for renewal and pay the renewal fee required in Section 4240.
- (d) The renewal application shall include all of the following:
- (1) A statement by the licensee specifying whether the licensee was convicted of a crime or disciplined by another public agency during the preceding renewal period;
 - (2) A statement by the licensee that ~~he or she has~~ they have complied with the continuing education requirements established pursuant to Section 3635 of the Code, as applicable. The licensee shall attach documentation to the renewal application verifying the successful completion of the required continuing education.
 - (3) A statement by the licensee that ~~his or her~~ their representations on the renewal form are true, correct, and contain no material omissions of fact, signed under penalty of perjury.

Note: Authority cited: Sections 152.6, 3622 and 3680, Business and Professions Code.
Reference: Sections 152.6, 480, 3634 and 3635, Business and Professions Code.

§ 4226. Renewal of Expired License; Late Renewal Fee.

- (a) Except as otherwise provided in the Code, a license which has expired may be renewed upon the filing of an application for renewal and payment of the renewal fee established in Section 4240.

(b) If a license is renewed more than 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the late renewal fee specified in Section 4240.

(c) Renewal under this section shall be effective on the date on which the renewal application is filed, on the date on which the renewal fee is paid, or on the date on which the late renewal fee, if any, is paid, whichever last occurs. If so renewed, the license or certificate shall continue in effect through the period established in Section 4222(b) of this article, when it shall expire if it is not renewed.

(d) An expired license may be renewed at any time within three (3) years after its expiration. As a condition precedent to renewal, the licensee shall be required to pay all accrued and unpaid renewal fees and any late fees.

(e) A license that is not renewed within three (3) years after its expiration may not be renewed or reissued thereafter, but the holder of the license may apply for and obtain a new license if the following requirements are satisfied:

(1) No fact, circumstance, or condition exists which would justify denial of licensure under Section 480 of the Code.

(2) ~~He or she~~ The applicant pays all of the fees which would be required of ~~him or her~~ them if ~~he or she~~ they were then applying for the license for the first time and all renewal and late fees that have accrued since the date on which ~~he or she~~ they last renewed ~~his or her~~ their license.

(3) ~~He or she~~ The applicant otherwise establishes to the satisfaction of the ~~Committee~~ Board that with due regard for the public interest, ~~he or she~~ is they are qualified to practice naturopathic medicine.

The ~~Committee~~ Board may impose conditions on any license issued pursuant to this subsection as it deems necessary, including taking and passing the examination.

Note: Authority cited: Sections 3622, 3634 and 3680, Business and Professions Code.
Reference: Sections 3634 and 3680, Business and Professions Code.

§ 4228. Inactive License.

(a) A licensee in good standing who desires an inactive license shall submit ~~his or her~~ their written request for an inactive license to the ~~Committee~~ Board at its principal office.

(b) In order to restore an inactive license to active status, the licensee shall submit a written request for reactivation to the ~~Committee~~ Board and evidence that the licensee has completed the required number of hours of approved continuing education in

compliance with this article, as applicable for the renewal period preceding the request to reactivate.

(c) The holder of an inactive license shall continue to pay to the ~~Committee Board~~ the required biennial renewal fee.

(d) The ~~Committee Board~~ shall inform a licensee who wishes to activate ~~his or her~~ their license in writing within thirty (30) days of receipt of the request specified in subdivision (b) whether the request is complete and accepted for filing or is deficient and what specific information is required. The ~~Committee Board~~ shall decide within thirty (30) days after the filing of a completed request whether the licensee meets the requirements for activation.

Note: Authority cited: Section 3622, Business and Professions Code. Reference: Sections 700-704 and 3636, Business and Professions Code.

Article 5. Schools

§ 4230. Approved Naturopathic Medical Education Programs and Schools.

(a) Those naturopathic medical education programs that are accredited or candidates for accreditation by the Council on Naturopathic Medical Education (CNME) shall be deemed approved by the ~~Committee Board~~.

(b) A current list of approved naturopathic medical schools shall be maintained on file at the principal office of the ~~Committee Board~~.

(c) Nothing in this section shall be construed to prohibit the ~~Committee Board~~ from disapproving a naturopathic medical school or naturopathic medical educational program that does not comply with the provisions Section 3623 of the Code.

(d) Approval of a naturopathic medical education program under this section ceases automatically upon the termination by CNME of an institution's accreditation or candidacy for accreditation.

Note: Authority cited: Sections 3622 and 3623, Business and Professions Code. Reference: Sections 3620, 3623 and 3630, Business and Professions Code.

Article 6. Practice of Naturopathic Medicine

§ 4234. Naturopathic Medical Services Performable.

(a) A licensee of the ~~Committee~~Board may order and perform the following functions:

(1) Those functions expressly specified in subdivisions (a) and (c) of Section 3640 of the Code.

(2) The independent prescription and administration of epinephrine to treat anaphylaxis, as specified in Section 3640.7 of the Code.

(3) The independent prescription of natural and synthetic hormones, as specified in Section 3640.7 of the Code.

(b) A licensee may order the studies and tests specified in subdivision (b) of Section 3640 of the Code and other diagnostic tests provided that the licensee is clinically competent in this area. A licensee may not interpret the results of the tests or studies so ordered unless the licensee holds an appropriate license.

(c) A licensee may not perform the following functions:

(1) The functions specified in Section 3642 of the Code.

(2) The practice of marriage and family therapy as defined in Section 4980.02 of the Code, unless appropriately licensed.

(3) The practice of clinical social work and psychotherapy as defined in Section 4996.9 of the Code, unless appropriately licensed.

(d) A licensee may ~~the~~ utilize all of the routes of administration specified in subdivision (d) of Section 3640 of the Code except for the ocular and intravenous routes of administration. A licensee may only utilize the ocular and intravenous routes of administration if ~~he or she~~they ~~is~~are clinically competent in those areas.

(e) For the purposes of this section, “clinically competent” means that one possesses and exercises the degree of learning, skill, care and experience ordinarily possessed and exercised by a member of the appropriate discipline in clinical practice.

Note: Authority cited: Sections 3622 and 3640, Business and Professions Code.

Reference: Sections 3640, 3640.5, 3640.7 and 3642, Business and Professions Code.

§ 4236. Furnishing and Ordering of Drugs.

(a) In order to furnish or order drugs or dangerous devices pursuant to Section 3640.5 of the Code or prescribe drugs or dangerous devices pursuant to Section 3640.7 of the Code, a licensee shall first obtain a furnishing number from the ~~Committee Board~~ by submitting written evidence to the ~~Committee Board~~ of all the information required by Section 4212(a)(7).

(b) The furnishing and ordering of drugs or dangerous devices pursuant to Section 3640.5 of the Code by a licensee is conditional upon all the following:

(1) Compliance with subdivisions (a), (b), (c), (d), and (f) of Section 3640.5 of the Code.

(2) Registration with the United States Drug Enforcement Agency, where required.

(3) The issuance of a furnishing number to the licensee by the ~~Committee Board~~.

(c) The prescribing of drugs or dangerous devices pursuant to Section 3640.7 by a licensee is conditional upon the issuance of a furnishing number to the licensee by the ~~Committee Board~~, and registration with the United States Drug Enforcement Agency where required.

(d) A drug order or prescription for a dangerous drug or dangerous device issued by a naturopathic doctor shall comply with the requirements of Section 4040 of the Code.

(e) Furnishing, ordering or prescribing a controlled substance pursuant to Sections 3640.5(f) or 3640.7 of the Code shall be furnished, ordered, or prescribed in compliance with the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code).

Note: Authority cited: Sections 3620, 3622 and 3640.5(g), Business and Professions Code. Reference: Sections 3640.5, 3640.7 and 4040, Business and Professions Code; and Section 11164, Health and Safety Code.

Article 8. Citations

§ 4242. Authority to Issue Citations; Disclosure and Purge of Citation Records.

(a) The Executive Officer of the ~~Committee or Committee's Board~~ or ~~Board's~~ designee may issue a citation to any person who holds a license from the ~~Committee Board~~

for a violation of any provision of the Naturopathic Doctors Act or the regulations contained in this division.

- (b) Every citation that is issued pursuant to this article shall be disclosed to an inquiring member of the public.
- (c) Every citation, once it has been resolved by payment of the administrative fine and/or compliance with the order of abatement, shall be purged four (4) years from the date of resolution, except for citations referenced in subdivision (d).
- (d) No citation shall be purged if issued pursuant to section 4254 of this article, and no citation shall be purged for any citation issued against an unlicensed individual using the title of naturopathic doctor; licensed naturopathic doctor; doctor of naturopathic medicine; doctor of naturopathy; naturopathic medical doctor; or, N.D.
- (e) A citation that has been withdrawn or dismissed shall be purged from the ~~Committee's~~ Board's files as soon as administratively feasible, but not later than one year after the withdrawal or dismissal.

Note: Authority cited: Sections 125.9, 3620 and 3622, Business and Professions Code; and Section 6253, Government Code. Reference: Sections 125.9 and 3620, Business and Professions Code; and Section 6253, Government Code.

§ 4244. Citation Format.

Each citation:

- (a) Shall be in writing;
- (b) Shall describe with particularity the nature of the violation, including specific reference to the provision of the Act or a regulation contained in this division determined to have been violated;
- (c) May contain an assessment of an administrative fine, an order of abatement fixing a reasonable period of time for abatement of the violation, or both an administrative fine and an order of abatement;
- (d) Shall inform the cited person that, if ~~he or she desires~~ they desire a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the ~~Committee~~ Board within thirty (30) days of the issuance of the citation or assessment; and,
- (e) Shall be served upon the licensee personally or by certified mail.

Note: Authority cited: Sections 125.9 and 3622, Business and Professions Code.
Reference: Sections 125.9, 148 and 3620, Business and Professions Code.

§ 4246. Administrative Fines for Citations.

- (a) Where citations issued pursuant to Section 4242 of this article include an assessment of an administrative fine, the fine shall be from \$250 to \$5,000.
- (b) The Executive Officer of the ~~Committee or Committee's~~ Board or Board's designee shall consider the factors specified in Section 4248 when determining the amount of the administrative fine.

Note: Authority cited: Sections 125.9 and 3622, Business and Professions Code.
Reference: Sections 125.9, 148 and 3620, Business and Professions Code.

§ 4248. Citation Factors.

The following factors shall be considered when determining the amount of an administrative fine:

- (a) The good or bad faith exhibited by the cited person.
- (b) The nature and severity of the violation.
- (c) Evidence that the violation was willful.
- (d) History of violations of the same or similar nature.
- (e) The extent to which the cited person has cooperated with the ~~Committee~~ Board.
- (f) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation.
- (g) Such other matters as justice may require.
- (h) For the issuance of a citation that includes an administrative fine in excess of \$2,500, including a citation issued pursuant to section 4254, the ~~Committee~~ Board shall determine that at least one of the following circumstances apply:

- (1) The citation involves a violation that presents an immediate threat to the health and safety of another person.
- (2) The citation involves multiple violations of the Act or these regulations that demonstrate a willful disregard of the law.
- (3) The citation involves a violation or violations perpetrated against a senior citizen or disabled person.

Note: Authority cited: Sections 125.9 and 3622, Business and Professions Code.
Reference: Sections 125.9, 148 and 3620, Business and Professions Code.

§ 4250. Contest of Citations.

(a) In addition to requesting a hearing, as provided for in subsection (b)(4) of Section 125.9 of the Code, the person cited may, within ten (10) days after service or receipt of the citation, notify the Executive Officer of the ~~Committee Board~~ or the ~~Committee's Board's~~ designee in writing of ~~his or her~~ their request for an informal conference with the Executive Officer of the ~~Committee Board~~ or the ~~Committee's Board's~~ designee regarding the acts charged in the citation. The time allowed for the request shall begin the first day after the citation has been served or received.

(b) The Executive Officer of the ~~Committee Board~~ or the ~~Committee's Board's~~ designee shall, within thirty (30) days from receipt of the request, hold an informal conference with the person cited and/or ~~his or her~~ their legal counsel or authorized representative. At the conclusion of the informal conference, the Executive Officer of the ~~Committee Board~~ or the ~~Committee's Board's~~ designee may affirm, modify or dismiss the citation, including any administrative fine levied or order of abatement issued. The Executive Officer of the ~~Committee Board~~ or the ~~Committee's Board's~~ designee shall state in writing the reasons for ~~his or her~~ their action and serve or mail, as provided in subdivision (e) of section 4244, a copy of ~~his or her~~ their findings and decision to the person cited within fifteen (15) days from the date of the informal conference. The decision shall be deemed to be a final order with regard to the citation issued, including the administrative fine levied and the order of abatement.

(c) The person cited does not waive ~~his or her~~ their request for a hearing to contest a citation by requesting an informal conference after which the citation is affirmed by the Executive Officer of the ~~Committee Board~~ or the ~~Committee's Board's~~ designee. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation, including any administrative fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for

the subsequent citation, it shall be requested within thirty (30) days in accordance with subsection (b)(4) of Section 125.9 of the Code.

(d) A cited person may not request an informal conference for a citation which was modified following an informal conference.

Note: Authority cited: Sections 125.9 and 3622, Business and Professions Code.
Reference: Sections 125.9, 148 and 3620, Business and Professions Code.

§ 4252. Compliance with Order of Abatement.

(a) The time allowed for abatement of a violation shall begin the first day after the order of abatement has been served or received. If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond ~~his or her~~ their control after the exercise of reasonable diligence, the person cited may request an extension of time from the Executive Officer of the ~~Committee Board~~ or the ~~Committee's Board's~~ designee in which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) When an order of abatement is not contested or if the order is appealed and the person or entity cited does not prevail, failure to abate the violation charged within the time specified in the citation shall constitute a violation and failure to comply with the order of abatement. Failure to timely comply with an order of abatement or failure to pay the fine included in the citation within the time allowed may result in disciplinary action being taken by the ~~Committee Board~~ or other appropriate judicial relief being taken against the person cited.

Note: Authority cited: Sections 125.9 and 3622, Business and Professions Code.
Reference: Sections 125.9, 148 and 3620, Business and Professions Code.

§ 4254. Unlicensed Practice.

The Executive Officer of the ~~Committee Board~~ or the ~~Committee's Board's~~ designee may issue a citation, in accordance with Section 148 of the Code, against any unlicensed person who is acting in the capacity of a licensee under the jurisdiction of the ~~Committee Board~~ and who is not otherwise exempt from licensure. Each citation may contain an assessment of an administrative fine, or an order of abatement fixing a reasonable period of time for abatement. Administrative fines shall range from \$250 to \$5,000 for each violation. Any sanction authorized for activity under this section shall be separate from and in addition to any other civil or criminal remedies.

Note: Authority cited: Sections 125.9, 148 and 3622, Business and Professions Code.
Reference: Sections 125.9, 148 and 3620, Business and Professions Code.

Article 9. Enforcement

§ 4255. Notice to Consumers of Licensure by the ~~Naturopathic Medicine Committee~~ California Board of Naturopathic Medicine.

(a) A licensed naturopathic doctor engaged in the practice of naturopathic medicine shall provide notice to each patient of the fact that the licensee is licensed and regulated by the ~~Naturopathic Medicine Committee~~ California Board of Naturopathic Medicine. The notice shall include the following statement and information:

“NOTICE TO CONSUMERS
Naturopathic Doctors are licensed and regulated by the
State of California
~~Naturopathic Medicine Committee~~ California Board of Naturopathic Medicine
(916) 928-4785
www.naturopathic.ca.gov”

(b) The notice required by this section shall be provided by one of the following methods:

(1) Prominently posting the notice in an area visible to patients on the premises where the licensee provides the licensed services, in which case the notice shall be in at least 48-point type in Arial font.

(2) Including the notice in a written statement, signed and dated by the patient or the patient's representative and retained in that patient's medical records, stating the patient understands the ~~physician~~ naturopathic doctor is licensed and regulated by the ~~Committee~~ Board.

(3) Including the notice in a statement on letterhead, discharge instructions, or other document given to a patient or the patient's representative, where the notice is placed immediately above the signature line for the patient in at least 14-point type.

Note: Authority cited: Section 3622, Business and Professions Code; Reference: Sections 138 and 680, Business and Professions Code.

§ 4256. Substantial Relationship Criteria.

(a) For the purposes of denial, suspension, or revocation of a license or certificate pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license or certificate under the Naturopathic Doctors Act if to a substantial degree it evidences present or potential unfitness of a person holding such a license or certificate to perform the functions authorized by the license or certificate in a manner consistent with the public health, safety, or welfare.

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the ~~Committee~~ Board shall consider the following criteria:

- (1) The nature and gravity of the offense.
- (2) The number of years elapsed since the date of the offense.
- (3) The nature and duties of a naturopathic doctor.

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

- (1) Any violation of Article 6 of Chapter 1 of Division 2 of the Code.
- (2) Any violation of the provisions of Chapter 8.2 of Division 2 of the Code.

Note: Authority cited: Sections 481 and 3622, Business and Professions Code.
Reference: Sections 141, 480, 481, 490, 493 and 3662, Business and Professions Code.

§ 4258. Criteria for Rehabilitation--Denial of Licensure.

(a) When considering the denial of a license or certificate under Section 480 of the Code on the ground that the applicant has been convicted of a crime, the ~~Committee~~ Board shall consider whether the applicant made a showing of rehabilitation if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the ~~Committee~~ Board shall consider the following criteria:

- (1) The nature and gravity of the crime(s).
- (2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were, and the reason(s) for modification.

(b) If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the ~~Committee~~ Board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the denial is based on professional misconduct, or the denial is based on unprofessional conduct as defined in Section 3662 of the Code, the ~~Committee~~ Board shall apply the following criteria in evaluating the applicant's rehabilitation:

(1) Nature and gravity of the act(s), professional misconduct, unprofessional conduct, or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s), professional misconduct, unprofessional conduct, or crime(s) committed subsequent to the act(s), professional misconduct, unprofessional conduct, or crime(s) under consideration as grounds for denial under Section 480 of the Code.

(3) The time that has elapsed since commission of the act(s), professional misconduct, unprofessional conduct, or crime(s) referred to in paragraph (1) or (2).

(4) Whether the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) The criteria in subdivision (a)(1)-(5), as applicable.

(6) Evidence, if any, of rehabilitation submitted by the applicant.

Note: Authority cited: Sections 481, 482 and 3622, Business and Professions Code.
Reference: Sections 475, 480, 481, 482, 488, 493 and 3662, Business and Professions Code.

§ 4259. Criteria For Rehabilitation – Suspension or Revocation.

(a) When considering the suspension or revocation of a license or certificate on the ground that the holder of the license or certificate has been convicted of a crime, the

~~Committee Board~~ shall consider whether the licensee or certificate holder made a showing of rehabilitation, if the licensee or certificate holder completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the ~~Committee Board~~ shall consider the following criteria:

- (1) The nature and gravity of the crime(s).
- (2) The length(s) of the applicable parole or probation period(s).
- (3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.
- (4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's or certificate holder's rehabilitation.
- (5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for the modification.

(b) If the licensee or certificate holder has not completed the criminal sentence at issue without a violation of parole or probation, the ~~Committee Board~~ determines that the licensee or certificate holder did not make the showing of rehabilitation based on the criteria in subdivision (a), the suspension or revocation is based on a disciplinary action as described in Section 141 of the Code, or the suspension or revocation is based on unprofessional conduct as defined in Section 3662 of the Code, the ~~Committee Board~~ shall apply the following criteria in evaluating the licensee's or certificate holder's rehabilitation:

- (1) The nature and gravity of the act(s), disciplinary action(s), unprofessional conduct, or crime(s) under consideration as grounds for suspension or revocation.
- (2) Evidence of any act(s), disciplinary action(s), unprofessional conduct, or crime(s) committed subsequent to the act(s), disciplinary action(s), unprofessional conduct, or crime(s) under consideration as grounds for suspension or revocation.
- (3) The time that has elapsed since commission of the act(s), disciplinary action(s), unprofessional conduct, or crime(s) referred to in paragraph (1) or (2).
- (4) Whether the licensee or certificate holder has complied with any terms of probation, parole, restitution or any other sanctions lawfully imposed against the licensee or certificate holder.
- (5) The criteria in subdivision (a)(1)-(5), as applicable.

(6) If applicable, evidence of dismissal proceedings pursuant to Section 1203.4 of the Penal Code.

(7) Evidence, if any, concerning the degree to which a false statement relative to application for licensure or certification may have been unintentional, inadvertent, or immaterial.

(8) Efforts made by the licensee or certificate holder either to correct a false statement on an application for licensure or certification or to conceal the truth concerning facts required to be disclosed on an application for licensure or certification.

(9) Evidence, if any, of rehabilitation submitted by the licensee or certificate holder.

(c) When considering a petition for reinstatement of a license or certificate under the provisions of Section 11522 of the Government Code, the ~~Committee~~ Board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in Section 4258 of this article.

Note: Authority cited: Sections 481, 482 and 3622, Business and Professions Code.
Reference: Sections 141, 481, 482, 490, 493 and 3662, Business and Professions Code.

§ 4260. Unprofessional Conduct.

For the purpose of Sections 3662 and 3663 of the Code, unprofessional conduct includes:

- (a) The obtaining of any fee by fraud or misrepresentation.
- (b) The aiding or abetting of any unlicensed person to practice naturopathic medicine.
- (c) The aiding or abetting of a licensed person to practice naturopathic medicine unlawfully.
- (d) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms or prescriptions supplied to patients. This subdivision shall not apply to other services or articles supplied to patients if written disclosure is provided prior to the supplying of the services or articles.

- (e) Advertising in violation of Section 651 of the Code.
- (f) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as defined in Article 7 (commencing with Section 4110) of Chapter 9 of the Code, or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.
- (g) The violation of any of the provisions of the Act or the regulations contained in this division.
- (h) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the naturopathic profession.
- (i) The use of threats or harassment against any patient, licensee or certificate holder for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of the Act or this division or to aid in the compliance.
- (j) The suspension or revocation of a license issued, or discipline imposed, by another state or territory on grounds which would be the basis of discipline in this state.
- (k) The alteration of a patient's record with intent to deceive.
- (l) The presence of unsanitary or unsafe office conditions, as determined by the customary practice and standards of the naturopathic medical profession.
- (m) The abandonment of the patient by the licensee, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another licensee.
- (n) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licensee.
- (o) The use of fraud in the procurement of any license or certificate issued pursuant to the Act.
- (p) Any action or conduct which would have warranted the denial of the license.

- (q) The aiding or abetting of a licensed doctor of naturopathic medicine to practice naturopathic medicine in a negligent or incompetent manner.
- (r) Gross negligence.
- (s) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.
- (1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.
- (2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.
- (t) Incompetence.
- (u) The use of any controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 7 (commencing with Section 4110) of Chapter 9 of the Code, or alcoholic beverages or other intoxicating substances, to an extent or in a manner dangerous or injurious to the licensee, any person, or the public to the extent that such use impairs ~~his or her~~ their ability to conduct with safety to the public the practice authorized by ~~his or her~~ their license or certificate.
- (v) The conviction of a charge of violating any federal statute or rule, or any statute or rule of this state, regulating controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 7 (commencing with Section 4110) of Chapter 9 of the Code, or the conviction of more than one misdemeanor, or any felony, involving the use or consumption of alcohol or drugs, if the conviction is substantially related to the practice of naturopathic medicine. The record of conviction or certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of a violation of this section; a plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

- (w) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience.
- (x) Permitting a student enrolled in an approved naturopathic medical school, under one's supervision or control to perform, or permitting the student to hold ~~himself or herself~~themselves out as competent to perform, professional services beyond the student's level of education, training, or experience.

Note: Authority cited: Sections 3620 and 3622, Business and Professions Code.
Reference: Sections 650, 651, 3660, 3662 and 3663, Business and Professions Code.

Article 11. Naturopathic Corporations

§ 4264. Professional Relationships, Responsibilities and Conduct.

Nothing in the laws or rules relating to naturopathic corporations alters a naturopathic doctor's duties and responsibilities to and professional relationships with ~~his or her~~their patients. Nor do such laws or rules in any way impair the disciplinary powers of the ~~Committee~~Board over its licensees or impair any other law or rule pertaining to the standards of professional conduct of naturopathic doctors.

Note: Authority cited: Sections 3622 and 3671, Business and Professions Code.
Reference: Sections 3670 and 3671, Business and Professions Code.

§ 4268. Shares: Ownership and Transfer.

- (a) The shares of a naturopathic corporation may be issued or transferred only to the issuing corporation or to an appropriately licensed person in accordance with Section 13401.5 of the Corporations Code.
- (b) Where there are two or more shareholders in a corporation and one of its shareholders dies, or becomes a disqualified person as defined in Section 13401(e) of the Corporations Code, for a period exceeding ninety (90) days, ~~his or her~~their shares shall be sold and transferred to a licensed person or to the issuing corporation, on such terms as are agreed upon. Such sale or transfer shall not be later than six (6) months after any such death and not later than ninety (90) days after the date the shareholder became a disqualified person.
- (c) A corporation and its shareholders may, but need not, agree that shares sold to it by a person who becomes a disqualified person may be resold to such person if and when ~~he or she~~they again ~~ceases~~cease to become a disqualified person.

- (d) The restrictions of subdivision (a) where appropriate and, if appropriate, subdivision (c) of this section shall be set forth in the corporation's by-laws or articles of incorporation.
- (e) The income of the corporation attributable to professional, licensed services rendered while a shareholder is a disqualified person shall not in any manner accrue to the benefit of such shareholder or his or her shares.
- (f) The share certificates of the corporation shall contain either:
 - (1) An appropriate legend setting forth the restriction of subdivision (a) where appropriate and where applicable, the restriction of subdivision (c), or
 - (2) An appropriate legend stating that ownership and transfer of the shares are restricted and specifically referring to an identified section of the bylaws or articles of incorporation of the corporation wherein the restrictions are set forth.

Note: Authority cited: Sections 3622 and 3675, Business and Professions Code.
Reference: Sections 3673 and 3675, Business and Professions Code; and Sections 13401 and 13401.5, Corporations Code.