

Dear Senators VANORDEN, Wintrow, and
Representatives VANDER WOUDE, Erickson, Rubel:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Division of Occupational and Professional Licenses - Medicine, Board of:
IDAPA 24.33.04 - Rules for the Licensure of Naturopathic Medical Doctors (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 24-3304-2401).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 08/23/2024. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 09/20/2024.

The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the memorandum attached below.



Terri Kondoff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Division Manager - Matt Drake

DATE: August 7, 2024

SUBJECT: Division of Occupational and Professional Licenses - Medicine, Board of

IDAPA 24.33.04 - Rules for the Licensure of Naturopathic Medical Doctors (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 24-3304-2401)

Summary and Stated Reasons for the Rule

The Division of Occupational and Professional Licenses - Idaho State Board of Medicine submits notice of proposed rulemaking at Docket No. 24-3304-2401. The Division notes that this is a Zero-Based Regulation ("ZBR") chapter rewrite pursuant to Executive Order 2020-01. Accordingly, the Division states that this rulemaking is intended to streamline and simplify existing rules that were previously submitted to and reviewed by the Legislature. The Division also states that the rulemaking reflects a comprehensive review of the chapter in collaboration with the public to streamline the rules, use plain language, and to update the rules to comply with statute. The Division states that no fees are being increased and no new fees are being imposed by the rulemaking.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. The rulemaking is not anticipated to have a fiscal impact.

Statutory Authority

This rulemaking appears to be authorized pursuant to sections 54-5102, 51-5408, and 67-2604, Idaho Code.

cc: Division of Occupational and Professional Licenses - Medicine, Board of
Krissy Veseth

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

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IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.33.04 – RULES FOR THE LICENSURE OF NATUROPATHIC MEDICAL DOCTORS

DOCKET NO. 24-3304-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 6-1002, 54-5102, 54-5105, 54-5108, 67-2614, 67-9406 and 67-9409, Idaho Code.

PUBLIC HEARING SCHEDULE: The public hearing concerning this rulemaking will be held as follows:

24.33.04 – Rules for the Licensure of Naturopathic Medical Doctors
Monday, July 15, 2024 – 3:00 p.m. (MT) Division of Occupational and Professional Licenses Chinden Campus Building 4, Coolwater Room 11341 W. Chinden Blvd. Boise, ID 83714
Virtual Meeting Link
Telephone and web conferencing information will be posted on https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/.

The hearing site will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Board of Medicine is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

N/A. The proposed amendments to the rules do not impose any new or increased fees.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2401. The Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, [Vol. 24-4, p.43](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

N/A. No materials have been incorporated by reference into the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 7th day of June, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-3304-2401
(ZBR Chapter Rewrite.)

24.33.04 – RULES FOR THE LICENSURE OF NATUROPATHIC MEDICAL DOCTORS

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Sections [54-5102](#), [54-5105\(2\)](#), and [54-5108](#) Idaho Code. ~~(3-28-23)()~~

001. SCOPE.

These rules govern the licensure, scope of practice, and discipline of the Naturopathic Medical Doctors in Idaho. (3-28-23)

~~002. 009.~~ **(RESERVED)**

~~010~~**002. DEFINITIONS.**

~~01. Council on Naturopathic Medical Education (CNME). The accrediting organization that is recognized by the United States Department of Education as the accrediting agency for education programs that prepare naturopathic medical doctors. (3-28-23)~~

~~02. North American Board of Naturopathic Examiners (NABNE). The independent, nonprofit organization that qualifies applicants to take the Naturopathic Physicians Licensing Exam and submits those results to the regulatory authority. (3-28-23)~~

~~03. Naturopathic Physicians Licensing Exam (NPLEX). The board examination for naturopathic medical doctors. (3-28-23)~~

~~041. Naturopathic Medical Doctor. A person who meets the definition in Section 54-5101(5), Idaho Code. Is a term interchangeable with E licensed naturopathic physician, physician of naturopathic medicine, naturopathic medical doctor and NMD are interchangeable terms. (3-28-23)()~~

~~05. Primary Care. Comprehensive first contact and/or continuing care for persons with any sign, symptom, or health concern not limited by problem of origin, organ system, or diagnosis. It includes health promotion, disease prevention, health maintenance, counseling, patient education, diagnosis and treatment of acute and chronic illness. It includes collaborating with other health professionals and utilizing consultation or referral as appropriate. (3-28-23)~~

~~04103. – 02099. (RESERVED)~~

~~021100. APPLICATION FOR LICENSURE.~~

~~01. Application Accrediting Organization. Each applicant for licensure will submit a completed written application to the Board on forms prescribed by the Board, together with the nonrefundable application fee. The Council on Naturopathic Medical Education (CNME) is the accrediting organization that is recognized by the United States Department of Education as the accrediting agency for education programs that prepare naturopathic medical doctors. (3-28-23)()~~

~~02. Licensing Examinations. Each applicant must provide certification of passing the following four (4) sections of the Naturopathic Physicians Licensing Exam (NPLEX) exams administered by the North American Board of Naturopathic Examiners (NABNE): (3-28-23)()~~

- ~~a. Part I Biomedical Science; (3-28-23)~~
- ~~b. Part II Core Clinical Science; (3-28-23)~~
- ~~c. Part II Clinical Elective Minor Surgery; and (3-28-23)~~
- ~~d. Part II Clinical Elective Pharmacology. (3-28-23)~~

~~03. Renewal of License. ()~~

~~a. Continuing Medical Education (CME). Every two (2) years, a total of forty-eight (48) hours, twenty (20) of which is pharmacology, of Board approved verifiable CME is required. ()~~

~~101. – 199. (RESERVED)~~

~~022. AUTHORITY TO PRESCRIBE, DISPENSE, ADMINISTER, AND ORDER.~~

~~Naturopathic medical doctors are allowed to prescribe, dispense, administer, and order the following: (3-28-23)~~

~~01. Laboratory and Diagnostic Procedures. Naturopathic medical doctors licensed under this chapter may perform and order physical examinations, laboratory tests, imaging, and other diagnostic tests consistent with primary care. (3-28-23)~~

~~a. All examinations, laboratory, and imaging tests not consistent with primary care must be referred to an appropriately licensed health care professional for treatment and interpretation. (3-28-23)~~

~~b. Any test result or lesion suspicious of malignancy must be referred to the appropriate physician licensed pursuant to Chapter 18, Title 54 Idaho Code. (3-28-23)~~

~~200. PRACTICE STANDARDS.~~

~~021. Naturopathic Formulary. The formulary for naturopathic medical doctors licensed under this chapter consists of non-controlled legend medications (excluding testosterone) deemed appropriate for the primary~~

health care of patients within the scope of practice and training of each naturopathic medical doctor. Prescribing pursuant to the Naturopathic Formulary shall be according to the standard of health care provided by other qualified naturopathic medical doctors in the same community or similar communities, taking into account their training, experience and the degree of expertise to which they hold themselves out to the public. (3-28-23)

032. **Formulary Exclusions.** The naturopathic formulary does not include: (3-28-23)

a. Scheduled, controlled drugs, except for testosterone used in physiologic doses with regular lab assessment for hormone replacement therapy, gender dysphoria, or hypogonadism; (3-28-23)

b. General anesthetics; (3-28-23)

c. Blood derivatives except for platelet rich plasma; or (3-28-23)

d. Systemic antineoplastic agents, except for the following antineoplastic agents used orally or topically for non-cancer purposes: (3-28-23)

i. Fluorouracil (5FU); (3-28-23)

ii. Anastrozole; and (3-28-23)

iii. Letrozole. (3-28-23)

~~023~~**201.** – ~~034~~**299.**(RESERVED)

~~032.~~ **GROUNDS FOR DISCIPLINE OR DENIAL OF A LICENSE.**
~~300.~~ **DISCIPLINE.**

~~01.~~ **Ethical Standards of Practice.** In addition to statutory grounds for discipline set forth in Section 54-5109, Idaho Code, ~~e~~Every person licensed as a naturopathic medical doctor is subject to discipline by the Board under the following grounds must adhere to the following standards: (3-28-23)()

~~01.~~ **Ability to Practice.** Demonstrating a manifest incapacity to carry out the functions of the licensee's ability to practice naturopathic medicine or deemed unfit by the Board to practice naturopathic medicine; (3-28-23)

~~02a.~~ **Controlled Substance or Alcohol Abuse.** Abstain from ~~U~~Using any controlled substance or alcohol in a manner which has or may have a direct and adverse bearing on the licensee's ability to practice naturopathic medicine with reasonable skill and safety; (3-28-23)()

~~03.~~ **Education or Experience.** ~~Misrepresenting educational or experience attainments;~~ (3-28-23)

~~04b.~~ **Medical Records.** ~~Failing to m~~ Maintain adequate naturopathic medical records. Adequate naturopathic medical records mean legible records that contain subjective information, an evaluation or report of objective findings, assessment or diagnosis, and the plan of care; (3-28-23)()

~~05.~~ **Untrained Practice.** ~~Practicing in an area of naturopathic medicine for which the licensee is not trained;~~ (3-28-23)

~~06.~~ **Sexual Misconduct.** ~~Committing any act of sexual contact, misconduct, exploitation, or intercourse with a patient or former patient or related to the licensee's practice of naturopathic medicine;~~ (3-28-23)

~~a.~~ **Consent of the patient shall not be a defense.** (3-28-23)

~~b.~~ **Subsection 032.06 does not apply to sexual contact between a naturopathic medical doctor and the naturopathic medical doctor's spouse or a person in a domestic relationship who is also a patient.** (3-28-23)

~~e.~~ **A former patient includes a patient for whom the naturopathic medical doctor has provided**

~~naturopathic medical services within the last twelve (12) months. Sexual or romantic relationships with former patients beyond that period of time may also be a violation if the naturopathic medical doctor uses or exploits the trust, knowledge, emotions, or influence derived from the prior professional relationship with the patient. (3-28-23)~~

~~07c. Failure to Report~~ ~~ing. Failing to r~~ Report to the Board any known act or omission of a licensee, applicant, or any other person, that violates any of the rules promulgated by the Board under the authority of the act; (3-28-23)()

~~08d. Interfering with or Influencing~~ Disciplinary Outcomes. ~~May not Interfering interfere~~ with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient, Board or naturopathic medical board, Board staff, hearing officer, or witness in an attempt to influence the outcome of a disciplinary proceeding, investigation or other legal action; (3-28-23)()

~~09e. Failure to Obey Laws and Rules. Failing to o~~ Obey federal and local laws and rules governing the practice of naturopathic medicine. (3-28-23)()

033. CONTINUING MEDICAL EDUCATION (CME) REQUIREMENTS.

~~01. Renewal. Every two (2) years, a total of forty-eight (48) hours (twenty (20) of which is pharmacology) of Board approved CME is required as part of the naturopathic medical doctor's license renewal. (3-28-23)~~

~~02. Verification of Compliance. Licensees must, at license renewal, provide a signed statement to the Board indicating compliance. The Board, in its discretion, may require such additional evidence as it deems necessary to verify compliance. (3-28-23)~~

~~034~~ ~~301. – 040~~ ~~399.~~ (RESERVED)

~~041~~ ~~400.~~ FEES.

~~Nonrefundable f~~ees are shown in the following table as follows:

Fees – Table (Non-Refundable)	
Licensure Fee	Not more than \$600
Annual License Renewal Fee	Not more than \$300
Reinstatement Fee	Not more than \$200
Inactive License Renewal Fee	Not more than \$100
Duplicate Wallet License Fee	Not more than \$20
Duplicate Wall Certificate Fee	Not more than \$50

(3-28-23)()

~~042~~ ~~401. – 999.~~ (RESERVED)