

Dear Senators MARTIN, Souza, Jordan, and
Representatives WOOD, Wagoner, Chew:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Board of Medicine:

IDAPA 22.01.07 - Rules for the Licensure of Naturopathic Medical Doctors (New Chapter, Fee Rule)
- Proposed Rule (Docket No. 22-0107-1901).

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 12/19/2019. 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 01/22/2020.

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.



Eric Milstead
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: Legislative Drafting Attorney - Matt Drake

DATE: December 02, 2019

SUBJECT: Board of Medicine

IDAPA 22.01.07 - Rules for the Licensure of Naturopathic Medical Doctors (New Chapter, Fee Rule) - Proposed Rule (Docket No. 22-0107-1901)

Summary and Stated Reasons for the Rule

The Board of Medicine submits notice of proposed fee rulemaking. The proposed rules are promulgated in response to HB 244 of 2019, which established the licensure of Naturopathic Medical Doctors, effective July 1, 2020. The proposed rules, in concert with HB 244, govern licensing and continuing medical education requirements, scope of practice, and discipline. The rules also clarify the authority to conduct certain procedures as well as the naturopathic formulary.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. There is no fiscal impact.

Statutory Authority

The rulemaking appears to be authorized pursuant to section 54-5105(2), Idaho Code.

cc: Board of Medicine
Anne Lawler

*** 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.

IDAPA 22 – BOARD OF MEDICINE

22.01.07 – RULES FOR THE LICENSURE OF NATUROPATHIC MEDICAL DOCTORS

DOCKET NO. 22-0107-1901 (NEW CHAPTER, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency initiated proposed rulemaking procedures. The action is authorized Pursuant to Section 54-5105(2), Idaho Code.

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

PUBLIC HEARING

Tuesday, November 7, 2019 – 11:00 a.m. - 12:00 p.m. (MST)

**Idaho State Board of Medicine
SpringHill Suites Marriott Boise Parkcenter
424 E. Parkcenter Blvd., Clearwater Room
Boise, Idaho 83706**

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

During the 2019 Legislative Session, the Legislature passed a law for the licensure of 4-year post-graduate educated Naturopathic Medical Doctors. Eligible Naturopathic Medical Doctors will be licensed beginning July 1, 2020, under the Board of Medicine. The Naturopathic Medical Board, a board formed under the Board of Medicine on July 1, 2019, proposes Rules that, in concert with the Naturopathic Medicine Licensing statute, will govern the licensure, scope of practice, and discipline of the Naturopathic Medical Doctors.

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

When the Naturopathic Medical Board begins licensing Naturopathic Medical Doctors beginning July 1, 2020, the Board will charge a licensure fee of no more than \$600 per applicant as described in the Fee Table of these Rules. The other fees for license renewal, reinstatement, inactive license, and duplicate wallet card and wall certificate are also defined in these Proposed Rules.

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 resulting from this rulemaking:

Not applicable. The Board of Medicine is a dedicated funds agency, and therefore, there will be no fiscal impact to the state general fund. This rule provides for licensure of Naturopathic Medical Doctors, which will increase the Board's income by the licensure fees minus any expenses and administrative costs for licensure.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was conducted with interested parties, including the state naturopathic association and state medical association, and such negotiations shall continue through the comment period and hearing.

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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Anne K. Lawler, Executive Director, (208) 327-7000.

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 November 27, 2019.

Dated this 19th day of September, 2019.

Anne K. Lawler, JD, RN, Executive Director
Idaho State Board of Medicine
345 W. Bobwhite Court, Suite 150
Boise, Idaho 83706
Phone (208) 327-7000
Fax (208) 327-7005

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 22-0107-1901
(New Chapter)

IDAPA 22 – BOARD OF MEDICINE

22.01.07 – RULES FOR THE LICENSURE OF NATUROPATHIC MEDICAL DOCTORS

000. LEGAL AUTHORITY.

Pursuant to Section 54-5104(2), Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules to implement provisions of the Naturopathic Medicine Act. ()

001. TITLE AND SCOPE.

These rules are titled IDAPA 22.01.07, “Rules for the Licensure of Naturopathic Medical Doctors,” and governs the licensure, scope of practice, and discipline of the Naturopathic Medical Doctors. ()

002. – 009. (RESERVED)

010. 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. ()

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. ()

03. Naturopathic Physicians Licensing Exam (NPLEX). The board examination for naturopathic medical doctors. ()

04. Naturopathic Medical Doctor. A person who meets the definition in Section 54-5101(5), Idaho Code. Licensed naturopathic physician, physician of naturopathic medicine, naturopathic medical doctor and NMD are interchangeable terms. ()

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. ()

011. – 019. (RESERVED)

020. GENERAL QUALIFICATIONS FOR LICENSURE.

Requirements for licensure and renewal are found in Title 54, Chapter 51, Idaho Code, IDAPA 22.01.05, “General Provisions of the Board of Medicine,” and on Board-approved forms. ()

021. APPLICATION FOR LICENSURE.

01. Application. 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. ()

02. Licensing Examinations. Each applicant must provide certification of passing the following four (4) NPLEX exams: ()

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

03. Waiver of Exam. The Director may waive the NPLEX Pharmacology exam requirement if a newly endorsed naturopathic physician can show that they have substantial experience in prescribing prescription medicines under the laws of another jurisdiction that has standards and qualifications for a naturopathic physician to prescribe prescription medications at least equal to those required under these rules. ()

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

Naturopathic medical doctors are allowed to prescribe, dispense, administer, and order the following: ()

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. ()

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. ()

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. ()

02 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. ()

03. Formulary Exclusions. The naturopathic formulary does not include: ()

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

- b.** General anesthetics; ()
- c.** Blood derivatives except for platelet rich plasma; or ()
- d.** Systemic antineoplastic agents, except for the following antineoplastic agents used orally or topically for non-cancer purposes: ()
 - i.** Fluorouracil (5FU); ()
 - ii.** Anastrozole; and ()
 - iii.** Letrozole. ()

023. – 031. (RESERVED)

032. GROUNDS FOR DISCIPLINE OR DENIAL OF A LICENSE.

In addition to statutory grounds for discipline set forth in Section 54-5109, Idaho Code, every person licensed as a naturopathic medical doctor is subject to discipline by the Board under the following grounds: ()

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; ()

02. Controlled Substance or Alcohol Abuse. 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; ()

03. Education or Experience. Misrepresenting educational or experience attainments; ()

04. Medical Records. Failing to 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; ()

05. Untrained Practice. Practicing in an area of naturopathic medicine for which the licensee is not trained; ()

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; ()

a. Consent of the patient shall not be a defense. ()

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. ()

c. 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. ()

07. Failure to Report. Failing to 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; ()

08. Interfering with or Influencing Disciplinary Outcome. Interfering 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; ()

09. Failure to Obey Laws and Rules. Failing to obey federal and local laws and rules governing the practice of naturopathic medicine; or ()

10. Lawfully Present. Failing to be lawfully present in the United States. ()

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. ()

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. ()

034. – 040. (RESERVED)

041. FEES.

Nonrefundable fees are shown in the following table:

Fee Table	
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 License Fee	Not more than \$50

()

042. – 999. RESERVED

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: IDAHO STATE BOARD OF MEDICINE

Agency Contact: Anne K. Lawler **Phone:** (208) 327-7000

Date: September 23, 2019

IDAPA, Chapter and Title Number and Chapter Name:

[IDAPA 22.01.07, Rules of the Licensure of Naturopathic Medical Doctors](#)

Fee Rule Status: **Proposed** **Temporary**

Rulemaking Docket Number: 22-0107-1901

STATEMENT OF ECONOMIC IMPACT:

During the 2019 Session, the Legislature voted to approve licensure of 4-year graduated educated naturopathic medical doctors (NMDs) under the Board of Medicine to provide additional primary care medical providers in the state of Idaho. Such licensure will begin on July 1, 2020.

The Board of Medicine is a dedicated funds agency that operates exclusively on licensure fees collected from applicants and licensees. The Board of Medicine takes no money from the General Fund.

The Board has set initial licensure fees for NMDs at no more than \$600. The board expects initial application numbers to be somewhere between 25-50 NMDs. The initial licensure fee will pay the expected costs of Board staff time to process licensure applications, along with the cost of the first year of licensure and any related administrative costs. Renewal licensure, which will not take place until 2021, will be at a rate of no more than \$300/year per licensee, again to cover the costs of staff time for processing renewal applications, along with the cost of the one or two-year renewal period for the license itself.

Other than licensure fees there will be no further costs related to this rules chapter. In addition, costs created by this rules chapter will impact only licensees and applicants for licensure and/or the employers of NMDs, if the employers fund their licensure and license renewal. Otherwise, this rules chapter does not create a financial impact the public or the private sector.

This rules chapter will eventually create a fiscal benefit to the public once the NMDs are licensed by the Board and are therefore eligible to bill insurance for the primary care medical services that these professionals will provide.