

STATE OF WISCONSIN
NATUROPATHIC MEDICINE EXAMINING BOARD

IN THE MATTER OF RULEMAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : NATUROPATHIC MEDICINE
NATUROPATHIC MEDICINE : EXAMINING BOARD
EXAMINING BOARD : ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS 071-23, was approved by the Governor on September 21, 2023, published in Register 813B on September 25, 2023, and approved by the Naturopathic Medicine Examining Board on October 11, 2023. This emergency rule was approved by the Governor on January 4, 2024.

ORDER

An order of the Naturopathic Medicine Examining Board to create Nat Med 1 relating to licensure requirements for naturopathic doctors and limited-scope naturopathic doctors.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The Naturopathic Medicine Examining Board finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

2021 Wisconsin Act 130 created the Naturopathic Medicine Examining Board and requires creating administrative rules to establish licensure requirements, discipline, and practice standards for naturopathic doctors and limited-scope naturopathic doctors. The Act also includes a provision that all professionals currently practicing naturopathic medicine be licensed beginning March 1, 2024. Before licenses may be issued, the board needs to establish certain standards for initial licensure of naturopathic doctors and limited-scope naturopathic doctors by rule. An expeditious promulgation of the proposed rule is in the best interest of Wisconsin's public peace, health, safety, or welfare, as it will help ensure continuity of care for individuals already under the care of naturopathic doctors.

ANALYSIS

Statutes interpreted:

Chapter 466, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), 466.03 (1) and (2), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., states that each examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 227.11 (2) (a), Stats., states that “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute...”

Section 466.03 (1), Stats., states that the Naturopathic Medicine Examining Board shall establish administrative rules to determine a code of ethics governing professional conduct, standards of practice, continuing education requirements, and examination standards.

Section 466.03 (2), Stats., states that the Naturopathic Medicine Examining Board may establish administrative rules to further interpret s. 466.01 (6) (a) and (c) to identify diagnostic, therapeutic, or other practices or procedures that may be used by naturopathic doctors; expressly prohibit diagnostic, therapeutic, or other practices; establish character and fitness requirements for initial licensure or renewal of a license and evidence required to demonstrate satisfaction of such requirements; establish physical and mental competency requirements for initial licensure or renewal of a license and evidence required to demonstrate satisfaction of such requirements; establish evidence of professional competency requirements for initial licensure or renewal of a license including evidence relating to an applicant’s licensure status in other states; establish additional clinical, practical, or residency requirements for initial licensure; and adopt minimum malpractice insurance requirements for naturopathic doctors and limited-scope naturopathic doctors.

Related statute or rule:

None.

Plain language analysis:

The objective of the proposed emergency rule is to implement the statutory changes from 2021 Wisconsin Act 130, which created the Naturopathic Medicine Examining Board. The act allows for the licensure, discipline, and practice of naturopathic doctors and limited-scope naturopathic doctors but requires the board to establish certain licensure requirements by rule before licenses can be issued. Through this emergency rule the board is creating the required rules to allow licensure of naturopathic doctors and limited-scope naturopathic doctors prior to the date when licenses become mandatory.

Summary of, and comparison with, existing or proposed federal regulation:

N/A.

Comparison with rules in adjacent states:

Illinois:

Naturopathic doctors are not currently licensed in the state of Illinois. Bills have been introduced in the state legislature to create laws that will allow the licensure of naturopathic doctors.

Iowa:

Iowa does not currently license naturopathic doctors. The state is currently working on advocacy initiatives to start bill projects that will allow for the licensure of naturopathic doctors.

Michigan:

Michigan does not currently license naturopathic doctors. The state is currently working on advocacy initiatives to start bill projects that will allow for the licensure of naturopathic doctors.

Minnesota:

Minnesota naturopathic doctors are regulated under the Minnesota Board of Medical Practice Registered Naturopathic Doctor Advisory Council. The Minnesota Statutes establish definitions, scope of practice, professional conduct, registration and continuing education requirements, renewal, and discipline for the practice of naturopathic medicine. [MN Stats. ch. 147E]

Summary of factual data and analytical methodologies:

The Board reviewed the statutory changes from 2021 Wisconsin Act 130 and promulgated rules as needed for the profession. While promulgating these rules, the Board referenced chapters from the Board of Nursing, the Medical Examining Board, and the Dentistry Examining Board, as well as the Physician Assistant Affiliated Credentialing Board, among other sources.

Fiscal Estimate:

The Fiscal Estimate will be attached upon completion.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114(1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-2112.

Agency contact person:

Sofia Anderson, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; email at DSPSAdminRules@wisconsin.gov

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Sofia Anderson, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing, held on a date to be determined, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chapter Nat Med 1 is created to read:

Nat Med 1
AUTHORITY, DEFINITIONS, AND LICENSURE REQUIREMENTS

Nat Med 1.01. Authority. The rules in this chapter are adopted by the naturopathic medicine examining board pursuant to the authority delegated by ss. 15.08 (5) (b), 227.11 (2), and 466.03, Stats.

Nat Med 1.02. Definitions. As used in this chapter:

- (1) “Board” means the naturopathic medicine examining board.
- (2) “Department” means the department of safety and professional services.
- (3) “Jurisprudence exam” means the board approved examination on the state law related to the practice of naturopathic medicine.
- (4) “Licensee” means a person licensed to practice as a naturopathic doctor or limited-scope naturopathic doctor in this state.
- (5) “Limited-scope naturopathic doctor” has the meaning given in s. 466.01 (3), Stats.
- (6) “Naturopathic doctor” has the meaning given in s. 466.01 (5), Stats.
- (7) “Naturopathic medicine” has the meaning given in s. 466.01 (6), Stats.
- (8) “NPLEX” means the Naturopathic Physicians Licensing Examination administered by the North American Board of Naturopathic Examiners.

Nat Med 1.03 Licensure requirements for naturopathic doctors. An applicant for licensure as a naturopathic doctor shall submit all of the following requirements:

(1) A complete application for the license on a form provided by the department including any information required by the board to determine an applicant's minimal competency to practice.

Note: Instructions for applications can be found on the department of safety and professional services' website at <http://dsps.wi.gov>.

(2) The fee specified in s. 440.05 (1), Stats.

(3) Subject to ss. 111.321, 111.322 and 111.335, Stats, evidence satisfactory to the board that the applicant does not have an arrest or a conviction record.

(4) Evidence satisfactory to the board that the applicant has complied with at least one of the educational requirements specified in s. 466.04 (1) (d), Stats.

(5) Evidence satisfactory to the board that the applicant has satisfied the examination requirements under s. Nat Med 1.06.

(6) If required by the board, completion of an oral examination as specified under s. Nat Med 1.07.

Nat Med 1.04 Licensure requirements for limited-scope naturopathic doctors. An applicant for licensure as a limited-scope naturopathic doctor shall submit all of the following requirements:

(1) A complete application for the license on a form provided by the department including any information required by the board to determine an applicant's minimal competency to practice.

Note: Instructions for applications can be found on the department of safety and professional services' website at <http://dsps.wi.gov>.

(2) The fee specified in s. 440.05 (1), Stats.

(3) Subject to ss. 111.321, 111.322 and 111.335, Stats., evidence satisfactory to the board that the applicant does not have an arrest or a conviction record.

(4) Evidence satisfactory to the board that the applicant has satisfied the requirements under s. 466.04 (2) (b) 4. and 5., Stats.

(5) Evidence satisfactory to the board that the applicant has been continually practicing naturopathic medicine in this state for at least 10 years preceding the date of application to obtain a limited-scope naturopathic doctor license.

(6) A signed statement by the applicant committing to completing a jurisprudence exam approved by the board before the end of the first renewal period. The passing score is 85 percent.

(7) Evidence satisfactory to the board that the applicant has exhibited a record of safety in the practice of naturopathic medicine or naturopathy.

(8) If required by the board, completion of an oral examination as specified under s. Nat Med 1.07.

Nat Med 1.05 Reciprocal credentials for service members, former service members, and their spouses. A reciprocal license to practice naturopathic medicine shall be granted

to a service member, former service member, or the spouse of a service member or former service member who the board determines meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the board may request verification necessary to make a determination under this section.

Note: Instructions for applications can be found on the department of safety and professional services' website at <http://dsps.wi.gov>.

Nat Med 1.06 Examinations.

(1) EXAMINATIONS REQUIRED. Each applicant for licensure under s. Nat Med 1.03 must provide evidence satisfactory to the board that the applicant has passed all of the following:

(a) One of the following for the competency based exam:

1. Part I Biomedical Science Examination and Part II Core Clinical Science Examination of the NPLEX.

2. For graduates of approved naturopathic medical programs prior to 1978, a competency-based state naturopathic medicine licensing exam or equivalent Canadian provincial licensing exam for the practice of naturopathic medicine approved by the board.

(b) Part II Core Clinical Science Examination of the NPLEX for the pharmacology exam.

(c) A signed statement by the applicant committing to completing a jurisprudence exam approved by the board before the end of the first renewal period. The passing score is 85 percent.

(2) FAILURE AND REEXAMINATION. If an applicant has failed any of the exams required under sub. (1) 4 or more times in this state or another licensing jurisdiction in the United States or Canada, the board may require the applicant to submit evidence satisfactory to the board of further professional training or education in examination areas in which the applicant had previously demonstrated deficiencies. If the evidence provided by the applicant is not satisfactory to the board, the board may require the applicant to obtain further professional training or education as the board deems necessary to establish the applicant's fitness to practice naturopathic medicine in this state. In order to determine any further professional training or education requirement, the board shall consider any information available relating to the quality of the applicant's previous practice, including the results of the applicant's performance on any oral examination required under s. Nat Med 1.07.

Nat Med 1.07 Oral Examination. **(1)** An applicant may be required to complete an oral examination if the applicant:

(a) Has a medical condition which in any way impairs or limits the applicant's ability to practice naturopathic medicine with reasonable skill and safety.

(b) Uses chemical substances so as to impair in any way the applicant's ability to practice naturopathic medicine with reasonable skill and safety.

(c) Has been disciplined or had licensure denied by a licensing or regulatory authority in this state or another jurisdiction.

(d) Has been found to have been negligent in the practice of naturopathic medicine or has been a party in a lawsuit in which it was alleged that the applicant had been negligent in the practice of naturopathic medicine.

(e) Has been convicted of a crime the circumstances of which substantially relate to the practice of naturopathic medicine.

(f) Has been diagnosed as suffering from pedophilia, exhibitionism, or voyeurism.

(g) Has engaged in the illegal use of controlled substances.

(h) Has been subject to adverse formal action during the course of naturopathic medicine education, postgraduate training, hospital practice, or other naturopathic medicine employment.

(i) Has not practiced naturopathic medicine for a period of 5 years or more prior to application unless the applicant has graduated from a school of naturopathic medicine within that period.

(j) Has failed the national examination 4 times or more and the board has determined that further examination is required.

(2) The board will notify each applicant required to complete an oral examination of the time and place scheduled for that applicant's examination. Failure of an applicant to appear for an examination as scheduled may void that applicant's application and require the applicant to reapply for licensure unless prior scheduling arrangements have been made with the board by the applicant.

(3) An oral examination of an applicant is conducted by the board. The purpose of an oral exam is to evaluate the applicant's eligibility for a license.

(4) The grade of an exam shall be the applicant's final grade for the oral examination under this section. The passing grade for an oral exam under this section is 90 percent.

SECTION 2. EFFECTIVE DATE. This emergency rule shall take effect upon publication in the official state newspaper.

(END OF TEXT OF RULE)