

**State of California
Office of Administrative Law**

In re:
Naturopathic Medicine Committee

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections: 4259
Amend sections: 4256, 4258
Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

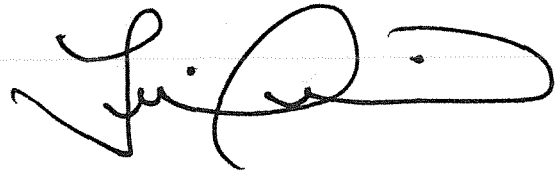
Government Code Section 11349.3

OAL Matter Number: 2021-0309-02

OAL Matter Type: Regular Resubmittal (SR)

This rulemaking action by the Naturopathic Medicine Committee adopts criteria to evaluate the rehabilitation of an applicant or licensee when considering the denial, suspension, or revocation of a license or certificate. The action also includes criteria for determining when a crime is substantially related to the qualification, functions, and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed in compliance with Assembly Bill 2138 (Stats. 2018, ch. 995).

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 8/4/2021.



Date: August 4, 2021

Lindsey S. McNeill
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Rebecca Mitchell, Executive
Officer

Copy: Rebecca Mitchell

NOTICE PUBLICATION REGULATIONS SUBMISSION

STD. 400 (REV. 10/2019)

RESUBMITTAL

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z- 2020-0831-02S	REGULATORY ACTION NUMBER 2021-0309-02SR	EMERGENCY NUMBER 2SR
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For use by Office of Administrative Law (OAL) only	
NOTICE AGENCY WITH RULEMAKING AUTHORITY Naturopathic Medicine Committee	REGULATIONS 2021 MAR -9 P 4: 52 OFFICE OF ADMINISTRATIVE LAW

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

AUG 04 2021

1:41 PM

AGENCY WITH RULEMAKING AUTHORITY Naturopathic Medicine Committee	AGENCY FILE NUMBER (if any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Substantial Relationship and Rehabilitation Criteria	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2020-0831-02S
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	ADOPT 4259	AMEND 4256, 4258	REPEAL
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	per agency request 8/2/21		
TITLE(S) Title 16			

3. TYPE OF FILING	per agency request 8/2/21		
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)	11/10/2020 - 11/25/2020
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5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)	per agency request 8/2/21
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____	

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY	per agency request 8/2/21
<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input checked="" type="checkbox"/> Other (Specify) Kimberly Kirchmeyer, Director, Department of Consumer Affairs	

7. CONTACT PERSON Rebecca Mitchell	TELEPHONE NUMBER (916) 928-5862	FAX NUMBER (Optional) (916) 928-4787	E-MAIL ADDRESS (Optional) rebecca.mitchell@dca.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Rebecca Mitchell</i>	DATE 03/01/2021
TYPED NAME AND TITLE OF SIGNATORY Rebecca Mitchell, Executive Officer	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

AUG 04 2021

Office of Administrative Law

**Title 16. Professional and Vocational Regulations
Division 40. Naturopathic Medicine Committee**

ORDER OF ADOPTION

Amend Section 4256 in Article 9 of Division 40 of Title 16 of the California Code of Regulations to read as follows:

§ 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. ~~Such crimes or acts shall include but not be limited to the following:~~

~~(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Naturopathic Doctors Act.~~

~~(b) A conviction of child abuse.~~

~~(c) A conviction as a sex offender.~~

~~(d) The conviction of any crime involving the sale, gift, administration, or furnishing of narcotics, dangerous drugs or dangerous devices, as defined in Section 4022 of the Code.~~

~~(e) A conviction for assault and/or battery, lewd conduct, or driving under the influence of drugs or alcohol.~~

~~(f) A conviction of a crime involving fiscal dishonesty.~~

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the Committee 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.

**California Code of Regulations
Title 16. Professional and Vocational Regulations
Division 40. Naturopathic Medicine Committee**

Amend Section 4258 in Article 9 of Division 40 of Title 16 of the California Code of Regulations to read as follows:

§ 4258. Criteria for Rehabilitation – Denial of Licensure.

(a) ~~When considering the denial of a license under Section 480 of the Code, the Committee, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license will consider the following criteria:~~

- ~~(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.~~
- ~~(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.~~
- ~~(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).~~
- ~~(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.~~
- ~~(5) Evidence, if any, of rehabilitation submitted by the applicant.~~

(b) ~~When considering the suspension or revocation of a license on the grounds that a naturopathic doctor has been convicted of a crime, the Committee, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:~~

- ~~(1) Nature and severity of the act(s) or offense(s).~~
- ~~(2) Total criminal record.~~
- ~~(3) The time that has elapsed since commission of the act(s) or offense(s).~~
- ~~(4) Whether the licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the licensee.~~

(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 -~~3660~~, and 3662, Business and Professions Code.

(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 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.