

## TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS

### DIVISION 40. NATUROPATHIC MEDICINE COMMITTEE

Notice published Friday, February 26, 2021

#### NOTICE OF PROPOSED RULEMAKING REGARDING NOTICES TO CONSUMERS

The Naturopathic Medicine Committee (Committee) proposes to take action to adopt section 4255 of Article 9 of Division 40 of Title 16 of the California Code of Regulations (CCR) regarding notice to consumers of licensure by the Naturopathic Medicine Committee as described in the Informative Digest below after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING

The Committee has not scheduled a public hearing on this proposed action. However, the Committee will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Persons" in this Notice.

#### WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Committee. Please submit written comments, including those sent by mail, facsimile, or email to the addresses listed under "Contact Persons" in this Notice. The written comment period closes at **5:00 p.m. on Tuesday, April 13, 2021**. The Committee will consider only comments received at the Committee's office by that time. Written or oral comments also may be received by the Committee at a hearing, if any is scheduled.

#### AVAILABILITY OF MODIFICATIONS

The Committee, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in the Notice as the "Contact Persons" and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

## AUTHORITY AND REFERENCE

Business and Professions Code (BPC) sections 138 and 3622 authorize the Committee to adopt the proposed regulation, which implements, interprets, and makes specific BPC section 138.

## INFORMATIVE DIGEST

The Committee licenses naturopathic medicine doctors who are primary health care practitioners that provide health care services. (BPC sections 3630, 3640, 3643, and 3645.) Existing law (BPC sections 138) mandates that every board within the Department of Consumer Affairs, as defined in BPC section 22, shall initiate the process of adopting regulations to require its licensees, as defined in BPC section 23.8, to provide notice to their clients or customer that the practitioner is licensed by the state. The Committee proposes to adopt regulations (16 CCR 4255) that set forth its notice to consumers of licensure by the Naturopathic Medicine Committee.

The primary purpose of these proposed regulations is to implement, interpret, and make specific the provisions of BPC section 138 that require providing notification to consumers that naturopathic doctors are licensed and regulated by the Committee, and to provide consumers with the Committee's website address, where consumers can verify the status of a naturopathic doctor license, or file a complaint against a naturopathic doctor.

The regulation provides three options for providing notice:

- (1) signage with specific wording and font size;
- (2) written notice that the patient or patient's representative signs acknowledging notice which is kept in the patient's medical record; or
- (3) written notice that appears in discharge and similar paper work provided to the patient or their representative.

### *Anticipated Benefits of the Proposed Regulation:*

Public protection is the highest priority of the Committee and it is enhanced when patients and other interested parties are made aware of the Committee's existence at the place of service. The vast majority of enforcement and disciplinary actions are the result of consumer complaints. Providing consumers with the information about how the Committee has overall regulatory oversight of naturopathic doctors and providing the Committee's website address where consumers can file complaints regarding naturopathic doctors will assist the Committee in its protection of consumers. If consumers are provided the website address where they can file complaints online, they can protect themselves and others from naturopathic doctors who may violate the Naturopathic Doctors Act.

The proposed regulation is intended to provide further protection of consumers through increasing awareness of the Committee's oversight and the consumer protection tools that are available on the Committee's website to assist consumers in making informed choices about the doctors who provide care and treatment. Adoption of the proposed language will

promote better communication with the public by providing the Committee's contact information, purpose, and a website address where the Committee has provided consumer protection tools for the public. The notice would also promote transparency in both the government and the profession by publicizing the Committee's responsibility to regulate the profession and protect the public.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

During the process of developing these regulations and amendments, the Committee conducted a search of any similar regulations of this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

The Committee has made the following initial determinations:

1. Mandate on local agencies and school districts: None
2. Costs or savings to any state agencies: The Committee anticipates that there would not be an increased cost to the state as a result of adopting these sections identified in the regulatory proposal.
3. Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None
4. Other nondiscretionary costs or savings imposed on local agencies: None
5. Costs or savings in federal funding to the state: None
6. Cost impacts on representative private person or business: The Committee is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
7. Statewide adverse economic impact directly affecting businesses and individuals: None
8. Significant effect on housing costs: None

Fiscal Impact:

The Committee does not anticipate any increase in workload or costs to the state as a result of the proposed regulation. The Board may provide notice to licensees in the mail, although this may be done in conjunction with other materials being mailed.

Business Impact:

The Committee has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the fact that the proposed regulation has an estimated expense of less than \$10 per office, which would be minor and absorbable.

This minimal cost is outweighed by the benefits to the public of obtaining easily accessible information that informs consumers about the regulatory agency responsible for regulating Naturopathic Medicine in the State of California.

Effect on Small Business:

This regulation will not have a significant statewide effect on small businesses because the proposal has a minimal cost to licensees that will not expand businesses.

**RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

The proposed regulatory action will not create or eliminate jobs within the State of California because the proposal has a minimal cost to licensees that is not sufficient to create or eliminate jobs.

The proposed regulatory action will not create new business or eliminate existing businesses and will not affect the expansion of businesses currently doing business within the State of California because the proposal has a minimal cost to licensees that is not sufficient to create or eliminate businesses.

This regulatory proposal will benefit the health and welfare of California residents by requiring consumers receive notice that naturopathic doctors are licensed and regulated by the Committee, thus providing consumers with information on how to contact the Committee directly should any problems arise.

This regulatory proposal will not affect worker safety because the proposal does not involve worker safety. The proposal will add a regulation that provides consumers with notice of the regulatory agency to contact should a problem arise with a naturopathic doctor.

This regulatory proposal will not affect the State's environment because the proposal does not involve environmental issues. The proposal will add a regulation that provides consumers with notice of the regulatory agency to contact should a problem arise with a licensed naturopathic doctor.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Committee must determine that no reasonable alternative the Committee considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Committee invites interested persons to submit written comments to the Committee at 1300 National Drive, Suite 150, Sacramento, California 95834 during the written comment period. The Committee further invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the hearing, if any is scheduled.

## CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Rebecca Mitchell, Executive Officer  
Address: Naturopathic Medicine Committee  
1300 National Drive, Suite 150  
Sacramento, CA 95834  
Telephone No.: (916) 928-4785  
Fax No.: (916) 928-4787  
E-mail Address: [Rebecca.Mitchell@dca.ca.gov](mailto:Rebecca.Mitchell@dca.ca.gov)

The backup contact person is:

Name: Raquel Oden, Program Analyst  
Address: Naturopathic Medicine Committee  
1300 National Drive, Suite 150  
Sacramento, CA 95834  
Telephone No.: (916) 928-4785  
Fax No.: (916) 928-4787  
E-mail Address: [Raquel.Oden@dca.ca.gov](mailto:Raquel.Oden@dca.ca.gov)

## AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND RULEMAKING FILE

The Committee will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice of Proposed Action, the proposed Text of the regulations, the Initial Statement of Reasons, and other information upon which the rulemaking is based, including:

1. Committee's March 15, 2019 meeting Agenda,
2. Committee's relevant meeting materials from the March 5, 2019 Committee meeting,
3. Committee's approved meeting minutes from the March 5, 2019 Committee meeting,

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments received, the Committee may adopt the proposed regulations substantially as described in this Notice.

If the Committee makes modifications which are sufficiently related to the originally proposed text, the Committee will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Committee adopts the regulation as revised.

Please send requests for copies of any modified regulations addressed to the individuals listed under "Contact Persons" in this Notice. The Committee will accept written comments on the modified regulation for 15 days after the date on which they are made available.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons will be made available upon request. Please send requests addressed to the individuals listed under "Contact Persons" in this Notice.

### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the proposed regulations in underline and strikethrough can be accessed through our website at: [www.naturopathic.ca.gov](http://www.naturopathic.ca.gov).