
COLORADO REVISED STATUTES

Title 12 **Professions and Occupations**

Article 37.3 **Naturopathic Doctors**

Effective July 1, 2015

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ARTICLE 37.3
NATUROPATHIC DOCTORS

§ 12-37.3-101. Short title

This article shall be known and may be cited as the “Naturopathic Doctor Act”.

§ 12-37.3-102. Definitions

As used in this article, unless the context otherwise requires:

(1) “ACIP” means the advisory committee on immunization practices to the centers for disease control and prevention in the federal department of health and human services or its successor entity.

(1.3) “Administer” means the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or any other method.

(1.5) “Advisory committee” means the naturopathic medicine advisory committee created in section 12-37.3-103.

(2) “Approved clinical training” means clinical training in naturopathic medicine in an inpatient or outpatient setting that has been approved by the director. “Approved clinical training” may include components of allopathic medicine in addition to naturopathic medicine.

(3) “Approved naturopathic medical college” means:

(a) A naturopathic medical education program in the United States or Canada that grants the degree of doctor of naturopathic medicine or doctor of naturopathy and that:

(I) Is approved by the director;

(II) Offers graduate-level, full-time didactic and supervised clinical training; and

(III) Is accredited or has achieved candidacy status for accreditation by the council on naturopathic medical education or an equivalent accrediting body for naturopathic medical programs recognized by the United States department of education; or

(b) Any other college or program approved by the director and accredited by the council on naturopathic medical education or its successor entity.

(4) “Continuing professional competency” means the ongoing ability of a naturopathic doctor to learn, integrate, and apply the knowledge, skill, and judgment to practice as a naturopathic doctor according to generally accepted standards and professional ethical standards.

(5) “Director” means the director of the division or the director’s designee.

(5.5) “Dispense” means the preparation, in a suitable container appropriately labeled for subsequent administration to or use by a patient, of a medicine that a naturopathic doctor is authorized under this article to obtain.

(6) “Division” means the division of professions and occupations in the department of regulatory agencies.

(7) “Homeopathic preparations” means medicines prepared according to the most current version of the homeopathic pharmacopoeia of the United States, revised services.

(8) “Minor office procedures” means:

(a) The repair, care, and suturing of superficial lacerations and abrasions;

(b) The removal of foreign bodies located in superficial tissue, excluding the ear or eye; and

(c) Obtaining and administering saline, sterile water, topical antiseptics, and local anesthetics, including local anesthetics with epinephrine, in connection with a procedure described in paragraph (a) or (b) of this subsection (8).

(9) “Natural health care services” or “natural health care” includes, but is not limited to:

(a) Healing practices using food; food extracts; over-the-counter dietary supplements, including vitamins, herbs, minerals, and enzymes; nutrients; homeopathic remedies and preparations; the physical forces of heat, cold, water, touch, sound, and light; and mind-body and energetic healing practices;

(b) Education, counseling, or advice regarding healing practices described in paragraph (a) of this subsection (9) and their effects on the structure and functions of the human body; and

(c) Services or care as may be further defined by the director by rule.

(10) “Naturopathic doctor” or “registrant” means a person who is registered by the director to practice naturopathic medicine pursuant to this article.

(11) “Naturopathic formulary” means the list of nonprescription classes of medicines determined by the director that naturopathic doctors use in the practice of naturopathic medicine.

(12)(a) “Naturopathic medicine”, as performed by a naturopathic doctor, means a system of health care for the prevention, diagnosis, evaluation, and treatment of injuries, diseases, and conditions of the human body through the use of education, nutrition, naturopathic preparations, natural medicines and other therapies, and other modalities that are designed to support or supplement the human body’s own natural self-healing processes.

(b) “Naturopathic medicine” includes naturopathic physical medicine, which consists of naturopathic manual therapy, the therapeutic use of the physical agents of air, water, heat, cold, sound, light, touch, and electromagnetic nonionizing radiation, and the physical modalities of electrotherapy, diathermy, ultraviolet light, ultrasound, hydrotherapy, and exercise.

§ 12-37.3-103. Naturopathic medicine advisory committee--creation--membership--duties

(1)(a) The naturopathic medicine advisory committee is hereby created in the department of regulatory agencies as the entity responsible for advising the director in the regulation of the practice of naturopathic medicine by naturopathic doctors and the implementation of this article.

(b)(I) The advisory committee consists of nine members appointed by the director as follows:

(A) Three members who are naturopathic doctors;

(B) Three members who are doctors of medicine or osteopathy licensed pursuant to article 36 of this title;

(C) One member who is a pharmacist licensed pursuant to article 42.5 of this title; and

(D) Two members from the public at large. The director shall make reasonable efforts to appoint public members who are or have been consumers of naturopathic medicine.

(II) The director shall appoint members to the advisory committee no later than January 1, 2014.

(c)(I) Each member of the advisory committee holds office until the expiration of the member’s appointed term or until a successor is duly appointed. Except as specified in subparagraph (II) of this paragraph (c), the term of office of each member is four years, and an advisory committee member shall not serve more than two consecutive four-year terms. The director shall fill a vacancy occurring on the advisory committee, other than by expiration of a term, by appointment for the unexpired term of the member.

(II) To ensure staggered terms of office, the initial term of office of one of the naturopathic doctor members, the pharmacist member, and one of the members representing the public is two years. These members are eligible to serve one additional four-year term of office. On and after the expiration of these members’ terms, the term of office of persons appointed to these positions on the advisory committee is as described in subparagraph (I) of this paragraph (c), commencing on January 1 of the applicable year.

(d) The director may remove any advisory committee member for misconduct, incompetence, or neglect of duty.

(2) The advisory committee shall advise the director in the administration and enforcement of this article and rules adopted under this article.

(3) Members of the advisory committee shall not receive compensation for their services but are

entitled to reimbursement for actual and necessary expenses they incur in performing their duties.

§ 12-37.3-104. Director powers and duties

(1) In addition to any other powers and duties granted or imposed on the director under this article, the director shall:

- (a) Adopt rules necessary to administer this article;
- (b) Establish the form and manner in which applicants are to apply for a new registration or to renew a registration;
- (c) Receive, review, and approve or deny applications for registrations and issue and renew registrations under this article;
- (d) Establish fees for registration applications and renewal applications in the manner authorized by section 24-34-105, C.R.S.;
- (e) Conduct investigations, hold hearings, take evidence, and pursue disciplinary actions pursuant to section 12-37.3-112 with respect to complaints against naturopathic doctors when the director has reasonable cause to believe that a naturopathic doctor is violating this article or rules adopted pursuant to this article, and to subpoena witnesses, administer oaths, and compel the testimony of witnesses and the production of books, papers, and records relevant to those investigations or hearings. Any subpoena issued pursuant to this article is enforceable by the district court.
- (f) Perform other functions and duties necessary to administer this article.

§ 12-37.3-105. Practice of naturopathic medicine by naturopathic doctors--exclusions--protected activities—rules

(1) The practice of naturopathic medicine by a naturopathic doctor includes the following:

- (a) The prevention and treatment of human injury, disease, or conditions through education or dietary or nutritional advice, and the promotion of healthy ways of living;
- (b) The use of physical examinations and the ordering of clinical, laboratory, and radiological diagnostic procedures from licensed or certified health care facilities or laboratories for the purpose of diagnosing and evaluating injuries, diseases, and conditions in the human body;
- (c)(I) Obtaining, dispensing, administering, ordering, or prescribing, as specified, medicines listed in the naturopathic formulary, which includes:
 - (A) Obtaining, administering, or dispensing epinephrine to treat anaphylaxis;

(B) Obtaining and dispensing barrier contraceptives, excluding intrauterine devices;

(C) Obtaining and administering oxygen, but only for emergency use;

(D) Obtaining and administering vitamins B6 and B12;

(E) Obtaining, administering, or dispensing substances that are regulated by the federal food and drug administration but that do not require a prescription order to be dispensed; and

(F) Obtaining and administering vaccines, in accordance with the ACIP guidelines, for patients who are at least eighteen years of age.

(II) A naturopathic doctor may obtain medications described in subparagraph (I) of this paragraph (c) from a manufacturer, wholesaler, or in-state prescription drug outlet registered or licensed by the state board of pharmacy pursuant to article 42.5 of this title. An entity that provides a medication described in subparagraph (I) of this paragraph (c) to a naturopathic doctor in accordance with this section, and that relies in good faith upon the registration information provided by the naturopathic doctor, is not subject to liability for providing the medication.

(d) Performing minor office procedures.

(2) A naturopathic doctor shall not:

(a) Prescribe, dispense, administer, or inject a controlled substance or device identified in the federal "Controlled Substances Act", 21 U.S.C. sec. 801 et seq., as amended;

(b) Perform surgical procedures, including surgical procedures using a laser device;

(c) Use general or spinal anesthetics, other than topical anesthetics;

(d) Administer ionizing radioactive substances for therapeutic purposes;

(e) Treat a child who is less than two years of age, unless the naturopathic doctor:

(I) Provides to the parent or legal guardian of the child a copy of the most recent immunizations schedule recommended by the advisory committee on immunization practices to the centers for disease control and prevention in the federal department of health and human services and recommends that the parent or legal guardian follow the immunizations schedule;

(II)(A) On or after the effective date of this subparagraph (II), except as provided in subparagraph (B) of this subparagraph (II), demonstrates in each year in which the naturopathic doctor treats a child under two years of age, successful completion of five hours per year of education or practicum training solely related to pediatrics in accordance with continuing professional competency requirements approved by the director pursuant to section 12-37.3-108, which includes subject matter related to recognizing a sick infant and when to refer an infant for more intensive care;

(B) If, pursuant to paragraph (f) of this subsection (2), a naturopathic doctor treats children who are two years of age or older but less than eight years of age and successfully completes three hours per year of education or practicum training solely related to pediatrics as required by subparagraph (II) of paragraph (f) of this subsection (2), the naturopathic doctor is required only to successfully complete an additional two hours per year of education or practicum training solely related to pediatrics to comply with the requirements of sub-subparagraph (A) of this subparagraph (II).

(III)(A) Develops and executes a written collaborative agreement with a licensed physician who is a pediatrician or family physician, which agreement includes the duties and responsibilities of each party as part of the collaborative agreement according to each party's standard of care and practice act, a process for consulting with and referring to a licensed physician to facilitate the effective treatment of children under two years of age, and other provisions as may be established by the director by rule. The naturopathic doctor and the licensed physician shall keep the written collaborative agreement on file and, upon request by the director, for naturopathic doctors, or by Colorado medical board, for licensed physicians, shall provide a copy of the agreement to the director or board, as applicable.

(B) The naturopathic doctor shall provide to the director the name and license number of the licensed physician and shall ensure that the information filed with the director is current. The director shall make the information available to the Colorado medical board and the naturopathic medicine advisory committee.

(C) Nothing in this subparagraph (III) permits the independent practice of medicine, as defined in section 12-36-106(1) and (2), by a naturopathic doctor;

(D) Nothing in this subparagraph (III): Limits the ability of a naturopathic doctor to make an independent judgment; requires supervision by a licensed physician; precludes the use of professional judgment or variation according to the needs of the child under two years of age; imposes liability on a licensed physician, in developing or signing a collaborative agreement, for the actions of the naturopathic doctor in treating a child under two years of age; imposes liability on a naturopathic doctor, in developing or signing a collaborative agreement, for the actions of the licensed physician in consulting regarding the treatment of a child less than two years of age; or requires the naturopathic doctor and licensed physician to be practicing in the same community or in close proximity to each other in order to enter into a collaborative agreement;

(IV) Requires the child's parent or legal guardian to sign an informed consent that:

(A) Discloses that the naturopathic doctor is registered pursuant to this article;

(B) Discloses that the naturopathic doctor is not a physician licensed pursuant to article 36 of this title;

(C) Recommends that the child have a relationship with a licensed pediatric health care provider; and

(D) If the child has a relationship with a licensed pediatric health care provider, requests permission from the parent or legal guardian for the naturopathic doctor to attempt to develop and maintain a collaborative relationship with the licensed pediatric health care provider, as defined by director rules; or if the child does not have a relationship with a licensed pediatric health care provider, on the child's first visit, refers the child to at least one licensed pediatric health care provider, physician, or advanced practice nurse who cares for pediatric patients to provide a medical home for the child, with ongoing communication and relationship between the naturopathic doctor and the licensed pediatric health care provider, physician, or advanced practice nurse; and

(V) Complies with rules adopted by the director regarding the training required by subparagraph (II) of this paragraph (e) and referral to and communication with licensed pediatric health care providers, physicians, or advanced practice nurses as required by sub-subparagraph (D) of subparagraph (IV) of this paragraph (e), to ensure the safety of clients who are under two years of age;

(f) Treat a child who is two years of age or older but less than eight years of age, unless the naturopathic doctor:

(I) Provides to the parent or legal guardian of the child a copy of the most recent immunizations schedule recommended by the advisory committee on immunization practices to the centers for disease control and prevention in the federal department of health and human services and recommends that the parent or legal guardian follow the immunizations schedule;

(II) Demonstrates successful completion of three hours per year of education or practicum training solely related to pediatrics in accordance with continuing professional competency requirements approved by the director pursuant to section 12-37.3-108; and

(III) Requires the child's parent or legal guardian to sign an informed consent that:

(A) Discloses that the naturopathic doctor is registered pursuant to this article;

(B) Discloses that the naturopathic doctor is not a physician licensed pursuant to article 36 of this title;

(C) Recommends that the child have a relationship with a licensed pediatric health care provider; and

(D) If the child has a relationship with a licensed pediatric health care provider, requests permission from the parent or legal guardian for the naturopathic doctor to attempt to develop and maintain a collaborative relationship with the licensed pediatric health care provider, as defined by director rules;

(g) Engage in or perform the practice of medicine, surgery, or any other form of healing except as authorized by this article;

(h) Practice obstetrics;

(i) Perform spinal adjustment, manipulation, or mobilization, but this paragraph (i) does not prohibit a naturopathic doctor from practicing naturopathic physical medicine as described in section 12-37.3-102(12)(b); or

(j) Recommend the discontinuation of, or counsel against, a course of care, including a prescription drug that was recommended or prescribed by another health care practitioner licensed in this state, unless the naturopathic doctor consults with the health care practitioner who recommended the course of care.

(3)(a) A naturopathic doctor has the same authority and is subject to the same responsibilities as a licensed physician under public health laws pertaining to reportable diseases and conditions, communicable disease control and prevention, and recording of vital statistics and health and physical examinations, subject to the limitations of the scope of practice of a naturopathic doctor as specified in this article.

(b) Before conducting an initial examination of a patient, a naturopathic doctor shall obtain the patient's informed consent to the examination, evidenced by a written statement in a form prescribed by the director and signed by both the patient and the naturopathic doctor. The statement must:

(I) Disclose that the naturopathic doctor is not a medical doctor or physician licensed under article 36 of this title;

(II) Recommend that the patient have a relationship with a licensed physician; and

(III) Indicate that the naturopathic doctor will attempt to develop and maintain a collaborative relationship with the patient's physician, if the patient has a relationship with a licensed physician.

(c) A naturopathic doctor shall communicate and cooperate with a patient's other health care providers, if any, to ensure that the patient receives coordinated care.

(d) A naturopathic doctor shall refer a patient to another health care professional if the patient's needs are beyond the naturopathic doctor's scope of knowledge and practice.

(4) This article does not prevent or restrict the practice, services, or activities of:

(a) A person who is licensed, certified, or registered to practice a profession or occupation pursuant to this title and who engages in activities that are within the lawful scope of practice for the profession or occupation for which the person is licensed, certified, or registered;

(b) A person who practices natural health care, provides natural health care services, or advises and educates in the use of natural health care products, as long as the person does not:

(I) Diagnose injuries or diseases;

(II) Prescribe medicines as authorized for registrants pursuant to paragraph (c) of subsection (1) of this section or a prescription drug or controlled substance or device identified in the federal “Controlled Substances Act”, 21 U.S.C. sec. 801 et seq., as amended; or

(III) Perform minor office procedures as authorized for registrants pursuant to paragraph (d) of subsection (1) of this section;

(c) A person who sells vitamins, health foods, dietary supplements, herbs, or other natural products, if not otherwise prohibited by state or federal law, and who sells or provides information about the products;

(d) A person who provides truthful and nonmisleading information regarding natural health care products or services;

(e) A person employed by the federal government who practices naturopathic medicine while the person is engaged in the performance of his or her duties;

(f) A person who is licensed or otherwise authorized to practice as a naturopathic doctor in another state or district in the United States who is consulting with a naturopathic doctor in this state as long as the consultation is limited to examination, recommendation, or testimony in litigation;

(g) A student enrolled in an approved naturopathic medical college who practices naturopathic medicine if the performance of services is pursuant to a course of instruction or assignments from and under the supervision of an instructor who is a naturopathic doctor or a licensed professional in the field in which he or she is providing instruction;

(h) A person who administers a domestic or family remedy to oneself or a member of his or her immediate family based on religious or health beliefs; or

(i) A person who renders aid in an emergency when no fee or other consideration of value for the services is charged, received, expected, or contemplated.

(5) Except as provided in subsection (4) of this section, a person who is not registered under this article shall not:

(a) Diagnose injury, disease, ailment, infirmity, deformity, pain, or other condition of the human body;

(b) Dispense, administer, order, or prescribe medicines as authorized for registrants pursuant to paragraph (c) of subsection (1) of this section; or

(c) Use the title “Naturopathic Doctor”, or “Doctor of Naturopathy” or the abbreviation “N.D.”

(6) Many therapies used by naturopathic doctors, such as the use of nutritional supplements,

herbs, foods, homeopathic preparations, and physical forces such as heat, cold, water, touch, and light, are not the exclusive privilege of naturopathic doctors, and this article does not prohibit the use or practice of those therapies by a person who is not registered under this article to practice naturopathic medicine.

(7) As used in this section, “licensed pediatric health care provider” means a licensed physician or advanced practice nurse who treats children.

§ 12-37.3-106. Registration required--qualifications--examination--registration by endorsement—rules

(1) Effective June 1, 2014, a person shall not practice as a naturopathic doctor in this state without a registration.

(2) An applicant for a registration to practice as a naturopathic doctor in this state shall submit an application to the director in a form and manner determined by the director by rule, accompanied by the fee required pursuant to section 12-37.3-104(1)(d). The director shall issue a registration to practice as a naturopathic doctor to an applicant upon receipt of satisfactory proof that the applicant:

(a) Is at least twenty-one years of age and of good moral character;

(b) Has obtained a baccalaureate degree from an accredited educational institution or documented experience that provides the same kind, amount, and level of knowledge as a baccalaureate degree, as determined by the director;

(c) Has graduated from and holds a doctor of naturopathic medicine or doctor of naturopathy degree from an approved naturopathic medical college;

(d) Has successfully passed either a director-approved examination or a comprehensive competency-based national naturopathic licensing examination administered by the North American board of naturopathic examiners or a nationally recognized, director-approved successor entity, as determined by the director by rule; and

(e) Has not had a license or other authorization to practice as a naturopathic doctor or other health care license, registration, or certification denied, revoked, or suspended by Colorado or any other jurisdiction for reasons that relate to the applicant’s ability to skillfully and safely practice naturopathic medicine, unless the license, registration, or certification is reinstated to good standing by Colorado or another jurisdiction.

(3) The director may issue a registration by endorsement to engage in the practice of naturopathic medicine to an applicant who has a license, certification, or registration in good standing as a naturopathic doctor under the laws of another jurisdiction if the applicant presents satisfactory proof to the director that, at the time of application for a Colorado registration by endorsement, the applicant possesses credentials and qualifications that are substantially equivalent to the requirements of this section. The director may adopt rules concerning the

necessary applicant credentials and qualifications.

(4) The director may determine, by rule, the qualifications for registration under this article for a person who satisfies the requirements of paragraphs (a), (b), and (e) of subsection (2) of this section but does not satisfy the requirements for registration under paragraph (c) or (d) of subsection (2) of this section and who is not licensed, certified, or registered to practice a profession or occupation under this title or the laws of any other jurisdiction in the United States. The director's rules may require qualifications the director deems appropriate and may include documented evidence that the person:

(a) Has completed a post-graduate level didactic and supervised clinical educational program from an accredited educational institution, which program is substantially equivalent to the education requirements set forth in paragraph (c) of subsection (2) of this section, as determined by the director by rule;

(b) Has passed a national examination in naturopathic medicine that is substantially equivalent to the examination required in paragraph (d) of subsection (2) of this section, as determined by the director by rule; and

(c) Has at least ten years of related professional experience.

§ 12-37.3-107. Registration renewal or reinstatement—fees

A naturopathic doctor shall renew or reinstate his or her registration pursuant to a schedule established by the director, and the director shall renew or reinstate a registration in accordance with section 24-34-102(8), C.R.S. The director may establish renewal fees and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S. If a person fails to renew his or her registration pursuant to the schedule established by the director, the registration expires. A person whose registration expires is subject to the penalties provided in this article or section 24-34-102(8), C.R.S. The director shall transmit fees collected pursuant to this section or section 12-37.3-106 to the state treasurer for deposit in the division of professions and occupations cash fund pursuant to section 24-34-105, C.R.S.

§ 12-37.3-108. Continuing professional competency—rules

(1)(a) A naturopathic doctor shall maintain continuing professional competency to practice naturopathic medicine.

(b) The director shall adopt rules establishing a continuing professional competency program that includes, at a minimum, the following elements:

(I) A self-assessment of the knowledge and skills of a naturopathic doctor seeking to renew or reinstate a registration;

(II) Development, execution, and documentation of a learning plan based on the assessment; and

(III) Periodic demonstration of knowledge and skills through documentation of activities necessary to ensure continuing competency in the profession; except that a naturopathic doctor need not retake any examination required by section 12-37.3-106(2)(d) for initial registration.

(c) The director shall establish that a naturopathic doctor satisfies the continuing competency requirements of this section if the naturopathic doctor meets the continuing professional competency requirements of one of the following entities:

(I) A state department, including continuing professional competency requirements imposed through a contractual arrangement with a provider;

(II) An accrediting body recognized by the director; or

(III) An entity approved by the director.

(d)(I) After the program is established, a naturopathic doctor shall satisfy the requirements of the program in order to renew or reinstate a registration to practice naturopathic medicine.

(II) The requirements of this section apply to individual naturopathic doctors, and nothing in this section requires a person who employs or contracts with a naturopathic doctor to comply with the requirements of this section.

(2) Records of assessments or other documentation developed or submitted in connection with the continuing professional competency program are confidential and not subject to inspection by the public or discovery in connection with a civil action against a naturopathic doctor. Neither the director nor any other person shall use the records or documents unless used by the director to determine whether a naturopathic doctor is maintaining continuing professional competency to engage in the profession.

§ 12-37.3-109. Compliance with transparency requirements

A naturopathic doctor shall comply with section 24-34-110, C.R.S., regarding the disclosure of information to the director.

§ 12-37.3-110. Persons entitled to practice as naturopathic doctors--title protection for naturopathic doctors

(1) A person shall not hold himself or herself out as a naturopathic doctor or use any of the titles or initials referred to in subsection (2) of this section unless the person is registered as a naturopathic doctor pursuant to this article.

(2) A naturopathic doctor may use the title “naturopathic doctor”, or “doctor of naturopathy”, or the initials “N.D.”

(3) A naturopathic doctor shall not use:

- (a) The term “physician”;
 - (b) The abbreviations “NMD” or “N.M.D.”;
 - (c) The term “naturopathic medical doctor”.
- (4) Nothing in this section prevents a naturopathic doctor from disclosing membership in national organizations or associations of naturopathic physicians.
- (5) Nothing in this section prevents a person from using the term “doctor” or the title “Dr.” if he or she satisfies the requirements of section 6-1-707(1)(a), C.R.S.

§ 12-37.3-111. Disclosures--record-keeping

(1) A naturopathic doctor shall provide the following information in writing to each patient in a format required by the director:

- (a) The naturopathic doctor’s name, business address, and telephone number;
- (b) The nature of the services to be provided;
- (c) A statement that naturopathic doctors are registered by the state to practice naturopathic medicine under the “Naturopathic Doctor Act”;
- (d) The prohibitions specified in section 12-37.3-105(2);
- (e) The states in which the naturopathic doctor holds an active license or registration; and
- (f) How to file a complaint against a naturopathic doctor.

(2) A naturopathic doctor shall obtain a written acknowledgment from the patient stating that the patient has been provided the information described in subsection (1) of this section. The naturopathic doctor shall retain the acknowledgment for seven years after the date on which the last services were provided to the patient.

(3) If a naturopathic doctor treats any patient who is seeking treatment for cancer, the naturopathic doctor shall recommend to the patient that the patient consult with a licensed physician specializing in oncology and document the recommendation in writing.

§ 12-37.3-112. Grounds for discipline--disciplinary actions authorized--procedures—definitions

(1) The director may deny, revoke, or suspend the registration of, issue a letter of admonition to, or place on probation a naturopathic doctor for any of the following acts or omissions:

- (a) Violating, or aiding or abetting another in the violation of, this article or any rule promulgated

by the director pursuant to this article;

(b) Falsifying information in any application, attempting to obtain or obtaining a registration by fraud, deceit, or misrepresentation, or aiding or abetting such act;

(c) Engaging in an act or omission that does not meet generally accepted standards of practice of naturopathic medicine or of safe care for patients, whether or not actual injury to a patient is established;

(d) Habitual or excessive use or abuse of alcohol, a habit-forming drug, or a controlled substance as defined in section 18-18-102(5), C.R.S.;

(e) Failing to refer a patient to an appropriate health care professional when the services required by the patient are beyond the level of competence of the naturopathic doctor or beyond the scope of naturopathic medicine practice;

(f) Violation of a law or regulation governing the practice of naturopathic medicine in another jurisdiction;

(g) Falsifying, repeatedly failing to make essential entries in, or repeatedly making incorrect essential entries in patient records;

(h) Conviction of a felony, an offense of moral turpitude, or a crime that would constitute a violation of this article. For purposes of this paragraph (h), “conviction” includes the entry of a plea of guilty or nolo contendere or the imposition of a deferred sentence or judgment.

(i) Advertising through newspapers, magazines, circulars, direct mail, directories, radio, television, or otherwise that the naturopathic doctor will perform any act prohibited by this article;

(j) Engaging in a sexual act with a patient during the course of patient care or within six months immediately following the written termination of the professional relationship with the patient. As used in this paragraph (j), “sexual act” means sexual contact, sexual intrusion, or sexual penetration, as those terms are defined in section 18-3-401, C.R.S.

(k) Committing abuse of health insurance, as prohibited by section 18-13-119, C.R.S.;

(l) Advertising through newspapers, magazines, circulars, direct mail, directories, radio, television, or otherwise that the naturopathic doctor will perform any act prohibited by section 18-13-119(3), C.R.S.;

(m) Violating a valid order of the director;

(n) Failing to report to the director, within thirty days after an adverse action, that an adverse action has been taken against the naturopathic doctor by a licensing agency in another state or country, a peer review body, a health care institution, a professional or naturopathic medical

society or association, a governmental agency, a law enforcement agency, or a court for acts or conduct that would constitute grounds for disciplinary or adverse action as described in this article;

(o) Failing to report to the director, within thirty days:

(I) The surrender of a license or other authorization to practice as a naturopathic doctor in another state or jurisdiction; or

(II) The surrender of membership on a medical staff or in a naturopathic medical or professional association or society while under investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for action as described in this article;

(p)(I) Failing to notify the director of a physical or mental illness or condition that affects the naturopathic doctor's ability to treat patients with reasonable skill and safety or that may endanger the health or safety of persons under his or her care;

(II) Failing to act within the limitations created by a physical or mental illness or condition that renders the naturopathic doctor unable to practice naturopathic medicine with reasonable skill and safety or that may endanger the health or safety of persons under his or her care; or

(III) Failing to comply with the limitations agreed to under a confidential agreement entered pursuant to section 12-37.3-116;

(q) Failing to timely respond to a complaint filed against the naturopathic doctor;

(r) Failing to develop a written plan for the security of patient medical records in accordance with section 12-37.3-115;

(s) Refusing to submit to a physical or mental examination when so ordered by the director pursuant to section 12-37.3-117;

(t) Failing to obtain and continually maintain professional liability insurance as required by section 12-37.3-114.

(2) In addition to or as an alternative to the discipline authorized by subsection (1) of this section, the director may assess an administrative fine of up to five thousand dollars against a naturopathic doctor who commits any of the acts or omissions described in subsection (1) of this section. The director shall transmit any moneys collected pursuant to this subsection (2) to the state treasurer for deposit in the general fund.

(3) Any person whose registration is revoked or who surrenders his or her registration to avoid discipline is ineligible to apply for a registration under this article for at least two years after the date of revocation or surrender of the registration.

(4) The director shall conduct any proceeding to deny, suspend, or revoke a registration or place a naturopathic doctor on probation in accordance with sections 24-4-104 and 24-4-105, C.R.S. The director may designate an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., to conduct the proceeding. The administrative law judge shall conduct the proceeding in accordance with sections 24-4-104 and 24-4-105, C.R.S. A final decision of the director or the administrative law judge is subject to judicial review by the court of appeals pursuant to section 24-4-106(11), C.R.S.

(5) The director may accept as prima facie evidence of grounds for disciplinary action any disciplinary action taken against a naturopathic doctor by another jurisdiction if the violation that prompted the disciplinary action would be grounds for disciplinary action under this article.

(6)(a) The director or an administrative law judge may administer oaths, take affirmations of witnesses, and issue subpoenas to compel the attendance of witnesses and the production of all relevant papers, books, records, documentary evidence, and materials in any hearing, investigation, accusation, or other matter before the director or administrative law judge. The director may appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., to take evidence and to make findings and report them to the director, including hospital and naturopathic doctor records. The person providing copies of records shall prepare the copies from the original record, deleting the name of the patient and instead identifying the patient by a numbered code. Upon certification by the custodian that the copies are true and complete except for the patient's name, the copies are deemed authentic, subject to the right to inspect the originals for the limited purpose of ascertaining the accuracy of the copies. The copies are not confidential, and the director or custodian of the records and their authorized employees are not liable for furnishing or using the copies in accordance with this section.

(b) If a witness or naturopathic doctor fails to comply with a subpoena or process, the director may apply to the district court of the county in which the subpoenaed person or naturopathic doctor resides or conducts business for an order directing the person or naturopathic doctor to appear before the director; to produce the relevant papers, books, records, documentary evidence, or materials if so ordered; or to give evidence touching the matter under investigation or in question. The director shall provide notice to the subpoenaed person or naturopathic doctor of the director's application to the district court, and the court shall not issue the order absent the notice. If the subpoenaed person or naturopathic doctor fails to obey the court's order, the court may hold the person in contempt of court.

(7)(a) When a complaint or investigation discloses an instance of misconduct that, in the opinion of the director, does not warrant formal action by the director but that should not be dismissed as being without merit, the director may issue a letter of admonition to the naturopathic doctor.

(b) When the director sends a letter of admonition to a registrant, the letter must advise the registrant that he or she has the right to request in writing, within twenty days after receipt of the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the letter of admonition is based.

(c) If the registrant timely requests adjudication, the director shall vacate the letter of admonition

and process the matter by means of formal disciplinary proceedings.

(8) When a complaint or investigation discloses an instance of conduct that does not warrant formal action by the director and, in the opinion of the director, should be dismissed, but the director has noticed indications of possible errant conduct by the registrant that could lead to serious consequences if not corrected, the director may send the registrant a confidential letter of concern.

(9) When a complaint or an investigation discloses an instance of misconduct that, in the opinion of the director, warrants formal action, the director shall not resolve the complaint by a deferred settlement, action, judgment, or prosecution.

(10)(a) If it appears to the director, based upon credible evidence as presented in a written complaint by any person, that a registrant is acting in a manner that is an imminent threat to the health and safety of the public or a person is acting or has acted without the required registration, the director may issue an order to cease and desist the activity. The director shall set forth in the order the statutes and rules alleged to have been violated, the facts alleged to have constituted the violation, and the requirement that all unlawful acts or unregistered practices immediately cease.

(b) Within ten days after service of the order to cease and desist pursuant to paragraph (a) of this subsection (10), the respondent may request a hearing on the question of whether acts or practices in violation of this article have occurred. The director or administrative law judge shall conduct the hearing in accordance with sections 24-4-104 and 24-4-105, C.R.S.

(11)(a) If it appears to the director, based upon credible evidence as presented in a written complaint by any person, that a person has violated any other portion of this article, the director may issue to the person an order to show cause as to why the director should not issue a final order directing the person to cease and desist from the unlawful act or unregistered practice.

(b) The director shall promptly notify the person that he or she has been issued an order to show cause. The director shall include in the notice a copy of the order, the factual and legal basis for the order, and the date set by the director for a hearing on the order. The director may serve the notice on the person by personal service, by first-class United States mail, postage prepaid, or in any other manner that is practicable. Personal service or mailing of an order or document pursuant to this subsection (11) constitutes notice to the person.

(c)(I) The director shall commence the hearing on an order to show cause no earlier than ten and no later than forty-five calendar days after the date of transmission or service of the notification by the director as provided in paragraph (b) of this subsection (11). The director may continue the hearing upon agreement of all parties based upon the complexity of the matter, the number of parties to the matter, and the legal issues presented in the matter, but in no event shall the director continue the hearing more than sixty calendar days after the date of transmission or service of the notification.

(II) If a person against whom an order to show cause has been issued pursuant to paragraph (a) of this subsection (11) does not appear at the hearing, the director may present evidence that

notification was properly sent or served upon the person pursuant to paragraph (b) of this subsection (11) and other evidence related to the matter that the director deems appropriate. The director shall issue the order within ten days after the director's determination related to reasonable attempts to notify the respondent, and the order is final as to that person by operation of law. The director shall conduct the hearing in accordance with sections 24-4-104 and 24-4-105, C.R.S.

(III) If the director reasonably finds that the person against whom the order to show cause was issued is acting or has acted without the required registration or has or is about to engage in acts or practices constituting violations of this article, the director may issue a final cease-and-desist order directing the person to cease and desist from further unlawful acts or unregistered practices.

(IV) The director shall provide notice, in the manner set forth in paragraph (b) of this subsection (11), of the final cease-and-desist order within ten calendar days after the hearing conducted pursuant to this paragraph (c) to each person against whom the final order has been issued. The final order is effective when issued and is a final order for purposes of judicial review.

(12) The director may enter into a stipulation with a person if it appears to the director, based upon credible evidence presented to the director, that the person has engaged in or is about to engage in:

(a) An unregistered act or practice;

(b) An act or practice constituting a violation of this article or of any rule promulgated pursuant to this article;

(c) A violation of an order issued pursuant to this article; or

(d) An act or practice constituting grounds for administrative sanction pursuant to this article.

(13) If a person fails to comply with a final cease-and-desist order or a stipulation, the director may request the attorney general or the district attorney for the judicial district in which the alleged violation occurred or is occurring to bring, and if so requested the attorney shall bring, suit for a temporary restraining order and for injunctive relief to prevent any further or continued violation of the final order.

(14) A person aggrieved by the final cease-and-desist order may seek judicial review of the director's determination or of the director's final order in a court of competent jurisdiction.

§ 12-37.3-113. Unauthorized practice--penalties

A person who practices or offers or attempts to practice as a naturopathic doctor without an active registration issued under this article commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

§ 12-37.3-114. Professional liability insurance required--vicarious liability—rules

- (1) It is unlawful for a person to practice as a naturopathic doctor in this state unless the person is covered by professional liability insurance in an amount not less than one million dollars.
- (2) Professional liability insurance required by this section must cover all acts within the scope of practice of a naturopathic doctor.
- (3) A naturopathic doctor is liable for his or her acts or omissions in the performance of naturopathic medicine.

§ 12-37.3-115. Protection of medical records--registrant's obligations--verification of compliance--noncompliance grounds for discipline—rules

- (1) Each naturopathic doctor shall develop a written plan to ensure the security of patient medical records. The plan must address at least the following:
 - (a) The storage and proper disposal of patient medical records;
 - (b) The disposition of patient medical records in the event the naturopathic doctor dies, retires, or otherwise ceases to practice or provide naturopathic medical care to patients; and
 - (c) The method by which patients may access or obtain their medical records promptly if any of the events described in paragraph (b) of this subsection (1) occurs.
- (2) Upon initial registration under this article, the applicant or registrant shall attest to the director that he or she has developed a plan in compliance with this section.
- (3) A naturopathic doctor shall inform each patient in writing of the method by which the patient may access or obtain his or her medical records if an event described in paragraph (b) of subsection (1) of this section occurs.
- (4) The director may adopt rules reasonably necessary to implement this section.

§ 12-37.3-116. Confidential agreement to limit practice--violation--grounds for discipline

- (1) If a naturopathic doctor has a physical or mental illness or condition that renders him or her unable to practice naturopathic medicine with reasonable skill and safety to patients, the naturopathic doctor shall notify the director of the illness or condition in a manner and within a period determined by the director. The director may require the naturopathic doctor to submit to an examination to evaluate the extent of the illness or condition and its impact on the naturopathic doctor's ability to practice naturopathic medicine with reasonable skill and safety to patients.
- (2)(a) Upon determining that a naturopathic doctor with a physical or mental illness or condition is able to render limited services with reasonable skill and safety to patients, the director may

enter into a confidential agreement with the naturopathic doctor in which the naturopathic doctor agrees to limit his or her practice based on the restrictions imposed by the illness or condition, as determined by the director.

(b) As part of the agreement, the naturopathic doctor is subject to periodic reevaluations or monitoring as determined appropriate by the director.

(c) The parties may modify or dissolve the agreement as necessary based on the results of a reevaluation or monitoring.

(3) By entering into an agreement with the director pursuant to this section to limit his or her practice, a naturopathic doctor is not engaging in activities that are prohibited pursuant to section 12-37.3-112. The agreement does not constitute a restriction or discipline by the director. However, if the naturopathic doctor fails to comply with the terms of an agreement entered into pursuant to this section, the failure constitutes a prohibited activity pursuant to section 12-37.3-112(1)(p), and the naturopathic doctor is subject to discipline in accordance with section 12-37.3-112.

(4) This section does not apply to a naturopathic doctor subject to discipline for prohibited activities as described in section 12-37.3-112(1)(d).

§ 12-37.3-117. Mental and physical examination of registrants

(1) If the director has reasonable cause to believe that a registrant is unable to practice with reasonable skill and safety, the director may require the registrant to take a mental or physical examination by a health care provider designated by the director. If the registrant refuses to undergo a mental or physical examination, unless due to circumstances beyond the registrant's control, the director may suspend the registrant's registration until the results of the examination are known and the director has made a determination of the registrant's fitness to practice. The director shall proceed with an order for examination and determination in a timely manner.

(2) The director shall include in an order issued under subsection (1) of this section the basis of the director's reasonable cause to believe that the registrant is unable to practice with reasonable skill and safety. For the purposes of a disciplinary proceeding authorized by this article, the registrant is deemed to waive all objections to the admissibility of the examining health care provider's testimony or examination reports on the ground that the testimony and reports are privileged communications.

(3) The registrant may submit to the director testimony or examination reports from a health care provider chosen by the registrant pertaining to the condition that the director alleges may preclude the registrant from practicing with reasonable skill and safety. The director may consider testimony and examination reports submitted by the registrant in conjunction with, but not in lieu of, testimony and examination reports of the health care provider designated by the director.

(4) A person shall not use the results of any mental or physical examination ordered by the

director as evidence in any proceeding other than one before the director. The examination results are not public records and are not available to the public.

§ 12-37.3-118. Inactive registration—rules

A naturopathic doctor may request that the director inactivate or activate the naturopathic doctor's registration. The director shall promulgate rules governing the activation and inactivation of registrations. Notwithstanding any law to the contrary, the director's rules may limit the applicability of statutory requirements for maintaining professional liability insurance and continuing professional competency for a registrant whose registration is currently inactive. The director need not reactivate an inactive registration if the naturopathic doctor has committed any act that would be grounds for disciplinary action under section 12-37.3-112. A naturopathic doctor whose registration is currently inactive shall not practice naturopathic medicine.

§ 12-37.3-119. Repeal of article

(1) This article is repealed, effective September 1, 2017. Prior to the repeal, the department of regulatory agencies shall review registering of naturopathic doctors as provided in section 24-34-104, C.R.S.

(2)(a) In conducting its review, the department shall gather and include in its report information from naturopathic doctors regarding the number of children under two years of age that naturopathic doctors treated, the conditions for which naturopathic doctors treated children under two years of age, and the number and description of any adverse events that occurred in connection with treating children under two years of age. Additionally, the department shall review written collaborative agreements kept on file by naturopathic doctors pursuant to section 12-37.3-105(2)(e)(III) and include a summary of those agreements in its report.

(b) As used in this subsection (2), "adverse event" means any harm to a child under two years of age that the treating naturopathic doctor is aware of and that resulted or likely resulted from the naturopathic doctor's care of the child. Reporting an adverse event to the department pursuant to this section does not, alone, constitute grounds for discipline pursuant to section 12-37.3-112.