

**STATE and LOCAL  
FISCAL IMPACT**

**Drafting Number:** LLS 09-0205

**Date:** February 9, 2009

**Prime Sponsor(s):** Rep. Curry  
Sen. Williams

**Bill Status:** House Health and Human Services  
**Fiscal Analyst:** Josh Abram (303-866-3561)

**TITLE:** CONCERNING THE REGULATION OF NATUROPATHIC DOCTORS.

<b>Fiscal Impact Summary</b>	<b>FY 2009-2010</b>	<b>FY 2010-2011</b>
<b>State Revenue</b>		
Cash Funds		
Division of Registrations Cash Fund*	\$155,250	\$125,250
Fines Collection Cash Fund	< \$5,000	< \$5,000
<b>State Expenditures</b>		
Cash Funds		
Division of Registrations Cash Fund	\$117,038	\$84,164
<b>FTE Position Change</b>	1.2 FTE	1.2 FTE
<b>Effective Date:</b> The bill is effective 90 days following final adjournment of the General Assembly unless a referendum petition is filed (August 4, 2009, if final adjournment is May 6, 2009).		
<b>Appropriation Summary for FY 2009-2010:</b> See State Appropriations section.		
<b>Local Government Impact:</b> See Local Government Impact section.		

\* Fee revenue exceeds state expenditures in order to pay for costs noted in the Expenditures not Included section of this fiscal note.

**Summary of Legislation**

This bill creates a registration program for naturopathic doctors (ND) in the Division of Registrations at the Department of Regulatory Agencies (DORA). The department will register applicants who complete an approved naturopathic medical program and pass a competency test. Applicants who currently hold a registration, certification, or license from another state with standards equivalent to those adopted for NDs in Colorado may also be registered. The department is authorized to make all necessary rules, charge fees, investigate complaints, and discipline professionals. Title protection is given to NDs. Practicing naturopathic medicine without a registration is a class 2 misdemeanor on the first offense and a class 6 felony on second and subsequent offenses.

The bill defines naturopathic methods and remedies and specifies the scope of practice and prohibited activities of professionals. Naturopathic doctors must disclose to patients details concerning the nature of services, their credentials to practice, and regulatory limitations and remedies. NDs shall get written acknowledgment that the patient has received all disclosures and must keep the acknowledgments in their records.

The bill creates a ND task force to be composed of representatives from the department, medical physicians, naturopathic doctors, and other medical professionals as determined by the department. The task force shall advise the DORA concerning ND qualifications, the appropriate scope of practice, disclosure requirements, and approved remedies and treatments, among other topics. The task force must make annual reports to the joint Health and Human Services Committee and deliver a final report no later than January 1, 2012. The task force is repealed effective July 1, 2012. The registration program for NDs is repealed effective July 1, 2014.

**State Revenue**

*In FY 2009-10, this bill will increase revenue from fees by an estimated \$155,250. In FY 2010-11, increased fee revenue is estimated at \$125,250.* Fees are credited to the Division of Registrations Cash Fund at the DORA.

**Fee Impact on Naturopathic Doctors.** Section 2-2-322, C.R.S., requires legislative service agency review of measures that create or increase any fee collected by a state agency. Fee calculations are based on the estimated costs of the program distributed across the estimated number of registrations. The estimated number of registrations and renewals comes from the 2008 DORA Sunrise Review for Naturopathic Doctors. This fiscal analysis is based on annual registrations; however, the actual renewal schedule is left to the discretion of the department. During annual fee setting for the program it will be determined if renewals can be completed every two years based on the fund balance, program costs, and fee amounts.

<b>Table 1. Fee Impact on Naturopathic Doctors</b>			
<b>Type of Fee</b>	<b>Proposed Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
FY 2009-10 Initial Registration	\$1,725	90	\$155,250
FY 2010-11 Renewal Registration	\$1,200	90	\$108,000
FY 2010-11 Initial Registration	\$1,725	10	\$17,250
<b>FY 2009-10</b>			<b>\$155,250</b>
<b>FY 2010-11</b>			<b>\$125,250</b>
<b>2 YEAR TOTAL</b>			<b>\$280,500</b>

**Fines.** The bill may increase state revenue from fines, although less than \$5,000 in new state revenue is expected per year. According to Section 18-1.3-501, C.R.S., the penalty for a class 2 misdemeanor is 3 to 12 months imprisonment in a county jail, a fine of \$250 to \$1,000, or both. Fine revenue that is not otherwise appropriated is deposited into the Fines Collection Cash Fund. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined.

**State Expenditures**

*In FY 2009-10, this bill will result in total costs of \$117,038 and 1.2 FTE in the DORA. In FY 2010-11, total costs are \$84,164 and 1.2 FTE.* Major cost components are discussed below and summarized in Table 2.

**Program Administration.** The DORA will require 1.2 FTE plus contract personnel in FY 2009-10. Staff is needed to implement the program, assist the task force, provide general direction and oversight, manage registrations and renewal data, and provide outreach to professionals in the community. Staff will also provide administrative support for registrations and reinstatement applications. Additional program costs during FY 2009-10 include the following:

- ▶ a new registration type must be added to the existing IT system resulting in both hardware and software costs estimated at \$11,920; and
- ▶ the examination used to register NDs must be reviewed and approved by the department at an estimated cost of \$6,000.

**Legal Services.** The Department of Law will provide legal services to the DORA to assist in establishing rules and procedures for the profession. The department will provide 200 hours of legal services in FY 2009-10 and 150 hours in FY 2010-11 at a blended rate of \$75.10 per hour.

**Task Force.** It is estimated that the task force will have 9 members and will meet 4 times annually. Costs for the task force include travel expenses and printing for meetings. These costs are estimated at \$100 per member, per meeting.

<b>Table 2. Total Expenditures Under HB09-1175</b>		
<b>Cost Components</b>	<b>FY 2009-10</b>	<b>FY 2010-11</b>
Personal Services	\$68,124	\$68,124
FTE	1.2	1.2
Contract Personal Services	5,347	-
Operating Expenses and Capital Outlay	7,027	1,175
Legal Services	15,020	11,265
IT System Modifications	11,920	-
Evaluation of Exam	6,000	-
Task Force	3,600	3,600
<b>TOTAL</b>	<b>\$117,038</b>	<b>\$84,164</b>

**Felony Offense.** Subsequent offenses by NDs for practicing without an active registration from the DORA are a class 6 felony. Per Section 18-1.3-401, C.R.S., the penalty for a class 6 felony may include a fine between \$1,000 and \$100,000 or 12 to 18 months imprisonment at a state correctional facility, or both. Information from the Judicial Branch indicates that in the last five years, only 2 misdemeanors and 1 felony have been filed related to alternative medical professions (other than physicians and nurses). In the single felony conviction, the offender was sentenced to probation. Thus, the number of cases filed against NDs is expected to be small, and convictions infrequent. This fiscal note assumes that the bill will not create the need for additional prison space.

**Other costs considered.** The registration of NDs is not expected to create any new costs to either Medicaid, the Children’s Basic Health Plan (CBHP), or state employee insurance. While Medicaid does reimburse for services provided by non-physician practitioners, NDs are not currently on the list of approved non-physician practitioners, nor does the bill require their addition. Under the bill, insurance providers for both the Children’s Basic Health Plan and the state’s employee insurance plans would be able to use NDs to provide some medical services. However, since the registration of NDs does not create new types of medical services, no costs are anticipated. The bill simply adds another profession to the list of potential providers. Additionally, NDs will receive the same reimbursement rates currently set for services provided.

**Expenditures Not Included**

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 3.

<b>Table 3. Expenditures Not Included Under HB09-1175*</b>		
<b>Cost Components</b>	<b>FY 2009-10</b>	<b>FY 2010-11</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$8,304	\$8,304
Supplemental Employee Retirement Payments	2,136	2,533
Indirect Costs	14,749	14,749
Leased Space	5,040	5,040
<b>TOTAL</b>	<b>\$30,229</b>	<b>\$30,626</b>

\*More information is available at: [http://www.state.co.us/gov\\_dir/leg\\_dir/lcsstaff/2009/comsched/CommonPolicies2009.pdf](http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2009/comsched/CommonPolicies2009.pdf)

**Local Government Impact**

The penalty for a class 1 misdemeanor is 6 to 18 months imprisonment in a county jail, a fine of \$500 to \$5,000, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails a daily rate of \$50.44 to house state inmates. It is assumed that the impact of this new misdemeanor will be minimal and will not create the need for additional county jail space.

**State Appropriations**

This bill requires an appropriation of \$117,038 from the Division of Registrations Cash Fund and 1.2 FTE to the Department of Regulatory Agencies. Of this amount, the Department of Law requires \$7,510 reappropriated funds and 0.1 FTE.

**Department Differences**

Due to the new class 6 felony, the Department of Corrections (DOC) anticipates a fiscal impact of \$175,993 General Fund over the next five years for one felony conviction during that period that is sentenced to state prison. Rather than defaulting to a general assumption of a felony conviction resulting in a prison sentence for this new offense, this analysis relies on historical sentencing of convictions for the regulation of professions and occupations. Please refer to the State Expenditures section of the fiscal note for more detail.

**Departments Contacted**

District Attorneys  
Human Services  
Regulatory Agencies

Corrections  
Law

Health Care Policy and Financing  
Personnel