A BILL FOR AN ACT

CONCERNING THE REGULATION OF NATUROPATHIC DOCTORS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires naturopathic doctors to be registered, and specifies that the cost of regulation will be covered through registration fees. Creates a task force to study issues related to the practice of naturopathic medicine, including the scope of practice and patient disclosure requirements. Directs the task force to annually report to the general assembly concerning the practice of naturopathic medicine in Colorado for 3 years. Specifies the scope of practice, prohibited practices, and exemptions. Gives the director of the division of registrations within the department of regulatory agencies rule-making authority. Requires
record-keeping and specific disclosures to the public. Specifies complaint, investigation, and disciplinary procedures. Specifies that practicing naturopathic medicine without an active registration for the second or any subsequent offense is a class 6 felony. Makes an appropriation and transfers revenues to the capital construction fund. Repeals the naturopath law in 2014, subject to sunset review.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 12, Colorado Revised Statutes, is amended by the addition of a new article to read:

ARTICLE 37.7

Naturopathic Medicine

12-37.7-101. Short title. This article shall be known and may be cited as the "NATUROPATHIC PRACTICE ACT".

12-37.7-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "APPROVED NATUROPATHIC MEDICAL PROGRAM" MEANS:

(a) A RESIDENTIAL NATUROPATHIC MEDICAL EDUCATION PROGRAM IN THE UNITED STATES PROVIDING THE DEGREE OF DOCTOR OF NATUROPATHY OR DOCTOR OF NATUROPATHIC MEDICINE. SUCH PROGRAM SHALL OFFER GRADUATE-LEVEL, FULL-TIME, DIDACTIC, AND SUPERVISED CLINICAL TRAINING AND SHALL BE ACCREDITED, OR HAVE ACHIEVED CANDIDACY STATUS FOR ACCREDITATION, BY THE COUNCIL ON NATUROPATHIC MEDICAL EDUCATION OR AN EQUIVALENT FEDERALLY RECOGNIZED ACCREDITING BODY FOR NATUROPATHIC MEDICAL PROGRAMS. ADDITIONALLY, THE PROGRAM SHALL BE AN INSTITUTION, OR PART OF AN INSTITUTION, OF HIGHER EDUCATION THAT IS EITHER ACCREDITED OR IS A CANDIDATE FOR ACCREDITATION BY A REGIONAL OR NATIONAL INSTITUTIONAL ACCREDITING AGENCY RECOGNIZED BY THE
UNITED STATES SECRETARY OF EDUCATION.

(b) A DEGREE-GRANTING COLLEGE OR UNIVERSITY THAT, PRIOR TO THE EXISTENCE OF THE COUNCIL ON NATUROPATHIC MEDICAL EDUCATION, REQUIRED COMPLETION OF A RESIDENTIAL, FULL-TIME, STRUCTURED CURRICULUM IN BASIC SCIENCES AND SUPERVISED PATIENT CARE COMPRISING A DOCTORAL NATUROPATHIC MEDICAL EDUCATION. SUCH CURRICULUM, AS A PREREQUISITE TO GRADUATION, SHALL HAVE BEEN AT LEAST ONE HUNDRED THIRTY-TWO WEEKS IN DURATION AND SHALL HAVE REQUIRED AT LEAST THIRTY-FIVE MONTHS TO COMPLETE.

(c) A DIPLOMA-GRANTING, DEGREE-EQUIVALENT COLLEGE OR UNIVERSITY THAT, IF IN CANADA AND PRIOR TO ACCREDITATION BY THE COUNCIL ON NATUROPATHIC MEDICAL EDUCATION, HAD PROVINCIAL APPROVAL FOR PARTICIPATION IN GOVERNMENT-FUNDED STUDENT AID PROGRAMS AND REQUIRED COMPLETION OF A RESIDENTIAL, FULL-TIME, STRUCTURED CURRICULUM IN BASIC SCIENCES AND SUPERVISED PATIENT CARE COMPRISING A DOCTORAL NATUROPATHIC MEDICAL EDUCATION. SUCH CURRICULUM, AS A PREREQUISITE TO GRADUATION, SHALL HAVE BEEN AT LEAST ONE HUNDRED THIRTY-TWO WEEKS IN DURATION AND SHALL HAVE REQUIRED AT LEAST THIRTY-FIVE MONTHS TO COMPLETE.

(d) A DIPLOMA-GRANTING, DEGREE-EQUIVALENT COLLEGE OR UNIVERSITY IN CANADA THAT REQUIRES RESIDENTIAL, GRADUATE-LEVEL, FULL-TIME, DIDACTIC, AND SUPERVISED CLINICAL TRAINING AND THAT IS ACCREDITED, OR HAS ACHIEVED CANDIDACY STATUS FOR ACCREDITATION, BY THE COUNCIL ON NATUROPATHIC MEDICAL EDUCATION, ITS SUCCESSOR, OR AN EQUIVALENT FEDERALLY RECOGNIZED ACCREDITING BODY FOR NATUROPATHIC MEDICAL PROGRAMS. ADDITIONALLY, THIS COLLEGE OR UNIVERSITY SHALL HAVE PROVINCIAL APPROVAL FOR PARTICIPATION IN
GOVERNMENT-FUNDED STUDENT AID PROGRAMS.

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF REGULATORY AGENCIES.

(3) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

(4) "DIVISION" MEANS THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT.

(5) "NATUROPATHIC MEDICINE" MEANS A SYSTEM OF HEALTH CARE FOR PREVENTION, NATUROPATHIC DIAGNOSIS, AND NATUROPATHIC TREATMENT OF HUMAN HEALTH CONDITIONS, INJURY, AND DISEASE; THE PROMOTION OR RESTORATION OF HEALTH; AND THE SUPPORT AND STIMULATION OF A PATIENT'S INHERENT SELF-HEALING PROCESSES THROUGH PATIENT EDUCATION AND THE USE OF NATUROPATHIC PHYSICAL MODALITIES AND REMEDIES.

(6) "NATUROPATHIC MODALITIES" MEANS LIFESTYLE COUNSELING AND THE PHYSICAL FORCES OF HEAT, COLD, WATER, TOUCH, AND LIGHT; EXCEPT THAT SUCH MODALITIES DO NOT INCLUDE THE REVISION, DESTRUCTION, INCISION, OR OTHER STRUCTURAL ALTERATION OF HUMAN TISSUE USING LASER TECHNOLOGY, THE USE OF LASERS, OR PULSE LIGHT DEVICES IDENTIFIED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION AS A CLASS II DEVICE.

(7) "NATUROPATHIC REMEDIES" MEANS THE USE OF FOOD, EXTRACTS OF FOOD, NUTRACEUTICALS, VITAMINS, AMINO ACIDS, MINERALS, ENZYMES, BOTANICALS AND THEIR EXTRACTS, HOMEOPATHY, AND ALL DIETARY SUPPLEMENTS. EXCEPT AS PROVIDED IN SECTION 12-37.7-107 (1) (a), NATUROPATHIC REMEDIES DO NOT INCLUDE PRESCRIPTION DRUGS.

(8) "PRESCRIPTION DRUG" MEANS ANY DRUG DEFINED BY THE...
"FEDERAL FOOD, DRUG, AND COSMETIC ACT", 21 U.S.C. sec. 353 (b), as amended, if its label is required to bear the statement "RX only".

12-37.7-103. Task force - reports - repeal. (1) There is hereby created a naturopathic doctors task force, referred to in this article as the "task force", to consist of the director; representatives from the department designated by the executive director of the department; and equal numbers of physicians licensed under part 1 of article 36 of this title and naturopathic doctors appointed by the director. In order for the task force to consider additional perspectives and expertise, the director may consult with others, including:

(a) Pharmacists, to obtain input regarding the formulary;

(b) Chiropractors and physical therapists, to obtain input regarding manipulation; and

(c) Attorneys, to obtain input regarding malpractice insurance.

(2) The task force shall consider issues concerning the practice and regulation of naturopathic medicine. The task force shall study training programs and therapeutic modalities and remedies used in the practice of naturopathic medicine. The task force shall consider standards of practice and report on the acceptable certainty of effectiveness, efficacy, and safety of the profession, including consideration of any demonstrated harm in light of peer reviewed, published, or widely vetted research. The issues considered shall include:

(a) Whether Colorado should establish a regulatory program to oversee the practice of naturopathic medicine by
NATUROPATHIC DOCTORS;

(b) THE QUALIFICATIONS OF NATUROPATHIC DOCTORS AND WHAT
SCOPE OF PRACTICE SHOULD GOVERN NATUROPATHIC MEDICINE IN
COLORADO;

(c) WHETHER NATUROPATHIC DOCTORS SHOULD BE ALLOWED TO
PRESCRIBE PRESCRIPTION DRUGS AND, IF SO, UNDER WHAT FORMULARY
AND HOW SUCH FORMULARY IS TO BE DETERMINED;

(d) WHETHER SPECIFIC DISCLOSURES SHOULD BE PROVIDED TO
PATIENTS OF NATUROPATHIC DOCTORS AND, IF SO, WHAT SUCH
DISCLOSURES SHOULD CONTAIN;

(e) THE TERMS NATUROPATHIC DOCTORS MAY AND MAY NOT USE
TO DESCRIBE THEMSELVES AND THE PRACTICE OF NATUROPATHIC
MEDICINE;

(f) WHETHER, AND IN WHAT INSTANCES, IT WOULD BE BENEFICIAL
FOR NATUROPATHIC DOCTORS TO CONSULT OR COLLABORATE WITH
PHYSICIANS LICENSED PURSUANT TO ARTICLE 36 OF THIS TITLE;

(g) WHETHER THERE ARE TREATMENTS PERFORMED BY
NATUROPATHIC DOCTORS THAT SHOULD REQUIRE ADDITIONAL
CERTIFICATIONS AND WHAT QUALIFICATIONS SHOULD BE REQUIRED TO
OBTAIN SUCH CERTIFICATIONS;

(h) THE APPROPRIATE AMOUNT OF MALPRACTICE INSURANCE A
NATUROPATHIC DOCTOR SHOULD BE REQUIRED TO CARRY; AND

(i) WHETHER NATUROPATHIC DOCTORS SHOULD BE ALLOWED TO
PERFORM ANY OF THE PROHIBITED ACTS SPECIFIED IN SECTION
12-37.7-107.

(3) THE TASK FORCE SHALL ISSUE AN ANNUAL REPORT BY
JANUARY 1 OF EACH YEAR TO THE JOINT HEALTH AND HUMAN SERVICES
COMMITTEE OF THE GENERAL ASSEMBLY, OR ITS SUCCESSOR COMMITTEE,
CONCERNING THE ISSUES RAISED BY ENACTMENT OF THIS ARTICLE. THE
TASK FORCE SHALL ISSUE A FINAL REPORT NO LATER THAN JANUARY 1,
2012.

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2012.

12-37.7-104. Title and designation. (1) A PERSON REGISTERED
AS A NATUROPATHIC DOCTOR MAY USE THE TITLE "NATUROPATHIC
DOCTOR" OR THE LETTERS "N.D." WHEN ACCOMPANIED BY THE WORDS
"NATUROPATHIC DOCTOR". PERSONS REGISTERED UNDER THIS ARTICLE
SHALL NOT USE:

(a) THE ABBREVIATIONS "NMD" OR "N.M.D.";
(b) THE TERM "PHYSICIAN";
(c) THE TERM "DOCTOR" UNLESS DIRECTLY PRECEDED BY THE
TERM "NATUROPATHIC"; OR
(d) THE TERM "NATUROPATHIC MEDICAL DOCTOR".

(2) ON AND AFTER JANUARY 1, 2010, ANY PERSON REGISTERED
PURSUANT TO SECTION 12-37.7-105 AND OPERATING IN COMPLIANCE WITH
THIS ARTICLE SHALL BE EXEMPT FROM ARTICLE 36 OF THIS TITLE.

12-37.7-105. Requirements for registration - renewal -
reinstatement - fee - violations - fines. (1) EVERY APPLICANT FOR
REGISTRATION TO PRACTICE NATUROPATHIC MEDICINE SHALL HAVE:

(a) SUCCESSFULLY COMPLETED AN APPROVED NATUROPATHIC
PROGRAM;
(b) PASSED A COMPETENCY EXAMINATION ADMINISTERED BY A
NATIONAL CERTIFYING AGENCY APPROVED BY THE DIRECTOR AND
PROVIDED EVIDENCE TO THE DIRECTOR OF CERTIFICATION;
(c) SUBMITTED AN APPLICATION IN THE FORM AND MANNER
DESIGNATED BY THE DIRECTOR;

(d) PAID A FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR; AND

(e) SUBMITTED A FORM CONTAINING THE DISCLOSURES REQUIRED
BY SECTION 12-37.7-112 THAT THE APPLICANT WILL USE TO COMPLY WITH
SECTION 12-37.7-112.

(2) WHEN AN APPLICANT HAS FULFILLED THE REQUIREMENTS OF
SUBSECTION (1) OF THIS SECTION, THE DIRECTOR SHALL REGISTER AND
ISSUE PROOF OF REGISTRATION TO THE APPLICANT UNLESS THE DIRECTOR
DETERMINES THAT THE APPLICANT HAS COMMITTED ANY ACT THAT WOULD
BE GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-37.7-109.

(3) (a) THE DIRECTOR SHALL REGISTER AN APPLICANT WHO
OTHERWISE MEETS THE QUALIFICATIONS OF THIS ARTICLE AND WHO
SUBMITS SATISFACTORY PROOF AND CERTIFIES UNDER PENALTY OF
PERJURY THAT THE APPLICANT CURRENTLY POSSESSES AN UNRESTRICTED
REGISTRATION, CERTIFICATE, OR LICENSE IN GOOD STANDING TO PRACTICE
NATUROPATHIC MEDICINE UNDER THE LAWS OF ANOTHER STATE OR
TERRITORY OF THE UNITED STATES OR A FOREIGN COUNTRY IF:

(I) THE APPLICANT HAS NOT BEEN SUBJECT TO ANY DISCIPLINARY
ACTION IN SUCH OTHER STATE, TERRITORY, OR FOREIGN COUNTRY; AND

(II) THE APPLICANT HAS ACTIVELY PRACTICED FOR A PERIOD OF
TIME DETERMINED BY RULES OF THE DIRECTOR OR OTHERWISE
MAINTAINED CONTINUED COMPETENCY AS DETERMINED BY THE DIRECTOR.

(b) (I) AN APPLICANT FOR REGISTRATION BY ENDORSEMENT
SHALL:

(A) FILE AN APPLICATION AND PAY A FEE AS PRESCRIBED BY THE
DIRECTOR AND SHALL HOLD A CURRENT, VALID LICENSE OR REGISTRATION
IN A JURISDICTION THAT Requires QUALIFICATIONS SUBSTANTIALLY
EQUIVALENT TO THOSE REQUIRED FOR REGISTRATION PURSUANT TO
SUBSECTION (1) OF THIS SECTION; AND

(B) SUBMIT WITH THE APPLICATION A VERIFICATION THAT THE
APPLICANT HAS ACTIVELY PRACTICED NATUROPATHIC MEDICINE FOR A
PERIOD OF TIME DETERMINED BY RULES OF THE DIRECTOR OR OTHERWISE
MAINTAINED CONTINUED COMPETENCY AS DETERMINED BY THE DIRECTOR.

(II) UPON RECEIPT OF ALL DOCUMENTS REQUIRED BY
SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE DIRECTOR SHALL REVIEW
THE APPLICATION AND MAKE A DETERMINATION OF THE APPLICANT’S
QUALIFICATION TO BE REGISTERED BY ENDORSEMENT.

(c) THE DIRECTOR MAY DENY A REGISTRATION IF THE APPLICANT
HAS COMMITTED ANY ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY
ACTION UNDER SECTION 12-37.7-109.

(4) (a) A NATUROPATHIC DOCTOR SHALL BE REQUIRED TO RENEW
A REGISTRATION ISSUED UNDER THIS ARTICLE ACCORDING TO A SCHEDULE
OF RENEWAL DATES ESTABLISHED BY THE DIRECTOR. THE APPLICANT FOR
RENEWAL SHALL SUBMIT AN APPLICATION IN THE FORM AND MANNER
DESIGNATED BY THE DIRECTOR AND SHALL PAY A RENEWAL FEE IN AN
AMOUNT DETERMINED BY THE DIRECTOR.

(b) REGISTRATIONS SHALL BE RENEWED OR REINSTATED IN
ACCORDANCE WITH THE SCHEDULE ESTABLISHED BY THE DIRECTOR, AND
SUCH RENEWAL OR REINSTATEMENT SHALL BE GRANTED PURSUANT TO
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 A REGISTRATION
PURSUANT TO THE SCHEDULE ESTABLISHED BY THE DIRECTOR, THE
REGISTRATION SHALL EXPIRE. ANY PERSON WHOSE REGISTRATION HAS
EXPIRED AND WHO CONTINUES TO PRACTICE NATUROPATHIC MEDICINE SHALL BE SUBJECT TO THE PENALTIES PROVIDED IN THIS ARTICLE.

(c) A REGISTRANT SHALL NOTIFY THE DIRECTOR WITHIN THIRTY DAYS OF ANY CHANGE IN THE REGISTRANT'S ADDRESS.

(5) ALL FEES COLLECTED UNDER THIS ARTICLE SHALL BE DETERMINED, COLLECTED, AND APPROPRIATED IN THE SAME MANNER AS SET FORTH IN SECTION 24-34-105, C.R.S., AND PERIODICALLY ADJUSTED IN ACCORDANCE WITH SECTION 24-75-402, C.R.S.

12-37.7-106. Scope of practice. A NATUROPATHIC DOCTOR MAY PERFORM AN ASSESSMENT FOR THE PURPOSE OF ESTABLISHING A NATUROPATHIC DIAGNOSIS, USING METHODS CONSISTENT WITH HIS OR HER EDUCATION AND TRAINING, AND TREAT PATIENTS USING NATUROPATHIC MODALITIES AND NATUROPATHIC REMEDIES. A NATUROPATHIC DOCTOR SHALL NOT PROVIDE TREATMENTS BEYOND HIS OR HER EDUCATION OR TRAINING OR IN VIOLATION OF THE PROHIBITIONS SPECIFIED IN SECTION 12-37.7-107.

12-37.7-107. Prohibitions. (1) A NATUROPATHIC DOCTOR SHALL NOT:

(a) PRESCRIBE, DISPENSE, OR ADMINISTER PRESCRIPTION DRUGS OTHER THAN VITAMIN B-12 INJECTABLES;

(b) PERFORM SURGICAL PROCEDURES;

(c) PRACTICE OR CLAIM TO PRACTICE:

(I) MEDICINE OTHER THAN NATUROPATHIC MEDICINE; OR

(II) AS A PHYSICIAN, DOCTOR OTHER THAN A NATUROPATHIC DOCTOR, MEDICAL DOCTOR, OSTEOPATH, DENTIST, PODIATRIST, OPTOMETRIST, PSYCHOLOGIST, ADVANCED PRACTICE NURSE, PHYSICIAN ASSISTANT, CHIROPRACTOR, PHYSICAL THERAPIST, ACUPUNCTURIST, OR
(d) Use anesthesia other than topical anesthetics;
(e) administer ionizing radiation or radioactive substances;
(f) perform chiropractic adjustments as defined in section 12-33-102, manipulation as referenced in section 12-33-102, or physical therapy as defined in section 12-41-103, including joint mobilization;
(g) practice obstetrics;
(h) recommend the discontinuation of, or counsel against, a course of care including, without limitation, a prescription drug that was recommended or prescribed by another health care practitioner required to be licensed pursuant to this title;
(i) treat cancer; except that a naturopathic doctor may treat concomitant conditions and the symptoms and side effects of cancer;
(j) treat a patient who informs the naturopathic doctor that he or she is under the care of a physician licensed under article 36 of this title unless the patient is advised as part of the disclosure statement in section 12-37.7-112 to inform the treating physician that he or she is seeking treatment from a naturopathic doctor;
(k) treat mental health conditions; communicable diseases; neurologic conditions; diabetes; renal conditions; metabolic syndromes; toxicity; diseases of the heart, lungs, cardiovascular system, or endocrine system; or any condition
FOR WHICH SIGNS OR SYMPTOMS DO NOT IMPROVE BY DOCUMENTED EVIDENCE WITHIN TWENTY-FIVE DAYS UNLESS THE PATIENT IS ADVISED, IN A WRITTEN DOCUMENT SIGNED BY THE PATIENT, TO CONSULT A LICENSED PHYSICIAN;

(l) USE CHELATION;

(m) TREAT A CHILD WHO IS LESS THAN TWO YEARS OF AGE;

(n) TREAT A CHILD TWO YEARS OF AGE OR OLDER, BUT LESS THAN EIGHT YEARS OF AGE UNLESS THE NATUROPATHIC DOCTOR:

(I) COMPLIES WITH ALL PUBLIC HEALTH LAWS;

(II) PROVIDES TREATMENT ONLY:

(A) IN CONSULTATION WITH A MEDICAL DOCTOR LICENSED PURSUANT TO ARTICLE 36 OF THIS TITLE; OR

(B) IF THE CHILD'S PARENT OR GUARDIAN SIGNS A WAIVER STATING THAT HE OR SHE REFUSES TO HAVE THE CHILD TREATED IN CONSULTATION WITH A MEDICAL DOCTOR, IN WHICH CASE THE NATUROPATHIC DOCTOR SHALL, IN WRITING, ADVISE THE PARENT OR GUARDIAN THAT THE PARENT OR GUARDIAN IS RESPONSIBLE FOR FOLLOWING ALL APPLICABLE LAWS;

AND

(III) DOES NOT:

(A) PERFORM INVASIVE PROCEDURES;

(B) PERFORM ENEMAS;

(C) PERFORM DEVELOPMENTAL ASSESSMENTS; OR

(D) TREAT CHRONIC MEDICAL PROBLEMS WITHOUT PROVIDING A DISCLOSURE TO THE CHILD'S PARENT OR GUARDIAN PURSUANT TO SECTION 12-37.7-112; OR

(o) PERFORM COLONIC IRRIGATION.

12-37.7-108. Director - rules. (1) The director shall:
(a) Promulgate all rules and conduct all hearings required by this article;
(b) Designate the application form to be used by applicants and process all applications;
(c) Register and renew the registrations of all persons who meet the qualifications for registration or renewal established in section 12-37.7-105;
(d) Initiate and investigate complaints;
(e) Determine whether a naturopathic doctor should be the subject of a disciplinary hearing;
(f) Impose sanctions and penalties for violations of this article or the rules promulgated pursuant to this article; and
(g) Perform any administrative, nondisciplinary, and nonrule-making functions as provided by this article.

12-37.7-109. Disciplinary actions - definitions. (1) The director shall revoke, suspend, deny, or refuse to renew a registration or issue a cease-and-desist order to a naturopathic doctor or applicant in accordance with this section upon proof that the naturopathic doctor or applicant:
(a) Has engaged in a sexual act with a person receiving services while a therapeutic relationship existed or during the six-month period immediately following termination of the therapeutic relationship. For the purposes of this paragraph (a):
   (I) "Sexual act" means sexual contact, sexual intrusion, or sexual penetration, as such terms are defined in section 18-3-401, C.R.S.
   (II) "Therapeutic relationship" means the period beginning
WITH THE INITIAL CONSULTATION AND ENDING UPON THE WRITTEN TERMINATION OF TREATMENT.

(b) Has falsified information in an application or has attempted to obtain or has obtained a registration by fraud, deception, or misrepresentation;

(c) Is an excessive or habitual user or abuser of alcohol or habit-forming drugs or is a habitual user of a controlled substance, as defined in Section 18-18-102, C.R.S., or other drugs having similar effects; except that the Director has the discretion not to discipline the naturopathic doctor if he or she is participating in good faith in a program that meets the approval of the Director to end such use or abuse;

(d) Has a physical or mental condition or disability that renders the naturopathic doctor unable to provide naturopathic medical services with reasonable skill and safety or that may endanger the health or safety of individuals receiving services;

(e) Has violated this article, a rule adopted under this article, or any lawful order of the Director; or has aided or abetted or knowingly permitted any person to do so;

(f) Has been disciplined by a regulatory agency of another jurisdiction;

(g) Has been the subject of a deferred prosecution, or has been convicted of or pled guilty or no-lo contendere to a felony or any crime defined in Title 18, C.R.S. A certified copy of the judgment of a court of competent jurisdiction of the conviction or plea shall be conclusive evidence of the prosecution,
CONVICTION, OR PLEA. IN CONSIDERING THE DISCIPLINARY ACTION, THE DIRECTOR SHALL BE GOVERNED BY SECTION 24-5-101, C.R.S.

(h) HAS IMPROPERLY:

(I) OBTAINED, FURNISHED, OR SOLD ANY:

(A) NATUROPATHIC OR NATUROPATHIC MEDICAL DIPLOMA, REGISTRATION, LICENSE, OR CERTIFICATE;

(B) RENEWAL OF A REGISTRATION, LICENSE, OR CERTIFICATE; OR

(C) RECORD; OR

(II) AIDED OR ABETTED ANY ACT SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (h);

(i) HAS FAILED TO NOTIFY THE DIRECTOR OF ANY DISCIPLINARY ACTION IN RELATION TO THE APPLICANT'S PAST OR CURRENTLY HELD LICENSE, CERTIFICATE, OR REGISTRATION REQUIRED TO PRACTICE NATUROPATHIC MEDICINE IN THIS OR ANY OTHER JURISDICTION;

(j) HAS REFUSED TO SUBMIT TO A PHYSICAL OR MENTAL EXAMINATION WHEN SO ORDERED BY THE DIRECTOR OR HAS OTHERWISE FAILED TO RESPOND IN AN HONEST, MATERIALLY RESPONSIVE, AND TIMELY MANNER TO A COMPLAINT ISSUED BY THE DIRECTOR;

(k) HAS FAILED TO COMPLY WITH THE DISCLOSURE REQUIREMENTS OF SECTION 12-37.7-112;

(l) HAS FAILED TO RESPOND IN AN HONEST, MATERIALLY RESPONSIVE, AND TIMELY MANNER TO A COMPLAINT ISSUED PURSUANT TO SECTION 12-37.7-111;

(m) HAS FAILED TO KEEP APPROPRIATE RECORDS OR HAS FALSIFIED OR MADE INCORRECT ENTRIES OF AN ESSENTIAL NATURE ON SUCH RECORDS INCLUDING, WITHOUT LIMITATION, WRITTEN PROOF OF ALL NOTICES REQUIRED TO BE PROVIDED UNDER THIS ARTICLE;
(n) Has failed to notify the director, in writing, of the
entry of a final judgment by a court of competent jurisdiction
in favor of any party and against the naturopathic doctor or
any settlement by the naturopathic doctor in response to
charges or allegations arising from or in any way related to
the naturopathic doctor's practice. The notice shall be given
within thirty days after entry of the judgment or settlement
and, in the case of a judgment, shall contain the name of the
court, the case number, and the names of all parties to the
action.

(o) Has used false, deceptive, or misleading advertising; or

(p) Has practiced naturopathic medicine during the time
the person's registration was expired, suspended, or revoked.

The director is specifically authorized to take disciplinary
action against a registrant if the director finds that the
registrant has represented himself or herself as a registered
naturopathic doctor after the expiration, suspension, or
revocation of such registration, unless the registrant had been
reinstated when the representation occurred.

(2) Except as otherwise provided in subsection (1) of this
section, the director need not find that the actions that are
grounds for discipline were willful but may consider whether
such actions were willful when determining the nature of
disciplinary sanctions to be imposed.

(3) (a) The director may commence a proceeding to
discipline a naturopathic doctor when the director has
reasonable grounds to believe that the naturopathic doctor
HAS COMMITTED AN ACT ENUMERATED IN THIS SECTION.

(b) SUBJECT TO SECTION 12-37.7-104 (2), IF IN THE COURSE OF AN INVESTIGATION THE DIRECTOR DETERMINES THAT IT IS LIKELY THAT A NATUROPATHIC DOCTOR MAY HAVE VIOLATED ARTICLE 36 OF THIS TITLE OR RULES PROMULGATED PURSUANT TO SUCH ARTICLE, THE DIRECTOR SHALL FORWARD SUCH INFORMATION TO THE BOARD OF MEDICAL EXAMINERS.

(4) DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND THE HEARING AND OPPORTUNITY FOR REVIEW SHALL BE CONDUCTED PURSUANT TO THAT ARTICLE BY THE DIRECTOR OR BY AN ADMINISTRATIVE LAW JUDGE, AT THE DIRECTOR'S DISCRETION. THE DIRECTOR HAS THE AUTHORITY TO EXERCISE ALL POWERS AND DUTIES CONFERRED BY THIS ARTICLE DURING THE DISCIPLINARY PROCEEDINGS.

(5) (a) THE DIRECTOR MAY REQUEST THE ATTORNEY GENERAL TO SEEK AN INJUNCTION, IN ANY COURT OF COMPETENT JURISDICTION, TO ENJOIN A PERSON FROM COMMITTING AN ACT PROHIBITED BY THIS ARTICLE. WHEN SEEKING AN INJUNCTION UNDER THIS PARAGRAPH (a), THE ATTORNEY GENERAL SHALL NOT BE REQUIRED TO ALLEGE OR PROVE THE INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED VIOLATION OF THIS ARTICLE.

(b) (I) IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND THIS ARTICLE, THE DIRECTOR IS AUTHORIZED TO INVESTIGATE, HOLD HEARINGS, AND GATHER EVIDENCE IN ALL MATTERS RELATED TO THE EXERCISE AND PERFORMANCE OF THE POWERS AND DUTIES OF THE DIRECTOR.
(II) In order to aid the Director in any hearing or investigation instituted pursuant to this section, the Director or an administrative law judge appointed pursuant to paragraph (c) of this subsection (5) is authorized to administer oaths, take affirmations of witnesses, and issue subpoenas compelling the attendance of witnesses and the production of the originals or copies of all records, papers, books, documents, and materials of the naturopathic doctor or another person containing information relevant to the hearing or investigation.

(III) Upon failure of any witness or naturopathic doctor to comply with a subpoena or process, the district court of the county in which the subpoenaed person or naturopathic doctor resides or conducts business, upon application by the Director with notice to the subpoenaed person or naturopathic doctor, may issue an order to the person or naturopathic doctor requiring him or her 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. If the person or naturopathic doctor fails to obey the order of the court, he or she may be held in contempt of court.

(c) The Director may appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., to conduct hearings, take evidence, make findings, and report such findings to the Director.

(6)(a) The Director, the Director's staff, any person acting as a witness or consultant to the Director, any witness
TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE, AND ANY PERSON WHO LODGES A COMPLAINT PURSUANT TO THIS ARTICLE SHALL BE IMMUNE FROM SUIT AND LIABILITY IN ANY CIVIL ACTION FOR ACTS OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS DIRECTOR, STAFF, CONSULTANT, OR WITNESS, RESPECTIVELY, IF SUCH INDIVIDUAL WAS ACTING IN GOOD FAITH WITHIN THE SCOPE OF HIS OR HER RESPECTIVE CAPACITY, MADE A REASONABLE EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO WHICH HE OR SHE ACTED, AND ACTED IN THE REASONABLE BELIEF THAT THE ACTION TAKEN WAS WARRANTED BY THE FACTS.

(b) A PERSON PARTICIPATING IN GOOD FAITH IN MAKING A COMPLAINT OR REPORT OR IN AN INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING PURSUANT TO THIS SECTION SHALL BE IMMUNE FROM ANY CIVIL OR CRIMINAL SUIT OR LIABILITY THAT OTHERWISE MIGHT RESULT BY REASON OF THE PARTICIPATION.

(7) A FINAL ACTION OF THE DIRECTOR IS SUBJECT TO JUDICIAL REVIEW BY THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11), C.R.S. A JUDICIAL PROCEEDING TO ENFORCE AN ORDER OF THE DIRECTOR MAY BE INSTITUTED IN ACCORDANCE WITH SECTION 24-4-106, C.R.S.

(8) AN EMPLOYER OF A NATUROPATHIC DOCTOR SHALL REPORT TO THE DIRECTOR ANY DISCIPLINARY ACTION TAKEN AGAINST THE NATUROPATHIC DOCTOR OR THE RESIGNATION OF THE NATUROPATHIC DOCTOR IN LIEU OF DISCIPLINARY ACTION FOR CONDUCT THAT VIOLATES THIS ARTICLE.

(9) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, WARRANTS FORMAL ACTION, THE COMPLAINT SHALL NOT BE RESOLVED 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 Naturopathic Doctor is acting in a manner that causes or constitutes 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 such activity. The order shall set forth 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 improper 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 hearing shall be conducted pursuant to 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 provision of this article, in addition to any specific powers granted pursuant to this article, the Director may issue an order to the person 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 practice.

(b) A person against whom an order to show cause has been issued pursuant to paragraph (a) of this subsection (11) shall be notified promptly by the Director of the issuance of the order, along with 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 NOTICE MAY BE SERVED ON THE PERSON
AGAINST WHOM THE ORDER HAS BEEN ISSUED BY PERSONAL SERVICE, BY
FIRST-CLASS, POSTAGE PREPAID UNITED STATES MAIL, OR IN ANOTHER
MANNER AS MAY BE PRACTICABLE. PERSONAL SERVICE OR MAILING OF AN
ORDER OR DOCUMENT PURSUANT TO THIS PARAGRAPH (b) SHALL
CONSTITUTE NOTICE OF THE ORDER TO THE PERSON.

(c) (I) THE HEARING ON AN ORDER TO SHOW CAUSE SHALL BE HELD
NO SOONER 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 hearing may be continued by agreement of all parties based
upon the complexity of the matter, number of parties to the
matter, and legal issues presented in the matter, but in no event
shall the hearing be held later 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 ON THE PERSON
PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (11) AND SUCH OTHER
EVIDENCE RELATED TO THE MATTER AS THE DIRECTOR DEEMS
APPROPRIATE. SUCH HEARING SHALL BE CONDUCTED PURSUANT TO
SECTIONS 24-4-104 AND 24-4-105, C.R.S. 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 SHALL BECOME FINAL AS TO THAT PERSON BY OPERATION OF
(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 engaged or is about to engage in acts or practices constituting violations of this article, a final cease-and-desist order may be issued, directing the person to cease and desist from further unlawful acts or unlicensed 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 issued pursuant to subparagraph (III) of this paragraph (c) shall be effective when issued and shall be 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, that the person has engaged or is about to engage in any of the following:

(a) an unauthorized act or practice;

(b) an act or practice constituting a violation of:

(I) this article;

(II) a rule promulgated pursuant to this article; or

(III) an order issued pursuant to this article; or

(c) an act or practice constituting grounds for administrative sanction pursuant to this article.
(13) If any 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 exists to bring, and if so requested such 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 as provided in subsection (8) of this section.

(15) Naturopathic doctors shall observe and be subject to all applicable laws with regard to the control of contagious and infectious diseases, the reporting of births and deaths, and any other matters pertaining to the public health.

12-37.7-110. Mental and physical examination of naturopathic doctors. (1) If the director has reasonable cause to believe that a naturopathic doctor is unable to practice with reasonable skill and safety, the director may order the naturopathic doctor to undergo a mental or physical examination administered by a physician or other licensed health care professional designated by the director. Unless due to circumstances beyond the naturopathic doctor's control, if the naturopathic doctor refuses to undergo a mental or physical examination, the director may suspend the naturopathic doctor's registration until the results of the examination are known and the director has made a determination of the
NATUROPATHIC DOCTOR'S FITNESS TO PRACTICE. THE DIRECTOR SHALL
PROCEED WITH AN ORDER FOR EXAMINATION AND SHALL MAKE HIS OR HER
determination in a timely manner.

(2) AN ORDER REQUIRING A NATUROPATHIC DOCTOR TO UNDERGO
A MENTAL OR PHYSICAL EXAMINATION SHALL CONTAIN THE BASIS OF THE
DIRECTOR'S REASONABLE CAUSE TO BELIEVE THAT THE NATUROPATHIC
DOCTOR IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY.

FOR PURPOSES OF A DISCIPLINARY PROCEEDING AUTHORIZED UNDER THIS
ARTICLE, THE NATUROPATHIC DOCTOR SHALL BE DEEMED TO HAVE
WAIVED ALL OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING
PHYSICIAN'S OR OTHER LICENSED HEALTH CARE PROFESSIONAL'S
TESTIMONY OR EXAMINATION REPORTS ON THE GROUND THAT THEY ARE
PRIVILEGED COMMUNICATIONS.

(3) THE NATUROPATHIC DOCTOR MAY SUBMIT TO THE DIRECTOR
TESTIMONY OR EXAMINATION REPORTS FROM A PHYSICIAN OR OTHER
LICENSED HEALTH CARE PROFESSIONAL CHosen BY THE NATUROPATHIC
DOCTOR AND PERTAINING TO ANY CONDITION THAT THE DIRECTOR HAS
ALLEGED MAY PRECLUDE THE NATUROPATHIC DOCTOR FROM PRACTICING
WITH REASONABLE SKILL AND SAFETY. THE TESTIMONY AND REPORTS
SUBMITTED BY THE NATUROPATHIC DOCTOR MAY BE CONSIDERED BY THE
DIRECTOR IN CONJUNCTION WITH, BUT NOT IN LIEU OF, TESTIMONY AND
EXAMINATION REPORTS FROM THE PHYSICIAN OR OTHER LICENSED HEALTH
CARE PROFESSIONAL DESIGNATED BY THE DIRECTOR.

(4) THE RESULTS OF A MENTAL OR PHYSICAL EXAMINATION
ORDERED BY THE DIRECTOR SHALL NOT BE USED AS EVIDENCE IN ANY
PROCEEDING OTHER THAN ONE BEFORE THE DIRECTOR AND SHALL NOT BE
DEEMED A PUBLIC RECORD OR MADE AVAILABLE TO THE PUBLIC.
12-37.7-111. Complaints - investigation. (1) Any person may report to the director in writing any information the person has indicating that a person has violated this article.

(2) A naturopathic doctor shall report to the director in writing any information the naturopathic doctor has indicating that another person is or may be violating this article, within thirty days after becoming aware of such information.

(3) A naturopathic doctor's voluntary resignation from the staff of a health care institution, voluntary limitation of staff privileges, or failure to reapply for hospital privileges at such an institution shall be promptly reported to the director by the institution and the naturopathic doctor if that action occurs while the naturopathic doctor is under formal or informal investigation by the institution or a committee thereof for any reason related to possible incompetence, unprofessional conduct, or mental or physical impairment.

(4) Upon receiving a complaint or report concerning any person for a violation of this article, or, on his or her own motion, the director may investigate any evidence that appears to show that a naturopathic doctor is committing or has committed any act that would violate this article.

12-37.7-112. 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) The prohibitions specified in section 12-37.7-107;

(d) The states in which the naturopathic doctor holds an active license or registration;

(e) A statement that naturopathic doctors are not physicians, have not attended allopathic medical school, and may not practice medicine as defined in the "Colorado Medical Practice Act", article 36 of this title, and that the diagnosis and treatment of patients by naturopathic doctors is limited to uses of naturopathic modalities and naturopathic remedies;

(f) How to file a complaint against a naturopathic doctor;

and

(g) Any degrees, training, experience, credentials, or other qualifications of the naturopathic doctor, including whether or not such degrees were awarded by institutions accredited by a regional or professional accrediting agency recognized by the United States Department of Education or the Council on Postsecondary Accreditation, or a successor agency, or recognized as a candidate for accreditation by such an agency.

(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 maintain the acknowledgment for seven years after the last services provided to the patient.

(3) If a naturopathic doctor treats any patient who is under the care of a licensed physician, the naturopathic doctor
SHALL ADVISE THE PATIENT IN WRITING TO INFORM THE PATIENT’S PHYSICIAN THAT THE PATIENT IS BEING TREATED BY A NATUROPATHIC DOCTOR. IF A PATIENT IS SEEKING TREATMENT FOR CANCER, THE NATUROPATHIC DOCTOR SHALL RECOMMEND TO THE PATIENT THAT THE PATIENT CONSULT WITH A LICENSED PHYSICIAN SPECIALIZING IN ONCOLOGY. IF A PATIENT IS TWO YEARS OF AGE OR OLDER BUT LESS THAN EIGHT YEARS OF AGE AND IS SEEKING TREATMENT FOR A CHRONIC MEDICAL PROBLEM, THE NATUROPATHIC DOCTOR SHALL RECOMMEND TO THE PATIENT’S PARENT OR GUARDIAN THAT HE OR SHE CONSULT WITH A LICENSED PHYSICIAN SPECIALIZING IN PEDIATRICS OR FAMILY MEDICINE.

12-37.7-113. Liability - unlicensed practice. (1) A NATUROPATHIC DOCTOR SHALL BE LIABLE FOR HIS OR HER ACTS OR OMISSIONS IN THE PERFORMANCE OF NATUROPATHIC MEDICINE.

(2) A PERSON WHO PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE NATUROPATHIC MEDICINE WITHOUT AN ACTIVE REGISTRATION PURSUANT TO THIS ARTICLE COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S., FOR THE FIRST OFFENSE, AND FOR THE SECOND OR ANY SUBSEQUENT OFFENSE, THE PERSON COMMITS A CLASS 6 FELONY AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-401, C.R.S.

12-37.7-114. Repeal of article. THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 2014. PRIOR TO SUCH REPEAL, THE REGISTRATION OF NATUROPATHIC DOCTORS SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

SECTION 2. 13-4-102 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

13-4-102. Jurisdiction. (2) The court of appeals shall have
initial jurisdiction to:

(II) REVIEW ALL FINAL ACTIONS AND ORDERS APPROPRIATE FOR JUDICIAL REVIEW OF THE DIRECTOR OF THE DIVISION OF REGISTRATIONS AS PROVIDED IN SECTION 12-37.7-109 (8), C.R.S.

SECTION 3. 24-34-104 (45), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.

(45) The following agencies, functions, or both, shall terminate on July 1, 2014:

(h) THE REGISTRATION OF NATUROPATHIC DOCTORS PURSUANT TO ARTICLE 37.7 OF TITLE 12, C.R.S.

SECTION 4. Act subject to petition - effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 4, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to acts occurring on or after the applicable effective date of this act.