

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 11-0382
Prime Sponsor(s): Rep. Riesberg
 Sen. Jahn

Date: February 23, 2011
Bill Status: House Health and Environment
Fiscal Analyst: Josh Abram (303-866-3561)

TITLE: CONCERNING THE REGULATION OF NATUROPATHIC DOCTORS.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue*		
General Fund	< \$5,000	< \$5,000
Cash Funds		
Division of Registrations Cash Fund*	\$140,132	\$98,232
State Expenditures		
Cash Funds		
Division of Registrations Cash Fund	\$106,625	\$87,525
FTE Position Change	1.3 FTE	1.3 FTE
Effective Date: August 11, 2010, assuming the General Assembly adjourns May 12, 2010, as scheduled and no referendum petition is filed.		
Appropriation Summary for FY 2011-2012: See State Appropriations section.		
Local Government Impact: 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 licensing program for naturopathic doctors (ND) in the Division of Registrations at the Department of Regulatory Agencies (DORA). Beginning July 1, 2012, a ND must be licensed to practice. A person who practices naturopathic medicine without a license commits a class 2 misdemeanor. The director of the division is authorized to adopt necessary rules, establish an application process, charge fees, monitor continuing education requirements, investigate complaints, and take disciplinary action including the imposition of fines. The regulatory program is repealed effective September 1, 2017, following a sunset review.

The bill defines minimum qualifications for a ND license, which include graduation from a naturopathic medical college with a doctorate of naturopathic medicine, at least 1,200 hours of clinical training, and successfully passing a competency-based licensing examination. Title protection is given to NDs.

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

State Revenue

In FY 2011-12, this bill will increase revenue from fees by an estimated \$140,132. In FY 2012-13, increased fee revenue is estimated at \$98,232. 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, and from information from professional associations. This fiscal analysis is based on annual registrations; however, the actual renewal schedule is left to the discretion of the division. 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.

Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2011-12 Initial License	\$1,322	106	\$140,132
FY 2012-13 Initial License	\$1,322	10	\$13,220
FY 2012-13 Renewal License	\$802	106	\$85,012
FY 2011-12			\$140,132
FY 2012-13			\$98,232
2-YEAR TOTAL			\$238,364

Fines. The bill may increase state revenue from fines, although less than \$5,000 in new state revenue is expected per year. Fines from disciplinary actions taken by the division are deposited in the General Fund.

The bill may also increase state revenue from fines for misdemeanor convictions. 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 ordering incarceration, imposing a fine, or both, the impact to state revenue cannot be determined.

State Expenditures

In FY 2011-12, this bill will result in total costs of \$106,625 and 1.3 FTE in the DORA. In FY 2012-13, total costs are \$87,525 and 1.3 FTE. Major cost components are discussed below and summarized in Table 2.

The DORA will require 1.3 FTE plus temporary contract personnel in FY 2011-12. Staff are needed to adopt rules, implement the program, provide general direction and oversight, manage licensing and renewal data, and provide outreach to newly regulated professionals in the community. Ongoing, new staff will also investigate complaints and take disciplinary action. In addition to this new staff and related operating costs, the DORA will have expenses for travel, printing, and legal services. Total expenditures are listed in Table 2.

Table 2. Total Expenditures Under HB 11-1173		
Cost Components	FY 2011-12	FY 2012-13
Personal Services	\$75,753	\$75,735
FTE	1.3	1.3
Operating Expenses and Capital Outlay	7,349	1,235
Travel/Outreach/Printing	6,935	3,187
Contract Personal Services	9,238	-
Legal Services	7,350	7,350
TOTAL	\$106,625	\$87,525

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 estimated in Table 3.

Table 3. Expenditures Not Included Under HB 11-1173*		
Cost Components	FY 2011-12	FY 2012-13
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$102	\$102
Supplemental Employee Retirement Payments	9,919	9,919
AED and Supplemental AED	1,341	1,341
Indirect Costs	8,837	8,837
Workers Compensation	137	137
Risk Management	212	212
TOTAL	\$20,548	\$20,548

*More information is available at: <http://colorado.gov/fiscalnotes>

Local Government Impact

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. Because the courts have the discretion of ordering 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 \$106,625 from the Division of Registrations Cash Fund and 1.3 FTE to the Department of Regulatory Agencies. Of this amount, the Department of Law requires \$7,350 in reappropriated funds.

Departments Contacted

Judicial Law Personnel Regulatory Agencies