

**STATE and LOCAL  
FISCAL IMPACT**

**Drafting Number:** LLS 13-0552

**Date:** February 5, 2013

**Prime Sponsor(s):** Rep. Ginal  
Sen. Newell

**Bill Status:** House Health, Insurance & Environment  
**Fiscal Analyst:** Josh Abram (303-866-3561)

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

<b>Fiscal Impact Summary</b>	<b>FY 2013-2014</b>	<b>FY 2014-2015</b>
<b>State Revenue</b>		
General Fund	<\$2,500	<\$5,000
Cash Funds		
Fines Collection Cash Fund	<2,500	<5,000
Division of Professions and Occupations Cash Fund	115,200	151,680
<b>State Expenditures</b>		
Cash Funds		
Division of Professions and Occupations Cash Fund	\$98,239	\$124,424
<b>FTE Position Change</b>	0.9 FTE	1.8 FTE
<b>Effective Date:</b> August 7, 2013, if the General Assembly adjourns on May 8, 2013, as scheduled, and no referendum petition is filed.		
<b>Appropriation Summary for FY 2013-2014:</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 licensing program for naturopathic doctors (ND) in the Division of Professions and Occupations in the Department of Regulatory Agencies (DORA) and creates the seven-member Board of Naturopathic Medicine (board) to regulate ND practice. Beginning January 1, 2014, only individuals properly licensed may use the title "naturopathic doctor" or otherwise represent themselves as such. In addition, the bill:

- defines NDs and the scope of their practice;
- specifies educational background, examination requirements, and continuing professional competency of NDs;
- requires the board to adopt necessary rules, including application procedures;
- provides the board with the ability to set fees and schedule license renewals;
- establishes the grounds for disciplinary proceedings;
- authorizes the board to take disciplinary actions, including assessing fines; and
- establishes a class 2 misdemeanor for practicing without an active ND license.

The licensing program is repealed September 1, 2019, following a sunset review.

**State Revenue**

*In FY 2013-14, this bill will increase revenue from fees by an estimated \$115,200. In FY 2014-15, increased fee revenue is estimated at \$151,680.* Fees are credited to the Division of Occupations and Professions 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. The fee amounts displayed in Table 1 are estimates only; actual fee calculations are set administratively by the DORA based on the cash fund balance, estimated program costs, and the estimated number of licenses. This fiscal analysis is based on annual licensure; however, the actual renewal schedule is left to the discretion of the board. During annual fee setting for the program, it will be determined whether renewals can be completed every two years based on the fund balance, program costs, and fee amounts. Table 1 displays the estimated fee impact on NDs.

<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 2013-14 Initial License	\$960	120	\$115,200
FY 2014-15 Initial License	960	3	2,880
FY 2014-15 Renewal License	1,240	120	148,800
<b>FY 2013-14</b>			<b>\$115,200</b>
<b>FY 2014-15</b>			<b>\$151,680</b>
<b>2-YEAR TOTAL</b>			<b>\$266,880</b>

*Fines.* The bill may increase state revenue from fines, although less than \$5,000 in new state revenue is expected in FY 2013-14 and less than \$10,000 in new revenue is expected thereafter. Fines from disciplinary actions taken by the board 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 2013-14, this bill will result in total costs of \$98,239 and 0.9 FTE in the DORA. In FY 2014-15, total costs are \$124,424 and 1.8 FTE.* Major cost components are discussed below and summarized in Table 2.

<b>Table 2. Total Expenditures Under HB 13-1111</b>		
<b>Cost Components</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>
Personal Services*	\$62,397	\$100,016
FTE	0.9	1.8
Operating Expenses and Capital Outlay	5,088	5,377
Board Expenses, Travel, and <i>Per Diem</i>	7,750	6,300
Printing and Imaging	829	139
Legal Services	16,995	12,592
Computer Programing	5,180	-
<b>TOTAL</b>	<b>\$98,239</b>	<b>\$124,424</b>

\*Includes temporary contract personnel in FY 2013-14 only.

**Personnel and administration.** The DORA will require new staff plus temporary contract personnel beginning in FY 2013-14. Staff are needed to assist the board to research and adopt rules, implement the program, provide general direction and oversight, manage licensing and renewal data, coordinate continued competency requirements, and provide outreach and technical assistance to newly regulated professionals in the community. In addition to new staff and related operating costs, the DORA will have expenses for travel, outreach, and printing.

Licensing of a new primary care medical provider is anticipated to create additional personnel costs for the DORA beginning in FY 2014-15. The board will respond to and investigate complaints filed against both licensed and unlicensed NDs as public awareness of the program grows and more professionals obtain a license. The DORA will investigate complaints, assign cases for internal disciplinary action, issues cease and desist orders, and refer cases to the Department of Law for criminal prosecution.

**Board expenses.** The licensing program is overseen by a seven member-board. The DORA will have expenses to convene the board and pay travel and *per diem* to members. It is assumed that the board will require an introductory orientation meeting. The board will meet each month for the first six months of the new program, and then every two months thereafter. Each meeting is estimated to cost \$1,050.

**Legal services.** The Department of Law will provide 220 hours of legal services in FY 2013-14 and 163 hours in FY 2014-15 at a blended rate of \$77.25 per hour. Legal services are provided for general counsel to the board for rule making, including rules for continued competency requirements, and to assist with enforcement and disciplinary actions.

**Computer programming.** Computer programming services from the Office of Information Technology (OIT) are needed to create and administer the new license type and to create systems for tracking continued competency requirements. The DORA will purchase 70 hours of programming in FY 2013-14 at \$74 per hour.

**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 CBPH 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 estimated in Table 3.

<b>Table 3. Expenditures Not Included Under HB 13-1111*</b>		
<b>Cost Components</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$6,047	\$12,093
Supplemental Employee Retirement Benefits	3,070	6,946
Indirect Costs	5,791	11,581
<b>TOTAL</b>	<b>\$14,908</b>	<b>\$30,620</b>

*\*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 \$98,239 from the Division of Professions and Occupations Cash Fund and 0.9 FTE to the Department of Regulatory Agencies. Of this amount, the Department of Law requires \$16,995 in reappropriated funds, and the Office of Information Technology requires \$5,180 in reappropriated funds.

### **Departments Contacted**

Health Care Policy Financing  
Personnel

Judicial  
Regulatory Agencies

Law