

The Legislative Process:

What is the purpose of a legislative intent section?

The legislative intent section will not become part of the resulting law when the bill passes. It is provided as an aid to the judiciary, which has the job of interpreting the law, and to the administrative agencies, which have the job of providing rules and regulations to administer the law. The legislative intent often describes the problems that the law is intended to address and the reason the law was needed. It also may include hints as to the meaning of certain sections of the law, and will be referred to when the words of the law appear to be ambiguous to see if the legislative intent provides any clarification. An administrative agency making rules and regulations pursuant to the law may not contravene the legislative intent.

Once the bill becomes law, when can I get licensed to practice in NY?

The effective date of the law will be 1.5 to 2 years after the bill is signed into law. During this interim time period the State Education Department (SED) will write regulations for the licensing, admission and practice of naturopathic medicine. Such process must comply with the administrative procedures law, and so will be a process of gathering information, drafting regulations, seeking comments on proposed regulations, considering those comments, and finalizing and implementing the final regulations. Once the law is in effect, many sections of the bill will be in effect. However, the sections relating to injection therapy privilege, limited residency permits, and continuing education will have a later effective date, so as to give the SED additional time to develop regulations for implementing such section. Once those sections become effective, eligible persons may obtain injection therapy privilege; persons entered in an approved naturopathic medicine residency program in New York may receive a limited permit to practice in the state; and continuing education will become mandatory.

Scope of Practice:

What is the definition of the profession of naturopathic medicine?

The practice of naturopathic medicine is defined as facilitating optimum health and wellness using naturopathic assessment, common office procedures, physical naturopathy, approved substances, and noninvasive therapies. Each clause of that definition is elaborated on in the paragraphs of the bill following such definition.

Where in the bill is the scope of practice defined?

Section sixty-five hundred seventy-seven paragraphs three to eight, which elaborate on naturopathic assessment, common office procedures, physical naturopathy, approved substances, approved routes of administration, and noninvasive therapies, together with section sixty-five hundred seventy-nine on injection therapy and injection therapy privilege define the authorized activities within the scope of practice. Limitations to the scope of practice are defined in section sixty-five hundred eighty, which provides prohibitions and boundaries of professional competence. The list of clinical objectives included in the definition of "facilitating optimum health and wellness," (see section sixty-five hundred seventy-seven paragraph two) is not intended to expand upon the authorized activities within the scope of practice. Neither do the naturopathic principles nor the therapeutic order.

What does it mean to say that "facilitating optimum health and wellness is informed by the naturopathic principles and therapeutic order?"

First, optimum health and wellness are defined in the bill and are the objectives of the naturopathic doctor. "Facilitate" is the verb and defines the role of the naturopathic doctor as being to make the process of achieving optimum health and wellness easier for the patient. In performing such facilitation, the naturopathic doctor looks to the naturopathic principles and the therapeutic order for guidance. The naturopathic principles and therapeutic order serve a role similar to ethics. Ethics provide guidance for determining what is unprofessional about one's conduct. The naturopathic principles and the therapeutic order provide guidance for determining what actions to take within the bounds of professional conduct.

What is naturopathic assessment?

Naturopathic assessment is the identification and evaluation of a patient's circumstances of health and illness. Encompassed within such assessment is investigating the patient's health, history, lifestyle, and determinants of health. Also encompassed is comprehensive physical examination, common office procedures for assessment; ordering laboratory tests and procedures and submitting samples to laboratories for testing; ordering diagnostic imaging; and other assessment techniques that are noninvasive.

What is comprehensive physical examination?

Comprehensive physical examination is not defined in the bill. It is expected to have the ordinary meaning used in the profession of naturopathic medicine. Accordingly, it is the investigation of all body systems for signs of illness by looking, listening, touching, and testing using the doctor's senses, instruments, and other tools, as limited by boundaries of professional competence (i.e., Section 6580 of the bill). It encompasses examination of the entire body, including all body orifices. It encompasses, for example, performance of function tests and orthopedic tests.

What labs could be ordered? Administered?

The bill does not specify what laboratory tests can be ordered. It is expected to include all clinical laboratory tests typically used in the practice of naturopathic medicine. Laboratory tests that can be administered by a naturopathic doctor (as distinguished from ordering such tests from a certified clinical laboratory) are only those laboratory tests categorized under the federal clinical laboratory improvement act (CLIA) of 1988 as being waived tests.

What imaging could be ordered? Administered?

Diagnostic imaging can be ordered. Diagnostic imaging means radiography, tomography, magnetic resonance imaging, ultrasonography, and thermography, and excludes nuclear medicine, fluoroscopy, and radiological procedures for treating a medical condition. Only ultrasonography and thermography can be administered by a naturopathic doctor.

What are common office procedures?

Common office procedures are those listed in the bill and include administering CLIA Waived tests; administering ultrasonographic and thermographic imaging; installation, removal, and adjustment of barrier contraceptive devices; procedures for treating superficial lacerations and abrasions and for the removal of foreign bodies located in superficial structures not to include the eye, excluding by incision and suturing; administering cryotherapy, ligation, and fulguration; administering approved substances via approved routes of administration. Common office procedures also include procedures for obtaining samples of bodily fluids, bodily excretions, bodily secretions, and bodily tissues. Such sample obtaining may only be by venipuncture and phlebotomy, pap smear, scraping, and for hair by cutting. Such sample obtaining does not include by incision, (e.g., no biopsy). Common office procedures also include other procedures for assessment or therapy that are noninvasive. "Noninvasive" means no break is created in the skin or mucosa, no infiltration of the skin or mucosa is made by ionizing radiation above background levels, no endoscopy is performed between the esophagus and colon, inclusive, and no radiography, tomography, or magnetic resonance imaging is administered.

What procedures would be permissible to obtain samples to submit to a lab for testing?

Sample obtaining may only be by venipuncture and phlebotomy, pap smear, scraping, and for hair by cutting. Such sample obtaining does not include by incision, (e.g., no biopsy).

What is included in physical naturopathy?

Physical naturopathy, referred to in other states and in most naturopathic medical programs as physical medicine, includes manual therapy, therapeutic exercise, hydrotherapy, colonic therapy, sauna, microwave diathermy, shortwave diathermy, ultrasonic diathermy, muscle stimulation, infrared light therapy, ultraviolet light therapy, visible light therapy, iontophoresis, and the therapeutic use of physical medicine therapeutic devices that are exempt or are Class I or Class II devices identified under the code of federal regulations Title 21, Chapter I, Subchapter H, Part 890, Subpart F.

What is manual therapy?

The bill does not define manual therapy. It is expected to be given its ordinary meaning in the field of naturopathic medicine, thereby including the various techniques covered in a textbook on the subject used in a program of naturopathic medicine, (e.g., Principles of Manual Medicine by Philip E. Greenman).

What substances can be prescribed? Dispensed?

"Approved substances" can be prescribed. Approved substances are over the counter substances; food concentrates, food extracts, and other dietary ingredients; vitamins, minerals, and other dietary supplements; botanical and homeopathic preparations; and a limited formulary of legend drugs. Legend drugs in the limited formulary may be prescribed, and the other approved substances and homeopathic preparations may be dispensed.

What noninvasive therapies are encompassed in the scope of practice?

Non-invasive therapies include, but are not limited to, counseling, biofeedback, hypnotherapy, touch, and movement. Noninvasive therapies are those therapies where there is no break in the skin or mucosa, and there is no infiltration of the skin or mucosa by ionizing radiation. Non-invasive therapies exclude endoscopy between the esophagus and colon, inclusive. Non-invasive therapies exclude administration of radiography, tomography, and magnetic resonance imaging. Also, pertinent is that naturopathic medicine excludes invasive procedures, which means any medical procedure in which bone, viscera, the eyeball, the inner ear, the dorsal body cavity, or the ventral body cavity is penetrated by a physical device or by ionizing radiation above background levels is prohibited.

Are injections encompassed in the scope of practice?

Naturopathic doctors may administer vitamin B-12 and analogs thereof via intramuscular injection, epinephrine via auto-injector device, and immunizations as per indication. Additional substances are appropriate substances for injection only as permitted under section sixty-five hundred seventy-nine of this article, i.e., Injection therapy privilege.

What is an injection therapy privilege?

Injection therapy privilege is the scope of practice privilege to practice injection therapy, in accordance with regulations promulgated by the commissioner. Injection therapy is the injection of approved substances identified by the state education department upon the recommendation of the state board of naturopathy, and updated as needed or upon triennial review, as being appropriate for injection in the practice of naturopathic medicine.

Who is qualified to administer an injection? to supervise an injection procedure?

A licensed naturopathic doctor meeting educational and experience requirements pertaining to injection therapy satisfactory to the state education department may be granted injection therapy privilege by the department. A licensed naturopathic doctor without injection therapy privilege may administer vitamin B-12 and analogs thereof via intramuscular injection, epinephrine via auto-injector device, and immunizations without supervision; and may administer other injection therapy, in accordance with regulations promulgated by the commissioner, only while under the direct personal supervision of a physician licensed under this title or a naturopathic doctor licensed under this article having injection therapy privilege.

Limits to the Scope of Practice:

Does the bill require supervision of a naturopathic doctor by a physician?

No. As the profession has made clear to the NYANP, supervision under a medical doctor or osteopath is not an acceptable way to practice naturopathic medicine. Because medical doctors and osteopaths are not trained to facilitate optimum health and wellness as informed by the naturopathic principles and the therapeutic order, it would be detrimental to patient safety for a medical doctor or osteopath to supervise the practice of a naturopathic doctor. Also, as a policy matter it is undesirable because such supervision would likely result in clinic guidelines and procedures or other standards forcing naturopathic doctors to practice green allopathy, (i.e., prescribing nutrients and herbs based only on a presenting condition without regard for the naturopathic principles and therapeutic order). Naturopathic doctors must use their skills to observe the self-healing processes consistent with the vis medicatrix

naturae principle and work with such processes, while avoiding suppression whenever possible.

How does the section 'boundaries of professional competency' relate to the scope of practice?

The section 'boundaries of professional competency' includes a paragraph on prohibitions and a paragraph on boundaries. Our profession is naturopathic medicine. We can only practice naturopathic medicine, and are not given the authority (in this bill) to practice anything other than what is defined to be naturopathic medicine. The prohibitions paragraph list services that are not part of naturopathic medicine. The boundaries of professional competency provide limits to our services where there may be overlap with other professions without regard for whether the services are or are not defined to be within the definition of the profession of naturopathic medicine. A boundary is provided in connection with acute emergent conditions and with mental health disorders.

What are the prohibitions?

- administering or prescribing controlled substances;
- administering invasive procedures;
- administering electroconvulsive therapy;
- administering needle-type electromyography;
- performing surgery other than cryotherapy, ligation and fulguration;
- administering radiological procedures using ionizing radiation above background levels;
- administering general or spinal anesthetic drugs;
- administering obstetric services other than complementary naturopathic prenatal and postnatal wellness care;
- administering acupuncture; and
- setting fractures.

What is an invasive procedure?

"Invasive procedure" means any medical procedure in which bone, viscera, the eyeball, the inner ear, the dorsal body cavity, or the ventral body cavity is penetrated by a physical device or by ionizing radiation above background levels.

What surgery is prohibited?

Surgery other than cryotherapy, ligation and fulguration is prohibited. Surgery is defined as a medical procedure for structurally altering the human body by cutting into live human tissue for the purpose of localized alteration, transportation, or destruction of live human tissue using ionizing radiation or an instrument, such as a laser, scalpel, or probe. Surgery encompasses surgical incision and suturing, which are prohibited. Surgery does not include punctures, injections, dry needling, acupuncture, or removal of dead tissue. Note that exclusion from the surgery prohibition does not mean it is a permissible activity. Such are permissible only if included within the scope of practice defined in the paragraphs for naturopathic assessment, common office procedures, physical naturopathy, approved substances, approved routes of administration, noninvasive therapies, or within the injection therapy privilege.

What is the boundary between permissible and prohibited treatment of an acute emergent condition?

- It is practicing outside the boundaries of professional competence for a naturopathic doctor to provide emergency care services for treating injuries or trauma from a serious accident or a violent crime, except as permitted by Article 30 of the Public Health Law of New York. Such article is the good samaritan law and allows one to act as a good samaritan, acting without compensation, at the scene of an accident or injury, but does not allow for such services within the clinic.
- It also is beyond the boundary of professional competency to hold yourself out as providing emergency care services on a continuing and ongoing basis; or to treat an acute emergent condition of significant threat to life or limb without also summoning emergency medical response.
- Emergency care is not defined in the bill, and is likely to encompass the performance of acts or procedures under emergency conditions, (i.e., injury, trauma, or other acute emergent condition of significant threat to life or limb).

What is the boundary between permissible and prohibited mental health care?

It is outside the boundaries of professional competence for a naturopathic doctor to facilitate changes in a patient's personality and behavior for the purpose of eliminating symptomatic, maladaptive behavior through the use of verbal and nonverbal cognitive and emotional communication on a continuing and ongoing basis in the treatment of a mental, emotional, cognitive or behavioral disorder.

Qualifications for Licensure:

What will be the qualifications for being licensed to practice naturopathic medicine?

One will have to meet the education, examination, and experience standards to be set by regulation by the State Education Department. We expect the standards to be similar to the national standards for the profession that have been developed by the CNME as practiced by members of the AANMC. Specifically, the legislative intent section recites such expectation. Also, the profession is defined so as to distinguish over the medical profession by requiring that facilitating optimum health and wellness be informed by the naturopathic principles and therapeutic order; and to distinguish over traditional naturopathy by encompassing activities beyond the scope of training in traditional naturopathy. Thus, the qualifications must respect those distinctions. It is expected that a one year residency will be required by the SED of graduates of qualified programs in naturopathic medicine. Due to the lack of residencies, a special condition is provided which expires after 10 years after the law goes into effect. Such special condition will allow those who graduate before New York implements its residency permit regulations to use an alternative criteria for experience (i.e, professional licensure in the profession in another state for 3 years).