

State of Utah
Administrative Rule Analysis
Revised June 2022

OUR FILE NO. 54769
DATE FILED 7-26-2022

NOTICE OF PROPOSED RULE

TYPE OF RULE: New ; Amendment XXXX; Repeal ; Repeal and Reenact

Title No. - Rule No. - Section No.

Rule or Section Number:

R156-71

Filing ID: Office Use Only

Agency Information

1. Department: Department of Commerce
Agency: Division of Professional Licensing
Room number:
Building: Heber M. Wells Building
Street address: 160 East 300 South
City, state and zip: Salt Lake City UT 84111-2316
Mailing address: PO Box 146741
City, state and zip: Salt Lake City UT 84114-6741
Contact persons:
Name: Phone: Email:
Larry Marx 801-530-6628 lmarx@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

Naturopathic Physician Practice Act Rule

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The rule is amended in accordance with changes made by S.B. 154 during the 2022 Legislative General Session.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Section R156-71-102 is amended to update citations and make minor formatting changes.

Section R156-71-202 is deleted in its entirety in accordance with S.B. 154 which removed the requirement for the Naturopathic Physician Formulary.

Section R156-71-203 is added under the authority of new Section 58-71-203, to provide a section and table in rule where new approved drug categories will be listed in accordance with newly enacted Section 58-71-203.

Section R156-71-502 is amended in accordance with newly enacted Section 58-71-203, to delete the reference to the obsolete formulary, and instead define the unprofessional conduct as failure to comply with the drug categories consistent with the practice of naturopathic medicine.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The proposed amendments are expected to have no measurable impact on state government revenues or expenditures as none of the amendments will impact state government practices or procedures beyond the mandates of S.B. 154.

B) Local governments:

The proposed amendments are expected to have no measurable impact on local government revenues or expenditures as none of the amendments will impact local government practices or procedures beyond the mandates of S.B. 154.

7-21-2022

C) Small businesses ("small business" means a business employing 1-49 persons):

There are currently 69 Naturopathic Physician licensees in Utah, and it is estimated that most operate private or small group practices in their own offices, and that several operate in the facilities of others, such as hospitals or HMO medical centers (NAICS 621399). However, the amendments are expected to have no measurable impact on small business revenues or expenditures as they only conform the rule to the statutory changes enacted by S.B. 154, with no fiscal impact to small business beyond those identified in the fiscal note available at <https://le.utah.gov/~2022/bills/static/SB0154.html>.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are currently several Naturopathic Physicians who operate in larger facilities such as hospitals or HMO medical centers (NAICS 621399). However, the amendments are expected to have no measurable impact on non-small business revenues or expenditures as they only conform the rule to the statutory changes enacted by S.B. 154, with no fiscal impact to non-small business beyond those identified in the fiscal note available at <https://le.utah.gov/~2022/bills/static/SB0154.html>.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

These proposed amendments will affect the 69 licensed Naturopathic Physicians in Utah, the health care providers who collaborate with Naturopathic Physicians, and the staff employed by or supervised by Naturopathic Physicians. However, the amendments are not expected to result in a fiscal impact to these persons beyond those identified in the fiscal note for S.B. 154, as the amendments only conform the rule to and implement the statutory changes enacted by S.B. 154.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

As described above, no compliance costs are expected for any affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

The Division of Occupational and Professional Licensing ("Division") propose amendments to R156-71, the Naturopathic Physician Practice Act Rule. Changes have been made to conform to SB 154 of the 2022 General Legislative Session. Among the changes, Section R156-71-202 is deleted due to no longer needing a naturopathic physician formulary. Section R156-71-203 is created to list approve drug categories. Also, the Division has made formatting changes throughout the rule to conform the rule to the Office of Administrative Rules' Formatting Manual in accordance with Executive Orders 2021-1 and 2021-12.

Small Businesses (less than 50 employees): The Division does not foresee any foreseeable impact on small businesses since these amendments are made to align to SB 154 of the 2022 Legislative General Session and to make the rule comport to the Office of Administrative Rules' Rule Writing Manual. There are no substantial changes but merely conforming to statutory requirements and executive orders.

Non-Small Businesses (50 or more employees): These amendments will have no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small businesses. These costs are either

inestimable, for the reasons stated above, or there is no fiscal impact.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 58-71-101	Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)
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Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables):

A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):

Official Title of Materials Incorporated
 (from title page)
 Publisher
 Issue Date
 Issue or Version

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):

Official Title of Materials Incorporated
 (from title page)
 Publisher
 Issue Date
 Issue or Version

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	09/14/2022	
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
08/18/2022	9:30 AM	160 East 300 South, Conference Room 402, Salt Lake City, Utah. Rule hearing can also be accessed via Google Meet info below:
		Google Meet Meeting link mect.google.com/ovb-xevo-jrm
		Join by phone (US) +1 402-752-0198 PIN: 256207287

9. This rule change MAY become effective on: 09/21/2022

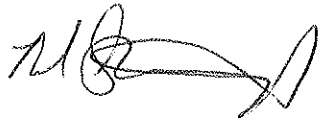
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the Utah State Bulletin and delaying the first

possible effective date.

Agency head or
designee and title:

A handwritten signature in black ink, appearing to be 'M. B. [unclear]', written over a horizontal line.

Date:

July 26, 2002

R156. Commerce, Occupational and Professional Licensing.

R156-71. Naturopathic Physician Practice Act Rule.

R156-71-102. Definitions.

~~[In addition to the]~~ The following definitions supplement the definitions in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and Title 58, Chapter 71, Naturopathic Physician Practice Act ~~[, the following rule definitions supplement the statutory definitions]:~~

(1) "Approved clinical experience program" or "residency program" as used in Subsections 58-71-302(1)(d) and 58-71-304.2(1)(b), mean a residency program that is:

(a) at least one year in length; and

(b) approved by the Council of Naturopathic Medical Education (CNME), meaning it is under the auspices of a CNME-accredited or CNME candidate Naturopathic Doctor program that is recognized by the CNME as a residency program sponsor.

(2) "Direct supervision" as used in Subsection 58-71-304.2(1)(b), means the supervising naturopathic physician, physician and surgeon, or osteopathic physician is:

(a) responsible for the naturopathic activities and services performed by the naturopathic physician intern; and

(b) normally present in the facility, and when not present in the facility is available by voice communication to direct and control the naturopathic activities and services performed by the naturopathic physician intern.

(3) "Direct and immediate supervision" of a medical naturopathic assistant as used in Subsections 58-71-102(~~[6]~~7) and 58-71-305(7), means that the licensed naturopathic physician is:

(a) responsible for the activities and services performed by the medical naturopathic assistant; and

(b) present in the facility and immediately available for advice, direction, and consultation.

(4) "Distance learning" means the acquisition of knowledge and skills through information and instruction encompassing technologies and other forms of learning at a distance, including internet, audio-visual recordings, mail, or other correspondence.

(5) "Naturopathic physician intern" or "intern" means an individual who qualifies for a temporary license under Section 58-71-304.2 to engage in a naturopathic physician residency program recognized by the Division, under the direct supervision of an approved naturopathic physician, physician and surgeon, or osteopathic physician.

(6) "NPLEX" means the Naturopathic Physicians Licensing Examinations.

(7) "Primary health care" as referenced in Subsection 58-71-102(~~[12]~~13), means basic or general health care provided at the patient's first contact with the naturopathic physician.

(8) "Qualified continuing education" means continuing education that meets the standards in Section R156-71-304.

(9) "Unprofessional conduct" as defined in ~~[Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and Chapter 71, Naturopathic Physician Practice Act, is further defined under Subsection~~

~~58-1-203(1)(e) and] Subsection 58-71-102([17]18), is further defined in Section R156-71-502.~~

~~[R156-71-202. Naturopathic Physician Formulary.~~

~~(1)(a) Under Subsections 58-71-102(8)(d) and 58-71-102(12)(a), the naturopathic physician formulary noncontrolled substance legend medications appropriate for the primary health care of patients within the scope of practice of naturopathic physicians, the prescription of which is approved by the Division in collaboration with the Naturopathic Formulary Advisory Peer Committee under Section 58-71-202, are identified in Subsection (1)(b).~~

~~(b) The following noncontrolled substance legend medications are listed by category, with reference numbers identified in the American Hospital Formulary Service (AHFS) Drug Information, 2021 edition, published by the American Society of Hospital Pharmacists, available at <http://www.ahfsdruginformation.com>:~~

- ~~4:00 Antihistamines~~
- ~~8:08 Antihelminthics~~
- ~~8:12 Antibacterials, limited to oral, topical and intramuscular administration~~
- ~~8:14 Antifungals, oral and topical forms~~
- ~~8:16.92 Miscellaneous Antimycobacterials~~
- ~~8:18 Antivirals limited to oral and topical dosage forms, excluding:~~
 - ~~8:18:08 Antiretrovirals~~
 - ~~8:18:20 Interferons~~
 - ~~8:18:24 Monoclonal Antibodies~~
 - ~~8:18:32 Nucleosides and Nucleotides~~
- ~~8:30.04 Amebicides~~
- ~~8:30.92 Miscellaneous Antiprotozoals excluding those whose primary indication is the treatment of infection in immunosuppressed patients, such as Pentamidine and Trimetrexate~~
- ~~8:36 Urinary anti-infectives~~
- ~~12:12.08.12 Selective Beta 2 Adrenergic Agonists~~
- ~~12:12.12 Alpha and Beta Adrenergic Agonists~~
- ~~12:16 Sympatholytic Adrenergic Blocking AB Agents, limited to ergot derivatives~~
- ~~12:20 Skeletal Muscle Relaxants, excluding scheduled medications~~
- ~~20:12.04.16 Heparins~~
- ~~20:24 Hemorrhologic Agents~~
- ~~24:04.08 Cardiogenic Agents limited to Digoxin~~
- ~~24:06 Antilipemic Agents~~
- ~~24:08 Hypotensive Agents limited to oral dosage forms~~
- ~~24:20 Alpha Adrenergic Blocking Agents~~
- ~~24:24 Beta Adrenergic Blocking Agents limited to oral dosage forms~~
- ~~24:28 Calcium Channel Blocking Agents limited to oral dosage forms~~
- ~~24:32 Renin-Angiotensin-Aldosterone System Inhibitors limited to oral dosage forms~~
- ~~28:08 Analgesics and Antipyretics, excluding scheduled medications~~
- ~~28:10 Opiate Antagonists~~
- ~~28:16.04.16 Selective Serotonin and Norepinephrine Reuptake Inhibitors~~
- ~~28:16.04.20 Selective Serotonin Reuptake Inhibitors~~

~~28:16.04.24 Serotonin Modulators~~
~~28:16.04.28 Tricyclics and Other Norepinephrine Reuptake Inhibitors~~
~~28:16.04.92 Antidepressants, Miscellaneous~~
~~28:32.28 Selective Serotonin Agonists~~
~~40:00 Electrolytic, Calorie, and Water Balance~~
~~40:18.92 Other Ion removing Agents~~
~~40:28 Diuretics~~
~~44:00 Enzymes, limited to digestive and proteolytic~~
~~48:10.24 Leukotriene Modifiers~~
~~48:10.32 Mast Cell Stabilizers~~
~~48:16 Expectorants~~
~~52:08 Corticosteroids (oral, topical, and injectable), Anti-Inflammatory Agents and DMARDS~~
~~52:24 Mydriatics~~
~~56:22 Antiemetics~~
~~56:28 H2 Blockers, Anti-ulcer Agents and Acid Suppressants~~
~~56:36 Anti-inflammatory Agents~~
~~64:00 Heavy Metal Antagonists, in addition to DMPS (2,3 Dimercapto 1-propanesulfonic acid)~~
~~68:04 Adrenals~~
~~68:12 Contraceptives, except implants and injections~~
~~68:16.04 Estrogens~~
~~68:16.08 Antiestrogens, limited to Anastrozole for use in the setting of hormone replacement therapy~~
~~68:16.12 Estrogen Agonists Antagonists, limited to Raloxifene~~
~~68:18 Gonadotropins, limited to Gonadotropin, Chorionic~~
~~68:20.02 Alpha Glucosidase Inhibitors~~
~~68:20.04 Biguanides~~
~~68:20.08 Insulins~~
~~68:20.20 Sulfonylureas~~
~~68:24 Parathyroid~~
~~68:32 Progestins~~
~~68:36 Thyroid and Antithyroid Agents, including Thyroid of glandular extract~~
~~72:00 Local Anesthetics~~
~~76:00 Oxytocics, limited to Oxytocin~~
~~80:00 Serums, Toxoids, Vaccines~~
~~84:00 Skin and Mucous Membrane Agents, excluding Depigmenting and Pigmenting Agents (reference number 84:50)~~
~~84:92 Skin and Mucous Membrane Agents, Miscellaneous, excluding Isotretinoin~~
~~88:00 Vitamins~~
~~92:00 Miscellaneous Therapeutic Agents, limited to Botulinum Toxin type A, and limited to superficial injections~~
~~92:08 5-Alpha Reductase Inhibitors~~
~~92:16 Antigout Agents~~
~~(2) Under Subsections 58-71-102(8) and 58-71-102(12) (a), the naturopathic physician formulary includes the following items or substances, for the primary health care of patients within the scope of practice of naturopathic physicians:~~
~~(a) Amino Acids;~~
~~(b) Minerals;~~

~~84:00 Skin and Mucous Membrane Agents, excluding
Depigmenting and Pigmenting Agents (reference number 84:50)
84:92 Skin and Mucous Membrane Agents, Miscellaneous,
excluding Isotretinoin
88:00 Vitamins
92:00 Miscellaneous Therapeutic Agents, limited to Botulinum
Toxin type A, and limited to superficial injections
92:08 5-Alpha-Reductase Inhibitors
92:16 Antigout Agents
(2) Under Subsections 58-71-102(8) and 58-71-102(12)(a),
the naturopathic physician formulary includes the following items
or substances, for the primary health care of patients within the
scope of practice of naturopathic physicians:
(a) Amino Acids;
(b) Minerals;
(c) Oxygen;
(d) Silver Nitrate;
(e) DHEA (dihydroepiandrosterone);
(f) Pregnenolone; and
(g) Allergy Testing Agents.
(3) Under Subsections 58-71-102(8)(e) and 58-71-102(12)(a)
and Section 58-71-202, the naturopathic physician formulary
includes the following controlled substance with the reference
number identified in the AHFS Drug Information, 2021 edition,
published by the American Society of Hospital Pharmacists,
available at <http://www.ahfsdruginformation.com>.
68:08 Testosterone.
(4) A licensed naturopathic physician may not prescribe or
administer a new category or class of drugs until the category or
class is approved as part of the naturopathic physician
formulary.
(5) A licensed naturopathic physician shall be
knowledgeable about the medications and natural medicine being
prescribed or administered.]~~

R156-71-203. Drug Category Review.

Reserved.

R156-71-502. Unprofessional Conduct.

"Unprofessional conduct" includes failure to comply with the
[approved naturopathic physician formulary in]drug categories
consistent with the practice of naturopathic medicine, under
Subsection 58-71-102(9) and Section R156-71- [202]203.

KEY: licensing, naturopaths, naturopathic physician

Date of Enactment or Last Substantive Amendment: [~~November 23,
2021~~]2022

Notice of Continuation: August 12, 2021

Authorizing, and Implemented or Interpreted Law: 58-71-101; 58-

1-106(1)(a); 58-1-202(1)(a)