

Significant Legislative Rule Analysis (SA)

Chapter 246-836 WAC Naturopathic Physicians

Section 1. What is the scope of the rule?

The proposed rules amend existing rules to implement two legislative actions: House Bill 1181 (chapter 41, Laws of 2011), which created the Board of Naturopathy (board); and Substitute Senate Bill (SSB) 5152 (chapter 40, Laws of 2011), which modified portions of naturopathic scope of practice.

In addition, the board is proposing amending the existing rules to:

- make general housekeeping changes;
- add language for temporary practice permits and sexual misconduct;
- make updates to the education program standards; and
- accept “accreditation” from national organizations that conduct on-site evaluations as meeting the approval standards.

Section 2. What are the general goals and specific objectives of the proposed rule’s authorizing statute?

The general goal of chapter 18.36A RCW is to provide the people of this state protection by issuing licenses to only appropriately educated and trained naturopathic physicians, as well as ensure that they practice within their statutory scope of practice. RCW 18.36A.160 authorizes the board to adopt such rules deemed necessary to carry out the purposes of the chapter.

The statute’s objectives the rules implement are:

1. Regulatory authority – transfer of authority from the secretary to the newly created board;
2. Scope of practice – revise rule language to incorporate the modification to scope of practice; and
3. Establish standards for approval of educational programs – update educational accreditation standards, to include accepting accreditation from national organizations as meeting the approval standards.

Section 3. What is the justification for the proposed rule package?

Prior to July 22, 2011, the naturopathy profession was governed by the Secretary of Health (secretary). House Bill 1181 (laws of 2011) transferred full regulatory authority from the secretary to the board. Existing rules must be updated to reflect the new regulatory authority.

Implementation of Substitute Senate Bill 5152 (laws of 2011) require only one rule revision: removing the term “non-drug” from WAC 246-836-210(1)(b).

There are no feasible alternatives to rulemaking regarding standards for educational institutions because accreditation requirements are established in rule as required by RCW 18.36A.100. In addition, the current rules limit the board’s ability to accept accreditation performed by other entities.

Section 4. What are the costs and benefits of each rule included in the rules package? What is the total probable cost and total probable benefit of the rule package?

1. Identification of total number of rules in package and split between significant and non-significant rules

There are a total of 26 rules in this package: 19 are non-significant, there are 2 new non-significant rules, and 5 are significant rules.

2. Non-Significant Rule Identification Table

Table: Non-Significant Rule Identification

#	WAC Section	Section Title	Section Subject	Reason
1	246-836-010	Definitions	Definitions- Changes authority to the board; other technical changes	The content of the rule is explicitly and specifically dictated by statute.
2	246-836-020	Eligibility for licensure examination	Exam eligibility Changes authority to the board	The content of the rule is explicitly and specifically dictated by statute.
3	246-836-030	Licensure examination	Changes authority to the board	The content of the rule is explicitly and specifically dictated by statute.
4	246-836-050	Reexaminations	Re-examinations- Changes authority to the board	The content of the rule is explicitly and specifically dictated by statute.
5	246-836-080	Continuing competency program	Continuing education- Changes	The content of the rule is explicitly and specifically dictated by statute.

			authority to the board	
6	246-836-100	Applicants educated and/or licensed in another country	Foreign applicants- Changes authority to the board	The content of the rule is explicitly and specifically dictated by statute.
7	246-836-110	Licensing by endorsement	Endorsement- Changes authority to the board	The content of the rule is explicitly and specifically dictated by statute.
8	246-836-140	Provisional approval	Provisional approval- Changes authority to the board; other technical changes	The content of the rule is explicitly and specifically dictated by statute.
9	246-836-200	Site review procedures	Site review- Changes authority to the board; other technical changes	The content of the rule is explicitly and specifically dictated by statute.
10	246-836-210	Authority to use, prescribe, dispense, and order	Prescriptive authority- Removes “nondrug” from “contraceptive devices”	The content of the rule is explicitly and specifically dictated by statute.
11	246-836-211	Authorization regarding controlled substances	Controlled substance prescribing- Changes authority to the board	The content of the rule is explicitly and specifically dictated by statute.
12	246-836-330	Mandatory reporting	Mandatory reporting- Changes authority to	The content of the rule is explicitly and specifically dictated by statute.

			the board	
13	246-836-340	Health care institutions	Health care institutions- Changes authority to the board	The content of the rule is explicitly and specifically dictated by statute.
14	246-836-350	Naturopathic associations or societies	Naturopathic associations or societies Changes authority to the board	The content of the rule is explicitly and specifically dictated by statute.
15	246-836-360	Health care service contractors and disability insurance carriers	Health care service contractors and disability insurance carriers- Changes authority to the board	The content of the rule is explicitly and specifically dictated by statute.
16	246-836-370	Professional liability carriers	Professional liability carriers - Changes authority to the board	The content of the rule is explicitly and specifically dictated by statute.
17	246-836-380	Courts	Courts- Changes authority to the board	The content of the rule is explicitly and specifically dictated by statute.
18	246-836-390	State and federal agencies	State and federal agencies- Changes authority to the board	The content of the rule is explicitly and specifically dictated by statute.
19	246-836-500 (New)	Sexual Misconduct	Sexual misconduct – Changes authority to the board	While this is a new section, due to the transfer of authority from the secretary to the board, this rule incorporates without material change the secretary’s sexual misconduct rule language.

20	246-836-600 (New)	How to obtain a temporary practice permit-background checks	Temporary permits – Changes authority to the board	While this is a new section, due to the transfer of authority from the secretary to the board, this rule incorporates without material change the secretary’s temporary practice permit rule language.
21	246-836-990	Fees	Fees – The law exempts fees from a cost benefit (significant) analysis	Removes outdated language regarding fee adjustments and clarifies the name of the HEAL-WA access fee

3. Significant Rule Analysis

A. WAC 246-836-130 – Approval of colleges of naturopathic medicine.

Rule Overview: The proposed revision to this section changes the regulatory authority to the board, adds the definition of “college” for school accreditation rules, and adds language that the board has determined the Council on Naturopathic Medical Education (CNME) accreditation standards to be substantially equivalent to those in Washington State and therefore meets the requirements for approval.

Rule Cost/Benefit Analysis – There is no cost in the proposed rules. The rules, if adopted, would provide colleges of naturopathic medicine an alternative to individual state approval. In the United States there are four existing colleges of naturopathic medicine and an additional two colleges in Canada. These colleges of naturopathic medicine currently hold full CNME accreditation. Recognizing CNME accreditation as equivalent to individual state approval would result in savings by eliminating duplicate costs of acquiring both Washington State approval and CNME accreditation.

B. WAC 246-836-150 – Full approval of colleges of naturopathic medicine.

Rule Overview: The proposed revision to this section changes the regulatory authority to the board and adds an additional option by which a college of naturopathic medicine accredited by CNME may obtain approval.

Rule Cost/Benefit Analysis – There is no cost in the proposed rules.

C. WAC 246-836-160 – Unapproved colleges of naturopathic medicine.

Rule Overview: This rule relates to colleges of naturopathic medicine that are not approved. These colleges have either never obtained approval or fail to meet or maintain approval

requirements. The revisions to this section change the regulatory authority to the board and add failure to maintain CNME accreditation as a condition that would result in a college of naturopathic medicine being removed from the board's approved list of colleges.

Rule Cost/Benefit Analysis – The benefit of the rule is that a college of naturopathic medicine that obtains board approval by virtue of CNME accreditation is on notice to maintain that accreditation in order to retain their approval status. This is based on the concept that the accreditation process is in lieu of a separate, redundant review by the board. CNME accreditation is voluntary, not mandatory.

If the college drops or loses CNME accreditation but still desires board approval, they must then apply to the board under WAC 246-836-150. The costs vary based on resources needed for materials review and costs for a site evaluation (the location of the institution impacts travel costs), but would be similar to those of CNME which are currently estimated at \$8,900¹ (3 days, 4 evaluators).

D. WAC 246-836-170 – Appeal of board's decisions.

Rule Overview: The revision to this section changes the regulatory authority to the board, provides a timeframe for appeal of a decision to remove a college of naturopathic medicine from the board's approved list of colleges, and identifies the appropriate section for further appeal through a Brief Adjudicative Proceeding under the Administrative Procedure Act (RCW 34.05).

Rule Cost/Benefit Analysis – There is no cost in the proposed rules.

E. WAC 246-836-180 – Standards for approval of colleges of naturopathic medicine.

Rule Overview: The revision to this section changes the regulatory authority to the board, changes all references of "school" and "institution" to "college" for consistent terminology, adds language related to multi-discipline educational institution board governance, and other minor housekeeping changes.

Rule Cost/Benefit Analysis – There is no cost in the proposed rules. Existing rule language for approval requires naturopathic educational institutions' governing boards to be made up of "no less than one-third, plus one," of naturopathic physicians. This creates a barrier to colleges that either have evolved over time from a dedicated naturopathic medical college into a multi-discipline educational institution or are an existing multi-discipline educational institution that may desire to create a naturopathic degree program. Such institutions' governing boards have diverse memberships and are unlikely to meet this requirement. The rules, if adopted, will reduce this barrier and create greater access to educational programs.

¹ COUNCIL ON NATUROPATHIC MEDICAL EDUCATION Handbook of Accreditation 2007 Edition, Page 27 (http://www.cnme.org/resources/2007_hoa.pdf)

4. Rule Package Cost-Benefit Conclusion

Regulatory Authority Change:

There is no cost to the proposed rule revisions. These changes merely reflect the statutory change in regulatory authority.

Modification to scope of practice:

There is no cost to the proposed rule revision. This change merely incorporates a statutory change.

School Accreditation Standards:

There are 17 states that license naturopaths, including Washington State. Thirteen of these states require CNME accreditation either by statute or regulation. In order for their graduates to qualify for licensure in those states, colleges of naturopathic medicine must obtain CNME accreditation. Costs are duplicated when these colleges must obtain individual state approval in addition to CNME accreditation. Recognizing CNME accreditation as meeting the requirements for Washington State would result in a cost-saving to those colleges while maintaining patient safety standards.

CNME accreditation is voluntary, not mandatory. For those colleges obtaining approval based on CNME accreditation, requiring maintenance of that accreditation does involve some cost to these colleges in the way of membership dues and additional fees paid to that organization; however, these costs are already being paid in order to be recognized by the 13 states mentioned above.

In addition, the board has retained the original process for approval other than CNME accreditation, which affords colleges of naturopathic medicine an alternative to CNME.

While there are possible costs associated with failure to maintain CNME accreditation for approval in this state, the board has determined the benefits of these rules, if adopted, outweigh any potential costs.

Section 5. What alternative versions of the rule did we consider? Is the proposed rule the least burdensome approach?

Descriptions of alternatives considered

Alternative version: The board considered whether to amend WAC 246-836-140 to accept CNME candidate status as meeting provisional status requirements. However, the board decided to retain the existing provisional process because CNME candidacy requirements include a provision for waiver of certain criteria for applicant colleges in states that do not license naturopathic physicians and the board wants to retain the authority to consider such colleges.

Least burdensome determination

The proposed rules are less burdensome than the alternative because the standards and criteria apply equally to all naturopathic medicine educational institutions desiring provisional approval in Washington State.

Section 6. Did you determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law?

The rule does not require those to whom it applies to take an action that violates requirements of federal or state law.

Section 7. Did we determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless the difference is required in federal or state law?

The department has determined that the rule does not impose more stringent performance requirements on private entities than on public entities.

Section 8. Did you determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, did we determine that the difference is justified by an explicit state statute or by substantial evidence that the difference is necessary?

The rule does not differ from any applicable federal regulation or statute.

Section 9. Did we demonstrate that the rule has been coordinated, to the maximum extent possible, with other federal, state, and local laws applicable to the same activity or subject matter?

There are no other applicable laws.