



STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
& FINANCIAL REGULATION
OFFICE OF PROFESSIONAL AND OCCUPATIONAL REGULATION



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**TESTIMONY OF
PENNY VAILLANCOURT, DIRECTOR**

**OFFICE OF PROFESSIONAL AND OCCUPATIONAL REGULATION
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
IN SUPPORT OF L.D. 2242**

**“RESOLVE, REGARDING LEGISLATIVE REVIEW OF PORTIONS OF CHAPTER 6: STANDARDS RELATING TO PRESCRIPTIVE AUTHORITIES AND COLLABORATIVE RELATIONSHIP FOR NATUROPATHIC DOCTORS, A LATE-FILED MAJOR SUBSTANTIVE RULE OF THE DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION”
(EMERGENCY)**

**BEFORE THE JOINT STANDING COMMITTEE ON
HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES**

PUBLIC HEARING: WEDNESDAY, MARCH 25, 2026 AT 1:00 PM

Senator Bailey, Representative Mathieson, and Members of the Committee, I am Penny Vaillancourt, Director of the Office of Professional and Occupational Regulation (“OPOR”). OPOR has 38 licensing boards and programs including the Board of Complementary Health Care Providers (“Board”). Thank you for the opportunity to provide testimony on behalf of OPOR regarding LD 2242.

The Board’s sole statutory purpose is to protect the public and it does so by identifying minimum standards for licensure, investigating allegations of unprofessional or incompetent practice and imposing discipline when deemed appropriate. The Board issues licenses to individuals seeking to practice as a naturopathic doctor, acupuncturist, certified midwife, and certified professional midwife. Currently, there are 89 actively licensed naturopathic doctors, 243 actively licensed acupuncturists, and 41 actively licensed midwives.

On May 30, 2025, the Governor approved Public Law 2025, Chapter 150, “An Act to Modernize the Formulary for Naturopathic Doctors.” The act amended 32 M.R.S. § 12522, sub-§4(B) of the Board’s statute, by eliminating the pharmacist member from the formulary subcommittee consistent with the membership composition changes made to the Board pursuant to Public Law 2015, Chapter 502 §6. It also

directed the Board to adopt no later than January 1, 2026, major substantive rules as updated by the formulary subcommittee in consultation with pharmacist members of the Maine Board of Pharmacy.

To develop the rule, the Board convened the formulary subcommittee which met on November 25, 2025 and December 2, 2025. The meeting notices were posted online and distributed to interested parties and legislative sponsors of the legislation. Following the formulary subcommittee meetings, the Board published the proposed rule for public comment on January 21, 2026. A public hearing was held on February 11, 2026 to take oral comments, and the Board continued to accept written comments through February 21, 2026.

At its February 25, 2026 meeting, the Board considered the public comments received and provisionally adopted and incorporated by reference the formulary classifications listed in the *American Hospital Formulary Service Pharmacologic Therapeutic Classification System (AHFS)(2025)* issued by the American Society of Health System Pharmacists, copyright © 2025. The rule provides that naturopathic doctors may prescribe medications, in accordance with their training and practice, from all formulary classifications in the AHFS, except those as excluded in the rule. The proposed rule also sets forth the requirements a naturopathic doctor must meet before ordering and using IV therapies.

The Board received 122 separate comments from individuals and organizations and made no substantive changes to the proposed rule. In addressing the comments received, the Board acknowledged comments requesting additional changes but noted the comments would not be accepted as they would require statutory amendments. Below is a summary of those comments:

- Add the authority to prescribe hormonal agents, specifically, testosterone. Testosterone is a Schedule III controlled substance in the United States, and therefore, a naturopathic doctor is prohibited from prescribing, dispensing or administering testosterone pursuant to 32 M.R.S. § 12522(5)(A). This would require a statutory change and is not something the Board can authorize through rulemaking.
- Add the authority to prescribe psychotropic medication. Maine law specifically states that a naturopathic doctor may not prescribe psychotropic medications pursuant to 32 M.R.S. § 12522(4)(B). This would require a statutory change and is not something the Board can authorize through rulemaking.
- Add the authority to prescribe other controlled substances. Maine law specifically states that a naturopathic doctor may not prescribe, dispense or administer any substance or device identified in Schedule I, II, III, IV or V as described in the federal Controlled Substance Act, 21 United States Code, Sections 801 to 971 (1988), or any controlled substances or devices. 32 M.R.S. §



12522(4)(5)(A). This would require a statutory change and is not something the Board can authorize through rulemaking.

- Remove the statutory prohibition on certain types of physiologic function testing. The statute provides “[a] naturopathic doctor may use physical examinations for diagnostic purposes including phlebotomy, clinical laboratory tests, speculum examinations and physiological function tests, excluding all endoscopies and physiological function tests requiring infusion, injection, inhalation or ingestion of medications to perform tests.” 32 M.R.S. § 12522(2). This would require a statutory change and is not something the Board can authorize through rulemaking.
- Change the statute that requires ,prior to independently prescribing noncontrolled legend drugs, a naturopathic doctor to establish and complete a 12-month collaborative relationship with a licensed allopathic or osteopathic physician to review the naturopathic doctor’s prescribing practices to allow an experienced naturopathic doctor (one suggestion is 5 years’ experience) to also serve as the supervising clinician. 32 M.R.S. § 12522(4)(C). This would require a statutory change and is not something the Board can authorize through rulemaking.
- Eliminate the term “use” in statute and substitute “administer,” as “use” lacks clarity and professionalism, is not medically specific or appropriate and is likely to cause confusion as to whether an ND can administer an injection or IV themselves. 32 M.R.S. § 12522(1). This would require a statutory change and is not something the Board can authorize through rulemaking.
- Eliminate the requirement that updating the formulary requires major substantive rulemaking. 32 M.R.S. § 12506. This would require a statutory change and is not something the Board can authorize through rulemaking.
- Eliminate the requirement for a formulary subcommittee, as it slows the process down. 32 M.R.S. § 12522(4)(B). This would require a statutory change and is not something the Board can authorize through rulemaking.

The Board also considered comments in opposition to the proposed rule, in whole or part, that objected to any additional prescribing authority to naturopathic doctors. The Board did not accept the comment as limited prescriptive authority for naturopathic doctors is in existing law. *See* 32 M.R.S. § 12522(4).

Comments from professional organizations were received showing support and concerns from their membership. The support included:

- The continued ban on NDs prescribing controlled substances.



- Section (1)(H)'s Expedited Partner Therapy as good public health.
- The year-long collaborative relationship between MDs/DOs and NDs as a very reasonable safeguard for newly-licensed NDs in Maine.

And the concerns included:

- The training for NDs is too unclear and inconsistent across institutions to support such a broad granting of prescribing authority.
- Incorporation of AHFS by reference is too broad.
- Lithium, unspecified medical devices, contrast dyes, and IV administration carry too many safety risks to be included in this broad formulary.

The provisionally adopted rule and related materials were filed with the Executive Director of the Legislative Council pursuant to 5 MRSA 8072, sub- 2 on March 19, 2026.

In closing, please note that OPOR respectfully requests that the Committee amend the following provisions to prevent future delays in updating the formulary:

- Amend 32 M.R.S. §12522 (4)(B) to read:

A naturopathic doctor may only prescribe noncontrolled legend drugs from the following categories: homeopathic remedies, vitamins and minerals, hormones, local anesthesia and immunizations that are designated by rule by a subcommittee of the board consisting of the naturopathic members and the allopathic or osteopathic physician member, as consistent with a naturopathic doctor's education and training. A naturopathic doctor may not prescribe psychotropic medications.

- Amend 32 M.R.S. §12506 to read:

~~Rules adopted pursuant to section 12522, subsection 4 are major substantive rules as defined by Title 5, chapter 375, subchapter 2-A. All other Rules adopted pursuant to this chapter are routine technical rules.~~

Thank you for the opportunity to share our testimony. While we did our best to meet the Committee's timeline, I do want to share that those deadlines were very challenging given that the rulemaking process is very time-consuming and relies on factors outside of OPOR's control. I share that with you just as a consideration in the future and also as an on-mic thank you to my staff, the Board's AAG and others who helped move this forward as expeditiously as possible. I would be happy to answer any questions now or at the work session.

