

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION
NATUROPATHIC BOARD OF EXAMINERS**

**PERFORMANCE AUDIT REPORT
APRIL 2017**



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To The Fiscal Committee Of The General Court:

We conducted a performance audit of the Naturopathic Board of Examiners (Board) to address the recommendation made to you by the joint Legislative Performance Audit and Oversight Committee. We conducted this audit in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions. The evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The purpose of the audit was to determine how effectively the Board regulated the naturopath profession during State fiscal years 2015 and 2016.

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Office Of Legislative Budget Assistant

April 2017

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ABBREVIATIONS AND GLOSSARY OF TERMS

Allopathy	A system of medicine that aims to combat disease by using remedies, such as drugs or surgery, which produce effects that are different from or incompatible with those of the disease being treated. Also called conventional or traditional medicine.
Biennial	Occurring every two years.
Board	Naturopathic Board Of Examiners
CE	Continuing Education
Controlled Drug	Any drug or substance, or immediate precursor, categorized into one of five schedules by the federal DEA based on their potential for abuse or addiction, and scheduled according to State law and rules adopted by the DHHS.
Council	Council On Doctors Of Naturopathic Medicine Formulary
Controlled Substance Schedule	Drugs and other substances that are considered controlled substances under the federal Controlled Substances Act are divided into five schedules.
Conventional Medicine	See Allopathy.
DEA	U.S. Drug Enforcement Administration
DHHS	N.H. Department Of Health And Human Services
Diathermy	The generation of heat in tissue by electric currents for medical or surgical purposes.
Didactic	In a medical setting - instructive; denoting medical teaching by lectures or textbooks, as distinguished from clinical demonstrations involving patients or laboratory exercises.
Dispensary	An establishment where medicine or treatment is made available. This may include nutritional supplements, herbal medicines, and homeopathic remedies.

ABBREVIATIONS AND GLOSSARY OF TERMS (CONTINUED)

Drug	Articles, and components of articles, recognized in the official United States Pharmacopoeia, official National Formulary, or any supplement to any of them; articles and components of articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and non-food articles and components of articles intended to affect the structure or function of the body of man or other animals.
FDA	U.S. Food And Drug Administration
Homeopathic Preparations	Medicine prepared according to the Homeopathic Pharmacopoeia of the United States.
Homeopathy	An alternative medical system based on the belief that disease symptoms can be cured by small doses of substances which produce similar symptoms in healthy people.
HPUS	Homeopathic Pharmacopoeia Of The United States
Natural Medicine	Food, food extracts, vitamins, minerals, enzymes, digestive aids, whole gland thyroid, plant substances, homeopathic preparations, and topical medicines.
Naturopathic Medicine	A system of primary health care practiced by naturopaths for the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases that uses education, natural medicines, and therapies to support and stimulate the individual's intrinsic self-healing processes.
Naturopathy	An alternative medical system that views disease as a manifestation of alterations in the processes by which the body heals itself.
NPLEX	Naturopathic Physician Licensing Examination
OPL	Office of Professional Licensure, formerly a component of the DHHS, and one of two predecessors to the OPLC.
OPLC	Office of Professional Licensure and Certification, an independent State agency composed of the former Joint Board of Licensure and Certification and the DHHS's former OPL.
Orifical	Of, or pertaining to, an orifice.
Osteopathy	A system of healing based on the manipulation of bones or other parts of the body.
PDMP	Prescription Drug Monitoring Program, also known as the Controlled Drug Prescription Health and Safety Program.
Pharmacology	The scientific study of drugs and how they are used in medicine.
Pharmacognosy	A branch of pharmacology dealing with medicinal substances of biological origin, especially medicinal substances obtained from plants.
<i>Practice Act</i>	<i>Naturopathic Health Care Practice Act (RSA 328-E)</i>

ABBREVIATIONS AND GLOSSARY OF TERMS (CONTINUED)

Prescription Drug A drug federal law requires be labeled with “Caution federal law prohibits dispensing without prescription,” “Caution federal law restricts this drug to use by or on the order of the licensed veterinarian,” or “RX only,” before being dispensed or delivered; is required by federal or State law or regulation to be dispensed on prescription only; or is restricted to use by practitioners. Also known as a legend or potent drug.

Pure Drugs *Purity and Branding of Foods and Drugs; Immature Veal* (RSA 146)

Right-to-Know *Access To Governmental Records And Meetings* (RSA 91-A)

SFY State Fiscal Year

**Traditional
Medicine** See Allopathy.

Year A calendar year, unless otherwise expressed.

**STATE OF NEW HAMPSHIRE
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NATUROPATHIC BOARD OF EXAMINERS**

EXECUTIVE SUMMARY

During the audit period, the Naturopathic Board of Examiners (Board) lacked adequate management controls to ensure the practice of naturopathy was consistently regulated. The Board did not:

- adequately define the naturopathic scope of practice or control the prescribing, preparing, and dispensing of drugs by naturopaths;
- ensure naturopaths who were subject to registration in the State's Prescription Drug Monitoring Program (PDMP) were enrolled;
- adequately control the formulary underpinning the prescribing practices of naturopaths; or
- consistently administer licensing, relicensing, continuing education (CE), and other functions.

Administratively attached to the Department of Health and Human Services (DHHS) through State fiscal year (SFY) 2015 and supported by one part-time licensing clerk, the part-time Board was functionally a stand-alone agency and had a broad array of responsibilities which it had difficulty meeting. We also found a gap in the regulation of naturopaths prescribing, preparing, and dispensing drugs between the Board and other entities with regulatory responsibility over controlled substances and drugs generally, including the Pharmacy Board and the DHHS.

The Board did not ensure initial license applicants consistently achieved the standards established in statute and rule. The Board lacked adequate controls over license renewals, and related Office of Professional Licensure and Certification (OPLC) practices and procedures were inconsistent with Board rules, with some effectively nullifying rule-based requirements. Consequently, the Board: 1) was inconsistent in acting timely on renewals and providing notice of pending license expiration, 2) inconsistently provided notice it received renewal applications, 3) inconsistently took action on applications, 4) inadequately controlled license lapses and inactive licensees, and 5) did not ensure its records were consistent. Additionally, based on OPLC advice intended to implement a repealed statute, the Board issued licenses valid for a period substantially less than the statutorily-required two-year period. Management of CE requirements was inadequate, and the Board implemented a faulty CE cycle and inconsistently enforced educational and documentation standards. The CE system was unnecessarily confusing, cumbersome, and inefficient. The Board did not ensure: 1) applicants met educational standards, 2) new and renewal specialty certificate applicants provided complete applications and submitted required documents, and 3) timely responses to applicants. Renewal applicants nonetheless received license and certification renewal. Finally, the Board lacked adequate policies, procedures, and rules to administer complaints, investigations, and enforcement activities.

The Council on Doctors of Naturopathic Medicine Formulary (Council), created to develop the drug formulary from which naturopaths could prescribe, operated wholly outside the State statutory construct for a public body. Council operations were informal, lacking rules and adequate and proper documentation of procedures and decisions. The Board lacked adequate controls to ensure Board and Council members consistently and timely filed statements of

financial interest, members were eligible to serve, and Board and Council meetings had a quorum of eligible members. The Council's five members did not submit any statements of financial interest and Board members submitted only 31.6 percent of the required statements during the audit period. Noncompliant Board and Council members were ineligible to serve, yet the Board conducted 11 of its 12 meetings, and the Council conducted its only meeting, without a quorum of eligible members. Although the Board held several public meetings with recorded minutes, these minutes were insufficiently detailed, and Board business was also performed outside public meetings. The Council conducted public business in private. Inconsistent compliance with these statutory obligations compromised transparency and accountability, and potentially compromised Board and Council decisions.

The Board also lacked an ethics policy to help ensure ethical standards were met and deviations from those standards were rectified. Board rules were expired for substantial parts of the audit period, were enforced while expired and without corresponding statutory authority, and lacked substantive content. The Board and Council did not comply with several aspects of State law regulating the management of public records, and we found noncompliance with several other statutes.

The OPLC, created mid-audit period to promote efficiency and economy in Board business processing, recordkeeping, and other administrative and clerical operations, was insufficiently mature to effectively address many of its Board responsibilities. Migrating Board administration to the OPLC was still in process during the audit period. Procedures and practices were in flux. Managerial staff was also reported to have undergone substantial change. Board noncompliance with statutory, regulatory, and general management control standards within this context may to some degree be attributable to insufficient administrative support and organizational turbulence.

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RECOMMENDATION SUMMARY

Observation Number	Page	Legislative Action Required?	Recommendations	Agency Response
1	10	No	The Naturopathic Board of Examiners (Board); adopt rules to define the naturopathic scope of practice; establish the qualifications for naturopathic assistants; formally respond to all inquiries; and inform the public about naturopaths practicing under a limited scope of practice.	Board: Concur
2	15	Yes	The Board: develop a systematic process to monitor and adequately control naturopaths' practices related to the prescription, administration, distribution, manufacture, and storing of drugs; include relevant statutory and regulatory requirements in a jurisprudence examination; and enter into an agreement with the Pharmacy Board to develop an inspection protocol. The boards may wish to seek legislation to include naturopaths within the scope of the Pharmacy Board's authority to inspect and regulate.	Board: Concur
3	19	Yes	The Board either seek clarification from the Legislature on Board practices that were inconsistent with statute, or: ensure the formulary contains only those elements specified in statute; remove from rule the functional similarity test to be applied to synthetic substances; promulgate rules to limit substances, and the use and doses of those substances, to those approved by the federal Food and Drug Administration; and clarify the Council on Doctors of Naturopathic Medicine Formulary's (Council) status as advisory to the Board.	Board: Concur In Part
4	23	Yes	The Board: oversee naturopaths subject to Prescription Drug Monitoring Program (PDMP) registration; develop rules, policy, and procedure; ensure all naturopaths required to register with the PDMP do so; make failure to comply with registration and training requirements subject to disciplinary action; and consider whether membership on the advisory council is warranted, and seek relevant changes to statute.	Board: Concur

Observation Number	Page	Legislative Action Required?	Recommendations	Agency Response
5	27	Yes	The Board: amend rules to ensure examinations administered by other jurisdictions are substantially equivalent and new applicants graduate from an institution that is accredited at or before the time of graduation; require a New Hampshire jurisprudence examination; clarify which institutions produced graduates not required to pass a competency examination or seek statutory changes to require all applicants pass a competency examination; amend application forms; and timely notify applicants of the receipt of applications.	Board: Concur
6	31	No	The Board approve licenses for a two-year period and correct any defective licenses it approved. Office of Professional Licensure and Certification (OPLC) management discontinue the mis-implementation of the June 30 license expiration requirement and correct defective licenses issued.	Board: Concur OPLC: Concur
7	34	No	The Board: timely acknowledge receipt of renewal applications; ensure defective applications are remediated; renew complete, eligible applications; establish a time limit for complying with conditions on licenses; take final action on conditional licenses once conditions have been met; develop policies and procedures to ensure approval, conditional approval, and denial of license renewals are consistent; propose to deny noncompliant applications and enforce lapse requirements; discontinue prospective renewals; ensure timely action is taken to notify non-renewers of their legal inability to practice, and remove inactive licensees from the directory; and address record completeness issues with OPLC. OPLC management develop adequate controls to ensure compliance with Board rules and procedural requirements.	Board: Concur OPLC: Concur
8	41	Yes	The Board seek legislative changes to synchronize the continuing education (CE) and licensing cycles, and, once approved, amend rules; consolidate CE forms into one; and ensure CE hours and courses comply with rules.	Board: Concur

Observation Number	Page	Legislative Action Required?	Recommendations	Agency Response
8 (continued)			<p>If the Board does not pursue or obtain a statutory change to the three-year CE cycle, we recommend the Board comply with existing rules.</p> <p>OPLC management ensure CE forms distributed to naturopaths comply with Board rules.</p>	OPLC: Concur
9	45	Yes	<p>The Board ensure: specialty certification applicants are timely notified of application receipt; records demonstrate achievement of educational requirements; ineligible specialty CE courses do not contribute to renewals; specialty field CE courses are properly approved; the application process is formalized; rules are amended or relevant statutory changes are sought; and only those applications with sufficient, valid CE hours are approved for renewal.</p>	Board: Concur
10	49	No	<p>The Board: develop complaint and investigation procedures; promulgate rules to structure investigations; ensure investigative practices do not compromise the Board’s independence in adjudicating matters; discontinue extra-jurisdictional enforcement and the use of letters of concern; and act on expired licenses.</p> <p>OPLC management discontinue enforcement activities without specific Board direction.</p>	Board: Concur OPLC: Concur
11	54	No	<p>The Board and Council develop: policy, procedures, and rules to govern Council operations; establish the frequency and scope of periodic formulary reviews; develop mechanisms for receiving input on the formulary; and clearly defined roles and relationships between the Board and Council.</p>	Board: Concur
12	57	No	<p>The Board: ensure compliance with the <i>Financial Disclosure</i> statute; periodically review members’ compliance; ensure only a quorum of eligible members participate in meetings; and seek legal advice regarding actions taken without quorum and ratify acts taken without proper authority.</p> <p>The Board’s chairperson annually submit to the Secretary of State an organizational chart of all Board and Council members required to file statements of financial interest.</p>	Board: Concur

Observation Number	Page	Legislative Action Required?	Recommendations	Agency Response
12 (continued)			OPLC management develop policy and procedures to ensure the Board and Council receive necessary administrative and clerical support to comply with the <i>Financial Disclosure</i> statute.	OPLC: Concur
13	59	No	The Board and Council: provide public notice for, and for public participation in, all meetings; limit communications and business to duly constituted meetings; ensure meeting minutes meet minimum requirements; retain all public records; develop meeting procedures; include the Council throughout Board rules; include the Right-to-Know law in orientation materials; and consider developing a formal training program.	Board: Concur OPLC: Concur
14	62	No	The Board: develop formal ethical standards for Board and Council operations, include the standards in rule, and ensure members are aware of the standards.	Board: Concur
15	64	No	The Board: ensure rules remain in effect; track rule status; enforce only requirements contained in valid rules; repeal rules without statutory basis; ensure forms and their requirements are adopted in rule; and adopt missing rules.	Board: Concur
16	67	Yes	The Board: ensure rules are provided to licensees, biennially publish a report on Board and Council activities, and improve orientation and training of Board and Council members. OPLC management assist the Board and Council in complying with statute. The Legislature may wish to consider compensating Board and Council members for mileage and per diem costs incurred in State service.	Board: Concur OPLC: Concur
17	70	No	The Board: develop a records management system and retention schedules; make and maintain adequate records of Board and Council policies, decisions, procedures, and transactions; seal and properly sign its official acts; and ensure Board and Council records are timely available at the Board's office.	Board: Concur

Observation Number	Page	Legislative Action Required?	Recommendations	Agency Response
17 (continued)			OPLC management assist the Board and Council by performing administrative, clerical, and business processing responsibilities.	OPLC: Concur
18	73	No	<p>The Board formalize and clarify the terms and conditions of its relationship, and that of the Council, to the OPLC.</p> <p>OPLC management: reevaluate the OPLC mission statement; standardize policy and practice for similar administrative functions; help ensure board members understand statutory requirements; develop a performance measurement system; ensure convenient access to public information; ensure the Council receives administrative support; develop policies documenting the lifecycle of transactions and ensure incompatible duties are segregated; and undertake more detailed cost accounting.</p>	<p>Board: Concur</p> <p>OPLC: Concur</p>

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NATUROPATHY

Naturopathy was differentiated from allopathic or conventional medicine, being considered an alternative medical system. The modern practice of naturopathy originated in Europe during the 1800s. The core philosophy of naturopathy was to utilize the healing power of nature. Six principles encompassed naturopathic medicine and were the foundation of naturopathy:

- facilitate the natural self-healing processes of the body;
- treat the underlying causes of an illness rather than suppressing or eliminating symptoms;
- avoid harming the patient by minimizing risk of side effects and the use of invasive procedures, and avoiding the harmful suppression of symptoms;
- educate the patient and encourage self-responsibility for health;
- treat the whole patient by considering physical, mental, emotional, genetic, environmental, social, and spiritual factors; and
- assess factors causing disease and use intervention techniques to prevent illness.

A naturopath's role was to support the body's natural ability to restore health using the least invasive approach. The naturopath's methods included both traditional and modern therapies.

Naturopathy In New Hampshire

As of September 2016, New Hampshire was one of 17 states allowing and regulating naturopathy. Three states banned the practice of naturopathic medicine and the remainder did not regulate naturopathy. A well-designed and executed regulatory program can increase the likelihood the State adequately protects its citizens without unduly restricting participation in the regulated practice. The Naturopathic Board of Examiners (Board) was established by the *Naturopathic Health Care Practice Act (Practice Act)* (RSA 328-E) in 1994 to license and regulate naturopaths to protect the public's health, safety, and welfare by ensuring practitioners met minimum professional and competency standards. The Board's powers included authority to license and relicense practitioners, review educational credentials, promulgate rules to regulate the profession, receive and adjudicate complaints against licensed naturopaths, subpoena witnesses, administer oaths, and compel production of papers and records. Consistent with the *Practice Act*, naturopaths had the same authority and responsibility as other medical practitioners regarding public health laws, reportable diseases and conditions, communicable disease control and prevention, recording of vital statistics, health and physical examinations, and local boards of health.

Scope Of Practice

Each state regulating naturopathy reportedly defined the scope of practice differently. In New Hampshire, statute defined naturopathy as "the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases...[using] education, natural medicines and therapies to support and stimulate the individual's intrinsic self-healing processes." Modes of practice could be divided into two general areas: therapies and medicines.

Therapies

Permissible preventive and therapeutic treatments included the natural therapies of dietary therapy, exercise therapy, counseling, hypnotherapy, biofeedback, naturopathic physical medicine, and the use of therapeutic devices. Naturopathic physical medicine was defined as the use of the physical agents of air, water, heat, cold, sound, light, and electromagnetic non-ionizing radiation, and the physical modalities of electrotherapy, diathermy, ultraviolet light, ultrasound, hydrotherapy, therapeutic exercise, and naturopathic manipulative therapy. Naturopathic manipulative therapy was defined as the manually-administered mechanical treatment of body structures or tissues, in accordance with naturopathic principles, to restore normal physiological function by normalizing and balancing the body's musculoskeletal system. Naturopaths were allowed to prescribe nonprescription therapeutic devices and use noninvasive diagnostic procedures commonly used by other medical practitioners in general practice. For diagnostic purposes, naturopaths were allowed to use physical and orifical examinations, X-rays, electrocardiograms, ultrasound, phlebotomy, clinical laboratory tests and examinations, and physiological function tests. The practice of surgery and emergency medicine was prohibited, and naturopaths were not authorized to practice or claim to practice medicine, surgery, osteopathy, dentistry, podiatry, optometry, chiropractic, physical therapy, or any other system or method of treatment not authorized under the *Practice Act*.

Observation No. 1

Define And Communicate The Scope Of Practice For Naturopaths

The Board did not clearly define the scope of practice for naturopaths, promulgate required scope of practice or naturopathic assistant rules, consistently respond to practitioners' requests for clarification of the scope of practice, or inform the public about naturopaths with limited scopes of practice, compromising its role as the regulator of the profession. Consequently, several areas of practice required further clarification, such as the use of invasive and noninvasive procedures, therapeutic devices, and naturopathic assistants. As we discuss in Observation No. 16, the Board inconsistently provided naturopaths the laws and rules regulating the scope of practice; in Observation No. 5, the Board did not test applicants' comprehension of the New Hampshire laws and rules; and in Observations No. 2 and No. 3, the Board did not adequately regulate prescribing practice. By not further defining the scope of practice or consistently informing and testing naturopath's knowledge of the scope of practice in statute, naturopaths practicing in New Hampshire were reliant on previous educational experiences and practices to inform their interpretation of the scope of practice in the State. However, accredited naturopathic education occurred outside of New Hampshire in jurisdictions with scopes of practice which differed from New Hampshire law. Further, while the scope of practice framed in State law remained static since its inception, the practice of naturopathy, and the institutions providing naturopathic education, did not. As the regulatory agency for the State, the Board was expected to adapt the regulatory environment to change and mitigate potential public health risks.

Rules Required

Regulatory agencies should establish qualifications and acceptable behaviors for the regulated profession, including definitions, guidelines, criteria, and qualifications. State law required the Board regulate the profession of naturopathic medicine to protect the public health, safety, and welfare. To accomplish this objective, State law provided the Board broad rulemaking authority and required it to adopt rules on the practice of naturopathic health care and any other rules necessary for the administration of the *Practice Act*. Rules fill in the gaps between law and practice by providing the necessary details for consistently implementing law. However, none were adopted to define naturopathic healthcare or the scope of practice. Board rules mention scope of practice once, in the section on misconduct, which did nothing to define the practice of naturopathy. Besides the formulary, the formal scope of practice in effect during the audit period relied solely on the framework provided in statute and occasional ad hoc Board guidance, despite the statutory requirement to promulgate rules. Instead, the Board allowed the practical definition of the scope of practice to rest with an individual licensee's education and experience.

Invasive Procedures

The Board did not clarify statutory authority defining the invasive procedures naturopaths may perform. Statute forbade naturopaths from performing surgery, without defining surgery. Statute defined "minor office procedures" to include "care incident to superficial lacerations and abrasions, and the removal of foreign bodies located in superficial structures, not to include the eyes. It shall include the use of antiseptics in connection with such procedures but shall not include the alteration or removal of tissue." However, statute never authorized naturopaths to perform minor office procedures and Board rules did not clarify whether such procedures were within the scope of practice or what constituted, or did not constitute, minor office procedures. Of the 85 active naturopaths licensed by the State, 31 responded to our survey. One of the 25 naturopaths (4.0 percent) who reported practicing in New Hampshire also reported performing minor office procedures and removing superficially-located foreign bodies from patients. It was unclear if these reported practices were authorized. Complete survey responses are contained in Appendix D.

Also, the Board did not further delineate the statutory authority granted to specialty certificate holders when performing services within and outside a specialty field of practice. Naturopaths holding specialty certifications in naturopathic acupuncture and naturopathic childbirth were specifically authorized by statute to perform certain, limited invasive procedures, such as the insertion of needles into the skin and specific minor surgical procedures. Specific scopes of practice for these specialty fields of practice were not included in Board rules either.

Therapeutic Devices

Statute authorized naturopaths to use therapeutic devices and to prescribe non-prescription therapeutic devices. The Board did not further define this authority in rule. The following practices involving therapeutic devices were reported by the 25 naturopaths practicing in New Hampshire responding to our survey:

- nine (36.0 percent) used non-prescription therapeutic devices;
- five (20.0 percent) used prescription therapeutic devices;
- three (12.0 percent) administered vaccinations;
- four (16.0 percent) injected substance into muscles, ligaments, or tendons;
- four (16.0 percent) injected substances into veins; and
- 14 (56.0 percent) used syringes.

Without a definition of therapeutic device or the procedures surrounding therapeutic devices allowed in Board rule, it was unclear which devices or methods were specifically authorized within the scope of practice. Also, we found five instances during the audit period where practicing naturopaths requested clarification on whether the insertion of a therapeutic device could be performed under their scope of practice, without receiving a documented response from the Board.

Commonly-used Noninvasive Diagnostic Procedures

Statute permitted naturopaths to use noninvasive diagnostic procedures commonly used by medical practitioners in general practice. This permission was broad, not further defined by the Board, and relied on standards set by other professions. Of the 25 naturopaths practicing in New Hampshire and responding to our survey, five (20.0 percent) were unable to describe how they implemented this authority in practice. The 20 naturopaths (80.0 percent) who described how they implemented this statutory provision provided a varying number of procedures. The most common responses were physical examination, laboratory testing, and diagnostic imaging (e.g., x-ray, ultrasound). The least common responses were orthopedic examination and noninvasive neurological and psychological examinations. The use of psychological examinations was not specifically allowed in the statutorily-defined scope of practice, and Board rules did not establish psychological examinations were a common procedure by medical practitioners used in general practice and did not provide they could be used by naturopaths. The varying degree of answers, including five naturopaths unable to describe how they implemented statutory authority, demonstrates statutory language required further clarification in rule.

Limited Scope Of Practice

Three of the 85 naturopaths (3.5 percent) active during the audit period held a *limited* scope of practice approved by the Board, but from what broader scope of practice these *limited* scopes were derived was never described. Statute provided the Board authority to limit the scope of practice for naturopaths who applied for licensure prior to March 1, 1998 under a statutory exemption to licensing requirements. However, Board members reported a lack of awareness of these three limited scopes and no mention of the limited scope existed in policy, procedure, rule, or the public directory of licensed naturopaths. Without adequate disclosure of naturopaths with a limited scope, knowledge of already-approved practices was neither readily available nor utilized to better define the scope of practice for other naturopaths. During the audit period, a naturopath reportedly asked the Board whether a substance, already approved in the three limited scopes of practice, was permitted for use. However, the Board made no documented determination of the substance's suitability for inclusion in the broader scope of practice.

Naturopathic Assistants

Of the 25 naturopaths who responded to our survey and practiced in New Hampshire, one (4.0 percent) reported hiring a naturopathic assistant to aid in performing naturopathic services. Three (12.0 percent) reported using medical assistants to aid in providing naturopath services, and one (4.0 percent) reported utilizing non-credentialed staff. Statute required the Board to adopt rules regulating naturopathic assistants and their necessary qualifications, but no rules existed. By not establishing the qualifications of naturopathic assistants or defining the scope of practice of naturopathic assistants, non-qualified healthcare providers were reportedly aiding in the performance of naturopathic medicine without Board oversight. The services provided by unqualified healthcare providers may have resulted in a public health risk.

Declaratory Rulings And Board Inquires

Declaratory rulings answer a question related to the specific application of a law or rule to an individual case and can be used by the Board to clarify law and rule. The Board did not utilize declaratory rulings, but we found seven instances during the audit period where a naturopath requested clarification of the naturopathic scope of practice. Two dealt with questions pertaining to the formulary and received complete responses; but five dealt with invasive procedures penetrating the skin and did not receive complete responses, including:

- two licensed naturopaths requesting clarification on whether a procedure involving the injection of a solution into a ligament, tendon, or joint was within the scope of practice;
- one licensed naturopath requesting clarification on whether cosmetic injections were within the scope of practice;
- one non-New Hampshire naturopath requesting clarification on whether a procedure similar to acupuncture was within the scope of practice; and
- one licensed naturopath requesting clarification on whether injections in a home setting were within the scope of practice.

Board records contained one response (20.0 percent) – to the naturopath requesting clarification on the authority to perform injections in a home setting. Although the Board provided a documented response, the Board did not clarify whether injections within a home were allowable under the naturopathic scope of practice. Instead, the procedure in question was left to the discretion of the naturopath seeking guidance.

Recommendations:

We recommend the Board fulfill its mission to protect the public health, safety, and welfare by regulating the profession of naturopathy and adopting rules to:

- **define naturopathic health care and the scope of practice, including those practicing under a specialty certification in naturopathic acupuncture and naturopathic childbirth, and address invasive procedures, therapeutic devices, and non-invasive diagnostic procedures; and**

- **establish the qualifications for naturopathic assistants and define what other health care professionals are qualified to support naturopaths.**

We recommend the Board formally respond to all inquiries, including those seeking clarification on the naturopathic scope of practice, and document each response. When applicable, we recommend the Board utilize declaratory ruling procedures or, if the clarification applies generally, amend rules to further define the naturopathic scope of practice.

We also recommend the Board inform the public about naturopaths practicing under a limited scope of practice by identifying the naturopaths with a limited scope in the published directory.

Board Response:

We concur.

We concur with the recommendations to: (1) amend rules to define naturopathic health care and the scope of practice, including specialty certification in Naturopathic Acupuncture and Childbirth; (2) define invasive procedures, therapeutic devices, and non-invasive diagnostic procedures; (3) define qualifications for Naturopathic Assistants; (4) clarify what other health care professionals are qualified to support naturopathic doctors; (5) respond to inquiries, including those seeking clarification on the naturopathic scope of practice in a timely manner and document each response, utilizing declaratory ruling procedures if necessary; and (6) identify Naturopathic Doctors with a limited scope of practice in a published directory.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation at the end of 2018.

Medicines

The prescribing scope of practice for naturopaths varied from state-to-state, with some states prohibiting naturopaths from prescribing, a few requiring prescribing practice oversight by a medical doctor, and others providing for the development of an independent formulary with varied scopes. For preventive and therapeutic purposes, State law authorized naturopaths to use natural medicines, food, food extracts, vitamins, minerals, enzymes, digestive aids, whole gland thyroid, plant substances, all homeopathic preparations, and topical medicines. Naturopaths could also prescribe “nonprescription medications” and substances listed on the naturopathic formulary adopted in rule by the Board. State law provided naturopaths the authority to utilize the federally-recognized Homeopathic Pharmacopeia of the United States (HPUS) and defined drugs to include articles and their components intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease. State law so broadly defined drug as to encompass all substances a naturopath could use or prescribe. All were subject to State and federal regulation.

Observation No. 2

Establish Controls Over Otherwise Unregulated Drugs And Related Activities

The Board lacked adequate controls over the prescribing, preparing, and dispensing of substances by the naturopaths it licensed. Regulation of naturopaths was undertaken to protect the public from the unqualified practice of the profession. However, we found a gap in the regulation of naturopaths prescribing, preparing, and dispensing substances between the Board and other entities with regulatory responsibility over controlled substances and drugs generally, including the Pharmacy Board and the Department of Health and Human Services (DHHS). This aspect of the naturopathic scope of practice was functionally unregulated.

Reportedly, the use of domestic and imported homeopathic drugs has increased nationally. Statute authorized naturopaths to use homeopathic preparations – those medicines prepared according to the HPUS. The HPUS contained standards for source, composition, preparation, content, techniques, medicinal uses, and dosage of homeopathic drugs found to be safe and effective, and a partial list of acceptable drugs. The *2009 Formulary* permitted naturopaths to prescribe, in addition to 23 other drug classifications, any homeopathic preparation. The HPUS contained nearly 1,300 drugs as of 2015. Of the 31 naturopaths responding to our survey, 25 reported practicing in New Hampshire, which represented 41.7 percent of active in-State licensees. Twenty-two of 25 (88.0 percent) reported prescribing from the formulary and 11 (44.0 percent) reported holding a federal Drug Enforcement Administration (DEA) registration to prescribe controlled substances. Six of the 11 (54.6 percent) DEA registrants reported prescribing controlled substances from one or more federal controlled drug schedules. Twenty-four of the 25 respondents (96.0 percent) reported using homeopathic preparations - three (12.5 percent) prepared them in their office and 19 (79.2 percent) reported directing patients elsewhere to purchase homeopathic preparations. All respondents reporting in-office preparation of drugs also reported HPUS adherence.

Federal Regulation

Homeopathic drugs were regulated federally. Federal law required homeopathic drugs be safe and effective, and made certain homeopathic drugs available by prescription. Therapeutic claims had to be backed by scientific data and proof of safety and efficacy. Whether or not a homeopathic medication was manufactured or prepared in a naturopath's office, if it claimed to have a therapeutic effect, it had to be registered and used as intended, otherwise it was considered fraud. Also, there were labelling, manufacturing, and facility registration requirements, and homeopathic drugs could contain commonly-used homeopathic diluents, but could not contain non-homeopathic active ingredients. Some requirements were reportedly not federally enforced, but the federal Food and Drug Administration (FDA) took action against adulterated and misbranded homeopathic drugs and manufacturers not following good manufacturing practice.

State Regulation

State law reflected federal requirements and structured enforcement mechanisms. These mechanisms predate the regulation of naturopathy as a profession in New Hampshire and naturopathy was not well integrated into the regulatory scheme.

The DHHS

Under State law, natural medicines and other substances used by naturopaths for preventative or therapeutic purposes were drugs and regulated under the *Purity and Branding of Foods and Drugs; Immature Veal (Pure Drugs)* (RSA 146) statute. *Pure Drugs* provided for strict labeling and quality standards, and required facilities and controls used in manufacturing, processing, packing, or holding drugs to conform to good manufacturing practice to ensure safety, quality, purity, identity, and strength standards were met. The manufacture, sale, delivery, holding, or offering for sale of any adulterated drug, including those not manufactured using good manufacturing practice, or of any misbranded or mislabeled drug, was prohibited. Penalties for violating the provisions of *Pure Drugs* ranged from a violation through a felony. The DHHS held enforcement responsibility and was required to adopt implementing rules, but did not. Nor did the DHHS exercise its authority to inspect facilities containing drugs, sample and test drugs, and seize and embargo adulterated or misbranded drugs.

The Pharmacy Board

The Pharmacy Board had authority to inspect all places where drugs were held, stored, or offered for sale, and to inspect all records of sale and disposition of drugs. The Pharmacy Board could request DHHS assistance in collecting and analyzing drugs sold, or suspected of being sold, in violation of statute. Further, the place of business for all controlled drug-prescribing naturopaths was subject to inspection by the DHHS, the Pharmacy Board, and law enforcement. However, naturopaths were not included in the scope of the statute subjecting other professions handling prescription drugs to inspection and regulation by the Pharmacy Board with regard to their storage, labeling, distribution, and disposal of prescription drugs, and the Board was not included within the statutory scope of the Pharmacy Board's inspection services authority. Reportedly, the Pharmacy Board did not inspect naturopaths' establishments.

The Naturopathic Board Of Examiners

As the regulatory agency for naturopathy in New Hampshire, it was incumbent upon the Board to exercise adequate control and coordinate its regulatory activities with other agencies where responsibilities overlapped. The Board was required to promulgate rules defining the scope of practice, which it did not do. Neither did the Board have, in practice, any oversight or control over:

- *Preparing Drugs, Including Homeopathic Drugs.* Neither State law nor Board rule provided naturopaths statutory authority to prepare drugs, homeopathic or otherwise. Drug quality affects consumers, who usually cannot determine a drug's safety, quality, or efficacy, and rely instead on regulatory agencies for assurances. To ensure quality

and safety, standardized procedures for good manufacturing practice were necessary, required by State law, and to be overseen by the DHHS.

- *Dispensing Drugs.* State law provided naturopaths authority to dispense prescription drugs if they were natural medicines and listed on the formulary. While some naturopaths may establish in-office pharmacies or dispensaries to make available prescribed substances, such as homeopathic drugs and dietary supplements, others might prescribe a traditional pharmaceutical or a homeopathic remedy available commercially elsewhere. Neither State law nor Board rules permitted naturopaths to dispense other drugs, and Board rules did not regulate any aspect of dispensing. This was overseen by the Pharmacy Board for other practitioners and, as we discuss in Observation No. 4, the Prescription Drug Monitoring Program (PDMP) was inadequately integrated into naturopathic prescribing practice by the Board.
- *Inspecting Establishments.* Periodic inspections of regulated practitioners and their establishments are a common means to assess compliance. Naturopath's offices needed to comply with federal and State regulations, but there were no inspections or other assurances of compliance. Inspections of establishments with controlled drugs were intended, in part, to assess the potential for drug diversion. The Board had no interactions with other regulatory authorities to effectuate inspections, and did not have the information needed to assess the scope of the potential requirement. This was also overseen by the Pharmacy Board for other practitioners.
- *Drug-related Complaints.* Homeopathic drugs, like other drugs, can become unsafe when combined with other substances, as there can be interactions between homeopathic and other drugs. Homeopathic drug-related complaints and adverse effect reporting was not included in Board rules, and naturopaths inconsistently took part in the PDMP, which was designed, in part, to inform prescribers about all of a patient's controlled substances prescriptions.
- *Education Requirements.* The Board had to ensure practitioners were educated and maintained competency. Although the Board required each naturopath obtain 12 hours of continuing education in pharmacology or pharmacognosy every three years, the Board had no specific initial or continuing education (CE) requirements for naturopaths operating dispensaries or preparing drugs, including homeopathic drugs; the Board did not require a jurisprudence examination to help ensure naturopaths understood New Hampshire laws and rules regulating naturopathy, including *Pure Drugs*, as we discuss in Observation No. 5; and the Board did not distribute rules, including the formulary, to newly-licensed naturopaths, as we discuss in Observation No. 16.

All these factors, combined with the inadequate control of the formulary as we discuss in Observation No. 3, limited the adequacy of the regulatory control environment within which naturopaths prescribed, used, administered, prepared, and dispensed drugs. Operating and administering the control system necessary to adequately regulate this aspect of the naturopathic

scope of practice was likely beyond the capacity of the volunteer Board and the part-time licensing clerk it was assigned.

Recommendations:

We recommend the Board develop a systematic process to monitor and adequately control naturopaths' practices related to the prescription, administration, distribution, manufacture, and storing of drugs that are not adequately regulated by other agencies, to ensure licensees follow all applicable laws and rules and the public is adequately protected. This should include promulgating rules defining the scope of practice to include or exclude:

- **prescribing unapproved drugs, or approved drugs for unapproved purposes or in unapproved doses;**
- **preparing drugs in-office, and using the HPUS and good manufacturing practice; and**
- **operating dispensaries in-office.**

We recommend the Board include in rule relevant inspection and adverse event reporting educational requirements, including CE, for naturopaths preparing drugs, for non-standard administration or use of drugs, and for operating dispensaries, and the Board include relevant statutory and regulatory requirements in a jurisprudence examination.

We also recommend the Board enter into an agreement with the Pharmacy Board to develop an inspection protocol to help ensure: drugs are pure and properly prepared, labeled, and stored; that facilities and practices conform to good manufacturing practice and the HPUS; and opportunities for diversion are eliminated. The boards may wish to seek legislation to include naturopaths using prescription drugs, regardless of classification, within the scope of the Pharmacy Board's authority to inspect and regulate the storage, labeling, distribution, and disposal of prescription drugs.

Board Response:

We concur.

We concur with the need to monitor and adequately control Naturopath's practices related to the prescription, administration, manufacture, storage, and distribution of drugs in order to protect the public. We concur that the Board should include in rule the relevant inspection and adverse event reporting, educational requirements, and CE for use of drugs, preparation of drugs, non-standard administration or use of drugs, and operation of dispensaries, as well as the need for a jurisprudence examination. The Board is open to entering into discussion with the Pharmacy Board to possibly develop an inspection protocol to help ensure that drugs are properly labeled, prepared, and stored. Additionally, the Board would like to clearly distinguish in its rules between the use and regulation of prescription pharmaceutical drugs, homeopathic drugs, and dietary supplements.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation at the end of 2018

The Naturopathic Formulary

The Council on Doctors of Naturopathic Medicine Formulary (Council) was created to establish a naturopathic formulary listing which natural substances a naturopath could prescribe. Naturopaths could not prescribe, dispense, or administer any prescription drugs, except natural medicines authorized by the *Practice Act*. Statute provided natural medicines included: food, food extracts, vitamins, minerals, enzymes, digestive aids, whole gland thyroid, plant substances, all homeopathic preparations, and topical medicines, consisting of topical analgesics, anesthetics, antiseptics, scabicides, antifungals, and antibacterials. Naturopaths could also prescribe “nonprescription medications” and the Council could include synthetically-produced substances and their salts on the formulary when: 1) determined appropriate to the scope of practice, and 2) the substance had an identical or substantially identical molecular structure to a plant or animal substance as found in nature.

The Council last developed a formulary in June 2009, which was incorporated by reference into Board rules effective in February 2010. In March 2016, the Council developed and provided the Board updates to the *2009 Formulary*, adding several substances. Adoption was pending Board action in October 2016.

Observation No. 3

Improve Controls Over The Formulary

The Board lacked adequate controls over the formulary underpinning the prescribing practices of naturopaths. As the regulatory authority for naturopathic prescribing practices, it was incumbent upon the Board to exercise adequate control. The Board was required to promulgate rules on the practice of naturopathic healthcare but did not, as we discuss in Observation No. 1. Further, as we discuss in Observation No. 16, the Board did not distribute rules, including the formulary, to newly-licensed naturopaths and did not require a jurisprudence examination to help ensure naturopaths understood laws and rules, including the formulary, as we discuss in Observation No. 5.

Of the 31 respondents to our survey, 25 reported practicing in New Hampshire, which represented 41.7 percent of in-State practicing active licensees. Twenty-two of 25 (88.0 percent) reported prescribing from the formulary and 11 (44.0 percent) reported holding a DEA registration to prescribe controlled substances. Six of the 11 (54.6 percent) DEA registrants reported prescribing controlled substances from one or more federal schedules.

2009 Formulary

We found the *2009 Formulary* took a permissive approach to framing the substances naturopaths could prescribe, infrequently providing a limitation on a substance. The *2009 Formulary* included innocuous substances, prescription drugs, and scheduled drugs, and:

- expanded the statutory scope of the formulary by also specifying substances a naturopath may “use,” which differed in meaning from “prescribe” and meant “administer” a single dose;
- provided for 24 broad classifications from which substances and their derivatives could be prescribed, with some individual classifications containing over a thousand unique drugs;
- expanded the statutory scope of the formulary by including paraphernalia;
- expanded the statutory scope of prescribers by making oxytocin generally available to all naturopaths, where statute limited its use to naturopaths with specialty certification in naturopathic childbirth;
- included any vaccination, listing 24 that were limited to “use” only;
- provided unlisted vaccinations could be prescribed to a patient;
- included synthetic and conventional, or allopathic, substances; and
- excluded certain botanicals, such as opiates and morphine.

The *2009 Formulary* also provided naturopaths could prescribe substances in “any dosage” and in “any dosage form.” Also, vaccinations were deleted from the proposed law and excluded from the naturopathic scope of practice when licensure was being considered in the 1990s.

Survey results indicated prescribing naturopaths utilized every classification to varying degrees, including three of 22 (13.6 percent) who reported providing immunizations in response to a question about substances they used in practice, and 15 of 25 (60.0 percent) reported using paraphernalia when asked.

Proposed 2016 Formulary Additions

The proposed rules encompassing formulary additions deriving from the Council’s 2016 meeting deleted broad authority to “use” substances from the listed classifications; deleted the prescription option for vaccinations, limiting them to “use” only; and deleted the “any dosage” and in “any dosage form” language, seeming to reduce some latitude in prescribing. However, the proposed rules:

- totaled 14 pages with 25 classifications encompassing an indeterminate number of substances;
- expanded the inclusion of conventional, or allopathic, substances;
- still included paraphernalia;
- included local anesthetics, “so long as they are not prescribed,” and vaccinations, “provided they are for use and not prescription,” fostering ambiguity as State law explicitly provided the formulary was for prescription, and not for use;
- introduced an FDA-approved opioid, which reportedly was already being prescribed;

- included another FDA-approved substance, but at a different dose and for different purposes than for which it was approved, which reportedly was also already being prescribed; and
- included at least one substance not approved for use by the FDA and was considered experimental in the United States, which our survey indicated at least one naturopath used.

Rules Expanded Formulary Scope

To be included on the naturopathic formulary, statute required synthetically-produced substances had to: 1) be found appropriate to the naturopathic scope of practice and 2) have identical or substantially identical molecular structure to a plant or animal substance as found in nature. However, the Board's rules defined natural medicine to mean "agents from plant, mineral or animal origins that are naturally occurring substances or manufactured substances that are produced to simulate such naturally occurring substances." This expanded the substances the Council could consider to: 1) include minerals and 2) allow for a functional similarity test be applied to a synthetic substance, neither of which were specifically provided for by statute.

Mandatory Formulary Adoption By Board

Statute required the Council develop the formulary and required the Board "adopt the formulary by rule." Some Board and Council members reported this removed Board discretion over formulary content as it made the Council independent and required the formulary be adopted by the Board as it was drafted by the Council. This may have undermined the Board in its role as the regulator of naturopathy in the State. Others did not hold this view, and reported the Council was advisory.

Recommendations:

We recommend the Board ensure the formulary contains only those elements and features specified in statute by:

- **excluding from the formulary elements outside the statutory framework, such as paraphernalia, and including them elsewhere in rule with other scope of practice elements, or seeking legislative amendment to allow for a broader scope for the formulary;**
- **limiting oxytocin to naturopathic childbirth certificate holders as provided by statute, or seeking legislative amendment to broaden its use;**
- **removing minerals from the formulary, or clarifying whether the Legislature intended to include them on the formulary;**
- **removing from rule the functional similarity test to be applied to synthetic substances as a screening criteria for inclusion on the formulary, or clarifying whether the Legislature intended to provide for a functional similarity test;**
- **promulgating rules to either limit substances, and the use and doses of those substances, to those approved by the FDA, or developing a means to ensure**

unapproved substances, and the doses and uses of all substances are safe as used; and

- **promulgating rules to clarify the Council’s status as advisory to the Board, or clarifying whether the Legislature intended the Board to provide substantive review and editing authority over the formulary.**

Board Response:

We concur in part.

We concur that the use of the word “paraphernalia” in the formulary needs to be clarified either by editing related rules or seeking legislative amendment, and that there needs to be amendments to the rules or statute related to the prescription of oxytocin. We recognize that the use of oxytocin should either be clearly limited to those with certificates in naturopathic childbirth or legislative amendments need to be made to broaden its use.

We concur that clarification is needed as to whether a “functional similarity” test was intended by Legislature. We also concur that there is a need to promulgate rules to limit the use and dose of substances to those that are either approved by the FDA or, if unapproved, have evidence and means to ensure that they are used and dosed appropriately.

We concur that the Board’s relationship to the formulary Council needs to be further clarified in rule.

We do not concur with the recommendation to remove “minerals” from the formulary as the use of “minerals” is stated in both statute and rule.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation at the end of 2018.

Controlled Substances And The Prescription Drug Monitoring Program

Controlled substances were federally-scheduled by the federal Drug Enforcement Administration (DEA) and the DHHS adopted them in rule. Substances were divided into five schedules based on medical use, potential for abuse, and probability of use resulting in dependence:

- Schedule I - substances in this schedule had no currently accepted medical use in the United States, a lack of accepted safety for use under medical supervision, and a high potential for abuse (e.g., heroin).
- Schedule II - substances in this schedule had a high potential for abuse which may lead to severe psychological or physical dependence (e.g., opium, amphetamine).
- Schedule III - substances in this schedule had a potential for abuse less than substances in Schedules I or II and abuse may lead to moderate or low physical dependence or high psychological dependence (e.g., low-dose codeine, anabolic steroids).

- Schedule IV - substances in this schedule had a low potential for abuse relative to substances in Schedule III (e.g., diazepam, alprazolam).
- Schedule V - substances in this schedule had a low potential for abuse relative to substances in Schedule IV (e.g., cough preparations with low-dose codeine).

To prescribe controlled substances, naturopaths must obtain a federal DEA registration number.

Effective June 12, 2012, statute created a controlled drug health and safety program, commonly known as the PDMP, to monitor controlled drug prescriptions in DEA schedules II through IV, and to track and flag multiple or duplicate controlled substance prescriptions for a single patient. The system provided for confidential patient querying and uploading of data. The program was to review system data to identify indicators of misuse or abuse of schedule II through IV controlled substances and notify the prescribing practitioner. Law enforcement and State and federal regulators were to be notified of unusual activity.

Any person permitted to prescribe, dispense, or administer a controlled substance, including naturopaths, was required to register by June 30, 2015. Failure to comply with program requirements, including failure to submit required information and prescribing or dispensing of controlled substances in schedule II through IV without registering, would subject individuals to discipline. Further, as a condition for initial licensure and license renewal, all DEA-registered prescribers were required to complete three hours of approved online CE or pass an online examination in the area of pain management, addiction disorder, or a combination of the two. However, when the PDMP became operational in October 2014, naturopaths were not included in the program as possible registrants and through State fiscal year (SFY) 2016, naturopaths prescribing controlled substances were not enrolled. In June 2016, the Legislature added naturopaths by title to the statutory definition of a practitioner subject to the PDMP. In January 2017, naturopaths were added to the PDMP's programming as possible registrants.

Observation No. 4

Oversee Naturopaths Subject To PDMP Registration

The Board did not actively regulate prescribing practitioners who were subject to registration in the State's PDMP, compromising the Board's effectiveness as the State's regulator of the naturopathic profession.

Of the 31 respondents to our survey, 25 reported practicing in New Hampshire, which represented 41.7 percent of in-State practicing active licensees, and:

- none were registered and actively using the PDMP;
- two (8.0 percent) were registered, but not actively using the PDMP;
- 12 (48.0 percent) were unfamiliar with the PDMP;
- seven (28 percent) were not registered because they did not prescribe controlled substances;
- two (8.0 percent) were planning on registering;
- one (4.0 percent) tried, but could not register due to system issues; and

- one (4.0 percent) replied “no.”

Eleven (44.0 percent) reported holding a DEA registration to prescribe controlled substances. Two DEA-registered naturopaths (18.2 percent) reported registration with the PDMP; two (18.2 percent) were planning to register, but were not using it; and seven (63.6 percent) were neither registered, nor familiar, with the PDMP. Six of the 11 DEA-registered naturopaths (54.6 percent) reported prescribing controlled substances:

- one prescribed from schedule II, and was unregistered and unfamiliar with the PDMP;
- one prescribed from schedule III, and was unregistered and unfamiliar with the PDMP;
- one prescribed from schedules III and IV, and was registered with, but not using, the PDMP;
- one prescribed from schedules III through V, and was unregistered and unfamiliar with the PDMP;
- one prescribed from schedule IV, and was unregistered and unfamiliar with the PDMP; and
- one prescribed from schedule V, was not required to register, and was not familiar with the PDMP.

We found expired and proposed Board rules lacked controls related to DEA registration of naturopaths and their enrollment in the PDMP. Rules did not, for example:

- require applicants for new and renewal licenses provide DEA registration numbers or attest to their PDMP registration;
- require licensees who obtained a DEA registration within the two-year license renewal cycle to timely provide the Board their DEA registration number and attest to registration in the PDMP;
- require completion of three hours of Board-approved online CE or pass an online examination in the area of pain management, addiction disorder, or a combination as a condition for initial licensure and license renewal; and
- make failure to register in the PDMP, or failure to timely notify the Board of registration, misconduct under Board rules, and subject noncompliant licensees to disciplinary actions.

We also note the Board had no representative on the State’s PDMP advisory council, created to assist with PDMP implementation, and which included many other boards regulating medical professions.

Recommendations:

We recommend the Board oversee naturopaths subject to PDMP registration and develop rules, policy, and procedures to:

- **timely obtain DEA and PDMP registration information from applicable naturopaths;**
- **ensure all naturopaths required to register with the PDMP do so timely;**
- **require completion of three hours of Board-approved CE in pain management, addiction disorder, or a combination as a condition for a new or renewed license; and**
- **subject failure to comply with registration and training requirements to disciplinary action.**

We also recommend the Board consider whether membership on the advisory council is warranted, and if so, pursue a change to statute with the Legislature to include a representative of the Board.

Board Response:

We concur.

We concur that the Board, with administrative support from the OPLC, should oversee naturopaths subject to PDMP registration and that there needs to be rules and procedures developed to obtain DEA and PDMP registration from applicable naturopaths; that all naturopaths required to register for the PDMP do so timely and complete a 3 hour CE in pain management; and consider whether membership to the advisory council is warranted. We would like to note that we were not informed by the State of the need for Naturopaths to register for the PDMP until mid-2016 and there was no means by which Naturopaths were able to register until February 2017. Since that time, we have taken immediate steps to ensure that relevant licensees in the State register with the PDMP.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation at the end of 2018.

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**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
NATUROPATHIC BOARD OF EXAMINERS**

LICENSING AND CERTIFICATION

The Legislature selected licensure as the means to control practitioner entry into the naturopathic profession. As of September 2016, Naturopathic Board of Examiners (Board) data indicated there were 89 active licensees, with 61 (68.5 percent) maintaining a New Hampshire work address, 18 (20.2 percent) maintaining an out-of-State work address, and ten (11.2 percent) having no work address recorded. A total of 122 naturopaths had been licensed since the inception of the Board in 1996. Licensees could also obtain certifications in naturopathic childbirth and acupuncture. Since the creation of the Board, three naturopathic childbirth and 19 naturopathic acupuncture specialty certifications had been granted.

Initial Licensure

Under the *Naturopathic Health Care Practice Act (Practice Act)* (RSA 328-E), applicants for an initial naturopath license had to be of good moral and professional reputation; be physically and mentally fit; have had no naturopathic credential refused, revoked, or suspended; file an application; pay a fee; and either:

- graduate from an accredited naturopathic school and pass a competency-based examination administered by a third party, or
- graduate from a Board-approved school which granted degrees prior to 1981, or
- be credentialed by another state or the District of Columbia, provided State licensure requirements were otherwise met by receiving a license in that jurisdiction.

Observation No. 5

Improve Initial Licensing Practices And Ensure Standards Are Met

The Board lacked adequate management controls to ensure initial license applications consistently achieved the standards established in statute and rule, compromising the Board's effectiveness as the State's regulator of the naturopathic profession. In our review of 69 licensing files, ten contained applications for initial licensure during the audit period, and we found noncompliance with standards pertaining to required education and examinations, submitting documentation, and providing notification to applicants. Many of these issues were attributable to inadequate rules and procedures. Further, the Board lacked a jurisprudence examination to help ensure licensees understood State laws and rules.

Reciprocity

Applicants who maintained a current naturopathic license in another jurisdiction within the United States were eligible to apply for New Hampshire licensure under reciprocity and were not required to complete the standard Naturopathic Physician Licensing Examination (NPLEX), consisting of Part I, Biomedical Science Examination, and Part II, Core Clinical Science Examination. Instead, applicants under reciprocity could complete another jurisdiction's examination provided it covered an equivalent curriculum and lasted three or more hours. Four

out of the ten initial license applications in our file review were submitted under reciprocity. Three applicants completed the standard NPLEX and otherwise met regular licensing standards and did not need to apply under reciprocity. One of the three was licensed outside the United States and was altogether ineligible for reciprocity. The Board nonetheless processed them under reciprocity standards, and Board records demonstrate:

- three applicants did not submit the required photocopy of their current naturopath license;
- one applicant did not submit the required letter of good standing from the previous licensing jurisdiction; and
- the one applicant not completing the standard NPLEX documented completion of another jurisdiction's examination without demonstrating the examination was substantially equivalent, was at least three hours in length, or included the required content.

Graduates Of Unaccredited Institutions

Nine of ten applicants for initial licensure encompassed by our file review graduated from an accredited naturopathic medical college. The tenth applicant graduated from an institution which was not accredited at the time of graduation, but neither statute nor rules clearly specified whether accreditation had to precede the applicant's graduation date. Consequently, an applicant's graduation could pre-date institutional accreditation and the applicant would still be eligible for licensure. The tenth applicant was licensed by the Board.

Applications

Rules required applicants complete an application form and provide supporting materials. Our review of ten applications for initial licensure during the audit period found the Board accepted incomplete applications, including two applications lacking the applicant's current business address and four applications lacking signed and dated statements attesting to the accuracy of the application. Also, the Board's application forms were poorly designed and did not reflect requirements in rules, leading all ten applicants to answer only six of the seven questions on part two of the form as required by rule, because that was what the form required. The seventh question related to misconduct while taking an examination.

The Board improved the initial application form after the audit period by clarifying where the signature and date was required on the form. The other differences remained.

Notification And Timeliness

State law required the Board acknowledge receipt of an application, and if deficient, request materials to correct the deficiency within 60 days. Board rules reflected this requirement for new applications. The Board did not comply with the notice requirement 90 percent of the time. Of the ten new license applications, three were considered incomplete, but only one contained timely notice in the Board's files, while the other two files with incomplete applications and the seven complete application files did not contain any notice.

Examinations

Examinations help ensure a level of professional competency and can help protect the public health, safety, and welfare. The Board relied upon a third-party to administer examinations for new licensees, and licensed practitioners from other jurisdictions who applied under reciprocity could demonstrate they took an equivalent examination.

Jurisprudence

Jurisprudence examinations test applicants' knowledge of the laws and rules of the jurisdiction in which they are seeking licensure, and provide assurance licensees are familiar with the laws and rules regulating the practice of their profession. The Board did not require applicants to take a New Hampshire jurisprudence examination.

Our survey of 31 naturopaths indicated a wide variety of therapies and substances were accommodated within their individual definition of the scope of practice. We found instances where naturopaths reported not complying with laws and regulations, such as prescribing substances not on the formulary and employing non-credentialed healthcare providers. We also found a lack of familiarity with the PDMP and significant noncompliance with its provisions. Four of the ten new licensees during the audit period were previously licensed in another jurisdiction and all licensees were educated in other jurisdictions. Since the scope of practice varied between states, a New Hampshire-specific jurisprudence examination could have aided the Board in fulfilling its responsibility to implement the *Practice Act* and ensure licensees understood the scope of practice permissible in New Hampshire.

Institutions Granting Degrees Prior To 1981

State law exempted graduates of at least one institution from a competency examination in perpetuity. State law required naturopaths graduating from an accredited institution that began granting degrees in 1981 or later to pass a competency-based examination. However, graduates from a school granting degrees before 1981 were not required to take any examination. In 1999, the Board by policy attempted to require every applicant, regardless of institution from which they graduated, to take an examination. However, the New Hampshire Supreme Court found the Board erred by expanding the scope of the statute beyond its plain meaning.

During the audit period, one of ten (10.0 percent) new license applicants graduated from an institution granting degrees before 1981 and could have been licensed without a competency examination. Although not required, the applicant completed the standard NPLEX. Board rules, policies, and procedures did not clarify the qualifying institutions or procedures for an applicant to petition the Board for an exemption from a competency test due to graduation from a qualifying institution.

Recommendations:

We recommend the Board comply with statute and rule pertaining to the education, examination, documentation, and timely notification of new licensure applicants by:

- amending rules to require applicants seeking reciprocal licensure provide documentation detailing the examination administered by the other jurisdiction to ensure it is substantially equivalent;
- amending rules to ensure new applicants graduate from an institution that is accredited at the time of graduation, or before;
- requiring by rule that applicants for licensure take and pass a New Hampshire jurisprudence examination to ensure New Hampshire-licensed naturopaths understand State laws, rules, regulations, and scope of practice;
- clarifying in rule which institutions produced graduates not required to pass a competency examination or, if necessary, seek legislative changes to ensure all current graduates from an accredited institution pass a competency examination;
- amending application forms to conform with Board rules; and
- developing procedures to timely notify applicants of receipt of a complete or incomplete application and document notification activities.

Board Response:

We concur.

The Board recognizes the lack of adequate rules and procedures to ensure adequate management controls for ensuring initial license applications achieve standards established in statute and rule. An individual is eligible for a naturopathic license in New Hampshire by either submitting a complete initial application or if licensed in another state, submitting a complete application under reciprocity. The Board is aware there is lack of rules and procedures to clarify requirements for applications under reciprocity and plans to improve rule language to make this clearer.

The Board recognizes the lack of statute or rules to clearly specify whether accreditation had to precede the applicant's graduation date and will make rule changes to make this clearer. The Board does require new applicants to pass competency examinations provided by NPLEX, but recognizes that clarity in the rules is needed to ensure all new applicants graduated from accredited institutions and passed competency examinations, with an exception for graduates of institutions which granted degrees prior to 1981.

The Board has been aware of changes needed to the application form and has already been working on making these changes. The Board plans to update application forms to ensure requirements reflect rule and to ensure completion by applicants.

The Board recognizes the lack of timeliness with notifications to applicants and plans to develop procedures to improve on tracking and documenting notification activities. The Board will consider developing a jurisprudence exam.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation by the end of 2018.

Biennial Renewal

Biennial license renewal was required and OPLC procedures provided licensees were to be sent a pending expiration notice within 60 days of expiration. Through State fiscal year (SFY) 2015, the relicensing cycle was based upon the expiration date of the current license, staggering relicensing demands over time. Staggered renewals can promote the efficient use of administrative resources.

Observation No. 6

Issue Licenses For The Statutorily-required Two-year Period

During the audit period, the Board issued licenses valid for a period substantially less than the statutorily-required two-year period, based on OPLC advice. The advice was based on a repealed statute that provided one of the OPLC's predecessor agencies, the Office of Professional Licensure (OPL), authority to implement a universal June 30 expiration of licenses.

License Expiration Statute Changed Twice

Through SFY 2015, the relicensing cycle for naturopaths was based upon the expiration date of the current two-year license, which staggered relicensing demands throughout each year. Renewed licenses were valid for the statutorily-established two-year period. On July 13, 2015, a law amending statute to require the OPL, then a unit of the Department of Health and Human Services (DHHS), to issue licenses with a universal June 30 expiration was approved, and was retroactively effective July 1, 2015. The law also allowed the OPL to prorate the corresponding fees to align with the duration of licenses issued to conform to a universal June 30 expiration. The OPL reportedly began preparing for implementation of the universal June 30 expiration requirement and fee proration in June 2015.

However, on September 16, 2015, a law was approved creating the OPLC and abolishing the DHHS's OPL. The law also repealed the statute requiring a universal June 30 expiration date and permitting the proration of fees. The law was retroactively effective July 1, 2015, the same date as the universal June 30 expiration date was effective under prior law, because it was subjected to gubernatorial veto and subsequent legislative override. While the June 30 renewal cycle requirement and authority to prorate licenses was valid for 77 days, the OPLC erroneously continued to truncate licenses after September 16, 2015 and throughout the audit period under the repealed law. The OPLC continued the prorating of fees until May 2016. In doing so, OPLC used authority which belonged to another agency – the defunct OPL.

The OPLC's erroneous implementation affected the Board's licensees. Our file review of 69 naturopath's licensing files demonstrated 19 of the 67 (28.4 percent) with a licensing action after

September 16, 2015 received either a new or a renewed license valid for at least one month less than the statutorily-required two-year period. Licensing periods were as short as 425 days and, on average, the deficient licenses were valid for 572 days, or 78.4 percent of a full two-year period.

Licensing Fee Improperly Prorated

The OPLC also continued an OPL-implemented fee proration policy for licenses that did not cover a full two-year period, even though the OPLC lacked related authority. This resulted in the under collection of the statutorily mandated \$300 fee, with over \$1,000 potentially not collected from the 69 naturopaths our file review encompassed. We also found the proration policy was inconsistently implemented. In our file review, 20 naturopaths (29.0 percent) required renewal and were potentially subject to OPLC truncating the renewed license's duration; 17 (85.0 percent) of which were truncated, with 14 of 17 (82.4 percent) also having their fees prorated. Three of 17 (17.6 percent) fees were not prorated.

Other Boards Affected

The Board discontinued issuing defective licenses after we raised the issue with them in October 2016. While the OPLC discontinued the proration policy in late SFY 2016, it continued to implement the repealed law's universal June 30 license expiration date for as many as five other licensing boards, potentially affecting over 1,000 licensees. In October 2016, OPLC management reported considering how their mis-implementation of the repealed statute impacted licensing, refunds, and other boards.

The erroneous realignment of relicensing to a universal June 30 expiration and associated fee changes reportedly led to complaints and confusion from license applicants, Board members, and OPLC staff. The lack of clarity on OPLC policy may have been further exacerbated by turnover in OPLC management during the audit period. Staggered renewals can promote the efficient use of administrative resources. The continuation of a universal June 30 expiration date likely created a future administrative burden by consolidating 24 months of renewal activity into two months.

Recommendations:

We recommend the Board approve licenses valid for a two-year period, and correct any defective licenses it approved.

We recommend OPLC management:

- **discontinue implementation of the repealed requirement that naturopath licenses expire on June 30,**
- **correct defective licenses it issued, and**
- **remediate all mis-charged fees.**

We also recommend OPLC management determine the scope of the mis-implementation of the repealed June 30 license expiration requirement across the professions it administers, and in concert with other regulatory boards, correct other professions' defective licenses and mis-charged fees.

Board Response:

We concur.

The Board is in agreement with discontinuing the June 30th expiration for licenses, continuing with a biennial licensing period, and correcting any defective licenses that were issued since 2015. The OPLC has already corrected the defective licenses and appropriate licenses have been issued.

OPLC Response:

We concur.

OPLC has already discontinued the implementation of the repealed requirement that naturopath licenses expired on June 30 and corrected defective licenses that were inadvertently issued. OPLC is currently investigating the extent to which any mis-charged fees will need to be remediated as well as the scope of the mis-implementation of the repealed June 30 license expiration requirement across other professions administered by the Office.

We hope to accomplish this review by mid-2017 and remediate any license fee necessary by the end of 2017.

Procedural Renewal Requirements

Board rules provided for a linear process for renewing a license by:

- requiring submission of a complete renewal application no more than 75 and no less than 30 days before expiration;
- providing it would request any missing materials within ten days of receipt of an application;
- allowing applicants ten days to correct a defective application; and
- requiring it renew, renew on condition, or provide notice of its intent to deny renewal within 30 days of receipt of a timely and complete application.

Board rules appeared constructed, in part, to require renewal applicants submit renewal materials sufficiently in advance of Board meetings to ensure they were reviewed and deficiencies corrected beforehand, avoiding potentially lapsed licenses. The rule's timelines also fit within the statutory framework that required agencies to notify an applicant of errors or omissions, request additional information, and provide an agency contact for the application within 60 days of an

application's receipt. After receipt of a complete application, agencies had to approve or deny the application, or commence an adjudicative proceeding within 120 days. Board rules, like statute, protected complete and timely renewal applications from lapsing and rules provided untimely and incomplete renewal applications would result in the license lapsing on its expiration date.

Applicants not meeting relicensing requirements were permitted to receive a conditional renewal. Reinstatement of lapsed licenses could occur 90 or more days after an untimely renewal application caused a lapse. If a license was suspended because of noncompliance with continuing education (CE) requirements, the suspended license must be reinstated at the Board meeting immediately following corrected reporting. There were no financial penalties for a late renewal application, but the licensee would be unable to practice naturopathic medicine. The Board could deny license renewal for several reasons, after providing notice and an opportunity for a hearing. Valid Board rules were binding, having the effect of law, and the Board could not deviate from rule without waiver and related procedures. We found no waiver procedure for, or waivers of, these requirements.

Observation No. 7

Improve License Renewal Practices And Ensure Standards Are Met

The Board lacked adequate management controls over license renewals, compromising its effectiveness as the State's regulatory authority for the practice of naturopathy. Related OPLC practices and procedures were inconsistent with requirements of rule, and some had the effect of nullifying Board rules. Consequently, the Board: 1) was inconsistent in acting timely on renewals and providing notice of pending license expiration to applicants, 2) inconsistently provided notice to applicants that it received renewal applications, 3) inconsistently took action on applications, 4) inadequately controlled license lapses and inactive licensees, and 5) did not ensure consistency in the content of its records. The issues we identified were due, in part, to poor rule design, a lack of enforcement by the Board, inadequate synchronization between Board rules and OPLC practice and procedure, and as we discuss in Observation No. 18, the Board and the OPLC lacked oversight mechanisms to understand the timeliness of their activities.

Notification Of Expiring License

While rules required renewal applicants submit their applications within a 45-day period, between 75 and 30 days before expiration, OPLC practice and procedure did not reflect Board rules. Carried-over and outdated procedures from the DHHS's OPL stated blank renewal forms would be sent to licensees 60 days prior to the expiration of their license. The accompanying instruction letter stated applications were due one week before the Board meeting at which the renewal application was expected to be reviewed. This effectively undid rule by: 1) removing 15 days from the front-end of the rule-based application period, 2) disconnecting the end-date of the application period from the licensee's expiration date and connecting it instead to the Board's next meeting date, and 3) nullifying the rule-based requirement to submit applications 30 days before expiration.

Since renewal notices were distributed monthly and the Board’s routine meetings were irregularly scheduled quarterly, bimonthly, or monthly during the audit period, there was no guarantee the expiration date was close to the Board’s meeting date, or even *followed* the Board’s next meeting. Further, we found:

- renewal notice was sent to one licensee 30 days before the Board meeting at which the application was to be reviewed, even though it was 72 days before the license was set to expire;
- the procedural requirement that renewal applications be submitted one week before the Board’s meeting date was inconsistently followed, including an application being submitted and approved the day of a Board meeting, for a then-serving Board member; and
- while we expected 56 files to contain pending expiration notices, we found four (7.1 percent), limiting our ability to analyze compliance with the requirement to send notices and the timeliness of notice.

Notice To Licensees Upon Receipt Of A Renewal Application

The Board was required to acknowledge receipt of an application, and if deficient, request materials to correct the deficiency within 60 days. Board rules narrowed the 60-day statutory time limit to ten days for renewal applications. Board records demonstrated inconsistent compliance with the ten-day requirement. Of the 52 renewal applications we reviewed, 39 (75.0 percent) were complete, but contained no notice from the Board that the application was received, and 13 (25.0 percent) were found to be incomplete. Of the 13 incomplete applications, 12 (92.3 percent) applicants were sent a notice that their renewal application was incomplete and one (7.7 percent) was denied renewal. Three of 13 (23.1 percent) applicants were provided notice timely and ten (76.9 percent) were not. Notice was sent between 14 and 89 days after receipt and on average nearly 41 days after receipt.

A ten-day requirement was also imposed upon applicants to reply to the Board’s request to correct incomplete renewal applications, and failure to respond timely required denial of the renewal application. Of the 12 incomplete renewal applications, five (41.7 percent) applicants replied to the Board timely. The Board did not enforce its denial requirements, instead undertaking subsequent rounds of requests for missing materials in three cases (25.0 percent), and even presumptively approving one renewal before a complete application had been submitted.

Board Action On Renewal Applications

The Board inconsistently took timely action on renewal applications and reached inconsistent decisions in similar cases. Further, Board rules may be improperly designed.

Rule Design

Board rules may have been improperly designed given that the window for renewal application began 75 days before expiration, and should a renewal applicant submit a complete renewal

application at that time, the Board would have had 30 days to act. Because the Board had an irregular monthly, bimonthly, or quarterly meeting schedule, a timely meeting might not be scheduled. Also, the OPLC practice of sending notice 60 days before expiration could have been problematic in obtaining compliance with the 30 day action time limit if an applicant submitted a complete renewal early in the 60-day timeframe, and the Board met late in the 60-day period. State law provided agencies had 120 days after receipt of a complete application to act and Board rules significantly curtailed this timeframe. Following the statutory time limit may have been more amenable to the Board’s meeting schedule, but would have required amendment of Board rules.

Timeliness

We found the Board inconsistently complied with its 30-day requirement to approve or deny a complete renewal application. Of the 52 renewals in our file review, 17 (32.7 percent) were not approved within 30 days of the Board receiving a completed application, including two cases not timely approved if communications outside meetings were excluded. In two cases (3.8 percent), a renewal application was untimely denied.

The Board was also inconsistent in making a decision or initiating a hearing within the 120-day statutory timeframe. We found once renewal applications were complete, the Board acted timely in 49 of 51 cases (96.1 percent), but was untimely in two (3.9 percent) cases, which took 123 and 166 days to approve. In two other cases, documentation substantiating completeness of application *followed* approval, indicating communications and Board business occurred outside meetings.

Consistency

Board rules permitted it to: 1) renew, 2) renew with conditions, or 3) provide notice of its intent to deny a renewal application. As depicted in Table 1, the Board’s minutes recorded inconsistent decisions for the same apparent defect related to CE.

Table 1

Inconsistent Treatment Of Renewal Applications, SFYs 2015 And 2016

Deficiency Noted	Board Action			Total
	Renew	Conditionally Renew	Deny	
Insufficient number of CE hours	1	2	13	16
Lack of CE pre-approval	4	4	5	13

Source: LBA analysis of Board records.

For example, minutes for one Board meeting indicated the Board found four renewal applicants had deficient CE documentation, and unconditionally approved renewal for two, while conditionally approving the other two at the same Board meeting. Minutes for another Board

meeting indicated it issued a conditional renewal approval based on lack of pre-approval of CE courses. However, minutes for the following Board meeting recorded two unconditional renewals without pre-approved courses.

Notice Of Board Decisions

The Board's notice to applicants was inconsistently clear about what decision the Board made and what effect that decision had on the status of their license, and inconsistently provided a timeline within which an applicant had to remediate a defective application.

Permissible Actions

In addition to inconsistently renewing, renewing with conditions, or denying a renewal application, the Board would substitute other, ambiguous responses, such as "unable to approve," "pending approval," and "could not approve." In one case, the Board provided "presumptive" approval before a final, complete application had been received, assuming necessary corrections would be made. These substitute outcomes were for the same conditions for which other renewal applicants received conditional renewal.

License Status

The Board's notice to renewal applicants also inconsistently advised renewal applicants of the status of their license, some notices provided the current license remained effective until final Board action, while other notices did not address this. In at least four cases, the defective renewal application remained unapproved as the license expired, which should have resulted in the license lapsing, but the Board did not enforce its rules.

We also noted, in practice, conditional renewal did not result in the issuance of a license, with the new license being held until final, unconditional renewal was approved. These licenses, when issued, would include a retroactive start date, typically the day after the previous license expired.

Time Limits On Corrections

We found when the Board conditionally approved a renewal application, the notice described the conditions and required the licensee accomplish certain acts for full, unconditional licensure. The notice inconsistently provided licensees a timeline within which they were required to accomplish the tasks for unconditional renewal, however.

Amending Conditional Licenses

Board rules required it conditionally approve license renewals for applicants who needed to complete CE at the time of renewal. When renewal applicants met the condition for renewal, the Board was required to notify them, effectively providing unconditional renewal. We did not observe the Board consistently acting to supersede conditional licenses with full, unconditional licenses when the conditions were met.

Lapses

The Board inconsistently enforced rules related to lapsing of licenses and lacked adequate controls over licensees who failed to renew or renew timely.

Enforcement

Board rules required renewal applicants submit a complete application no more than 75 and no less than 30 days before the expiration date. Licenses lapsed on the end date of the license if a timely and complete renewal application was not submitted. Licensees were ineligible to practice naturopathy with a lapsed license and rules required the Board wait at least 90 days after a license expired before considering reinstatement requests. Of the 52 files containing a renewal submitted during the audit period that we reviewed, 30 applications (57.7 percent) appeared incomplete or untimely and the licenses were subject to lapsing, the 90-day waiting period, and reinstatement proceedings under Board rules. We found the Board did not enforce its rules related to lapses, did not observe the 90-day reinstatement waiting period, and instead permitted licenses to remain in effect. This included one case where the Board provided notice of intent to deny a defective renewal application 73 days after the license expired. A review of 12 cases demonstrated lapses would have ranged from nine to 287 days, and averaged nearly 81 days, excluding the 90-day waiting period.

Non-renewal

Board rules assumed licensees would renew and there were no rules to ensure those who did not renew were timely relegated to an inactive listing and timely notified of their inability to practice following license expiration. OPLC procedure and practice similarly assumed renewal and lacked adequate controls over non-renewals. Our file review of 69 naturopath licensing files indicated two former licensees did not renew and they were notified of their inability to legally practice, and provided the option to reapply as new applicants, 253 days after expiration. However, they remained listed on the Board's January 11, 2017 public directory as an active licensee 317 days after expiration, and 64 days after the Board's notice. The January 11, 2017 directory listed 88 purportedly active licensees, 12 of which had licenses expired for as many as 2,022 days, and for an average of over 256 days.

Completeness

Our file review indicated inconsistent adherence to rules and statute in other areas, including Board acceptance of two of 52 renewals (3.8 percent) without the licensee's business address, required by statute and rule and acceptance of four of 52 renewals (7.7 percent) without the licensee's home address, required by rule. In the January 2017 directory, ten of the 88 (11.4 percent) licensees listed in the Board's public directory lacked the statutorily-required business address.

While neither the Board nor OPLC defined what a complete file included, licensing files themselves appeared incomplete. We reviewed 69 licensee files and examined the license documents contained within the files for completeness. For example, each file should have had

two licenses recorded during the audit period, except for 19 new licenses or failures to renew, for a total of 119 expected license documents. We found 12 (10.1 percent) were not in the file and 17 (14.3 percent) were unsigned. We also found instances where license documents were incomplete, for example, lacking end-dates. As we noted above, we expected 56 files to have pending expiration notice, but only four (7.1 percent) did.

The Board's renewal processes were also affected by communications outside meetings as we discuss in Observation No. 13, inadequacies in the forms required for renewal as we discuss in Observation No. 15, and inadequate management of CE requirements as we discuss in Observation No. 8. Addressing the scope of the problems with renewal management likely exceeded the capacity of the volunteer Board and the part-time licensing clerk assigned to support the Board. The OPLC will likely need to provide additional support to rationalize procedures and practices with Board rules, and help simplify Board rules.

Recommendations:

We recommend the Board comply with State law and rules, and:

- **timely acknowledge receipt of all renewal applications;**
- **ensure defective applications are remediated timely and deny those that are noncompliant;**
- **timely renew complete and timely-received applications;**
- **timely renew on condition those eligible applications and consistently establish a time limit for complying with conditions, enforce time limits, and take final action on conditional licenses once the conditions have been met;**
- **timely propose to deny noncompliant applications;**
- **develop policies and procedures to ensure approval, conditional approval, and denial of license renewals are consistent, and conditional renewals receive follow-up;**
- **discontinue prospective renewals;**
- **enforce lapse requirements;**
- **clearly communicate decisions to, and the effect of those decisions on, applicants for renewal;**
- **determine the steps to be taken once a licensee fails to renew a license, ensure timely action is taken to notify non-renewers of their legal inability to practice, and timely remove inactive licensees from the directory; and**
- **define the content of a complete licensee file and address record completeness issues with OPLC to ensure adequate and proper documentation of decisions, procedures, and essential transactions of the Board is created and maintained.**

If the Board finds its rules do not adequately reflect current practices, or are functionally impractical, we recommend the Board amend its rules to rationalize requirements with practice. For example, if approving a renewal within 30 days of receipt of a complete application cannot be met because the Board meets bimonthly or quarterly, the Board should consider altering the 30-day requirement. The Board may also wish to delegate

administrative authority to the OPLC to handle procedural requirements of rule, such as the ten-day requirement to respond to an applicant regarding their application.

We recommend OPLC management develop adequate controls over its procedures and practices to ensure compliance with Board rules and procedural requirements.

Board Response:

We concur.

We acknowledge that these changes need to be made; however, we will require more OPLC assistance as some of the following concerns may have occurred due to insufficient assistance. As the Naturopathic Board of Examiners is a group of volunteers, it is a hardship monetarily for the Board members to meet more than every 2-3 months.

We concur with the recommendation that the Board amend its rules to rationalize requirements with practice altering the timeline requirement so that the Board can more timely comply with State Law and Rules regarding application renewals and new licenses; consider delegating administrative authority to the OPLC to handle procedural requirements of rule with Board oversight; develop policies and procedures to ensure approval, conditional approval and denial of license renewals are consistent and conditional renewals receive follow up; discontinue prospective renewals; enforce time lapse requirements; clearly communicate decisions to, and effect of those decisions on applicants for renewal; determine the steps to be taken once a licensee fails to renew a license, ensure timely action is taken to notify non-renewers of their legal inability to practice and timely remove inactive licensees from the directory; work with OPLC to define the content of a complete licensee file and address record completeness issues; ensure adequate and proper documentation of decisions, procedures and essential transactions are created and maintained.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation by the end of 2018.

OPLC Response:

We concur.

We concur, and will assist with clear guidelines and authority from the Board.

Continuing Education

During the license renewal process, naturopaths were required to demonstrate completion of at least 45 credits of CE during the previous three-year period. The three-year CE cycle began on the effective date of an applicant's two-year initial license. Twelve pharmacology or

pharmacognosy credits were required. The remaining 33 credits could be in a range of health care-related topics and had to include 12 credits related to a specialty, if a certificate was to be renewed. Sponsorship or certification of courses by third parties was required. Rules allowed applicants not meeting relicensing CE requirements to receive a conditional renewal, because of the asynchrony between the two-year relicensing and three-year CE cycles.

Observation No. 8

Improve Continuing Education Management Practices And Ensure Standards Are Met

Management of CE requirements was inadequate. The Board implemented a faulty CE cycle and inconsistently enforced education and documentation standards. Further, the CE system was unnecessarily confusing, cumbersome, and inefficient, and its operation led to at least one threat of legal action by an adversely-affected licensee. CE requirements were designed to protect the public by helping ensure practitioners maintain a working knowledge of recent developments in their profession. However, we found 21 of 52 renewal applications (40.4 percent) we reviewed did not achieve the Board’s standards, but were approved for renewal.

CE Cycle Implementation

The asynchrony between the three-year CE cycle and the two-year license renewal cycle was established in statute, and rules provided the Board the authority to conditionally renew a license to ensure continuity of licensure while still holding naturopaths to a three-year CE cycle. Although Board rules contained a CE cycle and renewal process consistent with statute, Board practice differed - the Board reviewed CE in the three years prior to license expiration, even for new naturopaths who had just completed their first two years of licensure. This also allowed CE hours to overlap between license renewal cycles by including the year before renewal. A naturopath following Board practices could take advantage of the overlap in the cycle and submit duplicate credits which, over a 12-year period, could yield up to 45 less CE hours than the naturopath following Board rules. A naturopath following Board rules could go four years without completing a CE credit, since rules lacked annualized minimum CE requirements.

CE Cycle Operationalized

Board rules permitted naturopaths renewing within a three-year CE cycle to receive a conditional renewal through the end of the cycle. However, in practice, newly-licensed naturopaths at the end of their two-year initial license and applying for their first renewal were required to submit 45 CE hours covering the prior three years, although only being licensed for two. We found four renewal applicants who were expected to provide 45 CE hours a full year before their three-year CE cycle ended, and who were initially not approved for renewal due to insufficient CE credits. These applicants were first informed of the requirement to complete 45 CE hours for renewal only 60 days prior to license expiration when they received their renewal notice. Additionally, we found three instances during the audit period where applicants informed the Board it had incorrectly operationalized rules. Of the three applicants, two were required to submit 45 hours of CE while in the second year of their three-year CE cycle.

The third naturopath received an extension to submit credits after license expiration without a conditional renewal. However, the extension was improper because the third naturopath was at the end of a CE cycle. Further, before the audit period, another naturopath informed the Board it had incorrectly operationalized rules and received an improper extension of their CE cycle during the audit period. Board rules provided the renewal applications should have been denied.

Double-counting CE Credits

Following rules, double-counting CE credits was not plausible, since no overlap in the CE cycle existed between license renewals – one three-year cycle followed another. In practice, however, the policy of reviewing the past three years of CE credits created an overlap in the CE cycle by one year. In our review of 52 renewal applications, we observed two (3.8 percent) instances where applicants submitted duplicate credits. In one of those two instances, the applicant was instructed not to submit duplicate credits between cycles in the future and the Board transferred extra credits from the prior renewal cycle. The second applicant submitted 30 duplicate classes performed on one day within the overlap period created by Board practice, but without receiving a warning of duplicate credits or the Board documenting a transfer of credits. Further, as we discuss in Observation No. 6, the Board issued truncated licenses valid for less than two years, which increased the overlap between CE cycles to exceed one year.

CE Form Data

Since the three-year CE cycle spanned multiple licensing periods, Board rules provided for the distribution of pre-populated CE forms containing a licensee's CE coursework approved by the Board through the last renewal. Renewal applicants were to update these forms with new CE courses. OPLC practice and procedure provided blank forms to renewal applicants. By not providing pre-populated forms according to rule, tracking which CE hours from the previous two-year cycle were eligible within the three year CE cycle was likely complicated. We note after the audit period, the Board drafted rules removing the requirement to provide pre-populated CE forms.

Enforcing Standards

The Board inconsistently enforced CE accreditation and documentation standards established in rule. Eight of the 21 renewal applications (38.1 percent) that did not meet either accreditation, documentation, or both standards established in rule did not include at least 45 hours on the renewal applications, while the other 13 (61.9 percent) listed invalid hours, contained improper documentation, or both.

Invalid CE Hours

Board rules provided naturopaths two modes to submit valid CE hours: 1) receive the credits from a Board-designated accredited institution, or 2) have the CE hours approved by a naturopathic medical society. Of the 52 renewal applications, 671 credit hours out of 3,237.5 total hours (20.7 percent) submitted lacked accreditation or approval. Eleven of the 52 applicants

(21.2 percent) receiving a renewed license provided invalid CE hours and were renewed without meeting standards.

When accreditation or approval requirements were not met, the Board directed naturopaths to submit non-accredited classes to the New Hampshire Association of Naturopathic Doctors for approval. However, we observed inconsistencies with the Board's application of standards such as requiring classes receive pre-approval without a requirement for pre-approval in rule; two naturopaths submitting courses from the same qualified institution, but one was required to seek Association sponsorship; and approving credit hours without Association sponsorship documentation.

Documentation

The Board inconsistently required documentation from naturopaths submitting CE hours. The CE forms were required to have a signature and date, and include supporting documentation. Of the 52 renewal applications, six (11.5 percent) contained unsigned and undated CE forms. Of the 3,237.5 CE hours submitted, 91.5 hours (2.8 percent) did not include supporting documentation. Two of the 52 naturopaths (3.9 percent) approved for renewal did not provide 45 credit hours with supporting documentation, while other applicants were required to provide supporting documentation.

Inefficient Processes

We found inefficiencies due to excessive forms and the asynchronous cycle.

Three CE Forms

Along with the renewal application, Board rules required naturopaths to submit at least two forms separately listing general education and pharmacology or pharmacognosy courses. Specialty certificate applicants were required to submit an additional form listing specialty courses. However, our review of 52 renewal applications found five applicants (9.6 percent) did not submit all required forms and 11 (21.2 percent) submitted forms with credit hours commingled between the three forms. In at least three instances, this resulted in the Board submitting letters advising the applicant to submit all forms and to cease the commingling of courses between forms. We found no rationale for the use of three forms and note one CE course may include more than one type of credit. The use of three forms instead of one likely increased the amount of paperwork required for renewal, increased the opportunity for compliance issues, and increased the opportunity for confusion for both the applicant and the reviewers of the application.

Asynchronous Cycle

We found no rationale establishing the benefit of a three-year CE cycle and a two-year licensing cycle running asynchronously, and note at least one related profession had similar asynchronous cycles amended to run concurrently. Reportedly, the three-year CE cycle was adopted from another profession. The inconsistently staggered cycles resulted in confusion among some

naturopaths and complicated the implementation of proper policies. In Board rule, the staggered cycles required the Board to track CE cycles separately from licensing cycles, disseminate previously submitted CE information on pre-populated forms, and ensure conditionally renewed licenses received follow-up between renewal years. The Board did not implement these specific controls, and a synchronized cycle could simplify the management controls needed.

Recommendations:

We recommend the Board seek legislative changes to synchronize the CE and licensing cycles, and once approved, amend rules to reflect the synchronized cycles. However, if the Board does not pursue or obtain a change to the three-year CE cycle, we recommend the Board comply with rule, and:

- **implement and track a three-year CE cycle starting at the date of initial license issuance;**
- **amend rule to annualize a minimum number of CE requirements;**
- **disallow duplicate credits by implementing a compliant CE cycle without overlapping years;**
- **not deny applications for lack of CE hours when applying for renewal prior to the end of a CE cycle, and instead renew them on condition; and**
- **disallow extensions of the CE cycle for naturopaths not achieving the 45 credits within the designated three-year cycle.**

We also recommend the Board consolidate the three CE forms into one, and develop policies and procedures to consistently ensure all applicants complete the minimum number of CE hours, that all CE hours are provided by an accredited institution or received approval from a naturopathic medical society, and each CE course has supporting documentation.

We recommend OPLC management ensure CE forms it distributes to naturopaths comply with Board rules.

Board Response:

We concur.

We concur with the recommendation to amend rules regarding continuing education to reflect what is written in statute. Recently adopted rules reflect the change that continuing education hours cannot be 'double counted.' The Board will consider combining continuing education forms into one form, asking applicants instead to attach extra pages to list additional credits. The Board will ensure that all applicants complete the minimum number of continuing education hours and will review continuing education hours to ensure that they are both provided by an accredited institution or medical society and supported by relevant documentation. We concur with the need to implement and track a three year continuing education cycle starting with the date of initial license issuance and an annualized number of CEs will be recommended in rule.

The Board believes these changes will clarify any confusion related to the three year continuing education cycle and the two year biennial renewal.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation at the end of 2018.

OPLC Response:

We concur.

As all forms for initial applications and renewals were conditionally approved by the Joint Legislative Committee on Administrative Rules on March 17, 2017, OPLC asserts that the forms comply with current Board rules. OPLC will continue to ensure that forms are not updated outside of rulemaking and continue to reflect rules as written. This review and oversight is ongoing.

Specialty Certifications

State law permitted the Board to issue naturopathic childbirth and acupuncture certificates to naturopaths who met additional training, education, and experience requirements, and passed specialty examinations. Certification was contingent upon holding a valid naturopath license but was a separate accreditation. Board-required examinations were conducted by third-party accrediting bodies. It is not evident that New Hampshire-specific practice requirements contained in statute and rule were tested in these third-party examinations, and a separate jurisprudence examination addressing specialty subjects was not otherwise required.

Board-issued certification in naturopathic childbirth did not expire according to rule, but Board rules were silent on the expiration of a naturopathic acupuncture certification. Relicensure could nonetheless be denied for failing to meet CE requirements related to a specialty. In practice, certificates were valid for two years.

Observation No. 9

Improve Practices For Issuing And Renewing Specialty Certifications And Ensure Standards Are Met

Board management controls inadequately ensured: 1) new and renewal specialty certificate applicants provided complete applications and submitted required documents, 2) the Board timely replied to applicants, and 3) applicants met educational standards established in statute and rule. The deficiencies were due, in part, to rules which were underdeveloped, internally inconsistent, and inconsistent with statute. Poorly designed specialty certification rules resulted in instances of naturopaths not completing required training and education and receiving CE

from unapproved institutions. The Board nonetheless approved license and certification renewals.

Initial Specialty Certification

Applicants were required to submit a letter of intent and necessary documentation to apply. However, no application form existed to help ensure a formally documented and complete application was submitted. We examined all the active specialty certificate holders' files during our file review. Each of the four new specialty certificate applications included in our file review were acupuncture specialty certifications. One lacked a written request for certification, two did not receive a notice of receipt of a complete or incomplete application from the Board, and none clearly documented the statutorily-required 500 hours of clinical and didactic training in acupuncture.

Board rules allowed oriental medical theory to substitute for acupuncture training, which did not appear consistent with statute and may have resulted in the Board accepting ineligible training hours to apply towards the mandatory 500 hours of acupuncture training. Three of four applications for acupuncture certification were approved and one was denied. Of the three approved certifications, one relied on a letter reporting an *estimated* 400 hours of clinical and didactic acupuncture training had been completed, and the other two provided college transcripts. One transcript included one class in acupuncture and two classes in Asian medicine. The Board reported in practice it relied upon completion of the NPLEX acupuncture examination for part of the 500 hours of education, since 250 hours in acupuncture training were required to be eligible for the examination and all applicants completed the examination. However, the applications submitted contained no enumerations or tallies of total hours, and the source of those hours, relied upon to meet the statutory requirements. It was unclear whether hours may have been double-counted for NPLEX eligibility and again towards the remaining 250 hours of required training and education.

Further, while statute required the 500 hours of acupuncture training be *both* didactic *and* clinical, rules allowed for *either* didactic *or* clinical to be applied towards the 500 hours. In practice, the NPLEX acupuncture examination required a minimum of 220 hours of didactic and 30 hours of clinical training to comprise the 250 hours in acupuncture training required, so the standard in statute may have been achieved. However, Board rules did not reflect statute and verification was delegated to a third party.

Specialty Certification Renewal

Certification renewal coincided with license renewal, as did CE cycles. To renew, naturopaths holding a specialty certification were required to complete 12 hours of CE from accredited entities in their specialty field of practice every three years. The specialty certification renewal process lacked adequate structure and clarity in rules, and Board rules and practice were inconsistent. Also, Board rules exempted childbirth specialty certificates from renewal, but not acupuncture certificates. In practice, the Board required renewal of both specialty certifications.

Unstructured Process And Unclear Rules

Our file review included 13 specialty certification renewals representing all active certificate holders then licensed. One applicant applied general education credits towards renewing their specialty certification in acupuncture. The Board initially declined renewal and informed the applicant of the noncompliance; however, the applicant retorted, claiming general credits were applicable under Board of Acupuncture licensing rules. The Board acquiesced, approving the specialty certification renewal without accredited acupuncture training.

Narrow Standards For Accrediting Entities Providing CE Courses

Entities providing specialty field CE courses were held to the same accreditation standards as entities providing general education courses. Sponsorship from an accredited general education institution or a naturopathic medical society was required. Our file review of the 13 naturopaths applying for renewal of a specialty certification demonstrated four naturopaths (30.8 percent) submitted credits sponsored by an institution in the specialty field of practice, but not listed as an accredited institution in rule or sponsored by a naturopathic medical society as rules required. In addition to affecting eligibility for certificate renewal, we found the CE courses from unaccredited entities were integral to the renewal of the naturopath license as well for two of the four applicants. The Board approved all four applications.

By not expanding accredited institutions beyond those approved for general education requirements and to include accredited institutions providing training in the specialty fields of practice, naturopaths holding specialty certifications were primarily reliant on a naturopathic medical society to sponsor CE and achieve compliance with the requirements of statute and rule. However, this was problematic. We found the list of pre-approved classes included only one class in one specialty field of practice during the audit period.

Recommendations:

We recommend the Board comply with law and rule pertaining to specialty certifications, and:

- **formalize the certificate application process, developing a separate specialty certificate application form and amending rules to incorporate related requirements;**
- **ensure applicants are notified within statutory time limits of the Board's receipt of an application;**
- **amend rules to permit only training in acupuncture be applied towards the statutorily-mandated 500 hours, and remove oriental medical theory as eligible, or seek legislative changes to broaden the scope of eligible training;**
- **amend rules to clarify how applicants can document completion of the required 500 hours of training, including how the 250 hour prerequisite for the NPLEX acupuncture test is counted to ensure hours are not double counted;**
- **ensure permanent records clearly demonstrate how each applicant achieved the 500 hour requirement;**

- amend rules to clarify both clinical and didactic acupuncture training are required as specified in statute;
- amend rules to clarify childbirth certifications require renewal;
- approve only those applications for renewal with sufficient CE hours from approved entities and attributable specifically to the specialty field;
- ensure ineligible specialty CE courses do not contribute to renewal of naturopathic licenses;
- ensure specialty field CE courses are approved by an institution established in rule or naturopathic medical society; and
- consider amending rules to expand the institutions qualified to accredit CE classes in specialty fields of practice.

Board Response:

We concur.

The Board recognizes the need for a more formal certificate application process, which includes separate certification application forms. The Board has been checking certificate requirements according to rules and law, but the Board is aware of the lack of clarity with these requirements in the rules and law. The Board will plan to amend the rules to ensure clarity of specialty certificate requirements and to create separate application forms, which will allow applicants to document details of completion of the required 500 hours of training and passing NPLEX examination. The Board also recognizes the need for clarifying childbirth certification renewal requirements and plans to amend rules to make this clearer.

The Board has a separate renewal application form to delineate specialty continuing education courses, ensuring these continuing education courses are separate from general naturopathy continuing education courses. The Board will also consider amending rules to expand the institutions qualified to accredit continuing education classes in specialty fields of practice.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation by the end of 2018.

Monitoring Practice: Complaints, Investigations, Adjudications, And Sanctions

Systematically monitoring licensees' activities can help ensure they follow applicable requirements and the public is adequately protected. The Board was required to administer and enforce all provisions of the *Practice Act*, "which pertain to licensees and applicants, and all rules adopted by the board under the authority granted" by the *Practice Act*. Licensees engaging in the practice of naturopathy without complying with statute were subject to disciplinary measures, and refused renewal, limitation, revocation, or suspension of their license. In addition to monitoring licensees' behavior during the license renewal process and relying on self-reported assertions of misconduct, the Board established complaint procedures in rule. Rules provided for emergency suspension of licenses, adjudicative proceedings, and sanctions. Reportedly,

complaints were infrequent, and the Board rarely, if ever, had adjudicative proceedings or issued sanctions.

Observation No. 10

Improve Management Of Complaints, Investigations, And Enforcement

The Board lacked adequate policies, procedures, and rules to administer complaints, investigations, and enforcement activities. We found complaints were inconsistently resolved; investigation procedures compromised Board independence; investigations lacked consistent authority; and certain enforcement activities lacked statutory authority. Further, of the five licensed naturopaths who were subjects of complaints, four appeared to continue to demonstrate the condition identified in the complaint without the Board achieving resolution, suggesting ineffectiveness. Finally, there were no formal policies or procedures, and documentation was lacking.

Complaints And Investigations

Complaints and their investigations can provide the Board with feedback on how well the profession complies with regulatory standards. Complaint and investigation procedures should include screening guidelines to determine a complaint’s validity, establish jurisdiction, prioritize risk, segregate incompatible duties to ensure independence, and track completion. Although the Board adopted rules allowing for the receipt of the complaint, the Board lacked policies and procedures further defining the complaint process from receipt to resolution, methods used for investigation, and segregating incompatible duties. Although complainants received a timely initial response, the Board lacked a policy to prioritize complaints that were likely to result in the greatest public health risk, decreasing the effectiveness of the complaint and investigation processes to mitigate harm promptly.

Complaints Against Licensees

During the audit period, the Board received and pursued two complaints against five licensed naturopaths. One of the two complaints, against four licensed naturopaths improperly advertising themselves, had no documented resolution and remained open. Naturopaths not complying with the professional advertisement provisions in statute were subject to disciplinary measures, including refused renewal, limitation, revocation, or suspension of their license. The Board informed the naturopaths about the complaint and provided a list of acceptable modes of professional advertisement for naturopaths. However, the Board only compelled two naturopaths to cease using the prohibited word “physician” in their advertising, even though all four naturopaths advertised themselves in a manner statute prohibited. As of December 2016, the complaint against the four licensed naturopaths had been unresolved for at least 322 days, well beyond the 120-day time limit established in statute to dispose of the complaint by nonadjudicative processes or commence an adjudicative proceeding.

Complaints Against Non-licensed Individuals

The Board received and pursued four complaints against four individuals advertising themselves as naturopaths without a Board-issued license, contrary to State law. Statute and rule provided the Board no authority to pursue the complaints because the Board's jurisdiction was limited to licensed naturopaths.

Rules, Policies, And Procedures For Investigations

The Board lacked relevant rules, policies, and procedures for investigations. The Board did not assign a subcommittee or appoint another to operate on its behalf during an investigation, potentially compromising the Board's independence when it came to adjudicating the matter. The Board also appeared to investigate non-licensees. While unlicensed advertising of oneself or in any way holding oneself out as qualified to practice naturopathy was a class A misdemeanor, the Board lacked statutory criminal enforcement authority and lacked authority to carry out enforcement against non-licensees.

Enforcement

The Board's enforcement authority was limited to licensees, and the Board's authority to subject licensees to disciplinary measures was limited to refusing renewal of, or limiting, revoking, or suspending, a license. However, the Board undertook enforcement activities against unlicensed persons and used enforcement actions outside its statutory authority against licensees.

Extra-jurisdictional Enforcement

During the audit period, the Board pursued enforcement action against persons it did not license for purported violations of the *Practice Act* by issuing cease and desist letters. Nowhere in the Board's statute was such authority provided. State law prohibits advertising or holding out oneself as qualified to practice naturopathy, or practicing naturopathy without a license, and makes such offenses class A misdemeanors if a natural person, and a felony if any other person. Statute did not provide the Board authority to enforce criminal offenses or pursue enforcement against unlicensed persons allegedly violating provisions of the *Practice Act*. State law required the Board administer and enforce all provisions of the *Practice Act* that pertained only to licensees and applicants, and all rules adopted by the Board under the authority granted by the *Practice Act*. However, we note another State board regulating health care professionals, the Board of Medicine, was less restricted in its authority to pursue extra-jurisdictional enforcement actions. State law provided the Board of Medicine may petition the Superior Court for an injunction to restrain the unlicensed practice of medicine and the Board of Medicine shall be represented by the Attorney General.

Letter Of Concern

We found the Board issued a confidential letter of concern to a licensee they identified as having problematic practices related to continuing education that did not warrant immediate disciplinary

action. The Board erroneously claimed statute authorized it to issue a letter of concern. Statute provided the Board no such authority, and the Board lacked related rules, policy, and procedure.

Cease And Desist

We found two cases where a non-renewing licensee was provided notice of license expiration and required to cease practice. The letters were both provided 253 days after the license expired. OPLC management reportedly identified these deficiencies and submitted the letters without direction from the Board. The Board must act as a body and holds all enforcement authority over licensed naturopaths. The OPLC's role was limited to administrative, clerical, and business processing responsibilities of the Board.

Recommendations:

We recommend the Board comply with law and rule by:

- **developing complaint and investigation procedures to ensure each complaint is assessed for jurisdiction, prioritized according to public health risk, and fully resolved in a timely manner;**
- **promulgating rules to structure its investigations, and developing procedures to effectuate those rules;**
- **ensuring investigative practices do not compromise the Board's independence in adjudicating matters, and considering the appointment of investigators or investigative subcommittees when warranted;**
- **discontinuing attempted extra-jurisdictional enforcement against non-licensed persons for purported violations of the *Practice Act*, and instead referring allegations to proper law enforcement authorities;**
- **discontinuing the use of letters of concern, or, should the Board conclude such authority is necessary, seeking appropriate legislation to provide it required authority; and**
- **ensuring it acts on expired licenses and votes to approve issuance of cease and desist instructions and other actions against a license.**

We recommend the OPLC discontinue enforcement activities without specific Board direction.

Board Response:

We concur.

The Board recognizes a need to develop complaint and investigation procedures; promulgate rules to structure its investigations; and ensure investigative practices do not compromise the Board's independence in adjudicating matters. We agree to clarify with OPLC how and when to enforce against non-licensed persons for purported violations of the practice-act.

We concur with discontinuing the use of non-authorized letters of concern. We plan to seek guidance from the Attorney General's office related to what would allow the Board to send communication to its licensees.

We concur with the need to act on expired licenses and vote to approve issuance of cease-and-desist letters and other actions against a license.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation by the end of 2018.

OPLC Response:

We concur.

To the extent any enforcement activities were taken without explicit Board direction, OPLC will immediately cease such activities.

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
NATUROPATHIC BOARD OF EXAMINERS**

GENERAL MANAGEMENT CONTROL

Management control: 1) includes the plans, policies, methods, and procedures adopted to meet a mission, goals, objectives, and sub-objectives; 2) includes processes for planning, organizing, directing, and controlling program operations; 3) encompasses systems for measuring, reporting, and monitoring program performance; 4) helps safeguard assets; and 5) can prevent and detect errors, fraud, abuse, and noncompliance with provisions of laws and regulations. Effective management control is systematized and increases the likelihood the Board will be effective. Effective operations achieve intended results; efficient operations achieve intended results and minimize waste. Ineffective or unintegrated controls undermine management control effectiveness. Effective management control includes oversight and periodic review.

Naturopathic Board Of Examiners

The Naturopathic Board of Examiners (Board) consisted of five Governor-appointed members serving five-year terms without limit on the number of terms served. Three members were required to be practicing naturopathic medicine, the fourth was required to be a graduate of an approved naturopathic college, and the fifth was to be a member of the public.

The Board was administratively attached to the Department of Health and Human Services (DHHS) through SFY 2015, receiving administrative support from the DHHS, Office of Professional Licensure (OPL). On a cost allocation basis, support included budgeting, recordkeeping and related administrative and clerical assistance, facilities, and automation. The Board's powers, duties, functions and responsibilities, budget submission, and reporting were independent of the DHHS. The DHHS oversaw Board rulemaking, however. Available to the Board was one part-time licensing clerk, who also supported other boards.

Beginning with State fiscal year (SFY) 2016, the Board became a component of the Division of Health Professions, one of three divisions within the newly-created Office of Professional Licensure and Certification (OPLC). The OPLC, created in July 2015 as a stand-alone agency, derived from the former Joint Board of Licensure and Certification, a separate organizational entity that functioned within the Department of State, and the DHHS's OPL. The OPLC was responsible for Board administration and day-to-day operations while the Board maintained responsibility for regulating and overseeing naturopathy. Administrative support from the OPLC included: assistance with processing licenses; corresponding with the public; supervising, coordinating, and assisting with the rulemaking process; recordkeeping; and accounting. Direct support was provided by a part-time licensing clerk also assigned responsibility for two other boards. The Board also received legal assistance from a Department of Justice attorney, and assistance with rules from an OPLC attorney. OPLC services were a cost to the Board and were to be reimbursed by licensing fees.

Migrating Board administration from the DHHS's OPL to the independent OPLC was still in process during the audit period. Procedures and practices were in flux, and procedures were outdated. OPLC managerial staff was also reported to have undergone substantial change. Board

noncompliance with statutory, regulatory, and general management control standards within this context may to some degree be attributable to insufficient support and organizational turbulence.

The Council On Doctors Of Naturopathic Medicine Formulary

The five-member Council on Doctors of Naturopathic Medicine Formulary (Council) included: a Board member, a Board-appointed licensed naturopath, a licensed physician appointed by the Board of Medicine, a licensed pharmacist appointed by the Pharmacy Board, and a member with an advance degree in pharmacology or pharmacognosy selected by the Council. The Council's chairperson was elected from the members.

The Council was not explicitly assigned or attached to a component of the Executive Branch. Support to the Council was outside the scope of the services provided to the Board by the DHHS's OPL or the OPLC. Other than submitting to the Board updated formularies, the Council's relationship to the Board, and the public, was unstructured. Council noncompliance with statutory, regulatory, and general management control standards within this context may be attributable to insufficient support and Board oversight.

Observation No. 11

Develop And Formalize Council Operations

Council operations were informal, lacking regulating rules and adequate and proper documentation of policies, decisions, procedures, and essential transactions. The Council's statutory purpose was to develop a formulary authorizing the substances naturopaths may prescribe, and to periodically review the formulary. The Board had authority to adopt rules to govern Council operations, and was required to adopt rules on the general course and methods of operations, the methods the public could use to obtain information or make submissions or requests, and all formal and informal procedures. However, other than paraphrasing the Council's statutory role, Board rules did not address the Council and there were no procedural requirements related to the development or review of the formulary.

Formulary Development Process

In addition to natural medicines, statute provided the Council could include on the formulary synthetically-produced substances and their salts when: 1) determined to be appropriate to the naturopathic scope of practice and 2) the substances had an identical or substantially identical molecular structure to a plant or animal substance found in nature. The Council reportedly applied a three-prong test to determine if a substance was suitable for the formulary: 1) determine if the substance was a product of nature or a synthetic analog, 2) evaluate the safety of the substance, and 3) assess if the substance was appropriate for a naturopath to prescribe. Certain members of the Council were expected to provide specialized expertise in the fields of chemistry, clinical safety, and naturopathy while applying these three tests. Without a formal and documented process and results, the Council was unable to demonstrate how each substance passed the three tests or whether the tests were consistently applied.

Test One -- The first test reportedly compared the molecular structure of the substance being proposed for the formulary to the molecular structure of a natural substance. This test was to determine if the substance was identical or substantially identical to a plant or animal substance found in nature. However, the Council lacked a definition of *substantially identical* and *plant* or *animal* substances found in nature. In practice, the Council reportedly concluded synthetic substances, such as certain central nervous system agents, mimicked the function of a natural substance in the brain, and consequently were acceptable for inclusion on the formulary based on *functional* equivalence. Other substances passed this test by existing as a natural substance and consequently being *structurally* equivalent. As we discuss in Observation No. 3, it was unclear in statute, and no rule or policy clarified, whether mimicking a naturally occurring process and being *functionally* equivalent was the same as a being identical or substantially identical to the molecular structure of a natural substance.

Test Two -- The second test reportedly determined if the substance was safe for naturopaths to prescribe. Council members reported evaluating the substance based on their knowledge in their field of healthcare or clinical experience with the proposed substance. No written, formal guidelines or criteria were provided to evaluate the safety of each substance. For example, the Council did not report reviewing the Food and Drug Administration's approval of a substance. At least one of the proposed substances selected for the formulary was not federally-approved for use and was considered experimental in its proposed application.

Test Three -- The third test reportedly evaluated if the substance was consistent with the education and philosophy of the naturopathic profession. To satisfy this test, the Council relied on the naturopaths assigned to the Council and lacked documented criteria which encompassed the broader experience or education of the profession at-large, or ensured current changes in the education of naturopaths were considered.

Frequency And Scope Of Review

The Board and Council did not define the frequency or scope of the Council's formulary review. In practice, the frequency of the review was at the discretion of the Chair of the Council, most recently resulting in a seven-year gap between reviews. Council members reported an interest in meeting annually, but no such policy or rule was developed, or new meeting scheduled.

The scope of the review was primarily focused on possible additions to the formulary and not substances previously approved for the formulary by past Councils. Previously-approved substances were reportedly only reviewed to determine if proposed additions were already on the formulary and if the organization of the formulary and grouping of substances in different classifications were still appropriate. By not reviewing existing substances in-depth on the formulary, the Council accepted some risk that some substances on the formulary may not be current with the naturopathic scope of practice or regulatory structure. It was not clear substances were consistently considered for removal, perhaps due to a safer alternative being developed.

Mechanisms To Petition The Council

The mechanisms to revise the formulary were informal. In practice, the Council reported periodically receiving requests for formulary revisions between Council meetings and after soliciting requests from a select group of naturopaths, but not from the entire naturopath community. The formulary revision process lacked a role for the public and other interested parties. Although statute required petitions be addressed within 120 days, no process existed to document, track, or follow-up on petitions. Since the gap between meetings was seven years, petitions may have lingered beyond 120 days. Additionally, the Council reportedly solicited nominations for formulary *additions* and no mechanism was developed or advertised to *remove* substances.

Board-Council Relationship

The lack of policy, procedure, and rules; limited communication between the Board and Council; and lack of oversight between the Board and Council led to confusion over roles and responsibilities. The Board and Council were viewed to be mutually-independent entities. Board members reported having no role in developing the formulary apart from the Board appointing two Council members and adopting the formulary in rule. Communication between the two bodies was reportedly a rare occurrence. Council members reported the Council's formulary recommendations were advisory. However, statute required the Board to adopt the formulary authored by the Council and the Board was statutorily-mandated to regulate the naturopathy profession, including the scope of practice, suggesting a close relationship between the two bodies was necessary.

Recommendations:

We recommend the Board, in consultation with the Council, develop policy, procedures, and rules to govern Council operations, including:

- **the scope and nature of the tests required to add substances to the formulary, incorporating as a minimum aspects of safety, appropriateness to the naturopathic scope of practice, and synthetic substances being identical or substantially identical in molecular structure to a natural substance;**
- **the frequency and scope of periodic formulary reviews;**
- **mechanisms for receiving input on the formulary from the public and other interested parties; and**
- **clearly defined roles and relationships between the Board and Council.**

Board Response:

We concur.

We concur that the Board should, in consultation with the Council, develop or amend or clarify policies and procedures to govern Council operations, including:

- (1) the scope and nature of the tests required to add substances to the formulary;
- (2) the frequency and scope of periodic formulary reviews;
- (3) mechanisms for receiving input on the formulary from the public and other interested parties; and
- (4) clearly define roles and relationships between the Board and Council.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation by the end of 2018.

Generally Applicable Statutes

Agency compliance with statutory requirements is a fundamental expectation. The Board and Council were State agencies for the purposes of several administrative statutes, including: the Right-to-Know law (RSA 91-A), the *Administrative Procedure Act* (RSA 541-A), and the *Archives and Records Management Act* (RSA 5:25, et seq.), and the members of each were public officials for the purposes of statutes such as the State's Code of Ethics (RSA 21-G:21, et seq.) and *Financial Disclosure* (RSA 15-A).

Observation No. 12

Ensure Quorum Requirements Are Met

The Council's five members did not submit any statements of financial interest related to their Council duties during the audit period and the nine individuals who served as Board members submitted six of the 19 (31.6 percent) required statements of financial interest during the audit period. As a result, Board and Council members were ineligible to serve, and meetings were held without a quorum of eligible members. The Board lacked adequate management controls to ensure Board and Council members consistently and timely filed statements of financial interest, that members were eligible to serve, and that Board and Council meetings had a quorum of eligible members.

Filing Required To Participate

To ensure the performance of official duties by public officials would not give rise to a conflict, selected public officials, including Board and Council members, were required to annually file statements of financial interest. Once filed, statements were publically available. Failure to file rendered individuals ineligible to serve in their public capacity and knowingly not complying was a misdemeanor.

There was no formal Board or OPLC policy or procedure related to, and the Board's rules did not address, filing financial interest statements, oversight to ensure only eligible members served, or that a quorum of eligible members was present for meetings. Although State law made individuals responsible for filing statements, there was reportedly a lack of clarity by Board members and OPLC personnel on who was responsible for mailing blank forms to required filers

and tracking the completion of the statements. In the past, Board staff reportedly mailed blank forms to Board members, but one Board member reported inconsistently receiving blank forms. Further, the Council did not receive administrative support and Council members were not identified in Secretary of State records as subject to required disclosure of financial interests. Consequently, Council members may have never received blank forms. To assist the Secretary of State in identifying those required to file, agency heads, such as the Board's chairperson, were required to submit an annual organizational chart of public officials required to disclose financial interests. However, this does not appear to have occurred.

We note Board members remediated non-filing of statements after we discussed the matter with them in the Fall 2016.

Quorum Of Eligible Members Needed To Conduct Business

During the audit period, the Board conducted 11 of its 12 meetings, and the Council conducted its only meeting, without a quorum of eligible members. Statute established the Board's quorum for transacting business was four members, and quorum for the Council was a simple majority of members. Minutes from the 12 Board meetings indicated 123 licensing actions were taken, but we found only seven (5.7 percent) were conducted with a quorum of eligible members present. Board minutes indicated 50 letters or correspondences communicating with outside parties were issued. We found 12 (24.0 percent) were issued with a quorum of eligible members present. Additionally, the 11 meetings without a quorum of eligible members included four meetings where the Board discussed changes to rules, two meetings where the Board provided licensees substantive guidance, one meeting where the Board set the date and time for a special meeting, and one meeting where the Board reinstated a license. During the one Council meeting within the audit period, the Council agreed to submit at least 35 specific substances and three classes of substances to be added to the formulary without any eligible members present. The actions taken by the Board and Council with ineligible members may be subject to invalidation by a court.

Recommendations:

We recommend the Board:

- **promulgate rules or develop policy and procedures to ensure compliance with the *Financial Disclosure* statute, and periodically review Board and Council members' compliance;**
- **promulgate rules or develop policy and procedures to ensure only a quorum of eligible members participate in Board and Council meetings; and**
- **seek legal advice regarding Board and Council actions taken without sufficient numbers of eligible members and whether ratifying acts taken without proper authority is needed.**

We recommend the Board's chairperson annually submit to the Secretary of State an organizational chart of all Board and Council members required to file statements of financial interest.

We recommend OPLC management develop policy and procedures to ensure supported regulatory bodies, including the Board and Council, receive necessary administrative and clerical support to comply with the *Financial Disclosure* statute.

Board Response:

We concur.

OPLC will submit to the Secretary of State an organizational chart of all Board and Council members required to file statements of financial interest.

We concur that the Board should work with the OPLC to develop policy and procedures to ensure compliance with financial disclosure statute, periodically review Board and Council members' compliance, ensure only a quorum of eligible members participate in Board and Council meetings, and seek legal counsel regarding previously ratifying acts without an appropriate quorum.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation by the end of 2018.

OPLC Response:

We concur.

We concur, and further state we continually strive to provide all boards, commissions, councils, and programs under our administration with necessary support to fully comply with all statutes and regulations that govern them.

Observation No. 13

Comply With The Right-to-Know Law

The Board and Council inconsistently complied with the Right-to-Know law, compromising transparency and accountability, and potentially compromising Board and Council decisions. The Right-to-Know law existed to ensure the greatest possible public access to the actions, discussions, and records of all public bodies. Actions taken at meetings held in violation of the law can be invalidated when warranted.

Board Activities Outside Of A Meeting

The Board was required to conduct its business at public meetings with a quorum of members present, make the meeting known to the public by providing adequate notice, and document the

meeting sufficiently through formal minutes. We found the Board approved business outside duly constituted meetings, including:

- approving 10 license renewals,
- approving two new and one renewal specialty certifications,
- delaying one license renewal, and
- approving one new license.

The Board also undertook other business outside duly constituted meetings, including:

- follow-up activities and tasks in-between meetings, such as Board communication with legal counsel and administrative staff;
- deliberating the suitability of continuing education (CE) credits submitted by renewal applicants; and
- approving the issuance of a letter of concern.

We found instances where license and certification approvals were conducted unilaterally by one Board member and other deliberations did not include all Board members. Business conducted outside of a Board meeting was occasionally documented in Board minutes; however, some license approvals were never contained in Board minutes. Board practices lacked transparency and disenfranchised non-participating Board members.

Content Of Board Minutes

The Right-to-Know law established a minimum standard for drafting minutes, which the Board inconsistently met. Board minutes lacked any motions or votes on Board actions. Additionally, Board minutes inconsistently documented the substance of the business before the Board. Board meetings we attended after the audit period were conducted with minimal use of motions to move business and infrequently did a vote of the Board ratify an action. This style of conducting a meeting made it difficult for the Board to draft compliant minutes.

Board compliance with the Right-to-Know law may have been negatively affected by a lack of training and familiarity with the law. Two out of five Board members (40.0 percent) reported a lack of familiarity with the Right-to-Know law, there was no formal orientation for members, and relevant information was not included in the members' orientation materials.

Council Activities

Council activities were wholly outside the public's view. The Council lacked policies, procedures, training, and regulating rules to help ensure compliance with the Right-to-Know law. While the Board's rules addressed procedures to ensure the public had access to public records, the Council was omitted from those procedures. The Council did not receive any administrative support or guidance on compliance with the Right-to-Know law, so the part-time, volunteer Council members were solely responsible for ensuring compliance, requiring they self-identify relevant requirements. Three out of five Council members (60.0 percent) reported no familiarity with the Right-to-Know law. The remaining two members reported a familiarity with the concept

of public access to government records, but did not know how it was implemented for the Council's activities.

We found:

- the one meeting conducted by the Council during the audit period lacked public notice and was not public;
- there were no formal minutes and the only documents available from the meeting were not approved by the Council as minutes, did not record votes or motions, omitted a non-Council member who reportedly participated in the meeting, and did not include items reportedly rejected by the Council; and
- there was no process to receive, process, and document input from the public and naturopathic community, such as requests that items be added to the formulary and requests for information from the Council.

Recommendations:

We recommend the Board and Council comply with State law, to include:

- **providing public notice for all meetings;**
- **providing for public participation in all meetings, except those properly constituted as non-public sessions;**
- **limiting official business to duly constituted meetings;**
- **ensuring meeting minutes meet minimum requirements; and**
- **ensuring minutes and other documents are retained as public records.**

We recommend the Board:

- **develop compliant policies detailing meeting procedures, the format and content of minutes, and procedures for the dissemination of information between the OPLC, and Board and Council members;**
- **adopt rules to ensure compliance with the Right-to-Know law and include the Council throughout its rules; and**
- **work with the OPLC to include the Right-to-Know law in orientation materials and consider developing a formal training program for Board and Council members.**

Board Response:

We concur.

With the support of OPLC staff, the Board will ensure that there is public notice for all meetings and that meeting and minute requirements are met. The Board would like to note that greater OPLC oversight and involvement would be helpful to ensure that these requirements are met.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation by the end of 2018.

OPLC Response:

We concur.

We concur, and will be involved in oversight of meeting activities in the future.

Observation No. 14

Develop Ethical Standards And Formalize Policy For Board And Council Operations

The Board lacked an ethics policy to help ensure ethical standards were met, and deviations from those standards were rectified. The Board was responsible for setting the ethical standards, values, and expectations for Board and Council operations. To address Board-specific issues, State law permitted development of a supplemental ethics code.

Ethical guidelines are integral to good management control, should be comprehensive and formal, and should address conflicts of interest. The State's Code of Ethics required Board and Council members avoid conflicts of interest, including any situation, circumstance, or financial interest that might cause a private interest to interfere with the proper exercise of a public duty. Members were not to participate in any matter where they, their spouse, or their dependent held a private interest which might directly or indirectly affect their public duties. Members were also prohibited from using their public position to secure advantages not generally available to the public, and from disclosing or using confidential or privileged information acquired in the performance of their public duties for personal benefit or financial gain. Violation of the State's Code of Ethics was a misdemeanor and members were potentially subject to removal from office.

Although the Board reportedly had an informal policy prohibiting members from reviewing their own license renewal, this was not formalized, and formalized recusal policies governing other potential conflicts were not developed. The Council lacked formal or informal recusal or conflict of interest policies. Conflicts of interest were inherent in the statutory composition of both the Board and Council, since some members were required to be licensed or associated with the profession of naturopathy. However, members inconsistently completed statutorily-required statements of financial interest and even when conflicts of interest were properly disclosed through filed statements, members lacked Board-established standards related to other, non-financial conflicts; standards to assess the severity of a potential conflict; and guidance on when recusal was warranted.

Board and Council members reported conflicts of interest rarely occurred or were discussed, but we identified potential conflicts, including:

- Board members participating in the licensing of a business partner or employee;
- a Board member participating in a complaint filed against them;
- a Board member submitting a renewal application the day of a Board meeting, receiving same-day approval, and avoiding the procedural requirement renewal applications be submitted one week before the Board's meeting and the rule-based requirement to submit applications 30 days before expiration;
- a Board member receiving renewal approval without adequate, approved CE courses;
- a Board member approving CE classes they also approved through responsibilities held with the New Hampshire Association of Naturopathic Doctors; and
- Council members with employment or business relationships with naturopathic organizations.

These and other potential conflicts of interest created a risk for Board and Council members, and both bodies could benefit from the development of ethical standards and recusal policies.

Recommendations:

We recommend the Board:

- **develop formal ethical standards for Board and Council operations, including provisions related to conflicts of interest and recusals;**
- **include the standards in rule; and**
- **ensure members are aware of the standards through orientation and periodic review.**

Board Response:

We concur.

We concur that ethical standards, including recusal and conflict of interest, are important. We intend on formalizing ethical procedures and guidelines for Board and Council members. We intend to add to our rules a reference to RSA 21-G:21 through 21-G:35. RSA 21-G:21 through 21-G:35 apply to the Board and establish standards regarding ethical standards, recusals, and conflicts of interest. Through these laws, the legislature has provided a uniform standard that all Executive Branch agencies, including the Board, must comply with and also provide that any questions can be referred for advisory opinions to the Executive Branch Ethics Committee. In addition, the Office of the Attorney General holds an annual administrative law training, which includes a full hour focusing on ethical concerns specific to board settings. The Board will make efforts to send a Board member to that training in the future. Additionally, the Board has access to legal counsel in the Attorney General's office and will use this assistance when future issues arise. Finally, the Board will work with legal counsel from the Attorney General's office to schedule a Board-specific training on ethics. Topics will include, but not be limited to, the State Code of Ethics, recusal, conflicts of interest, and misuse of position. A printed copy of that

training will then be put in new members' orientation binders. We believe that these steps fully address the auditor's findings in this section.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation by the end of 2018.

Observation No. 15

Improve Board Rules

We found the Board's legislatively-approved rules inconsistently conformed to the requirements of the *Administrative Procedure Act*. Board rules were expired for substantial parts of the audit period, were enforced while expired and without corresponding statutory requirements, lacked substantive content, and had technical deficiencies. Rules allowed the Board to implement, interpret, and clarify the *Naturopathic Health Care Practice Act (Practice Act)* (RSA 328-E). Rules were required to be consistent with statute and further make specific statutory requirements. The Board was required to adopt rules to implement the *Practice Act* statute and regulate the profession.

Expired Rules

To be valid and enforceable, rules must be properly adopted. When expired, rules cannot be enforced unless duplicate statutory provisions exist. All Board rules, except for organizational rules and the formulary, were expired by March 2015. Organizational rules expired in July 2016. Rules governing the initial and renewal licensure of naturopaths expired in July 2014. Our review of 69 licensee files included 52 renewal applications and 10 initial licensure applications processed under expired Board rules.

After the audit period, the Board started revising expired rules. However, no amendments to rules were codified during the audit period and the Board lacked a process to track the status of rules.

Authority Claimed By Rules Not Permitted In Statute

Board rules contained inconsistencies with statute which purportedly granted the Board authority to perform actions without statutory authority, including:

- the ability to assess civil penalties against persons engaged in the unauthorized practice of naturopathic medicine;
- procedures restricting the media and public participation during a public hearing for rulemaking; and
- setting licensure fees higher than statute provided.

After the audit period, the Board drafted amendments to rule synchronizing fees in rule to statute, but other inconsistencies remained.

Forms

Forms are rules establishing a requirement for persons outside the Board to provide information in a designated format. Forms may be described in rule or adopted by reference. The Board described five forms in rule, including: one initial application for licensure, one renewal application for licensure, and three forms for submitting CE credits.

During the audit period, licensing forms inconsistently conformed to rule. Rule provided for two-part new and renewal application forms, but in practice, the renewal form was a one-part form. Unadopted modifications to the form asked renewal applicants seven questions instead of the 15 questions required in rule. Also, the seven questions asked naturopaths to describe actions and behaviors within the past *year*, although rules required the scope of the questions to include the entire *two-year* licensing period. Consequently, all 52 renewal applications in our file review did not answer all the questions rules required. Additionally, the renewal application contained questions not codified in rule, such as requesting applicants to provide a license number, status of practice, and specialty certification information. As discussed in Observation No. 5, the initial application for licensure was also noncompliant with rule and omitted one of seven required questions on part two of the form. Finally, all adopted forms used during the audit period referenced a defunct State agency, the DHHS's OPL.

After the audit period, the Board improved licensing forms conformity to rule by revising the renewal application to include the 15 rule-required questions and updating all renewal application forms to reference the correct State agency. However, two of the 15 questions on the renewal form did not accurately conform to rule, and the initial license application form still referenced the wrong State agency. Additionally, the Board added a request for an applicant's email address to the new forms without codifying the requirement in rule.

We also found the form the Board used to gather complainant information for an investigation, including protected health information, was not adopted in rule, nor was its use described. After the audit period, the Board drafted rules detailing opioid prescribing practices. In the draft opioid prescribing rules, the Board incorporated the statutory mandate requiring naturopaths complete a Board-approved risk assessment tool prior to prescribing opioids to patients with acute or chronic pain, but no Board-approved tool existed in rule.

Declaratory Rulings And Petitions

Statute required the Board adopt rules on the filing of petitions for a declaratory ruling when a member of the public requested the Board interpret a statute or rule. The Board adopted rules detailing the declaratory ruling process, including a 30 day limit for it to determine a request was sufficient. During our file review, we identified five instances where a member of the public requested the Board clarify a statute or rule within its jurisdiction. The requests were not treated as declaratory rulings. These requests were required to receive a notification of receipt within 60 days, and an approval or denial of the request within 120 days. Out of the five requests we

reviewed during our file review, we found: four lacked acknowledgement of receipt, one lacked a final decision of the Board, and one decision exceeded 120 days. As discussed in Observation No. 1, naturopaths' requests for clarification on scope of practice also inconsistently received a documented decision by the Board.

General Administration Of Regulatory Boards

Board rules did not address statutory requirements that: applications for licensure shall not be arbitrarily denied based on a prior conviction, hearing notices in disciplinary actions against licensees must be issued within two years of the accused receiving notice of the complaint, and a disciplinary proceeding against a licensee shall be initiated within five years of the alleged violation or within five years of the date the violation could reasonably have been discovered. The Board also lacked required rules related to applicants from, and licensees in, the armed services and their spouses.

Further, State law effective after the audit period provided the Board could levy the sum of investigative costs against those found to require disciplinary action based on licensee misconduct. Rules drafted after the audit period lacked relevant provisions to implement this recoupment procedure.

Errors In Rules

Board rules contained six improper citations during the audit period. After the audit period, the Board corrected five of the six errors. The remaining error dealt with a reference in rule pertaining to public comment procedures.

Recommendations:

We recommend the Board improve its rules and implementation of rules by:

- **ensuring rules remain in effect and properly adopted by developing a method to periodically track the status of rules;**
- **enforcing only requirements contained in valid rules;**
- **repealing rules without statutory basis;**
- **ensuring all forms used in practice or required by statute, the specific requirements of each form, and guidance on how the form is to be utilized are adopted in rule;**
- **ensuring licensing forms reflect all requirements in rule and any additional requirements are adopted in rule;**
- **utilizing Board rules pertaining to declaratory rulings, when and if applicable, and timely respond and document any request for clarification of State law or rule;**
- **adopting rules pertaining to licensees and military service, arbitrary denials based on criminal conviction, time limitations for disciplinary actions, and reimbursements for investigations; and**
- **correcting the one remaining improper citation in rules.**

Board Response:

We concur.

We concur with the recommendation that the Board ensure rules remain in effect, track rule status, enforce only requirements contained in valid rules, repeal rules without statutory basis, ensure forms and their requirements are adopted in rule, and adopt missing rules.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation by the end of 2018.

Observation No. 16

Comply With Generally-applicable Administrative Statutes

We found several areas where the Board did not conform to generally applicable administrative statutes, including: providing copies of rules and regulations to licensees, publishing a biennial report, and compensating Board members. By not providing rules to naturopaths timely and publishing a biennial report, the Board limited communication with external stakeholders. Additionally, the Board and Council lacked an adequate orientation program, likely contributing to inconsistent statutory compliance.

While statutory compliance was the responsibility of the Board and Council, since July 1, 2015, the OPLC was responsible for administrative, clerical, and business processing duties, which were integral to achieving compliance.

Providing Laws And Rules To Naturopaths

The Legislature delegated to the Board the duty to regulate naturopathy and ensure naturopaths met proficiency and competency standards to protect the public health, safety, and welfare. The Legislature also provided the Board rulemaking authority and required it to promulgate rules regulating the practice of naturopathy and to provide those rules to each naturopath on the day of initial licensure or on the day a request was made by a currently-licensed naturopath. Initial licensure procedures and practices did not include providing a copy of applicable rules or laws. Instead, we observed in some instances newly licensed naturopaths received a letter containing a hyperlink to State laws and rules available via the Internet. However, these hyperlinks did not include the formulary, detailing the prescribing authority of the newly licensed naturopath, or comply with the State law requiring actual copies be provided. Further, this practice appeared inconsistently followed, and one naturopath reported not having access to the Internet. Additionally, the Board lacked procedures, rules, policies, and sufficient administrative support to ensure a request for rules from a currently-licensed naturopath would be processed on the day of the request.

Biennial Reporting

Statute required the Board and Council to submit a biennial report summarizing their operations every odd-numbered year. After the report was compiled, the Board and Council were required to notify State government officials of its publication and provide a copy to statutorily-identified stakeholders. Neither the Board nor the Council published a biennial report.

Adequate Orientation

Statute required the Board and Council provide orientation materials to new members. Board members were reportedly given a binder containing the *Practice Act*, the Board's rules, a year's worth of prior Board meeting minutes, blank application forms, and a checklist of documents required for licensure. However, no policy or practice existed to ensure this information was kept current and Board members reportedly had outdated information. Council members' orientation materials consisted of the current formulary and the section of the *Practice Act* containing the Council's responsibilities. New Council members reported receiving a verbal presentation on past processes for conducting Council business.

Both Board and Council members reported experiencing challenges in performing responsibilities due to the lack of training and orientation. We observed Board and Council members inconsistently complied with or understood statutory recordkeeping and management, transparency, financial disclosure, and other administrative requirements.

Compensation Of Board And Council Members

Statute required Board members to serve without compensation. While Board and Council members did not receive a stipend for their time, Board members were compensated for travel expenses during the audit period. Unaudited OPLC data indicated the Board expended \$751 on in-State travel during SFY 2015, the only year in the audit period with detailed mileage expenses. These payments were discontinued after we raised the issue with the Board.

We note it was common for the State to permit compensation of volunteer board members. Of the 42 State accreditation bodies we examined for similarities to the Board, 36 bodies (85.7 percent) compensated members for expenses, paid them a stipend, or both.

Recommendations:

We recommend the Board comply with statute by developing rules and related procedures to: 1) ensure a copy of all applicable rules is provided to licensees on the day of their licensure, or upon the request of a licensee, and 2) biennially publish a report of Board and Council activities.

We recommend the Board include a copy of applicable statutes with the copy of rules it provides licensees, and improve orientation and training of Board and Council members by:

- expanding orientation materials to include the current *Practice Act*, *Right-to-Know* law, the *Administrative Procedure Act*, the *Archives and Records Management Act*, the State's Code of Ethics, *Financial Disclosure* statute, and other statutes;
- working with the Council to develop additional orientation materials appropriate for Council members; and
- considering formal orientation activities for new Board and Council members.

We recommend OPLC management assist the Board and Council in complying with statute by:

- providing continuous administrative support to timely respond to requests for laws and regulations;
- discontinuing the practice of paying mileage to Board members; and
- considering how its statutory obligation to perform the administrative, clerical, and business processing responsibilities of the Board and Council underpins these issues, and generate procedure and practice to facilitate Board efficiency and OPLC compliance with its statutory mandates and purpose.

The Legislature may wish to consider compensating Board and Council members for mileage and per diem costs incurred in State service as it has for a majority of other accreditation bodies we examined.

Board Response:

We concur.

We concur with the recommendation that the Board ensure rules are provided to licensees, biennially publish a report on Board and Council activities, and improve orientation and training of Board and Council members. OPLC management will assist the Board and Council in complying with statute.

The Board further agrees that the Legislature should consider compensating Board and Council members for mileage and per diem costs incurred in State service.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation by the end of 2018.

OPLC Response:

We concur.

We concur, and attest that mileage reimbursement to Board members has already ceased. OPLC further states that it continuously considers how its statutory obligation to perform the

administrative, clerical, and business processing responsibilities of the Board and Council is most efficiently effectuated with the resources at its disposal. OPLC pledges to continue such consideration on an ongoing basis and will continue to work on facilitating Board efficiency and OPLC compliance with its statutory mandate.

Observation No. 17

Improve Records Management

The Board and Council did not comply with several aspects of the *Archives and Records Management Act* which regulated the management of public records. The timely recording of transactions and events can provide the Board and Council with valuable information in conducting operations and implementing decisions. Accurate and valid records allow the Board and Council to develop an information system designed to monitor its achievement of objectives and help it respond to risks. Since July 1, 2015, the OPLC was responsible for performing the administrative, clerical, and business processing responsibilities of the Board and Council.

Records Management Program

A records management program promotes efficiency and integrity in day-to-day recordkeeping and facilitates operations. Proper documentation of Board and Council policies, functions, and transactions protects the legal and financial rights of the State and of persons affected by Board and Council activities. The *Archives and Records Management Act* required the Board and Council to implement an economical and efficient records management program; make and maintain records on policies, decision, procedures, and transactions; and retain or dispose of records in a specific manner.

The Board lacked a fully developed records management program. Statute established licensing applications and examination records were permanent Board records. Statute permitted non-permanent records to be destroyed after four years. However, the Board never adopted a record retention schedule for other records, which reportedly resulted in maintaining all paper records since its inception. While statute required the OPLC to perform recordkeeping duties for Board records after July 1, 2015, it had few procedures pertaining to the Board's records and did not yet have a standardized process for performing record management duties during the audit period.

Official Board Acts

State law required the Board adopt a seal and provided official acts were evidenced by the seal and the signatures of the: 1) chair or vice-chair, and 2) the secretary-treasurer. Reportedly, the Board previously conformed to this requirement, but discontinued the practice. Without the required seal and signatures, the Board could not establish its official acts or differentiate between draft and "official" documents. This affected:

- meeting minutes, none of which were signed or sealed during the audit period;

- new and renewed licenses, which our file review of 69 files found 17 (24.6 percent) licenses were issued without any signature and none had the statutorily-required Board seal and two signatures; and
- letters from the Board initiating action against a naturopath's license.

Substance And Availability Of Minutes

Meeting minutes were permanent Board records documenting Board actions and decisions. Meeting minutes must be available for public inspection. However, Board minutes created during the audit period were inconsistent and included:

- three instances where the minutes recorded both denying and approving a license renewal for the same naturopath at the same meeting;
- one instance where the minutes indicated approval of a specialty certification, but the Board did not actually approve the certification;
- one instance where the minutes indicated approval of the wrong certification type for an applicant;
- one instance where the minutes indicated approval of the amendment of a previous meeting's minutes without actually amending the previous minutes; and
- as we discuss in Observation No. 13, Board minutes consistently lacked details of motions, actions, decisions, and the substance of business before the Board.

Statute required minutes be publically available within five business days. In one instance out of the 12 (8.3 percent) Board meetings during the audit period, minutes were not available for the Board itself to approve for 161 days. After the audit period, minutes of a special meeting were not approved by the Board for at least six months. Additionally, the minutes from the special meeting were not stored at the Board's place of business, were not timely available to the OPLC for recordkeeping, and were defective in substance.

Substance Of Electronic And Paper Records

The OPLC had procedures for maintaining an electronic database of naturopath licenses. These procedures were reportedly outdated and many of the reports built into the electronic database were nonfunctional. Other procedures were inconsistently implemented. For example, a license was to be re-categorized as inactive one month after expiration. After one year of inactive status, the license was to be moved from inactive to archived status. Of the 89 reportedly active licenses as of September 2016, we found two licenses had expired in 2011, but were still active in the electronic database and were included as active on the Board's statutorily-required roster and directory of licensees. We also found two licenses which expired in February 2016, but were still considered active in the electronic database as of September 2016.

We also found inconsistencies within and between paper and electronic records. Two licensees were incorrectly provided a shortened license of 386 days and 692 days in the paper record system. Although both paper records were found to be incorrect, one of the two licenses had a correct licensing record in the electronic database. Statute required the Board maintain a current address on each licensee. However, both electronic and paper records systems lacked these

addresses for 10 out of the 89 (11.2 percent) reportedly active naturopaths, as of September 2016. In our file review of 69 files, four out of 62 applications sent during the audit period did not contain a business address.

Council Records

The Council lacked a records management system, did not maintain its records at a public office, and created and kept minimal documentation and records. The Council was required to create and maintain records of its policies, decisions, procedures, and transactions; develop a records management system; fulfill requests for governmental records; and maintain records at a public office. However, the Council lacked official records, but Council members were able to provide the existing *2009 Formulary*, a reportedly incomplete list of substances the Council discussed in March 2016, and a list of substances submitted to the Board for adoption as the new formulary from their personal holdings. Council members lacked records on communication with the public, lists of substances which were nominated and rejected for inclusion on the formulary, documented methods used to approve or reject the addition of a substance to the formulary, and Council meeting minutes. Council decisions and actions were undocumented, making it impossible to determine whether the Council's activities complied with statute or ensured the substances selected for addition to the formulary were appropriate for naturopaths and safe for the public. The Council did not receive administrative support from the Board or the OPLC, relying instead on its past practice of using private systems to maintain State records. As we discuss in Observation No. 13, Council members had a limited understanding of the Right-to-Know law and may not have fully understood governmental recordkeeping requirements.

Recommendations:

We recommend the Board comply with State law by:

- **developing a records management system which encompasses Board and Council records, and includes record retention schedules;**
- **making and maintaining records containing adequate and proper documentation of Board and Council policies, decisions, procedures, and transactions;**
- **sealing and properly signing all of its official acts; and**
- **ensuring Board and Council records are timely available and available at the Board's office.**

We also recommend the Board seek to constitute historical Council records.

We recommend OPLC management assist the Board and Council by:

- **performing administrative, clerical, and business processing responsibilities for the Board and Council;**
- **instituting policy and procedure to facilitate Board and Council compliance with recordkeeping and management requirements; and**

- **ensuring recordkeeping and management procedures supporting the Board and Council are current and include periodic review of paper and corresponding electronic records to ensure accuracy.**

Board Response:

We concur.

The Board will work with OPLC to comply with State law to:

- (1) develop a records management system which encompasses Board and Council records and includes record retention schedules;
- (2) make and maintain records containing adequate and proper documentation of Board and Council policies, decisions, procedures and transactions;
- (3) seal and properly sign all of its official acts; and
- (4) ensure Board and Council records are timely available and available at the Board's office.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation by the end of 2018.

OPLC Response:

We concur.

As stated in the response to Observation No. 16, OPLC continuously strives to fulfill its statutory mandate to perform administrative, clerical, and business processing responsibilities for the Board and Council. To the extent such support was not provided to the Board and Council prior to the consolidation of professional boards, OPLC has been working to remediate such issues and continues to do so on an ongoing basis.

Observation No. 18

Clarify And Codify Terms And Conditions Of Administrative Support

We found the relationship between the OPLC, Board, and Council lacked clarity and consistency with statute, standardized policies were neither current nor adequate, performance management did not exist, and oversight was limited. Further, administrative policies and tasks involving fiscal management and customer services were under-developed during the audit period. We note, however, the OPLC was established at the beginning of the second year of the audit period and experienced leadership turnover.

Scope of Administrative Support

The OPLC lacked a clearly defined relationship with the Board besides the affiliation established in statute. The OPLC was to promote the efficiency and economy of the administration of State regulatory boards and improve customer service. To achieve improved efficiency, the OPLC was to:

- perform administrative, clerical, and business processing responsibilities for the boards;
- issue or deny professional licenses dependent on the applicant meeting minimum qualifications;
- maintain official records of applicants and licensees; and
- facilitate rulemaking.

During the audit period, the OPLC did not further document, clarify, or define how these responsibilities were to be fulfilled for the Board. Further, we found deficiencies in performance management, administrative rules, customer service, licensing, and record keeping.

Managers were responsible for establishing the organizational structure, roles and responsibilities, and reporting lines to ensure the organizational objectives were met. Without the terms and conditions of the relationship between the Board and the OPLC being clearly defined, whether and how well the OPLC was achieving its statutory mission or serving the Board's needs could not be assessed. Further, the OPLC published a mission statement which made no mention of its statutory purposes of promoting efficiency and economy, and improving customer service. Instead, it appropriated the Board's purpose of protecting the public health, which appeared inconsistent with statute.

Standardization

We found the volunteer Board lacked the resources to exercise adequate management controls over many administrative functions. The OPLC was designed to assist the Board with administrative functions, but not to relieve the Board of its other administrative responsibilities, such as creating and maintaining adequate public records, ensuring transparency for all actions, disclosing conflicts of interest, and following administrative procedures. Although the scope of responsibility of the OPLC was limited, many State boards shared common regulatory functions and statutory requirements. Many administrative functions were amendable to procedural standardization by the OPLC, including: the tracking of rule status, training and orienting board members on administrative statutes, and record retention schedules.

Performance Measurement

The OPLC lacked a system to measure how well it performed its Board support function, and the Board did not track performance. Performance measures aid in evaluating an organization's achievement of its objectives and goals, and in assessing compliance. After developing plans to achieve its mission, agencies need specific and measurable sub-objectives and defined performance levels against which they can monitor effectiveness. A reliable performance

measurement system facilitates management's response to risks and evaluation of results, and can help ensure data are complete, accurate, and valid. Sustained monitoring assesses performance and effectiveness over time.

As we discussed in Observations No. 5, No. 7, and No. 15, the Board was untimely, or lacked a method to verify timeliness in processing licenses and responding to inquiries. Additionally, a performance management system can be utilized to monitor regulatory activities, including: Board impact on the public health, safety, or welfare; volume and nature of complaints; enforcement effectiveness; and staff compliance with policy and procedures. There was no system in place to ensure compliance, understand the degree of noncompliance, or track trends over time. Further, the data maintained by the OPLC were found to contain inaccuracies as we discuss in Observation No. 17, which limited measuring performance reliably.

External Communications

The OPLC was created, in part, to improve Board customer service. In order for consumers to make informed decisions about selecting a qualified and dependable naturopath, the OPLC and Board needed to communicate quality information to the public. However, Board minutes, documents required for license renewal, conditions placed on licenses, and limitations issued on licensees' scope of practice were not published. Further, during the audit period, direct public access to the Board was restricted by informal OPLC practice, resulting in reported customer dissatisfaction.

After the audit period, the OPLC launched a new website containing Board meeting dates, previous Board minutes, all required licensing forms, and a directory of licensees. However, the directory did not include additional information describing limitations on the scope of practice or conditions placed on a license. Further, the Council was not incorporated into the new website.

Council Administrative Support

Statute required the OPLC to provide administrative support to all boards, councils, and commissions of the Board. However, the Council did not receive administrative support from the OPLC. The Council's lack of formal policies and procedures, documentation, and compliance with general administrative statutes was affected by the absence of any administrative support. The volunteer Council had to maintain government records independently and fulfil other administrative responsibilities without any assistance.

Licensing Fees

The lifecycle of financial transactions should be recorded promptly and accurately, and the transaction recording processes should be documented. Processes should include the segregation of incompatible duties to ensure one individual does not control several key aspects of a transaction. However, financial controls were undocumented and duties related to the lifecycle of Board financial transactions were not segregated. We found incorrect licensing fees were inconsistently corrected and licensing fees were improperly prorated. Further, one of ten (10.0

percent) initial license applications was accompanied by an overpayment without the OPLC providing a refund.

Subunit Accounting

The OPLC lacked a fully developed cost accounting system to include all expenses incurred by the Board. As of January 2017, the OPLC was in the process of further developing subprogram accounting capabilities. Statute provided the Board the ability to issue an examination to licensees and retain legal services to assist in an investigation. Both statutory provisions contained limitations on how much the Board could expend or request in appropriations, based on implementation costs. However, a detailed cost accounting system was required to facilitate the implementation of these statutory provisions. Consequently, the lack of a detailed cost accounting system could create barriers for the implementation of a jurisprudence examination as we discuss in Observation No. 5.

Recommendations:

We recommend the Board clarify the terms and conditions of its relationship, and the relationship of the Council, to the OPLC via formal agreement.

We recommend OPLC management:

- **reevaluate the OPLC mission statement and ensure consistency with the statutorily-established mission;**
- **standardize policy and practice for similar administrative functions across the supported boards;**
- **help ensure board members adequately understand statutory requirements, such as the Right-to-Know law, the *Administrative Procedures Act*, and the State Code of Ethics;**
- **develop a performance measurement system to measure and monitor regulatory and administrative functions it performs for the boards;**
- **ensure the public has convenient access to all conditions and limitations on licenses and all actions taken to regulate the profession;**
- **ensure the Council receives necessary administrative support;**
- **develop policies documenting the lifecycle of transactions and ensure incompatible duties are segregated; and**
- **undertake more detailed cost accounting to ensure Board fees are sufficient to cover direct and indirect costs of regulating the naturopathic profession.**

Board Response:

We concur.

We will work on clarifying the terms and relationship of both the Board and Council with the OPLC.

Timelines for meeting aforementioned recommendations will be determined through a strategic planning process that the Naturopathic Board of Examiners and the OPLC will engage in mid-2017 with a goal of implementation by the end of 2018.

OPLC Response:

We concur.

As noted in prior responses, OPLC is working to carry out its statutory mandate across all professions under its administration. OPLC further states that although each board may have different administrative needs, it is working to standardize those policies or practices that are universal to all boards, commissions, and councils under its administration. As noted in the observation, OPLC is working on developing subprogram accounting capabilities.

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**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
NATUROPATHIC BOARD OF EXAMINERS**

**APPENDIX A
OBJECTIVES, SCOPE, AND METHODOLOGY**

In May 2016, the Fiscal Committee of the General Court adopted a joint Legislative Performance Audit and Oversight Committee recommendation to conduct a performance audit of the Naturopathic Board of Examiners (Board). We held an entrance conference with the Board's chair and management and administrative staff from the Office of Professional Licensure and Certification (OPLC) in August 2016.

Scope

Our audit was designed to answer the following question:

How effective was the Board at regulating the naturopath profession during State fiscal years 2015 and 2016?

Objectives And Methodology

To gain an understanding of the Board's control and regulatory environment, we:

- reviewed relevant State and federal statutes, rules, policies, procedures, plans, guidelines, and court cases;
- reviewed industry standards, academic literature, and relevant materials from the federal government, other states, and naturopathic and medical institutions;
- reviewed budgetary documents and OPLC financial analysis; and
- reviewed similar audits and evaluations from other states, and relevant prior LBA audits.

To evaluate the effectiveness of the Board, we:

- interviewed Board and Council members, OPLC personnel and other State employees with collateral responsibilities, and external stakeholders;
- observed three Board meetings;
- reviewed Board and Council files and records;
- reviewed and analyzed financial disclosure forms submitted by Board members; and
- reviewed and analyzed all Board minutes during the audit period.

After reviewing the Board's September 2016 roster of 89 licensed naturopaths, we found 85 of the 89 licensed naturopaths held active licenses during the audit period. We sent a survey to the 85 active licensees. We sent 61 licensed naturopaths the survey via electronic mail, 14 via postal mail, and ten via other available modes on-line. Of the 14 queried via postal mail, three were returned due to the Board having an outdated mailing address. Those three did not receive a survey. We received 31 responses for a 36.5 percent response rate. Of the 31 respondents, 25 reported practicing in New Hampshire, which represented 41.7 percent of the 60 total in-State

practicing active licensees. The survey asked 28 questions, several with multiple subparts, pertaining to how naturopaths implemented or interpreted the New Hampshire naturopathic scope of practice and interacted with the Board, and we also solicited general feedback.

We conducted a file review of 80 licensee files; 69 of the files reviewed were part of a judgmental sample selected out of the reported 89 active licensees. The other 11 were selected due to being located in the Board's complaint and correspondence folder, or were based on a denial without a license ever being issued as documented in Board minutes. We conducted a detailed review of case files' compliance with statute, rule, and policy, including: application completeness; timeliness relative to application submission, review, Board decisions, and notification; fee payment; school and institutional accreditation; license issuance; correspondence between applicants and the Board; database reliability; limited scopes issued; and Board member communication and activity outside a duly constituted meeting. Since we did not select cases randomly, we did not project results to the universe of licensed naturopaths in New Hampshire. However, we reviewed the entire population for certain subsets within the universe of data (e.g., specialty certifications).

Audit work was not limited to the audit period where management control weaknesses outside the audit period affected Board effectiveness during the audit period.

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
NATUROPATHIC BOARD OF EXAMINERS**

**APPENDIX B
BOARD RESPONSE TO AUDIT**

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
STATE OF NEW HAMPSHIRE
DIVISION OF HEALTH PROFESSIONS
Board of Licensed Naturopathic Examiners
121 South Fruit Street, Suite 303
Concord, N.H. 03301-2412
Telephone 603-271-9254 · Fax 603-271-6702

PETER DANLES
Executive Director

JOSEPH G. SHOEMAKER
Division Director



March 30, 2017

Stephen C. Smith, MS, CPA, Director of Audits
State of New Hampshire
Office of Legislative Budget Assistant, Audit Division
State House, Room 102
107 North Main Street
Concord, NH 03301-4906

RE: Audit of Naturopathic Examiners

Thank you and your team for completing the comprehensive performance audit for the Naturopathic Board of Examiners (Board). There were many recommendations and we plan to address them thoroughly and in a timely manner. The Board will utilize this audit as a guideline for strategic planning and prioritizing objectives. We appreciate the opportunity that this audit has given us to improve our management controls and regulation of the naturopathic profession in the state of New Hampshire.

Very truly yours,

Dr. Deborah L. Sellers, N.D.

Naturopathic Board of Examiners

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**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
NATUROPATHIC BOARD OF EXAMINERS**

**APPENDIX C
OPLC RESPONSE TO AUDIT**

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
STATE OF NEW HAMPSHIRE
DIVISION OF HEALTH PROFESSIONS

121 South Fruit Street

Concord, N.H. 03301-2412

Telephone 603-271-2219 · Fax 603-271-6990

PETER DANLES
Executive Director

JOSEPH SHOEMAKER
Division Director



March 30, 2017

Stephen C. Smith, MS, CPA
Director of Audits
State of New Hampshire
Office of Legislative Budget Assistant, Audit Division
State House, Room 102
Concord, New Hampshire 03301

RE: Audit of Naturopathic Board of Examiners

Dear Director Smith:

Thank you for conducting the comprehensive performance audit for the Naturopathic Board of Examiners (Board) within the Division of Health Professions of the Office of Professional Licensure & Certification (OPLC). As you know, the OPLC is tasked with improving the administrative efficiency of all boards, councils, and commissions within its administration; this performance audit has, therefore, been as useful for the OPLC as it has been for the Board.

In reviewing the audit report and recommendations, I notice a major theme centering on the relationship of OPLC with the Board and the extent to which the OPLC can and should be involved in Board operations. I see this theme extending beyond the scope of this particular audit and into the OPLC's relationship with all the boards, commissions, and councils within its administration. I am hopeful that in the future the OPLC is empowered with the administrative autonomy to implement policies to accomplish these recommendations on an office-wide scale.

Any initial trepidation of helping the Board through this process was ameliorated by the diligence and professionalism of your team. I look forward to the opportunity to work with your office again in furtherance of the OPLC's statutory mandate to improve the efficiency of all boards, commissions, and councils within its administration.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Danles".

Peter Danles
Executive Director

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**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
NATUROPATHIC BOARD OF EXAMINERS**

**APPENDIX D
SURVEY OF ACTIVE, LICENSED NATUROPATHS**

We sent surveys to the 85 naturopaths actively licensed during the audit period. We received 31 responses for a 36.5 percent response rate. We combined and simplified similar answers to open-ended questions and presented them in topical categories; multipart responses were counted in multiple categories where applicable. Some totals in the following tables may not add up to 100 percent due to rounding or where respondents could respond multiple times to the same question.

Question 1. For survey control purposes, please enter your Naturopathic license number (your license number will be disassociated from your responses to preserve confidentiality).	
	Count
<i>answered question</i>	31
<i>skipped question</i>	0

Question 2. Do you practice naturopathic medicine or naturopathy in New Hampshire?		
Answer Options	Count	Percent
Yes, I practice naturopathic medicine or naturopathy in New Hampshire.	25	80.6
No, I do not practice naturopathic medicine or naturopathy in New Hampshire.	6	19.4
	<i>answered question</i>	31
	<i>skipped question</i>	0

Question 3. If you currently hold multiple healthcare licenses in New Hampshire, please provide any additional licenses or certifications you hold not issued by the Board of Naturopathic Examiners.	
Comments	Count
Acupuncturist	5
Advanced Practice Registered Nurse	1
Certified Midwife	1
N/A	2
	<i>provided comment</i>
	9

Question 4. Was your license active any time between July 1, 2014 to June 30, 2016?		
Answer Options	Count	Percent
Yes	25	100.0
No	0	0.0
	<i>answered question</i>	25
	<i>skipped question</i>	6

Question 5. What type of therapies or diagnostic procedures do you provide your patients? (Select all that apply)		
Answer Options	Count	Percent
Counseling	17	68.0
Hypnotherapy	0	0.0
Biofeedback	2	8.0
Dietary therapy	24	96.0
Therapeutic devices (non-prescription)	9	36.0
Therapeutic devices (prescription)	5	20.0
Barrier devices for contraception	2	8.0
Electrotherapy	1	4.0
Diathermy	0	0.0
Ultraviolet light therapy	2	8.0
Ultrasound	3	12.0
Hydrotherapy	8	32.0
Naturopathic manipulative therapy	8	32.0
Therapeutic exercise	9	36.0
Physical examinations	20	80.0
Orifical examinations	7	28.0
X-rays	1	4.0
Electrocardiograms	1	4.0
Phlebotomy	13	52.0
Clinical laboratory tests and examinations	23	92.0
Physiological function tests	9	36.0
Other	0	0.0

answered question **25**
skipped question **6**

Question 6. Do you provide any other therapies or procedures not mentioned in the previous question?		
Answer Options	Count	Percent
Yes	13	52.0
No	12	48.0

answered question **25**
skipped question **6**

Question 7. What other therapies or procedures do you provide for your patients? (Select all that apply)		
Answer Options	Count	Percent
Major surgery	0	0.0
Minor surgery	0	0.0
Minor office procedures	1	7.7
Procedures or therapies not commonly performed by medical practitioners in general practice	2	15.4
Emergency medicine	0	0.0
Injection of substances into veins	4	30.8
Injection of substances into muscles, ligaments, or tendons	4	30.8
Injection of substances into joints	0	0.0
Other (Please describe)	12	92.3

answered question **13**
skipped question **18**

Question 7. Text Responses, Other (please describe)	Count
Acupuncture	4
Homeopathy	4
Botanical medicine	2
Craniosacral therapy	1
Gynecology	1
Intramuscular injections	1
Risk reduction counseling	1
Sound healing	1
Panchakarma cleansing therapy	1
Nutritional counseling	1
Herbal and nutraceutical treatment	1
Myofascial release	1
Visceral manipulation	1
None of the above	1

provided comment **12**

Question 8. Outside of treating a patient while performing a naturopathic child birth or providing naturopathic acupuncture, do you perform any office procedure that alters tissue?		
Answer Options	Count	Percent
Yes	1	4.0
No	24	96.0

answered question **25**
skipped question **6**

Question 9. How would you describe the procedures you perform that alter tissue? (Select all that apply)		
Answer Options	Count	Percent
Treatment of superficial lacerations and abrasions	1	100.0
The removal of superficially-located foreign bodies, excluding the eyes	1	100.0
Alteration or removal of tissue	0	0.0
Other (Please describe)	1	100.0

answered question **1**
skipped question **30**

Question 9. Text Responses, Other (please describe)	Count
Phlebotomy	1

provided comment **1**

Question 10. Naturopaths are authorized by State law to use certain drugs, medicines, and substances. How do you interpret the word “use” in your practice? (Select all that apply)

The term “use” means to:

Answer Options	Count	Percent
Administer: Instill or apply a single dose of a substance for immediate consumption.	15	60.0
Dispense: Distribute, leave with, giveaway, dispose of, deliver, or sell one or more doses of a substance to be taken at a later time.	17	68.0
Prescribe: Order or designate a remedy for a patient.	22	88.0
Other (Please describe)	2	8.0

answered question **25**
skipped question **6**

Question 10. Text Responses, Other (please describe)	Count
No opinion	1
Single dosage or application is used when seeing a PT. However, when prolonged use is needed for a said therapy (e.g., nutritional therapies), dispensing or prescribing is utilized.	1

provided comment **2**

Question 11. Naturopaths are authorized by State law to prescribe substances listed on the Formulary. Do you prescribe from the Formulary?

Answer Options	Count	Percent
Yes	22	88.0
No	3	12.0

answered question **25**
skipped question **6**

Question 12. What categories of substances do you prescribe from the Formulary in your practice? (Select all that apply)		
Answer Options	Count	Percent
Amino acids	11	50.0
Animal preparations and their derivatives	11	50.0
Antigout agents	6	27.3
Antihistamines	8	36.4
Anti-hyperglycemic agents	7	31.8
Anti-infective agents	17	77.3
Anti-thyroid agents	3	13.6
Autonomic drugs	2	9.1
Barrier contraceptives	3	13.6
Biologicals	6	27.3
Blood formation and coagulation	2	9.1
Botanicals	20	90.9
Cardiovascular drugs	5	22.7
Central nervous system agents	4	18.2
Childbirth preparations	1	4.5
Hormones	18	81.8
Local anesthetics	4	18.2
Mineral, trace minerals, and their derivatives	17	77.3
Miscellaneous substances on the formulary	10	45.5
Plant substances	17	77.3
Respiratory anti-inflammatory agents	6	27.3
Vaccinations	3	13.6
Vitamins	21	95.5

answered question **22**
skipped question **9**

Question 13. Do you use paraphernalia as provided on the Formulary (e.g., needles, syringes, IV tubing) in your practice?		
Answer Options	Count	Percent
Yes	15	60.0
No	10	40.0

answered question **25**
skipped question **6**

Question 14. What paraphernalia do you use in your practice? (Select all that apply)		
Answer Options	Count	Percent
Filters	8	53.3
IV tubing	11	73.3
Needles	15	100
Syringes	14	93.3
Other (Please specify)	1	6.7
	<i>answered question</i>	15
	<i>skipped question</i>	16

Question 14. Text Responses, Other (please specify)	Count
Phlebotomy paraphernalia	1
	<i>provided comment</i>
	1

Question 15. Do you currently hold a registration number with Drug Enforcement Administration to prescribe scheduled substances?		
Answer Options	Count	Percent
Yes	11	44.0
No	14	56.0
	<i>answered question</i>	25
	<i>skipped question</i>	6

Question 16. Do you prescribe Controlled Substances scheduled by the State or federal government in your practice?		
Answer Options	Count	Percent
Yes	6	54.5
No	5	45.5
	<i>answered question</i>	11
	<i>skipped question</i>	20

Question 17. What controlled substances do you prescribe in your practice? (Select all that apply)		
Answer Options	Count	Percent
Schedule I substances	0	0.0
Schedule II substances	1	16.7
Schedule III substances	3	50.0
Schedule IV substances	3	50.0
Schedule V substances	2	33.3
	<i>answered question</i>	6
	<i>skipped question</i>	25

Question 18. Do you specifically prescribe any of these substances?					
Answer Options	Yes	Percent	No	Percent	Response Count
Benzodiazepines (Central Nervous System Agent)	5	83.3	1	16.7	6
DMPS (Dimercapto-1-propanesulfonic acid)	1	16.7	5	83.3	6
Testosterone (Hormone)	6	100.0	0	0.0	6
Zolpidem (Central Nervous System Agent)	2	33.3	4	66.7	6

answered question **6**
skipped question **25**

Question 19. State law permits naturopaths to use specific substances. What substances do you use in your practice? (Select all that apply)		
Answer Options	Count	Percent
Digestive aids	25	100.0
Enzymes	25	100.0
Food or food extracts	22	88.0
Minerals	25	100.0
Non-prescription medications	17	68.0
Oxytocin or Pitocin	3	12.0
Plant substances	21	84.0
Prescription drugs (Included on the Naturopathic Formulary)	17	68.0
Prescription drugs (Not included on the Naturopathic Formulary)	0	0.0
Topical medicines (including analgesics, anesthetics, antiseptics, scabicides, antifungals, and antibacterials)	13	52.0
Vitamins	25	100.0
Whole gland thyroid	19	76.0
Other (please specify or write "none")	0	0.0

answered question **25**
skipped question **6**

Question 20. Are you registered with the State's controlled drug prescription health and safety program, commonly known as the Prescription Drug Monitoring Program or PDMP? (Select the answer that best describes your relationship with the PDMP)		
Answer Options	Count	Percent
Yes, I am registered and actively use it.	0	0.0
Yes, I am registered but have not used it.	2	8.0
No, I am not familiar with the PDMP.	12	48.0
No, I am not required to register because I do not prescribe controlled substances.	6	24.0
No, Naturopaths are not required to register with the PDMP.	0	0.0
Other	5	20.0

answered question **25**
skipped question **6**

Question 20. Text Responses, Other	Count
Naturopathic doctors are not included as doctors who can register, but my office is working towards registering. The plan is to sign up as soon as able.	1
I do not prescribe controlled substances.	1
No.	1
I am planning on registering for 2017.	1
I've tried, but the system stalls.	1
<i>provided comment</i>	5

Question 21. Do you use homeopathic preparations in your practice?		
Answer Options	Count	Percent
Yes	24	96.0
No	1	4.0
<i>answered question</i>		25
<i>skipped question</i>		6

Question 22. When using homeopathic preparations in your practice do you:				
Answer Options	Yes	No	Don't Know	Response Count
Prepare homeopathic preparations in your office according to the Homeopathic Pharmacopoeia of the United States (HPUS)?	3 (12.5%)	21 (87.5%)	0 (0.0%)	24
Prepare homeopathic preparations in your office according to another standard?	0 (0.0%)	24 (100%)	0 (0.0%)	24
Counsel patients to purchase elsewhere HPUS-listed homeopathic preparations?	19 (79.2%)	5 (20.8%)	0 (0.0%)	24
Counsel patients to purchase elsewhere homeopathic preparations not listed in the HPUS?	0 (0.0%)	24 (100.0%)	0 (0.0%)	24
<i>answered question</i>				24
<i>answered question</i>				7

Question 23. Does your practice employ any assistants who aid you in providing naturopathic medicine (this does not include administrative employees)?		
Answer Options	Count	Percent
Yes	4	16.0
No	21	84.0
<i>answered question</i>		25
<i>skipped question</i>		6

Question 24. What statements best describe your use of assistants who aid you in providing naturopathic medicine? (Select all that apply)		
Answer Options	Count	Percent
My practice employs naturopathic assistants.	1	25.0
My practice employs non-credentialed individuals.	1	25.0
My practice employs other credentialed practitioners. (Please specify other credentialed practitioners)	4	100.0
<i>answered question</i>		4
<i>skipped question</i>		27

Question 24. Text Responses, Other (please specify other credentialed practitioners)	Count
Medical Assistants (one specifically reported as certified)	3
Registered Nurse	2
Nurse, not otherwise specified	1
Naturopathic Doctor	1
Licensed Nurse Assistant	1
Administrative Staff	1

provided comment **4**

Question 25. State law authorizes naturopaths to perform "noninvasive diagnostic procedures commonly used by medical practitioners in general practice." Briefly describe how you implement this authority in your practice.		
Answer Options	Count	Percent
I do not know how I implement this authority in my practice.	5	20.0
I describe my implementation of this authority as follows:	20	80.0

answered question **25**

skipped question **6**

Question 25. Text Responses, I describe my implementation of this authority as follows:	Count
Physical exams (e.g. blood pressure, heart, throat, ears, temperature, pulse)	14
Laboratory testing	7
Ordering diagnostic imaging tests (e.g. x-ray, ultrasound, magnetic resonance imaging, computerized tomography scans)	6
Urinary analysis	4
EKGs (electrocardiogram)	3
Referring to a specialist	2
Phlebotomy	2
Review patient history	2
Rapid strep test	2
Noninvasive neurological and psychological exams	1
Orthopedic examination	1
Use of allowed procedures	1

provided comment **20**

Question 26. Describe the Board's effectiveness in the following areas:							
Answer Options	Very Effective	Effective	Neither Effective nor Ineffective	Ineffective	Very Ineffective	No Opinion	Response Count
Acting transparently	8 (25.8%)	9 (29.0%)	4 (12.9%)	1 (3.2%)	1 (3.2%)	8 (25.8%)	31
Providing clear and timely communication with licensees	6 (19.4%)	14 (45.2%)	1 (3.2%)	6 (19.4%)	2 (6.5%)	2 (6.5%)	31
Providing guidance on how to fulfill continuing education requirements	11 (35.5%)	8 (25.8%)	7 (22.6%)	2 (6.5%)	0 (0.0%)	3 (9.7%)	31
Providing guidance on registering with the PDMP	1 (3.2%)	3 (9.7%)	6 (19.4%)	8 (25.8%)	4 (12.9%)	9 (29.0%)	31
Providing guidance on the Formulary and prescribing practices	4 (12.9%)	13 (41.9%)	5 (16.1%)	2 (6.5%)	1 (3.2%)	6 (19.4%)	31
Providing guidance on the Scope of Practice for the profession	6 (19.4%)	15 (48.4%)	4 (12.9%)	0 (0.0%)	1 (3.2%)	5 (16.1%)	31
Protecting the public's health, safety, and welfare	15 (48.4%)	10 (32.3%)	2 (6.5%)	0 (0.0%)	0 (0.0%)	4 (12.9%)	31
Ensuring licensed naturopaths meet minimum standards of proficiency and competency	19 (61.3%)	7 (22.6%)	1 (3.2%)	0 (0.0%)	0 (0.0%)	4 (12.9%)	31

answered question 31
skipped question 0

Question 27. Are there any additional comments you would like to provide regarding the Board of Naturopathic Examiners?	
Comments	Count
No comment	5
Previously served on the Board.	2
Expressed gratitude for the work the Board performs.	2
I have found them to be helpful when called upon. They have been informative about various issues as well, such as when I have concerns about various practice issues.	1
The Board of Naturopathic Examiners has been responsive and helpful when I have had questions, and for confirming that my requirements for licensure and continuing education are always up to date.	1
My only interaction with the Board involves licensing and continuing education. They seem to do a good job of that.	1
Improve the renewal application process, make the meeting times transparent so applications can be in by that time and not the expiration time.	1
Administrative staff is not always efficient in sending out license renewals in a timely manner. My renewal paperwork was not sent until after the Board had met. (The renewal paper works was postmarked after the date it was supposedly due back). It came with a notice that my paperwork was due before the paperwork had been put in the mail to me. This resulted in me not being able to practice naturopathic medicine through no fault of my own.	1
I believe they are doing the best they can for profession and residents of NH while trying to meet regulations.	1
In my experience, there is zero effort made to help advise regarding CEU credit status or possibly even records kept, which is clearly problematic when the CEU submissions and license renewal are offset from each other. It's impossible to communicate with the Board save via administrative staff, which makes it very difficult to get accurate or timely information.	1
The process by which CME/CE is approved seems cumbersome. The list of approved education is outdated; there must be a better way of generalizing to organizations that award CME/CE instead of individual continuing education events.	1
I would like to see Board members remunerated for their time, as other boards do so for their delegates.	1

provided comment **16**
skipped question **15**

Question 28. If you would like to receive a link to our report when it becomes public, please provide the email address where you would like to receive the link. (This email address will not be reported or retained after the report is made public.)		
Answer Options	Count	Percent
Yes (provide e-mail)	23	74.2
No, thank you.	8	25.8

answered question **31**

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