

# CONCISE EXPLANATORY STATEMENT

## Naturopathic Physician Services

WAC 296-23-205 General Information – Naturopathic physicians. (amended)

WAC 296-23-215 Office visits and special services – Naturopathic physicians. (repealed)

Public Hearing: March 14, 2024

Adoption: May 21, 2024

Effective: July 1, 2024

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## **I. Purpose of Rulemaking**

Labor & Industries (L&I) is repealing WAC 296-23-215 and amending WAC 296-23-205.

### **A. Background**

This action was taken as part of a larger project to transition naturopathic physicians from L&I-specific local billing codes to national and industry-standard CPT® billing codes. The purpose of these rule changes is to consolidate references to other existing relevant rules, remove no longer applicable language related to “treatment of the day” and other no longer pertinent information to further align with the transition.

### **B. Summary of the rulemaking activities**

L&I developed the proposed rule language through recommendations of an internal project team based on feedback provided by interested stakeholders and current coverage for naturopathic physician services. This team was tasked with helping to understand the issues regarding naturopathic physician services, while taking into consideration insurance coverage best practices. The results of that work was presented to a group of naturopathic physicians and their professional association for further feedback. That outreach resulted in overwhelmingly positive feedback regarding the planned transition. Based on the team’s review and outreach, the proposed rule language was developed.

Stakeholder comments were received and considered throughout the rulemaking process.

## **II. Changes to the Rules (Proposed rule versus rule adopted)**

### **WAC 296-23-205 General Information – Naturopathic physicians. (amended)**

- For clarification and further consolidation the proposed language in (7)(a), (b) and (6) were moved under subsection (1) as general references in the adopted rule amendment.

Proposed Rule Language	Adopted Rule Language
(1) Refer to WAC 296-20-010 through 296-20-125 for general rules and billing procedures.	(1) Refer to WAC 296-20-010 through 296-20-125 for general rules and billing procedures <u>including, but not limited to</u> :-
(7) In addition to general rules found in WAC 296-20-010 through 296-20-125, the following rules apply to naturopathic physicians: (a) The department will not pay or authorize treatment that is not proper and necessary. See WAC 296-20-01002 for the definition of "proper and necessary" health care services.	(1)(a) WAC 296-20-06101 for reporting requirements.
(7)(b) The department will not allow or pay for treatment measures that are unusual, controversial, obsolete, or experimental in nature. See WAC 296-20-03002 for treatment not authorized by the department.	(1)(b) WAC 296-20-01002 for the definition of "proper and necessary" health care services.
(6) Refer to WAC 296-20-06101 for reporting requirements.	(1)(c) WAC 296-20-03002 for treatment not authorized by the department.

**WAC 296-23-215 Office visits and special services – Naturopathic physicians. (repealed)**

- No changes.

### III. Comments on Proposed Rule

#### A. Comment Period

The public comment period began on February 6, 2024, and ended on March 14, 2024. Written comments were received.

#### B. Public Hearing

A public hearing was conducted virtually via Zoom at 2 p.m. on Thursday, March 14, 2024. Three individuals attended the public hearing and one of those individuals testified.

Of the three individuals who attended the March 14, 2024, public hearing, two individuals did not testify but signed in expressing support of the proposed rule changes. The one other individual testified in support of the rule but had a few concerns. Their concerns were followed up by written comment. See below for their concerns and L&I's response.

### C. Summary of Comments Received and L&I's Responses

Below is a summary of the comments L&I received and the responses.

General Comments	L&I Response
These changes are long-overdue and would align billing codes and processes used by naturopathic physicians with industry standards and increase equity in reimbursement across the provider community. It will also make L&I billing more accessible thereby increasing provider options and availability for patients.	This comment is noted as being in favor and thus no response is necessary.
Addition of the new language under WAC 296-23-205 (7)(a) and (b) and (6) is redundant with (1). Request striking of subsections (6), (7)(a) and (b).	Thank you for your comment. Although redundant, the intent is to highlight these important references within the reference range already obligated to naturopathic physicians under subsection (1). In an effort to clarify and further consolidate, subsections (7)(a), (b) and (6) were moved under subsection (1).
The proposed rule language in subsection (7)(a) and (b) may codify the implication that naturopaths are more likely to use treatment that is not “proper and necessary” or “treatment measures that are unusual, controversial, obsolete, or experimental in nature” more than other provider types.	<p>Thank you for your comment. Moving these references under subsection (1) clarifies these references are generally applicable to all providers and not specifically to naturopathic physicians. The intent of these references was to:</p> <ul style="list-style-type: none"> <li>• Replace the undefined terms “maintenance” and “supportive care” in subsection (4) with an existing defined term “proper and necessary”, which is applicable to all providers. The</li> </ul>

	<p>inclusion of the reference to “proper and necessary” care doesn’t imply L&amp;I believes providers, and in this case naturopaths, would provide improper care to their patients but rather emphasizes that the care must be related to an accepted condition and is curative or rehabilitative.</p> <ul style="list-style-type: none"> <li>• Provide an easy reference to rules for non-covered services that are applicable to all providers. With the transition to use of CPT® billing codes instead of the L&amp;I-specific local codes that include treatment, naturopathic physicians will now be required to obtain prior authorization for certain treatments, which they have not been required to do previously in order to bill for those services under their local codes. L&amp;I believes providing a direct reference to this rule is a benefit to naturopaths, especially during the transition.</li> </ul>
<p>Striking subsection (5) goes beyond the stated intent and is outside the scope of the filed rulemaking because it removes an important requirement made of naturopaths in the L&amp;I provider network. Subsection (5) means that treatment a naturopath renders beyond 60 days requires a consultation and detailed report from the consultant. The changes proposed appear to eliminate the consultation reporting requirements, which is an important tool in identifying and limiting low quality care as referenced in WAC 296-20-01100 (6) and care that may not be “proper and necessary” as referenced in WAC 296-20-01002.</p>	<p>Thank you for your comment. The intent of the rulemaking is to update billing and coding requirements for naturopathic physicians to support consistency with other payers and other attending provider types. Subsection (5) was struck as this rule is already established within the reference range obligated to naturopathic physicians under subsection (1). Thus, striking of subsection (5) is part of general housekeeping to remove redundancies and ensure clarity and consistency with other all other providers, including those in L&amp;I provider network. This is within the scope of the proposed rulemaking.</p> <p>Striking subsection (5) does not remove the requirement for important documentation from naturopaths to support “proper and necessary care” and authorization for further treatment. This rule refers to the requirement of providers to submit either a 60-day narrative report every 60 days or 20 visits, or comprehensive visit chart notes that contain the same elements in lieu of the report. Providers, including naturopathic physicians, do not need to refer to another provider to complete this type of reporting; this can be part of a typical office visit.</p>

	<p>The reference range in subsection (1) includes WAC 296-20-030 Treatment not requiring authorization, WAC 296-20-03001 Treatment requiring authorization, and WAC 296-20-06101 What reports are health care providers required to submit to the insurer?, all of which state this 60 day report requirement.</p> <p>Additionally, striking of subsection (5) does not remove the requirement that providers must send the worker out for a consultation if conservative care extends past 120 days following the initial visit (WAC 296-20-045). In this case, a naturopathic physician would need to refer out to an approved consultant provider type to fulfill this requirement. The reference range in subsection (1) also already includes reference to this rule.</p>
<p>My understanding is subsection (5) is being removed because there is substantially similar language in other sections of the administrative code, however, the closest I could find is WAC 296-20-030 and 296-20-03001. While these two WAC's are similar, they are not similar to 296-23-205 (5) because the first two address authorization and 296-23-205 (5) requires what I consider important documentation regarding proper care for injured workers.</p>	<p>Thank you for your comment. The purpose of the 60-day report of comprehensive visits chart notes in lieu of are to support authorization for continued proper and necessary care. Both WAC 296-20-030 Treatment not requiring authorization and 296-20-03001 Treatment requiring authorization are referenced within subsection (1) and refer to this requirement from the lens of authorization. L&amp;I only pays for proper and necessary care and therefore will not authorize care that doesn't meet these requirements.</p>