

2 State of Arkansas
3 90th General Assembly
4 Regular Session, 2015

A Bill

DRAFT MGF/LNS
HOUSE BILL

5
6 By: Representative Linck

7 Filed with: House Committee on Public Health, Welfare, and Labor
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

9
10 AN ACT TO LICENSE NATUROPATHIC PRACTITIONERS; TO
11 PROVIDE PENALTIES; AND FOR OTHER PURPOSES.

Subtitle

12
13
14
15 AN ACT TO LICENSE NATUROPATHIC
16 PRACTITIONERS.

17
18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20
21 SECTION 1. Arkansas Code Title 17 is amended to add an additional
22 chapter to read as follows:

23 Chapter 108 – NATUROPATHIC PRACTITIONERS

24
25 Subchapter 1 – General Provisions

26
27 17-108-101.

28 This chapter shall be known and may be cited as the "Naturopathic
29 Practitioner Act".

30
31 17-108-102. Findings and purpose.

32 (a) The General Assembly finds that:

33 (1) A significant number of the citizens of this state are
34 turning to naturopathic practitioners for their healthcare needs; and

1 (2) Naturopathy is a distinct health care profession that
2 affects the public health, safety, and welfare and provides the public with
3 freedom of choice in health care.

4 (b) This chapter is intended to:

5 (1) Provide standards for the licensing and regulation of
6 naturopathy to protect the public health, safety, and welfare; and

7 (2) Provide a means of identifying qualified naturopathic
8 practitioners.

9
10 17-108-103. Definitions.

11 As used in this chapter:

12 (1) "Approved naturopathic college" means a college or university
13 granting the degree of Doctor of Naturopathy, Doctor of Naturopathic Health
14 Care, or Doctor of Nutritional Science that:

15 (A) Is accredited by the federal government or accredited and
16 approved by a nationally recognized accreditation and certification board
17 such as the Council on Naturopathic Medical Education or American Association
18 of Naturopathic Medical Colleges;

19 (B) Has candidate-for-accreditation status with the accrediting
20 agency; or

21 (C) Has been approved by the Naturopathic Practitioners Advisory
22 Committee after the college was investigated and found to meet education
23 standards equivalent to those established by the accrediting agency;

24 (2) "Natural antibiotics" means antimicrobial, antifungal, and
25 antiprotozoal agents that are naturally occurring substances or manufactured
26 substances that are substantially identical to the naturally occurring
27 substances;

28 (3) "Natural medicines" means food, food extracts, and dietary
29 supplements as defined by the Federal Food, Drug, and Cosmetic Act, 21
30 U.S.C., Chapter 9, as in effect January 1, 2013, homeopathic remedies, plant
31 substances that are not designated as prescription drugs or controlled
32 substances, over-the-counter medications, and substances prepared according
33 to the official Homeopathic Pharmacopoeia of the United States, as in effect
34 January 1, 2013;

35 (4) "Naturopathic medicine" means a system of health care practiced by
36 naturopathic practitioners for the prevention, evaluation, and care of human

1 health conditions that uses education, natural substances, and remedies to
2 support and stimulate the individual's intrinsic self-healing processes;

3 (5)(A) "Naturopathic physical modality" means the use of the physical
4 agents of air, water, heat, cold, sound, light, and electromagnetic non-
5 ionizing radiation and the physical modalities of electrotherapy,
6 biofeedback, diathermy, ultraviolet light, ultrasound, hydrotherapy, and
7 exercise.

8 (B) "Naturopathic physical modality" does not include the
9 practice of physical therapy, acupuncture, or chiropractic, unless the
10 naturopath is qualified and has passed an examination approved by an
11 appropriate board to practice in physical therapy, acupuncture, or
12 chiropractic;

13 (6) "Naturopathic practitioner" means a person who is licensed by the
14 Arkansas State Board of Acupuncture and Related Techniques and Naturopathic
15 Medicine to practice naturopathy;

16 (7) "Practice of naturopathy" means a system of health care for the
17 prevention and care of human conditions, injuries, and diseases that uses
18 education, natural substances, and natural therapies to support and stimulate
19 the patient's intrinsic self-healing processes; and

20 (8) "Topical preparations" means over-the-counter preparations for
21 application to the skin.

22
23 17-108-104. Exceptions.

24 (a) This chapter does not:

25 (1) Prevent any other professional who is licensed, certified,
26 or registered under the laws of this state from providing services consistent
27 with the professional's scope of practice;

28 (2) Apply to a student of naturopathy who is currently enrolled
29 in an approved naturopathic course of study and who gratuitously evaluates
30 human conditions under the direct supervision of a naturopathic physician
31 regulated under the laws of this state if the student's activities are within
32 the scope of practice of the supervising naturopathic practitioner and are
33 limited to activity consistent with the scope of practice authorized by this
34 chapter;

1 (3) Prohibit or restrict a person engaged in the sale of
2 vitamins, health foods, dietary supplements, herbs, or other products of
3 nature not otherwise prohibited under state or federal law;

4 (4) Prohibit a person from providing nutritional advice, giving
5 advice concerning proper nutrition, or giving information as to the use and
6 role of food and food ingredients, including dietary supplements, except that
7 providing nutritional advice under this subdivision does not include the
8 authority to:

9 (A) Practice medicine or surgery;

10 (B) Undertake the treatment or cure of a disease, pain,
11 injury, deformity, or physical or mental condition; or

12 (C) State that a product might cure a disease, pain,
13 injury, deformity, or other condition; or

14 (5) Apply to a naturopathic practitioner who is licensed in
15 another state, a territory of the United States, or the District of Columbia
16 if the state, territory, or the District of Columbia requires credentials
17 equivalent to those of this chapter and who is called into this state for
18 consultation with another naturopathic practitioner licensed in this state.

19 (b) This chapter does not apply to:

20 (1) The activities and services of members of other professions
21 licensed or certified by the state performing counseling consistent with the
22 laws of this state, their training, and any code of ethics of their
23 professions, if they do not represent themselves by any title or description
24 in the manner prescribed by § 17-108-303, including without limitation:

25 (A) Physicians;

26 (B) Registered nurses;

27 (C) Psychologists;

28 (D) Social workers;

29 (E) Marriage and family therapists;

30 (F) Chemical dependency counselors;

31 (G) Physician assistants;

32 (H) Occupational therapists;

33 (I) Optometrists;

34 (J) Christian Science practitioners; or

35 (K) Other recognized religious practitioners;

1 (2) The activities, services, titles, and descriptions of
2 persons licensed to practice law;

3 (3)(A) A student in training in a medical school approved by the
4 State Board of Health while performing the duties assigned in the course of
5 training if the duties are performed under the supervision of a licensed
6 practitioner;

7 (B) However, medical residents, interns, and fellows shall
8 be required to register and be subject to the other applicable provisions of
9 this chapter; or

10 (4) A physician licensed in another state who is in this state
11 for consultation with a naturopathic practitioner licensed in this state but
12 does not:

13 (A) Have an office in this state; or

14 (B) Appoint a place in this state for seeing, examining,
15 or treating patients.

16
17 Subchapter 2 – The Naturopathic Practitioner Act – Arkansas State Board
18 of Acupuncture and Related Techniques and Naturopathic Medicine

19
20 17-108-201. Powers and duties of the Arkansas State Board of
21 Acupuncture and Related Techniques and Naturopathic Medicine.

22 (a) The Arkansas State Board of Acupuncture and Related Techniques and
23 Naturopathic Medicine shall adopt rules consistent with this
24 chapter.

25 (b) The board shall administer this chapter, investigate violations of
26 this chapter, prepare and administer examinations required by the board, and
27 perform other duties authorized by this chapter.

28 (c) The board shall adopt rules authorizing the use by naturopathic
29 practitioners of other evaluative procedures and other natural substances,
30 treatments, procedures, and therapies if the substances, treatments,
31 procedures, and therapies are taught in approved courses of study or used by
32 practitioners licensed by other entities of the state and are consistent with
33 this chapter.

34
35 17-108-202. Naturopathic Practitioners Advisory Committee.

1 (a)(1) The Naturopathic Practitioners Advisory Committee is created as
2 an advisory committee to the Arkansas State Board of Acupuncture and Related
3 Techniques and Naturopathic Medicine, to be composed of nine (9) members
4 appointed by the board.

5 (2) The board shall appoint the members of the committee within
6 ninety (90) days of the effective date of this chapter.

7 (b)(1)(A) Six (6) members shall be acupuncturists licensed by the
8 board; and

9 (B) Three (3) members shall be naturopathic practitioners
10 licensed under this chapter.

11 (2) In appointing the initial naturopathic practitioner members
12 of the Naturopathic Practitioners Advisory Committee, the board, in lieu of
13 appointing members who are naturopathic practitioners licensed under this
14 chapter, may appoint three (3) members who are otherwise qualified and have
15 applied for licenses as naturopathic practitioners under this chapter.

16 (c)(1) Members shall be appointed for staggered terms of four (4)
17 years.

18 (2) The initial members shall draw lots so that:

19 (A) Three (3) members serve three-year terms; and

20 (B) Four (4) members serve four-year terms.

21 (d) The board shall call the first meeting of the committee within
22 sixty (60) days of the effective date of this chapter.

23 (e) If a vacancy occurs on the committee, the board shall appoint a
24 person having the appropriate qualifications to serve the unexpired part of
25 the term.

26 (f) The committee may adopt rules for the conduct of its activities
27 and shall elect from among its members a chair who shall serve a term of one
28 (1) year.

29 (g) A majority of the members of the committee constitutes a quorum to
30 transact the business of the committee.

31 (h) The committee shall meet at least once each calendar year and
32 shall meet at other times at the call of the presiding officer as necessary
33 to transact its business.

34 (i) The members of the committee may not receive compensation but may
35 receive expense reimbursement in accordance with § 25-16-902.

36 (j) The committee shall:

1 (1) Recommend to the board rules to implement standards adopted
2 under this chapter;

3 (2) Perform other duties assigned by the board; and

4 (3) Recommend to the board examinations required by this
5 chapter.

6 (k) A naturopathic practitioner member of the committee may be
7 licensed as a member of another health profession regulated or licensed by
8 the state.

9
10 17-108-203. Complaint procedure in general.

11 (a) The Arkansas State Board of Acupuncture and Related Techniques and
12 Naturopathic Medicine shall establish and keep current an information file
13 that contains a record for each complaint of:

14 (1) All persons contacted in relation to the complaint;

15 (2) A summary of findings made at each step of the complaint
16 process;

17 (3) An explanation of the legal basis and reason for a complaint
18 that is dismissed; and

19 (4) Other relevant information.

20 (b) If a written complaint is filed with the board that the board has
21 authority to resolve, the board, at least as frequently as quarterly and
22 until final disposition of the complaint, shall notify the parties to the
23 complaint of the status of the complaint unless the notice would jeopardize
24 an undercover investigation.

25 (c)(1) The board shall adopt a form to standardize information
26 concerning complaints made to the board.

27 (2) The board shall provide to a person who files a complaint
28 with the board a list and explanation of the required standardized
29 information.

30 (d) The board shall provide reasonable assistance to a person who
31 wishes to file a complaint with the board.

32
33 17-108-204. Complaint investigation procedure.

34 (a) The Arkansas State Board of Acupuncture and Related Techniques and
35 Naturopathic Medicine shall adopt rules concerning the investigation of a
36 complaint filed under this chapter.

1 (b) The rules adopted under this section shall:

2 (1) Distinguish between categories of complaints;

3 (2) Ensure that complaints are not dismissed without appropriate
4 consideration;

5 (3) Require that the Naturopathic Practitioners Advisory
6 Committee be advised of a complaint that is dismissed and that a letter be
7 sent to the person who filed the complaint explaining the action taken on the
8 dismissed complaint; and

9 (4) Ensure that the person who filed the complaint has an
10 opportunity to explain the allegations made in the complaint.

11 (c) The board shall complete an investigation of each complaint in a
12 timely manner.

13
14 17-108-205. Discipline of license holder.

15 (a) A license to practice naturopathy may be denied or, after notice
16 and hearing, suspended, probated, or revoked if the applicant for a license
17 or the holder of a license:

18 (1) Uses drugs or intoxicating liquors to an extent that affects
19 the professional competence of the applicant or license holder;

20 (2) Obtains or attempts to obtain a license by fraud or
21 deception;

22 (3) Is adjudged mentally incompetent by a court of competent
23 jurisdiction;

24 (4) Practices naturopathy in a manner detrimental to the public
25 health and welfare;

26 (5) Violates this chapter or a rule adopted under this chapter;

27 (6) Pleads guilty or nolo contendere to, or is found guilty of a
28 felony, a crime involving moral turpitude, or fraud of any kind; or

29 (7) Holds himself or herself out as a physician or surgeon or
30 any combination or derivative of those terms unless the person is also
31 licensed under the Arkansas Medical Practices Act, § 17-95-201 et seq.

32 (b) If a license suspension is probated, the Arkansas State Board of
33 Acupuncture and Related Techniques and Naturopathic Medicine may require the
34 license holder to:

35 (1) Report regularly to the board on matters that are the basis
36 of the probation;

1 (2) Limit practice to areas prescribed by the board; or

2 (3) Continue professional education until he or she attains a
3 degree of skill satisfactory to the board in those areas that are the basis
4 of the probation.

5 (c) A person whose application for a license is denied or whose
6 license is suspended or revoked is entitled to a hearing before the board if
7 the person submits a written request to the board.

8
9 Subchapter 3 – The Naturopathic Practitioner Act – Licensing

10
11 17-108-301. License qualifications.

12 (a) A person is qualified to be licensed as a naturopathic
13 practitioner if the person:

14 (1) Completes and submits to the Arkansas State Board of
15 Acupuncture and Related Techniques and Naturopathic Medicine an application
16 accompanied by the appropriate fees;

17 (2) Is a graduate of an approved naturopathic college or
18 university under § 17-108-103;

19 (3) Has passed an examination prescribed or endorsed by the
20 Naturopathic Practitioners Advisory Committee covering the appropriate
21 naturopathic subjects; and

22 (4) Is of good moral character.

23 (b) A person is qualified to be licensed as a naturopathic
24 practitioner without examination if the applicant:

25 (1) Is licensed to practice naturopathy in another state, a
26 territory of the United States, or the District of Columbia under conditions
27 and circumstances that the board finds to be comparable to the requirements
28 of this state for obtaining a license to practice naturopathy, and the state,
29 the territory, or the District of Columbia requires the successful completion
30 of a professional examination for the issuance of a license;

31 (2) Has graduated from a naturopathic college or university
32 approved by the board or, if the applicant was licensed before a date
33 designated by board rule, the applicant graduated from a college or
34 university approved by the committee after the college or university was
35 investigated and found to meet the acceptable educational standards in
36 existence at the time of the applicant's graduation;

1 (3) Produces evidence satisfactory to the committee that the
2 applicant holds a valid, unsuspended, and unrevoked license;

3 (4) Has been actively engaged in the practice of naturopathy for
4 not less than one (1) year; and

5 (5) Is of good moral character.

6 (c) A person may sit for the examination prescribed or endorsed by the
7 committee under subsection (a) of this section and be eligible for licensure
8 as a naturopathic practitioner on the passage of the examination if, before
9 December 1, 2013, the person files a license application, pays the required
10 fees, and submits proof to the board that the person:

11 (1) Attended a naturopathic college or university and received a
12 doctorate degree in naturopathy from the college or university before January
13 1, 2013, and the college or university is subsequently approved by the
14 committee;

15 (2) Before May 1, 2013, provided in this state and on a regular
16 and ongoing basis health care services within the scope of practice of
17 naturopathic medicine for patients in this state; and

18 (3) Is of good moral character.

19 (d) A person licensed under this chapter may:

20 (1) Use the title "Naturopathic Practitioner" and any other
21 title permitted under § 17-108-303(a); and

22 (2) Practice naturopathic medicine only within the scope of
23 practice that reflects the limits of his or her training and experience.

24 (e)(1) The board may adopt rules providing for limitations on the
25 practice of a person licensed under this chapter.

26 (2) However, the board may not require a person licensed under
27 this chapter to be identified as a person whose practice is limited.

28
29 17-108-302. Examination.

30 (a)(1) The Naturopathic Practitioners Advisory Committee may prescribe
31 a nationally developed standard examination as part or all of the examination
32 prescribed or endorsed under § 17-108-301(a).

33 (2)(A) The Arkansas State Board of Acupuncture and Related
34 Techniques and Naturopathic Medicine shall promulgate rules to establish
35 criteria for passing the examination.

1 (B) The board may promulgate other rules necessary to the
2 administration of the examination.

3 (b) The board shall set the fees for the examination, reexamination of
4 the entire examination, and reexamination of separate components of the
5 examination in amounts necessary to cover the actual cost of the examination
6 and the expenses of administration.

7
8 17-108-303. Use of titles – Penalty – Injunction.

9 (a) Only a naturopathic practitioner may use the title "Naturopathic
10 Practitioner", "Doctor of Naturopathy", "Naturopath", or "ND".

11 (b) A person not licensed under this chapter is guilty of a Class A
12 misdemeanor and is subject to penalties applicable to the unlicensed practice
13 of naturopathic medicine if he or she:

14 (1) Holds himself or herself out as a person who practices
15 naturopathic medicine;

16 (2) Uses any combination or abbreviation of the terms described
17 in subsection (a) of this section without holding a license or while he or
18 she is on retired or inactive status; or

19 (3) Acts as a naturopathic practitioner.

20 (c) The Arkansas State Board of Acupuncture and Related Techniques and
21 Naturopathic Medicine may seek an injunction against a person who violates
22 this section in the circuit court of the county in which the violation
23 occurs.

24
25 17-108-304. License fees.

26 The Arkansas State Board of Acupuncture and Related Techniques and
27 Naturopathic Medicine shall adopt an initial licensing fee and annual renewal
28 fees in amounts necessary to cover the costs of administering this chapter.

29
30 17-108-305. License renewal.

31 (a) Annual renewal of a license to practice as a naturopathic
32 practitioner is required.

33 (b) To renew a license, a naturopathic practitioner shall submit to
34 the Arkansas State Board of Acupuncture and Related Techniques and
35 Naturopathic Medicine evidence of successful completion of the required hours
36 of continuing education from programs approved by the board.

1 (c) The board shall adopt rules establishing approved programs of
2 continuing education and the manner for verifying participation.

3 (d) The board may adopt other rules necessary for the administration
4 of license renewals.

5
6 17-108-306. Continuing education.

7 (a) The Arkansas State Board of Acupuncture and Related Techniques and
8 Naturopathic Medicine shall require not fewer than fifteen (15) hours
9 annually of continuing education hours for all naturopathic practitioners.

10 (b)(1) A person who seeks to renew a license that expired within the
11 preceding year shall comply with the continuing education requirements for
12 the regular renewal of the license.

13 (2) A person seeking to renew a license that has been expired
14 for more than one (1) year must present evidence of completion of not less
15 than one-half (1/2) of the required hours of approved continuing education
16 requirements during the year preceding the date of the application for
17 renewal.

18
19 17-108-307. Inactive status – Retired status.

20 (a) To place a license on inactive status, the license holder shall
21 notify the Arkansas State Board of Acupuncture and Related Techniques and
22 Naturopathic Medicine at the time of renewal and pay a fee for inactive
23 status.

24 (b) To activate a license on inactive status, the license holder shall
25 pay the regular renewal fee and present evidence of having completed not less
26 than one-half (1/2) of the required hours of approved continuing education
27 requirements during the year preceding the date of the application for
28 activation.

29 (c)(1) A license holder seeking to place a license on retired status
30 shall notify the board at the time of renewal.

31 (2) A license on retired status may not be reactivated.

32 (d) A license holder who holds a license that is on inactive or
33 retired status may not practice naturopathic medicine.

34
35 Subchapter 4 – The Naturopathic Medicine Act – Naturopathic Practice
36

1 17-108-401. Authorized activities.

2 (a) A person licensed as a naturopathic practitioner under this
3 chapter may use for preventive and therapeutic purposes the following
4 preparations and therapies:

- 5 (1) Natural medicines;
- 6 (2) Minor office procedures;
- 7 (3) Natural antibiotics;
- 8 (4) Topical preparations; and
- 9 (5) Naturopathic physical modality.

10 (b) A person licensed as a naturopathic practitioner under this
11 chapter may use the following for evaluation purposes, if the practitioner
12 has met the appropriate educational requirements and has obtained the
13 approval of the Arkansas State Board of Acupuncture and Related Techniques
14 and Naturopathic Medicine:

- 15 (1) Physical and orificial examinations;
- 16 (2) X-rays;
- 17 (3) Electrocardiograms;
- 18 (4) Therapeutic ultrasound;
- 19 (5) Phlebotomy;
- 20 (6) Clinical laboratory tests and examinations;
- 21 (7) Physiological function tests; and
- 22 (8) The noninvasive diagnostic procedures commonly used in

23 naturopathic medical practice.

24
25 17-108-402. Specialty practice.

26 (a) A person licensed under this chapter as a naturopathic
27 practitioner shall comply with the requirements adopted by the Arkansas State
28 Board of Acupuncture and Related Techniques and Naturopathic Medicine for
29 issuance of the specialty certification that are equivalent to the minimum
30 requirements, including any examination required by the board, to obtain a
31 license to practice in this state a different specialty not covered under
32 this chapter.

33 (b) The Naturopathic Practitioners Advisory Committee may recommend a
34 national standardized examination in a requested specialty as constituting
35 the specialty examination.

36

1 17-108-403. Use of X-ray.

2 (a) A naturopathic practitioner licensed under this chapter may use an
3 X-ray in the course of practice only if the naturopathic practitioner is
4 certified by the Arkansas State Board of Acupuncture and Related Techniques
5 and Naturopathic Medicine as qualified to perform X-ray procedures.

6 (b) The board shall adopt rules for the issuance of a certification
7 under this section that are equivalent to the requirements for other health
8 professionals to engage in the use of X-rays.

9
10 17-108-404. Prohibited acts.

11 A naturopathic practitioner shall not:

12 (1) Prescribe, dispense, or administer any legend drugs or
13 controlled substances;

14 (2) Perform X-ray procedures except those procedures authorized
15 by this chapter;

16 (3) Practice emergency care except as a Samaritan rendering
17 gratuitous services in the case of emergency, and except for the care of
18 minor injuries; or

19 (4) Claim to practice allopathic medicine or surgery,
20 osteopathy, dentistry, podiatry, optometry, chiropractic, physical therapy,
21 acupuncture, or any other system or method of treatment not authorized by
22 this chapter.

23
24 17-108-405. Duties and responsibilities.

25 A naturopathic practitioner has the same duty and responsibility as any
26 other licensed health care provider regarding public health laws, reportable
27 diseases and conditions, communicable disease control and prevention, the
28 recording of vital statistics, health and physical examinations, and
29 competency examinations, except that the authority under this section is
30 limited to activity consistent with the scope of practice authorized by this
31 chapter.

32
33 SECTION 2. Arkansas Code § 17-102-201, concerning the creation of the
34 Arkansas State Board of Acupuncture and Related Techniques and Naturopathic
35 Medicine, is amended to read as follows:

1 (a)(1)(A) There is created the Arkansas State Board of Acupuncture and
2 Related Techniques and Naturopathic Medicine.

3 (B) The board shall consist of five (5) persons appointed
4 by the Governor as full members and one (1) person appointed by the Governor
5 as an ex officio member.

6
7 SECTION 3. DO NOT CODIFY. The Arkansas Code Revision Commission shall
8 replace the name "Arkansas State Board of Acupuncture and Related Techniques"
9 in all appropriate sections of the Arkansas Code with the name "Arkansas
10 State Board of Acupuncture and Related Techniques and Naturopathic Medicine".

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12
13 Referral requested by: Representative Kelley Linck

14 Prepared by: LNS
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