

1 INTERIM STUDY PROPOSAL 2013-009

2 State of Arkansas *As Engrossed: H2/22/13 H2/28/13 H3/20/13*

3 89th General Assembly

# A Bill

4 Regular Session, 2013

HOUSE BILL 1011

5  
6 By: Representative D. Altes

7 Filed with: Interim 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:

### Chapter 108 – NATUROPATHIC PRACTITIONERS

#### Subchapter 1 – General Provisions

##### 17-108-101.

27  
28 This chapter shall be known and may be cited as the "Naturopathic  
29 Practitioner Act".

##### 17-108-102. Findings and purpose.

31  
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:*

