

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: S3/18/03

A Bill

SENATE BILL 118

5 By: Senator J. Jeffress
6
7

For An Act To Be Entitled

9 AN ACT TO REGULATE THE PRACTICE OF *NATUROPATHY*;
10 TO PROVIDE PENALTIES; AND FOR OTHER PURPOSES.
11

Subtitle

12 AN ACT TO REGULATE THE PRACTICE OF
13 *NATUROPATHY*.
14
15
16

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

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

21 SUBCHAPTER 1 - GENERAL PROVISIONS

22

23 17-107-101. This chapter shall be known and may be cited as "The
24 Naturopathic Practitioner Act".

25
26 17-107-102. Findings and purpose.

27 (a) The General Assembly finds that:

28 (1) A significant number of the citizens of this state are
29 turning to naturopathic practitioners for their health care needs; and

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

33 (b) This chapter is intended to:

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

36 (2) Provide a means of identifying qualified naturopathic



1 practitioners.

2
3 17-107-103. Definitions.

4 As used in this chapter:

5 (1) "Advisory committee" means the Naturopathic Practitioners Advisory
6 Committee;

7 (2) "Approved naturopathic college" means a college granting the
8 degree of doctor of naturopathy, doctor of naturopathic health care, or
9 doctor of nutritional science that:

10 (A) Is accredited by the federal government, or by a nationally
11 recognized accreditation and certification board, such as the American
12 Association of Naturopathic Medical Certification and Accreditation Board,
13 and approved by the board;

14 (B) Has candidate-for-accreditation status with the accrediting
15 agency; or

16 (C) Has been approved by the advisory committee after the
17 college was investigated and found to meet education standards equivalent to
18 those established by the accrediting agency;

19 (3) "Board" means the State Board of Health;

20 (4) "Department" means the Department of Health;

21 (5) "Natural antibiotics" means antimicrobial, antifungal, and
22 antiprotozoal agents that are naturally occurring substances or manufactured
23 substances that are substantially identical to the naturally occurring
24 substances;

25 (6) "Natural medicines" means food, food extracts, dietary supplements
26 as defined by the Federal Food, Drug, and Cosmetic Act, as in effect January
27 1, 2003, homeopathic remedies, plant substances that are not designated as
28 prescription drugs or controlled substances, over-the-counter medications,
29 and substances prepared according to the official Homeopathic Pharmacopoeia
30 of the United States, as in effect January 1, 2003;

31 (7) "Naturopathic medicine" means a system of health care practiced by
32 naturopathic practitioners for the prevention, evaluation, and care of human
33 health conditions that uses education, and natural substances and remedies to
34 support and stimulate the individual's intrinsic self-healing processes;

35 (8)(A) "Naturopathic physical modality" means the use of the physical
36 agents of air, water, heat, cold, sound, light, and electromagnetic

1 nonionizing radiation and the physical modalities of electrotherapy,
2 biofeedback, diathermy, ultraviolet light, ultrasound, hydrotherapy, and
3 exercise.

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

9 (9) "Naturopathic practitioner" means a person who is licensed by the
10 board to practice naturopathy;

11 (10) "Practice of naturopathy" means a system of health care for the
12 prevention and care of human conditions, injuries, and diseases that uses
13 education, natural substances, and natural therapies to support and stimulate
14 the patient's intrinsic self-healing processes; and

15 (11) "Topical preparations" means topical over the counter
16 preparations.

17
18 17-107-104. Exceptions.

19 (a) This chapter does not:

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

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

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

33 (4) Prohibit a person from providing nutritional advice, giving
34 advice concerning proper nutrition, or giving information as to the use and
35 role of food and food ingredients, including dietary supplements, except that
36 providing nutritional advice under this subdivision does not include the

1 authority to practice medicine or surgery, to undertake the treatment or cure
2 of a disease, pain, injury, deformity, or physical or mental condition, or to
3 state that a product might cure a disease, pain, injury, deformity, or other
4 condition; or

5 (5) Apply to a naturopathic practitioner licensed in another
6 state, a territory of the United States, or the District of Columbia, if the
7 state, territory, or the District of Columbia requires credentials equivalent
8 to those of this chapter, when the physician is incidentally called into this
9 state for consultation with a naturopathic practitioner licensed in this
10 state.

11 (b) This chapter does not apply to:

12
13 (1) The activities and services of members of other professions
14 licensed or certified by the state, including, but not limited to,
15 physicians, registered nurses, psychologists, social workers, marriage and
16 family therapists, chemical dependency counselors, physician assistants,
17 occupational therapists, optometrists, Christian Science practitioners or
18 other recognized religious practitioners performing counseling consistent
19 with the laws of this state, their training, and any code of ethics of their
20 professions, if they do not represent themselves by any title or description
21 in the manner prescribed by § 17-107-303;

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

24 (3) A student in training in a medical school approved by the
25 State Board of Health while performing the duties assigned in the course of
26 training, if the duties are performed under the supervision of a licensed
27 practitioner, except that medical residents, interns, and fellows shall be
28 required to register and be subject to the other applicable provisions of
29 this chapter; or

30 (4) A physician licensed in another state who is in this state
31 for consultation with a naturopathic practitioner licensed in this state but
32 who does not:

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

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

36

1 SUBCHAPTER 2 - THE NATUROPATHIC PRACTITIONER ACT - STATE BOARD OF
2 HEALTH

3
4 17-107-201. Powers and duties of board and department.

5 (a) The State Board of Health, with the advice of the Naturopathic
6 Practitioners Advisory Committee, shall adopt rules consistent with this
7 chapter.

8 (b) The Department of Health shall administer this chapter,
9 investigate violations of this chapter, prepare and administer examinations
10 required by the board, and perform other duties authorized by this chapter.

11 (c) The board may adopt rules authorizing the use by naturopathic
12 practitioners of other evaluative procedures and other natural substances,
13 treatments, procedures, and therapies if the substances, treatments,
14 procedures, and therapies are taught in approved courses of study or used by
15 practitioners licensed by other entities of the state and are consistent with
16 this chapter.

17
18 17-107-202. Naturopathic Practitioners Advisory Committee.

19 (a)(1) The Naturopathic Practitioners Advisory Committee is created as
20 an advisory committee to the State Board of Health, to be composed of seven
21 (7) members appointed by the board, of whom one (1) shall be a member of a
22 minority community.

23 (2) The board shall appoint the members of the committee within
24 thirty (30) days of the effective date of this chapter.

25 (b)(1)(A) Three (3) members shall be representatives of the general
26 public; and

27 (B) Four (4) members shall be naturopathic practitioners
28 licensed under this chapter.

29 (2) In appointing the initial naturopathic practitioner members
30 of the Naturopathic Practitioners Advisory Committee, the board, in lieu of
31 appointing members who are naturopathic practitioners licensed under this
32 chapter, may appoint four (4) members who are otherwise qualified and have
33 applied for licenses as naturopathic practitioners under this chapter.

34 (c)(1) Members shall be appointed for staggered terms of six (6)
35 years, with three (3) members' terms expiring January 1 of each even-numbered
36 year.

1 (2) The initial members shall draw lots to determine the lengths
2 of their terms.

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

5 (e) If a vacancy occurs on the advisory committee, the board shall
6 appoint a person having the appropriate qualifications to serve the unexpired
7 part of the term.

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

11 (g) A majority of the members of the committee shall constitute a
12 quorum to transact the business of the committee.

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

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

18 (j) The advisory committee shall:

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

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

22 (3) Recommend to the board examinations required by this
23 chapter.

24 (k) A naturopathic practitioner member of the advisory committee may
25 be licensed as a member of another health profession regulated or licensed by
26 the state.

27
28 17-107-203. Complaint procedure in general.

29 (a) The Department of Health shall establish and keep current an
30 information file that shall contain a record for each complaint of:

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

32 (2) A summary of findings made at each step of the complaint
33 process;

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

36 (4) Other relevant information.

1 (b) If a written complaint is filed with the department that the
2 department has authority to resolve, the department, at least as frequently
3 as quarterly and until final disposition of the complaint, shall notify the
4 parties to the complaint of the status of the complaint unless the notice
5 would jeopardize an undercover investigation.

6 (c)(1) The State Board of Health shall adopt a form to standardize
7 information concerning complaints made to the department.

8 (2) The department shall provide to a person who files a
9 complaint with the department a list and explanation of the required
10 standardized information.

11 (d) The department shall provide reasonable assistance to a person who
12 wishes to file a complaint with the department.

13
14 17-107-204. Complaint investigation and disposition.

15 (a) The State Board of Health shall adopt rules concerning the
16 investigation of a complaint filed with the Department of Health.

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

18 (1) Distinguish between categories of complaints;

19 (2) Ensure that complaints are not dismissed without appropriate
20 consideration;

21 (3) Require that the advisory committee be advised of a
22 complaint that is dismissed and that a letter be sent to the person who filed
23 the complaint explaining the action taken on the dismissed complaint; and

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

26 (c) The department shall dispose of all complaints in a timely manner.

27
28 17-107-205. Discipline of license holder.

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

32 (1) Uses drugs or intoxicating liquors to an extent that affects
33 the person's professional competence;

34 (2) Obtains or attempts to obtain a license by fraud or
35 deception;

36 (3) Is adjudged mentally incompetent by a court of competent

1 jurisdiction;

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

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

5 (6) Is convicted of a felony, a crime involving moral turpitude,
6 or fraud of any kind; or

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

10 (b) If a license suspension is probated, the Department of Health may
11 require the license holder to:

12 (1) Report regularly to the department on matters that are the
13 basis of the probation;

14 (2) Limit practice to areas prescribed by the department; or

15 (3) Continue professional education until he or she attains a
16 degree of skill satisfactory to the department in those areas that are the
17 basis of the probation.

18 (c) A person whose application for a license is denied or whose
19 license is suspended or revoked is entitled to a hearing before the
20 department if the person submits a written request to the department.

21
22 SUBCHAPTER 3 - THE NATUROPATHIC PRACTITIONER ACT - LICENSING

23
24 17-107-301. License qualifications.

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

27 (1) Completes and submits to the Department of Health an
28 application accompanied by the appropriate fees;

29 (2) Is a graduate of an approved naturopathic college under §
30 17-107-103;

31 (3) Has passed an examination prescribed or endorsed by the
32 Naturopathic Practitioners Advisory Committee covering the appropriate
33 naturopathic subjects; and

34 (4) Is of good moral character.

35 (b) A person is qualified to be licensed as a naturopathic
36 practitioner without examination if:

1 (1) The applicant is licensed to practice naturopathy in another
2 state, a territory of the United States, or the District of Columbia, under
3 conditions and circumstances that the State Board of Health finds to be
4 comparable to the requirements of this state for obtaining a license to
5 practice naturopathy and the state, the territory, or the District of
6 Columbia requires the successful completion of a professional examination for
7 the issuance of a license;

8 (2) The applicant has graduated from a naturopathic college
9 approved by the board or, if the applicant was licensed before a date
10 designated by board rule, the applicant graduated from a college approved by
11 the advisory committee after the college was investigated and found to meet
12 the acceptable education standards in existence at the time of the
13 applicant's graduation; and

14 (3) The applicant produces evidence satisfactory to the advisory
15 committee that the applicant holds a valid, unsuspended, and unrevoked
16 license, has been actively engaged in the practice of naturopathy for not
17 less than one (1) year; and

18 (4) Is of good moral character.

19 (c) A person may sit for the examination prescribed or endorsed by the
20 advisory committee under subsection (a) of this section and be eligible for
21 licensure as a naturopathic physician on the passage of the examination if,
22 before December 1, 2003, the person files a license application, pays the
23 required fees, and submits proof to the department that the person:

24 (1) Attended a naturopathic college and received a doctorate
25 degree in naturopathy from the college before January 1, 2003, and the
26 college is subsequently approved by the advisory committee;

27 (2) Before May 1, 2003, provided in this state and on a regular
28 and ongoing basis health care services using natural medicines or therapies
29 for patients in this state; and

30 (3) Is of good moral character.

31 (d) A person is qualified to be licensed under this chapter without
32 taking the examination or meeting the requirements of subsections (a) and (b)
33 of this section if the person:

34 (1) Is a resident of the state;

35 (2) Is twenty-one (21) years of age or older;

36 (3) Provides proof acceptable to the advisory committee that the

1 person has been actively engaged in naturopathic health care and has held
2 himself or herself out to the public as a naturopathic practitioner for at
3 least three (3) years before January 1, 2003, or has accumulated not less
4 than three thousand eighty (3,080) patient contact hours before January 1,
5 2003;

6 (4) Is not licensed as a physician or chiropractor;

7 (5) Derives the majority of his or her earned income from the
8 practice of naturopathy; and

9 (6) Applies for a license under this subsection before January
10 1, 2004.

11 (e) A person licensed under subsection (d) of this section may:

12 (1) Use the title "naturopathic practitioner" and any other
13 title permitted under § 17-107-303(a); and

14 (2) Practice naturopathy only within the scope of practice that
15 reflects the limits of his or her training and experience.

16 (f)(1) The board may adopt rules providing for limitations on the
17 practice of a person licensed under subsection (d) of this section.

18 (2) However, the board may not require a person licensed under
19 subsection (d) of this section to be identified as a person whose practice is
20 limited.

21
22 17-107-302. Examination.

23 (a)(1) The Naturopathic Practitioners Advisory Committee may prescribe
24 a nationally developed standard examination as part or all of the examination
25 prescribed or endorsed under § 17-107-301(a).

26 (2)(A) The State Board of Health shall promulgate rules to
27 establish criteria for passing the examination.

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

30 (b) The board shall set the fees for the examination, reexamination of
31 the entire examination, and reexamination of separate components of the
32 examination in amounts necessary to cover the actual cost of the examination
33 and the expenses of administration.

34
35 17-107-303. Use of titles - penalty - injunction.

36 (a) Only a naturopathic practitioner may use the title "naturopathic

1 practitioner", "doctor of naturopathy", "naturopathy", or "N.D.".

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

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

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

10 (3) Acts as a naturopathic practitioner.

11 (c) The State Board of Health make seek an injunction against a person
12 who violates this section in the circuit court of the county in which the
13 violation occurs.

14
15 17-107-304. License fees.

16 The State Board of Health shall adopt an initial licensing fee and
17 annual renewal fees in amounts necessary to cover the costs of administering
18 this chapter.

19
20 17-107-305. License renewal.

21 (a) A license to practice as a naturopathic practitioner shall be
22 renewed annually.

23 (b) To renew a license, each naturopathic practitioner shall submit to
24 the Department of Health evidence of successful completion of the required
25 hours of continuing education from programs approved by the State Board of
26 Health.

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

29 (d) The board may adopt other rules necessary to the administration of
30 license renewals.

31
32 17-107-306. Continuing education.

33 (a) The State Board of Health shall require not fewer than fifteen
34 (15) hours annually of continuing education hours for all naturopathic
35 practitioners.

36 (b)(1) A person who seeks to renew a license that expired within the

1 preceding year shall comply with the continuing education requirements for
2 the regular renewal of the license.

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

8
9 17-107-307. Inactive status - retired status.

10 (a) To place a license on inactive status, the license holder must
11 notify the Department of Health at the time of renewal and pay a fee for
12 inactive status.

13 (b) To activate a license on inactive status, the license holder must
14 pay the regular renewal fee and present evidence of having completed 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 activation.

18 (c)(1) A license holder seeking to place a license on retired status
19 must notify the department at the time of renewal.

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

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

23
24 SUBCHAPTER 4 - THE NATUROPATHIC MEDICINE ACT - NATUROPATHIC PRACTICE

25
26 17-107-401. Authorized activities.

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

30 (1) Natural medicines;

31 (2) Minor office procedures;

32 (3) Natural antibiotics;

33 (4) Naturopathic medicine;

34 (5) Topical preparations; and

35 (6) Naturopathic physical modality.

36 (b) A person licensed as a naturopathic practitioner under this

1 chapter may use the following for evaluation purposes, if the practitioner
2 has met the appropriate educational requirements and has obtained the
3 approval of the board:

4 (1) Physical and orificial examinations;

5 (2) X-rays;

6 (3) Electrocardiograms;

7 (4) Therapeutic ultrasound;

8 (5) Phlebotomy;

9 (6) Clinical laboratory tests and examinations;

10 (7) Physiological function tests; and

11 (8) The noninvasive diagnostic procedures commonly used in
12 general practice.

13
14 17-107-402. Specialty practice.

15 (a) Comply with the requirements adopted by the State Board of Health
16 for issuance of the specialty certification that are equivalent to the
17 minimum requirements, including any examination required by the board, to
18 obtain a license to practice in this state a different specialty not covered
19 under this chapter.

20 (b) The advisory committee may recommended a national standardized
21 examination in a requested specialty as constituting the specialty
22 examination.

23
24 17-107-403. Use of X-ray.

25 (a) A naturopathic practitioner licensed under this chapter may use an
26 X-ray in the course of practice only if the naturopathic practitioner is
27 certified by the State Board of Health as qualified to perform X-ray
28 procedures.

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

32
33 17-107-404. Prohibited Acts.

34 A naturopathic practitioner may not:

35 (1) Prescribe, dispense, or administer any legend drugs or controlled
36 substances;

