

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H2/22/13

A Bill

HOUSE BILL 1011

5 By: Representative D. Altes
6

For An Act To Be Entitled

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

Subtitle

11
12 AN ACT TO LICENSE NATUROPATHIC
13 PRACTITIONERS.
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:

Chapter 108 – NATUROPATHIC PRACTITIONERS

Subchapter 1 – General Provisions

17-108-101.

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

17-108-102. Findings and purpose.

(a) The General Assembly finds that:

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

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

(b) This chapter is intended to:

36

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

3 (2) Provide a means of identifying qualified naturopathic
4 practitioners.

5
6 17-108-103. Definitions.

7 As used in this chapter:

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

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

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

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

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

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

31 (4) "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, natural substances, and remedies to
34 support and stimulate the individual's intrinsic self-healing processes;

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

1 ionizing 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 an
7 appropriate board to practice in physical therapy, acupuncture, or
8 chiropractic;

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

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

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

18
19 17-108-104. Exceptions.

20 (a) This chapter does not:

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

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

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

34 (4) Prohibit a person from providing nutritional advice, giving
35 advice concerning proper nutrition, or giving information as to the use and
36 role of food and food ingredients, including dietary supplements, except that

1 providing nutritional advice under this subdivision does not include the
2 authority to:

3 (A) Practice medicine or surgery;

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

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

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

13 (b) This chapter does not apply to:

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

19 (A) Physicians;

20 (B) Registered nurses;

21 (C) Psychologists;

22 (D) Social workers;

23 (E) Marriage and family therapists;

24 (F) Chemical dependency counselors;

25 (G) Physician assistants;

26 (H) Occupational therapists;

27 (I) Optometrists;

28 (J) Christian Science practitioners; or

29 (K) Other recognized religious practitioners;

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

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

36 (B) However, medical residents, interns, and fellows shall

1 be required to register and be subject to the other applicable provisions of
2 this chapter; or

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

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

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

9
10 *Subchapter 2 – The Naturopathic Practitioner Act – Arkansas State Board*
11 *of Acupuncture and Related Techniques and Naturopathic Medicine*

12
13 *17-108-201. Powers and duties of the Arkansas State Board of*
14 *Acupuncture and Related Techniques and Naturopathic Medicine.*

15 *(a) The Arkansas State Board of Acupuncture and Related Techniques and*
16 *Naturopathic Medicine shall adopt rules consistent with this*
17 *chapter.*

18 *(b) The board shall administer this chapter.*

19 *(c) The board shall adopt rules authorizing the use by naturopathic*
20 *practitioners of other evaluative procedures and other natural substances,*
21 *treatments, procedures, and therapies if the substances, treatments,*
22 *procedures, and therapies are taught in approved courses of study or used by*
23 *practitioners licensed by other entities of the state and are consistent with*
24 *this chapter.*

25
26 *17-108-202. Naturopathic Practitioners Advisory Committee.*

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

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

33 *(b)(1)(A) Six (6) members shall be acupuncturists licensed by the*
34 *board; and*

35 *(B) Three (3) members shall be naturopathic practitioners*
36 *licensed under this chapter.*

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

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

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

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

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

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

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

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

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

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

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

26 (j) The committee shall:

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

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

30 (3) Recommend to the board examinations required by this
31 chapter.

32 (k) A naturopathic practitioner member of the committee may be
33 licensed as a member of another health profession regulated or licensed by
34 the state.

35
36 17-108-203. Complaint procedure in general.

1 (a) Arkansas State Board of Acupuncture and Related Techniques and
2 Naturopathic Medicine shall establish and keep current an information file
3 that contains a record for each complaint of:

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

5 (2) A summary of findings made at each step of the complaint
6 process;

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

9 (4) Other relevant information.

10 (b) If a written complaint is filed with the board that the board has
11 authority to resolve, the department, at least as frequently as quarterly and
12 until final disposition of the complaint, shall notify the parties to the
13 complaint of the status of the complaint unless the notice would jeopardize
14 an undercover investigation.

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

17 (2) The board shall provide to a person who files a complaint
18 with the department a list and explanation of the required standardized
19 information.

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

22
23 17-108-204. Complaint investigation procedure.

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

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

28 (1) Distinguish between categories of complaints;

29 (2) Ensure that complaints are not dismissed without appropriate
30 consideration;

31 (3) Require that the Naturopathic Practitioners Advisory
32 Committee be advised of a complaint that is dismissed and that a letter be
33 sent to the person who filed the complaint explaining the action taken on the
34 dismissed complaint; and

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

1 (c) The *board* shall complete an investigation of each complaint in a
2 timely manner.

3
4 17-108-205. Discipline of license holder.

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

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

10 (2) Obtains or attempts to obtain a license by fraud or
11 deception;

12 (3) Is adjudged mentally incompetent by a court of competent
13 jurisdiction;

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

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

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

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

22 (b) If a license suspension is probated, the *Arkansas State Board of*
23 *Acupuncture and Related Techniques and Naturopathic Medicine* may require the
24 license holder to:

25 (1) Report regularly to the *board* on matters that are the basis
26 of the probation;

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

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

31 (c) A person whose application for a license is denied or whose
32 license is suspended or revoked is entitled to a hearing before the *board* if
33 the person submits a written request to the *board*.

34
35 Subchapter 3 – The Naturopathic Practitioner Act – Licensing
36

1 17-108-301. License qualifications.

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

4 (1) Completes and submits to the *Arkansas State Board of*
5 *Acupuncture and Related Techniques and Naturopathic Medicine* an application
6 accompanied by the appropriate fees;

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

9 (3) Has passed an examination prescribed or endorsed by the
10 Naturopathic Practitioners Advisory Committee covering the appropriate
11 naturopathic subjects; and

12 (4) Is of good moral character.

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

15 (1) Is licensed to practice naturopathy in another state, a
16 territory of the United States, or the District of Columbia under conditions
17 and circumstances that the *board* finds to be comparable to the requirements
18 of this state for obtaining a license to practice naturopathy, and the state,
19 the territory, or the District of Columbia requires the successful completion
20 of a professional examination for the issuance of a license;

21 (2) Has graduated from a naturopathic college or university
22 approved by the *board* or, if the applicant was licensed before a date
23 designated by board rule, the applicant graduated from a college or
24 university approved by the committee after the college or university was
25 investigated and found to meet the acceptable educational standards in
26 existence at the time of the applicant's graduation;

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

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

31 (5) Is of good moral character.

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

1 (1) Attended a naturopathic college or university and received a
2 doctorate degree in naturopathy from the college or university before January
3 1, 2013, and the college or university is subsequently approved by the
4 committee;

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

8 (3) Is of good moral character.

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

12 (1) Is a resident of the state;

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

14 (3) Provides proof acceptable to the committee that the person
15 has been actively engaged in the practice of naturopathic medicine and has
16 held himself or herself out to the public as a naturopathic practitioner for
17 at least three (3) years before January 1, 2013, or has accumulated not less
18 than three thousand eighty (3,080) patient contact hours before January 1,
19 2013;

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

21 (5) Derives the majority of his or her earned income from the
22 practice of naturopathic medicine; and

23 (6) Applies for a license under this subsection before January
24 1, 2014.

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

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

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

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

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

35
36 17-108-302. Examination.

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

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

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

9 (b) The board shall set the fees for the examination, reexamination of
10 the entire examination, and reexamination of separate components of the
11 examination in amounts necessary to cover the actual cost of the examination
12 and the expenses of administration.

13
14 17-108-303. Use of titles – Penalty – Injunction.

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

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

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

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

25 (3) Acts as a naturopathic practitioner.

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

30
31 17-108-304. License fees.

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

35
36 17-108-305. License renewal.

1 (a) Annual renewal of a license to practice as a naturopathic
2 practitioner is required.

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

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

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

11
12 17-108-306. Continuing education.

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

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

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

24
25 17-108-307. Inactive status – Retired status.

26 (a) To place a license on inactive status, the license holder shall
27 notify the Arkansas State Board of Acupuncture and Related Techniques and
28 Naturopathic Medicine at the time of renewal and pay a fee for inactive
29 status.

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

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

1 (2) A license on retired status may not be reactivated.
2 (d) A license holder who holds a license that is on inactive or
3 retired status may not practice naturopathic medicine.
4

5 Subchapter 4 – The Naturopathic Medicine Act – Naturopathic Practice
6

7 17-108-401. Authorized activities.

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

- 11 (1) Natural medicines;
12 (2) Minor office procedures;
13 (3) Natural antibiotics;
14 (4) Topical preparations; and
15 (5) Naturopathic physical modality.

16 (b) A person licensed as a naturopathic practitioner under this
17 chapter may use the following for evaluation purposes, if the practitioner
18 has met the appropriate educational requirements and has obtained the
19 approval of the *Arkansas State Board of Acupuncture and Related Techniques*
20 and *Naturopathic Medicine*:

- 21 (1) Physical and orificial examinations;
22 (2) X-rays;
23 (3) Electrocardiograms;
24 (4) Therapeutic ultrasound;
25 (5) Phlebotomy;
26 (6) Clinical laboratory tests and examinations;
27 (7) Physiological function tests; and
28 (8) The noninvasive diagnostic procedures commonly used in
29 naturopathic medical practice.
30

31 17-108-402. Specialty practice.

32 (a) A person licensed under this chapter as a naturopathic
33 practitioner shall comply with the requirements adopted by the *Arkansas State*
34 *Board of Acupuncture and Related Techniques and Naturopathic Medicine* for
35 issuance of the specialty certification that are equivalent to the minimum
36 requirements, including any examination required by the board, to obtain a

1 license to practice in this state a different specialty not covered under
2 this chapter.

3 (b) The Naturopathic Practitioners Advisory Committee may recommend a
4 national standardized examination in a requested specialty as constituting
5 the specialty examination.

6
7 17-108-403. Use of X-ray.

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

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

15
16 17-108-404. Prohibited acts.

17 A naturopathic practitioner shall not:

18 (1) Prescribe, dispense, or administer any legend drugs or
19 controlled substances;

20 (2) Perform X-ray procedures except those procedures authorized
21 by this chapter;

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

25 (4) Claim to practice allopathic medicine or surgery,
26 osteopathy, dentistry, podiatry, optometry, chiropractic, physical therapy,
27 acupuncture, or any other system or method of treatment not authorized by
28 this chapter.

29
30 17-108-405. Duties and responsibilities.

31 A naturopathic practitioner has the same duty and responsibility as any
32 other licensed health care provider regarding public health laws, reportable
33 diseases and conditions, communicable disease control and prevention, the
34 recording of vital statistics, health and physical examinations, and
35 competency examinations, except that the authority under this section is
36 limited to activity consistent with the scope of practice authorized by this

1 chapter.

2
3 *SECTION 2. Arkansas Code § 17-102-201, concerning the creation of the*
4 *Arkansas State Board of Acupuncture and Related Techniques and Naturopathic*
5 *Medicine, is amended to read as follows:*

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

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

11
12 *SECTION 3. DO NOT CODIFY. The Arkansas Code Revision Commission shall*
13 *replace the name "Arkansas State Board of Acupuncture and Related Techniques"*
14 *in all appropriate sections of the Arkansas Code with the name "Arkansas*
15 *State Board of Acupuncture and Related Techniques and Naturopathic Medicine".*

16
17 */s/D. Altes*
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