

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

A Bill

HOUSE BILL 1011

4
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.

Subtitle

10
11
12 AN ACT TO LICENSE NATUROPATHIC
13 PRACTITIONERS.
14
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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
26 This chapter shall be known and may be cited as the "Naturopathic
27 Practitioner Act".
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:



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 Department of Health to practice naturopathy;

11 (7) "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 (8) "Topical preparations" means over-the-counter preparations for
16 application to the skin.

17
18 17-108-104. 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 within
27 the scope of practice of the supervising naturopathic practitioner and are
28 limited to activity consistent with the scope of practice authorized by this
29 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:

2 (A) Practice medicine or surgery;

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

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

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

12 (b) This chapter does not apply to:

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

18 (A) Physicians;

19 (B) Registered nurses;

20 (C) Psychologists;

21 (D) Social workers;

22 (E) Marriage and family therapists;

23 (F) Chemical dependency counselors;

24 (G) Physician assistants;

25 (H) Occupational therapists;

26 (I) Optometrists;

27 (J) Christian Science practitioners; or

28 (K) Other recognized religious practitioners;

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

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

35 (B) However, medical residents, interns, and fellows shall
 36 be required to register and be subject to the other applicable provisions of

1 this chapter; or

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

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

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

8
9 Subchapter 2 – The Naturopathic Practitioner Act – State Board of
10 Health

11
12 17-108-201. Powers and duties of the State Board of Health and the
13 Department of Health.

14 (a) The State Board of Health, with the advice of the Naturopathic
15 Practitioners Advisory Committee, shall adopt rules consistent with this
16 chapter.

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

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

26
27 17-108-202. Naturopathic Practitioners Advisory Committee.

28 (a)(1) The Naturopathic Practitioners Advisory Committee is created as
29 an advisory committee to the State Board of Health, to be composed of seven
30 (7) members 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) Three (3) members shall be representatives of the general
34 public, one (1) of whom shall be a member of a minority community; and

35 (B) Four (4) 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 four (4) 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) The Department of Health shall establish and keep current an
2 information file that contains a record for each complaint of:

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

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

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

8 (4) Other relevant information.

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

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

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

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

21
22 17-108-204. Complaint investigation procedure.

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

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

26 (1) Distinguish between categories of complaints;

27 (2) Ensure that complaints are not dismissed without appropriate
28 consideration;

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

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

35 (c) The department shall complete an investigation of each complaint
36 in a timely manner.

17-108-205. Discipline of license holder.

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

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

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

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

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

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

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

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

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

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

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

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

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

Subchapter 3 – The Naturopathic Practitioner Act – Licensing

17-108-301. License qualifications.

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

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

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

5 (3) Has passed an examination prescribed or endorsed by the
6 Naturopathic Practitioners Advisory Committee covering the appropriate
7 naturopathic subjects; and

8 (4) Is of good moral character.

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

11 (1) Is licensed to practice naturopathy in another state, a
12 territory of the United States, or the District of Columbia under conditions
13 and circumstances that the State Board of Health finds to be comparable to
14 the requirements of this state for obtaining a license to practice
15 naturopathy, and the state, the territory, or the District of Columbia
16 requires the successful completion of a professional examination for the
17 issuance of a license;

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

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

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

28 (5) Is of good moral character.

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

34 (1) Attended a naturopathic college or university and received a
35 doctorate degree in naturopathy from the college or university before January
36 1, 2013, and the college or university is subsequently approved by the

1 committee;

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

5 (3) Is of good moral character.

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

9 (1) Is a resident of the state;

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

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

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

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

20 (6) Applies for a license under this subsection before January
21 1, 2014.

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

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

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

27 (f)(1) The Department of Health may adopt rules providing for
28 limitations on the practice of a person licensed under subsection (d) of this
29 section.

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

33
34 17-108-302. Examination.

35 (a)(1) The Naturopathic Practitioners Advisory Committee may prescribe
36 a nationally developed standard examination as part or all of the examination

1 prescribed or endorsed under § 17-108-301(a).

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

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

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

10
11 17-108-303. Use of titles – Penalty – Injunction.

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

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

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

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

22 (3) Acts as a naturopathic practitioner.

23 (c) The State Board of Health may seek an injunction against a person
24 who violates this section in the circuit court of the county in which the
25 violation occurs.

26
27 17-108-304. License fees.

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

31
32 17-108-305. License renewal.

33 (a) Annual renewal of a license to practice as a naturopathic
34 practitioner is required.

35 (b) To renew a license, a naturopathic practitioner shall submit to
36 the Department of Health evidence of successful completion of the required

1 hours of continuing education from programs approved by the State Board of
2 Health.

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

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

7
8 17-108-306. Continuing education.

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

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

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

20
21 17-108-307. Inactive status – Retired status.

22 (a) To place a license on inactive status, the license holder shall
23 notify the Department of Health at the time of renewal and pay a fee for
24 inactive status.

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

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

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

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

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

17-108-401. Authorized activities.

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

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

(b) A person licensed as a naturopathic practitioner under this chapter may use the following for evaluation purposes, if the practitioner has met the appropriate educational requirements and has obtained the approval of the State Board of Health:

- (1) Physical and orificial examinations;
- (2) X-rays;
- (3) Electrocardiograms;
- (4) Therapeutic ultrasound;
- (5) Phlebotomy;
- (6) Clinical laboratory tests and examinations;
- (7) Physiological function tests; and
- (8) The noninvasive diagnostic procedures commonly used in naturopathic medical practice.

17-108-402. Specialty practice.

(a) A person licensed under this chapter as a naturopathic practitioner shall comply with the requirements adopted by the State Board of Health for issuance of the specialty certification that are equivalent to the minimum requirements, including any examination required by the board, to obtain a license to practice in this state a different specialty not covered under this chapter.

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

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

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

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

8
9 17-108-404. Prohibited acts.

10 A naturopathic practitioner shall not:

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

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

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

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

22
23 17-108-405. Duties and responsibilities.

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