

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH60260-LUfqq-38 (3/11)

Short Title: Naturopathic Physicians Licensure. (Public)

Sponsors: Representative Hill.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA NATUROPATHIC
PHYSICIANS LICENSING ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 90 of the General Statutes is amended by adding a
new Article to read:

"Article 40.

"Naturopathic Physicians.

"§ 90-680. Short title.

This act may be cited as the 'North Carolina Naturopathic Physicians Licensing Act'.

"§ 90-681. Intent; purpose.

(a) The General Assembly finds that a significant number of residents of the State of North Carolina choose natural health care and declares that naturopathy is a distinct health care profession that affects the public health, safety, and welfare and provides for freedom of choice in health care.

(b) The purpose of this act is to provide standards for the licensure and regulation of naturopathic physicians desiring to practice naturopathy in this State.

"§ 90-682. Definitions.

The following definitions apply in this Article:

- (1) Approved naturopathic college. – A college that grants a degree of doctor of naturopathic medicine or doctor of naturopathy, is accredited by the Council of Naturopathic Medical Education, its successor, or other accrediting agency recognized by the U.S. Department of Education and this State, and is a candidate school for accreditation or is accredited through a recognized accrediting agency.
- (2) Board. – The North Carolina Naturopathy Board.

- 1 (3) Dietary therapy. – A method by which patients are educated about a
2 balanced diet.
- 3 (4) License. – A certificate issued by the Board recognizing the person
4 named therein as having met the qualifications to practice as a
5 naturopathic physician.
- 6 (5) Natural medicines. – Any herbal, nutritional, supplemental,
7 homeopathic, or other nonprescription remedies.
- 8 (6) Natural physical medicine. – The manual use of massage, stretching,
9 or resistance.
- 10 (7) Natural therapeutic devices. – Braces, bandages, supports, orthotics, or
11 other devices for correcting postural imbalances or retraining proper
12 function.
- 13 (8) Natural topical medicines. – Any herbal, homeopathic, or other
14 nonprescription remedies to be applied to the skin.
- 15 (9) Prescription medicine. – A drug that under federal law is required,
16 before being dispensed or delivered, to be labeled 'Caution: Federal
17 law prohibits dispensing without prescription.'
- 18 (10) Natural. – Occurring in nature or synthetically identical to substances
19 occurring in nature.
- 20 (11) Naturopathic physician. – A person licensed to practice naturopathy
21 pursuant to this Article.
- 22 (12) Naturopathy. – A system of natural health care that employs diagnosis
23 and treatment using natural therapies and diagnostic techniques for the
24 promotion, maintenance, and restoration of health and the prevention
25 of disease, including the following:
- 26 a. Administering or providing, for preventative and therapeutic
27 purposes, nonprescription natural medicines, natural therapies,
28 natural topical medicines, counseling, hypnotherapy, dietary
29 therapy, naturopathic physical medicine, and natural therapeutic
30 devices.
- 31 b. Using diagnostic procedures including physical and orificial
32 examination and excluding endoscopy, sigmoidoscopy, and
33 colonoscopy.
- 34 c. Ordering laboratory tests and diagnostic imaging to evaluate
35 appropriate referrals, excluding electrocardiograms,
36 echocardiograms, electroencephalograms, nuclear imagings,
37 MRIs, and CT scans, which are tests requiring referral to an
38 appropriate medical specialist. A properly trained medical
39 doctor or osteopath using telemedicine techniques, as
40 appropriate, must interpret the tests promptly.

41 **"§ 90-683. License required; prohibitions.**

42 (a) No person shall practice or offer to practice as a naturopathic physician or use
43 any card, title, or abbreviation, including 'Naturopathic Physician', 'Doctor of
44 Naturopathy', 'Doctor of Naturopathic Medicine', or 'D.N.M.', to indicate that the person

1 is a naturopathic physician unless the person has been licensed under the provisions of
2 this Article.

3 (b) A naturopathic physician shall not:

4 (1) Prescribe, dispense, or administer any prescription medication as
5 defined under federal law.

6 (2) Perform surgical procedures, including procedures using a laser
7 device.

8 (3) Practice or attempt to practice as a medical physician, osteopath,
9 dentist, podiatrist, optometrist, chiropractor or any other system or
10 method of treatment not authorized by this Article unless licensed by
11 this State to do so.

12 **"§ 90-684. Exemptions.**

13 (a) Nothing in this Article shall be construed to prohibit or affect:

14 (1) The practice of a profession by an individual who is licensed, certified,
15 or registered under other laws of this State and is performing services
16 within the authorized scope of practice.

17 (2) The practice of naturopathy by a person employed by the federal
18 government while the person is engaged in the performance of duties
19 prescribed by laws and regulations of the United States.

20 (3) Any person, including a volunteer health care provider at a facility of a
21 local health department as defined in G.S. 130A-2 or a nonprofit
22 community health center or a volunteer member of a rescue squad,
23 who: (i) receives no compensation for his or her services as an
24 emergency health care provider; or (ii) renders first aid or emergency
25 health care treatment to a person who is unconscious, ill, or injured
26 under the following circumstances:

27 a. When it is reasonably apparent that circumstances require
28 prompt decisions and actions in medical or other health care.

29 b. When the necessity of immediate health care treatment is so
30 reasonably apparent that any delay in the rendering of treatment
31 would seriously worsen the physical condition or endanger the
32 life of the person.

33 A person rendering aid under this subdivision is not liable for damages
34 for injury or death of the person alleged to have occurred by reason of
35 an act or omission in the rendering of treatment unless it is established
36 that the injury or death was caused by gross negligence, wanton
37 conduct, or intentional wrongdoing on the part of the person rendering
38 the treatment.

39 (4) A person engaged in the sale of vitamins, health foods, dietary
40 supplements, herbs, or other products of nature, if the sale of these
41 products is not otherwise prohibited by State or federal law and the
42 person offering the products provides truthful and nonmisleading
43 information about the products. However, this subdivision does not

1 allow a person to diagnose any human disease, ailment, injury,
2 infirmity, deformity, pain, or other condition.

3 (5) The practice of medicine or surgery by any nonregistered reputable
4 physician or surgeon who comes into this State, either in person or by
5 use of any electronic or other mediums, on an irregular basis, to
6 consult with a resident registered physician or to consult with
7 personnel at a medical school about educational or medical training.
8 This provision shall not apply to physicians residing in a neighboring
9 state and regularly practicing in this State. The Board shall be notified
10 of naturopathic physicians coming into this State for those reasons.

11 (6) The practice of naturopathy by students enrolled in an approved
12 naturopathic college while completing a clinical requirement for
13 graduation that is performed under the supervision of an instructor.

14 (b) Nothing in this section shall be construed to relieve any person from liability
15 for damages for injury or death caused by an act or omission on the part of the person
16 rendering health care services in the normal and ordinary course of his or her business
17 or profession. For purposes of this section, services provided by the following
18 individuals are deemed not to be in the individual's normal and ordinary course of
19 business or profession:

20 (1) A volunteer health care provider who receives no compensation for his
21 or her services and renders first aid or emergency treatment to
22 members of athletic teams.

23 (2) A medical or health care provider who receives no compensation for
24 his or her services and voluntarily renders those services at facilities of
25 local health departments as defined in G.S. 130A-2, nonprofit
26 community health centers, or as a volunteer medical director of an
27 emergency medical services (EMS) agency.

28 In the event of any conflict between the provisions of this section and those of G.S.
29 20-166(d), G.S. 20-166(d) shall control and continue in full force and effect.

30 **"§ 90-685. North Carolina Naturopathy Board.**

31 (a) The North Carolina Naturopathy Board is created. The Board shall consist of
32 six members who shall serve staggered terms. The Governor shall appoint one member
33 to the Board who is a physician, the Lieutenant Governor shall appoint two naturopathic
34 physicians, and the General Assembly, upon the recommendation of the Speaker of the
35 House of Representatives, shall appoint two naturopathic physicians and one public
36 member. Each member shall have been a resident of this State for the three years
37 immediately preceding the appointment. The initial Board members shall be appointed
38 on or before January 1, 2004, as follows:

39 (1) Four members shall be naturopathic physicians who have been
40 licensed under this Article, two of whom shall serve four-year terms
41 and two of whom shall serve two-year terms.

42 (2) One member shall be a physician licensed pursuant to Article 1 of
43 Chapter 90 of the General Statutes, who shall serve a four-year term.

1 (3) One member shall be a member of the general public and not licensed
2 under Chapter 90 of the General Statutes who shall serve a four-year
3 term.

4 Upon the expiration of the terms of the initial Board members, each member shall be
5 appointed for a term of four years and shall serve until a successor is appointed. No
6 member may serve more than two consecutive terms.

7 (b) A vacancy shall be filled in the same manner as the original appointment.
8 Appointees to fill vacancies shall serve the remainder of the unexpired term and until
9 their successors have been duly appointed and qualified.

10 (c) The Board may remove any of its members for neglect of duty,
11 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings
12 as a licensee shall be disqualified from participating in the official business of the Board
13 until the charges have been resolved.

14 (d) Each member of the Board shall receive per diem and reimbursement for
15 travel and subsistence as provided in G.S. 93B-5.

16 (e) The officers of the Board shall be a chair, a vice-chair, and other officers
17 deemed necessary by the Board to carry out the purposes of this Article. All officers
18 shall be elected annually by the Board for one-year terms and shall serve until their
19 successors are elected and qualified.

20 (f) The Board shall hold at least two meetings each year to conduct business and
21 to review the standards and rules for issuing licenses under this Article. The Board shall
22 adopt rules governing the calling, holding, and conducting of regular and special
23 meetings. A majority of Board members shall constitute a quorum.

24 **"§ 90-686. Powers of the Board.**

25 The Board shall have the power and duty to:

26 (1) Administer and enforce the provisions of this Article.

27 (2) Adopt rules as may be necessary to carry out the provisions of this
28 Article.

29 (3) Examine and determine the qualifications and fitness of applicants for
30 licensure and renewal of licensure.

31 (4) Issue, renew, deny, suspend, or revoke licenses and conduct any
32 disciplinary actions authorized by this Article.

33 (5) Collect fees for licensure, licensure renewal, and other services
34 deemed necessary to carry out the provisions of this Article.

35 (6) Establish and approve continuing education requirements for persons
36 licensed under this Article.

37 (7) Employ and fix the compensation of personnel that the Board
38 determines is necessary to carry out the provisions of this Article and
39 incur other expenses necessary to perform the duties of the Board.

40 (8) Adopt a seal containing the name of the Board for use on all licenses
41 and official reports issued by the Board.

42 (9) Institute corrective measures, as necessary, to rehabilitate naturopathic
43 physicians or limit their practice.

44 **"§ 90-687. Qualifications for licensure; limited license.**

1 (a) Upon application to the Board and the payment of the required fees, an
2 applicant may be licensed under this Article as a naturopathic physician if the applicant
3 meets all of the following qualifications:

4 (1) Has been granted a degree of doctor of naturopathic medicine from a
5 school accredited by one of the regional accrediting agencies
6 recognized by the U.S. Department of Education.

7 (2) Is of good moral and ethical character.

8 (3) Is physically and mentally fit to practice naturopathic medicine.

9 (4) Submits any other documentation the Board deems necessary to
10 determine the applicant's fitness for licensure under this Article.

11 The Board, in its discretion, may require an applicant for licensure to pass an
12 examination administered by the North American Board of Naturopathic Examiners.

13 (b) The Board may issue a limited license to an applicant while the applicant is
14 completing a clinical requirement for graduation under the supervision of a duly
15 licensed naturopathic physician or physician licensed under Article 1 of Chapter 90 of
16 the General Statutes. This limited license shall expire when the holder completes the
17 required training. A limited licensee who continues to practice naturopathy after the
18 limited license has expired shall be guilty of a Class 3 misdemeanor and, upon
19 conviction, fined not less than twenty-five dollars (\$25.00) and not greater than fifty
20 dollars (\$50.00) for each offense. As used in this subsection, applicants for limited
21 licensure shall include residents or students in clinical training in a naturopathic
22 education or training program approved by the Board.

23 **"§ 90-688. Reciprocity.**

24 The Board may grant, upon application and payment of fees, a license to a person
25 who resides in this State and has been licensed to practice as a naturopathic physician in
26 another state whose standards of competency are substantially equivalent to those
27 provided in this Article.

28 **"§ 90-689. Fees.**

29 The Board shall establish fees not exceeding the following amounts:

30 (1) Issuance of a license \$600.00

31 (2) License renewal \$400.00

32 (3) Late renewal fees \$200.00

33 (4) Reasonable charges for duplication services and material.

34 **"§ 90-690. Renewal; continuing education.**

35 (a) All licenses shall expire two years after the date they were issued unless
36 renewed. All applications for renewal shall be filed with the Board and shall be
37 accompanied by the renewal fee as required by G.S. 90-689. A license that has expired
38 for failure to renew may be reinstated after the applicant pays the late and renewal fees
39 as required by G.S. 90-689 and complies with any other requirements established in
40 rules adopted by the Board.

41 (b) As a condition of license renewal, a licensed naturopathic physician shall
42 complete a program of continuing education approved by the Board within the two
43 years preceding license renewal. The Board shall not require more than 40 hours of
44 continuing education biennially. Any licensee who fails to complete the continuing

1 education requirements shall be subject to discipline pursuant to rules adopted by the
2 Board.

3 **"§ 90-691. Disciplinary authority.**

4 (a) The Board may deny, suspend, revoke, or refuse to issue or renew a license if
5 the licensee or applicant:

- 6 (1) Engages in any act or practice in violation of any of the provisions of
7 this Article or of any of the rules adopted by the Board, or aids, abets,
8 or assists any other person in the violation of these provisions or rules.
- 9 (2) Gives false information to or withholds information from the Board in
10 procuring or attempting to procure a license.
- 11 (3) Has been convicted of or pled guilty or no contest to a crime that
12 indicates that the person is unfit or incompetent to practice as a
13 naturopathic physician or that indicates the person has deceived or
14 defrauded the public. A felony conviction shall result in the automatic
15 revocation of a license issued by the Board unless the Board
16 determines otherwise pursuant to rules adopted by the Board.
- 17 (4) Has been declared mentally incompetent by a court of competent
18 jurisdiction.
- 19 (5) Habitually uses or is addicted to drugs or intoxicating liquors to an
20 extent that affects his or her professional competency. If a licensee
21 violates this subdivision, the Board may require the licensee to
22 undergo a mental or physical examination by physicians designated by
23 the Board before or after the licensee has been charged. The results of
24 the examination shall be admissible as evidence in a hearing before the
25 Board.
- 26 (6) Has demonstrated gross negligence, incompetency, or misconduct in
27 the performance of naturopathic treatment.
- 28 (7) Engages in conduct that departs from or fails to conform to standards
29 of acceptable and prevailing naturopathic practices or ethical
30 considerations regardless of whether there is injury to the public.
31 However, the Board shall not revoke or deny a license solely because
32 that person's practice is experimental, nontraditional, or departs from
33 acceptable and prevailing naturopathic practices unless the Board can
34 establish that the treatment has a safety risk greater than the prevailing
35 treatment or that the treatment is generally not effective.
- 36 (8) Has advertised or attempted to advertise or publicly professed to treat
37 human ailments under a system or school of treatment or practice other
38 than that for which the naturopathic physician has been educated.
- 39 (9) Has had a license denied, restricted, revoked, or suspended by another
40 state or jurisdiction.
- 41 (10) Fails to maintain his or her professional premises in a sanitary
42 condition.

1 (11) Fails to respond, within a reasonable time, to inquiries from the Board
2 concerning any matter affecting the individual's license to practice
3 naturopathy.

4 (12) Fails to complete continuing education requirements within the time
5 prescribed.

6 (13) Has willfully violated any of the provisions of this Article.

7 (b) Denial, refusal to renew, suspension, or revocation of a license, or imposition
8 of probationary conditions upon a licensee may be ordered by the Board after a hearing
9 held in accordance with Article 3A of Chapter 150B of the General Statutes and rules
10 adopted pursuant to this Article. An application may be made to the Board for
11 reinstatement of a revoked license if the revocation has been in effect for not less than
12 two years.

13 (c) The Board may release confidential or nonpublic information about a licensee
14 to any health care licensure board in this State or another state relating to the issuance,
15 denial, suspension, revocation, or voluntary surrender of the license, including the
16 reasons for the action or any investigative report prepared by the Board. The Board shall
17 notify the naturopathic physician within 60 days after the information is released. The
18 Board shall furnish to the naturopathic physician a summary of the information being
19 released. However, if the naturopathic physician requests, in writing, within 30 days
20 from the date of notice, a copy of the information being released, the Board shall give to
21 the naturopathic physician a copy of all the information being released. Notice or copies
22 shall not be provided by the Board if the information relates to an ongoing criminal
23 investigation by a law enforcement agency or any Department of Health and Human
24 Services personnel with enforcement or investigative responsibilities.

25 **"§ 90-692. Enforcement; injunctive relief.**

26 (a) It is unlawful for a person not licensed or exempted under this Article to
27 engage in any of the following:

28 (1) Practice of naturopathy.

29 (2) Advertise, represent, or hold out himself or herself to others to be a
30 naturopathic physician.

31 (3) Use any title descriptive of any branch of naturopathy, as provided in
32 G.S. 90-683(a), to describe his or her practice.

33 (b) A person who violates subsection (a) of this section shall be guilty of a Class
34 1 misdemeanor.

35 (c) The Board may make application to superior court for an order enjoining a
36 violation of this Article. Upon a showing by the Board that a person has violated or is
37 about to violate this Article, the court may grant an injunction, restraining order, or take
38 other appropriate action.

39 **"§ 90-693. Reports; immunity from suit.**

40 (a) A person who has reasonable cause to suspect misconduct or incapacity of a
41 licensee, or who has reasonable cause to suspect that a person is in violation of this
42 Article, shall report the relevant facts to the Board. Upon receipt of a charge, or upon its
43 own initiative, the Board may give notice of an administrative hearing or may, after
44 diligent investigation, dismiss unfounded charges. A person who, in good faith, makes a

1 report pursuant to this section shall be immune from any criminal prosecution or civil
2 liability resulting from making the report.

3 (b) The Board and its staff shall be immune from any criminal prosecution or
4 civil liability for exercising, in good faith, its powers and duties authorized by this
5 Article.

6 **"§ 90-694. Informed consent to health care treatment or procedure.**

7 (a) No recovery shall be allowed against any health care provider upon the
8 grounds that the health care treatment was rendered without the informed consent of the
9 patient or the patient's spouse, parent, guardian, nearest relative, or other person
10 authorized to give consent for the patient under the following circumstances:

11 (1) The action of the health care provider in obtaining the consent of the
12 patient or other person authorized to give consent for the patient was in
13 accordance with the standards of practice among members of the same
14 health care profession with similar training and experience situated in
15 the same or similar communities.

16 (2) A reasonable person, from the information provided by the health care
17 provider under the circumstances, would have a general understanding
18 of the procedures or treatments and of the usual and most frequent
19 risks and hazards inherent in the proposed procedures or treatments
20 which are recognized and followed by other health care providers
21 engaged in the same field of practice in the same or similar
22 communities.

23 (3) A reasonable person, under all the surrounding circumstances, would
24 have undergone the treatment or procedure had he or she been advised
25 by the health care provider in accordance with the provisions of
26 subdivisions (1) and (2) of this subsection.

27 (b) A consent which is evidenced in writing and which meets the foregoing
28 standards, and which is signed by the patient or other authorized person, shall be
29 presumed to be a valid consent. This presumption, however, may be subject to rebuttal
30 only upon proof that the consent was obtained by fraud, deception, or misrepresentation
31 of a material fact.

32 (c) A valid consent is one that is given by a person who under all the surrounding
33 circumstances is mentally and physically competent to give consent.

34 (d) No action may be maintained against any health care provider upon any
35 guarantee, warranty, or assurance as to the result of any diagnostic procedure or
36 treatment unless the guarantee, warranty, or assurance, or some note or memorandum
37 thereof, shall be in writing and signed by the provider or by some other person
38 authorized to act for or on behalf of the provider.

39 (e) In the event of any conflict between the provisions of this section and those of
40 Article 7 of Chapter 35 and Articles 1A and 19 of Chapter 90, the provisions of those
41 Articles shall control and continue in full force and effect.

42 **"§ 90-695. Third-party reimbursement.**

43 Nothing in this Article shall be construed to require direct third-party reimbursement
44 to persons licensed under this Article."

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SECTION 2. This act becomes effective October 1, 2003.