

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1234

Short Title: Naturopathic Physicians Registration Act.

(Public)

Sponsors: Representative Hill.

Referred to: Health, if favorable, Finance.

April 14, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA NATUROPATHIC
3 PHYSICIANS REGISTRATION ACT.

4 The General Assembly of North Carolina enacts:

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

7 "Article 40.

8 "Naturopathic Physicians Registration.

9 "**§ 90-680. Short title.**

10 This act may be cited as the 'North Carolina Naturopathic Physicians Registration
11 Act'.

12 "**§ 90-681. Intent; purpose.**

13 (a) The General Assembly finds that a significant number of residents of the
14 State of North Carolina choose complementary and alternative health care and declares
15 that naturopathic medicine is a distinct health care profession that affects the public
16 health, safety, and welfare and provides for freedom of choice in health care. The
17 General Assembly concludes that regulation is in the current interest of North Carolina
18 citizens to aid in protecting them from deception, fraud, and damage to their health
19 status. Registration can provide a process by which citizens may more confidently rely
20 with respect to the level of skill, education, and competency possessed by registered
21 persons.

22 (b) The purpose of this act is to provide standards for the registration of
23 naturopathic physicians desiring to practice naturopathic medicine in this State. This act
24 recognizes that many of the therapies used by naturopathic physicians, such as the use
25 of nutritional supplements, herbs, foods, homeopathic preparations, and such physical
26 forces as heat, cold, water, touch, and light are not the exclusive privilege of
27 naturopathic physicians. This act does not prohibit the use, practice, or administration of
28 these therapies by a person not licensed or registered to practice naturopathic medicine

1 as long as that person does not diagnose or treat disease or hold himself or herself out as
2 being qualified to diagnose or treat disease.

3 **"§ 90-682. Definitions.**

4 The following definitions apply in this Article:

- 5 (1) Integrative medicine. – Same as defined in G.S. 90-2.1.
6 (2) Natural medicines. – Any herbal, nutritional, supplemental,
7 homeopathic, or other nonprescription remedies.
8 (3) Naturopathic medicine. – A system of natural health care that employs
9 diagnosis and treatment using natural therapies and diagnostic
10 techniques for the promotion, maintenance, and restoration of health
11 and the prevention of disease, including the following:
12 a. Administering or providing any of the following for
13 preventative and therapeutic purposes: natural medicines,
14 natural therapies, natural topical medicines, counseling,
15 hydrotherapy, dietary therapy, and naturopathic physical
16 medicine.
17 b. Using diagnostic procedures including physical and orificial
18 examination but excluding endoscopy, sigmoidoscopy, and
19 colonoscopy.
20 c. Ordering laboratory tests and diagnostic imaging, but excluding
21 electrocardiograms, echocardiograms, electroencephalograms,
22 nuclear imagings, MRIs, and CT scans and other tests that
23 should be conducted and interpreted by an appropriate medial
24 specialist.
25 (4) Naturopathic physical medicine. – The manual use of massage,
26 stretching, or resistance.
27 (5) Naturopathic physician. – A person registered to practice naturopathic
28 medicine pursuant to this Article.
29 (6) Office. – The Office of Regulatory and Legal Affairs, Division of
30 Public Health, Department of Health and Human Services.

31 **"§ 90-683. Registration required; exemptions.**

32 (a) On or after January 1, 2006, no person shall practice or offer to practice as a
33 naturopathic physician, perform naturopathic medicine, or use any card, title, or
34 abbreviation to indicate that the person is a naturopathic physician unless the person
35 meets all of the following conditions:

- 36 (1) Is registered under the provisions of this Article.
37 (2) Is licensed to practice in a state or territory that requires as a condition
38 of licensure graduation from a four-year postgraduate program in
39 naturopathic medicine approved by the Council of Naturopathic
40 Medical Education.
41 (3) Maintains licensure in a state that meets the requirements of
42 subdivision (2) of this subsection.

43 (b) To register with the Office, a person must apply to the Office for registration,
44 meet the requirements for registration under subsection (a) of this section, consent to a

1 criminal record check as provided in subsection (c) of this section, and pay the
2 applicable fees. A registration issued under this Article expires two years after the date
3 it is issued unless it is renewed. An application for renewal must be filed with the Office
4 and accompanied by the applicable renewal fee. A registration that has expired for
5 failure to renew may be reinstated after the applicant pays the applicable fees and
6 complies with any other conditions established in rules adopted by the Office.

7 (c) The Department of Justice may provide a criminal record check to the Office
8 for a person who has applied for registration through the Office. The Office shall
9 provide to the Department of Justice, along with the request, the fingerprints of the
10 applicant, any additional information required by the Department of Justice, and a form
11 signed by the applicant consenting to the check of the criminal record and to the use of
12 the fingerprints and other identifying information required by the State or national
13 repositories. The applicant's fingerprints shall be forwarded to the State Bureau of
14 Investigation for a search of the State's criminal history record file, and the State Bureau
15 of Investigation shall forward a set of the fingerprints to the Federal Bureau of
16 Investigation for a national criminal history check. The Office shall keep all information
17 pursuant to this subsection privileged, in accordance with applicable State law and
18 federal guidelines, and the information shall be confidential and shall not be a public
19 record under Chapter 132 of the General Statutes.

20 (d) Persons registered under this Article have the exclusive right to use the titles:
21 'naturopathic physician', 'naturopathic doctor', 'doctor of naturopathic medicine', 'doctor
22 of naturopathy', 'N.D.', 'ND', and 'NMD'.

23 (e) Nothing in this Article shall be construed to prohibit or affect:

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

27 (2) The practice of complementary and alternative health care by an
28 individual who does not meet the educational and other requirements
29 applicable under this act to naturopathic physicians, as long as that
30 person does not diagnose or treat disease, or hold himself or herself out
31 as being qualified to diagnose or treat disease.

32 (3) The practice of naturopathic medicine by a person employed by the
33 federal government while the person is engaged in the performance of
34 duties prescribed by laws and regulations of the United States.

35 (4) An individual rendering aid in an emergency situation, when no fee or
36 other compensation for the service is received.

37 (5) A person engaged in the sale of vitamins, health foods, dietary
38 supplements, herbs, or other products of nature, if the sale of these
39 products is not otherwise prohibited by State or federal law and the
40 person offering the products provides truthful and nonmisleading
41 information about the products. However, this subdivision does not
42 allow a person to diagnose any human disease, ailment, injury,
43 infirmity, deformity, pain, or other condition.

- 1 (6) A person who in good faith utilizes complementary and alternative
2 health care in the exercise of his or her religion.
- 3 (7) The practice of naturopathic medicine by a naturopathic physician duly
4 licensed in another state, territory, or the District of Columbia when
5 incidentally called into this State to consult with a licensed medical
6 physician or registered naturopathic physician.
- 7 (8) The practice of naturopathic medicine by students completing a
8 clinical requirement for graduation from a four-year postgraduate
9 program in naturopathic medicine approved by the Council of
10 Naturopathic Medical Education as long as the clinical training is
11 performed under the supervision of an instructor.

12 **"§ 90-684. Practice of naturopathic medicine; prohibitions.**

13 (a) A naturopathic physician is a registered health care provider having the same
14 responsibilities as other licensed medical doctors regarding public health laws,
15 reportable diseases and conditions, communicable disease control and prevention, and
16 recording vital statistics. In treating an individual, a naturopathic physician may employ
17 naturopathic therapies, modalities, and remedies consistent with those provided through
18 naturopathic education and training at Council on Naturopathic Medical Education
19 accredited programs.

20 (b) A naturopathic physician shall not:

- 21 (1) Prescribe, dispense, or administer a prescription drug or any controlled
22 substance or device identified in the Controlled Substance Act, 21
23 U.S.C. § 801, et seq., except as authorized by this Article.
- 24 (2) Practice or attempt to practice as a medical physician, osteopath,
25 acupuncturist, dentist, podiatrist, optometrist, chiropractor,
26 psychologist, advanced practice professional nurse, physician assistant,
27 physical therapist, or any other health care professional not authorized
28 by this Article unless licensed by this State to do so.
- 29 (3) Use anesthetics unless licensed by this State to do so.
- 30 (4) Administer ionizing radioactive substances for therapeutic purposes.
- 31 (5) Perform chiropractic adjustments unless licensed by this State to do so.
- 32 (6) Perform acupuncture unless licensed by this State to do so.

33 **"§ 90-685. Responsibilities of the Office.**

34 The Office shall have the power and duty to:

- 35 (1) Administer and enforce the provisions of this Article.
- 36 (2) Adopt rules as may be necessary to carry out the provisions of this
37 Article.
- 38 (3) Establish and maintain a registry of people who register with the
39 Office as practitioners of naturopathic medicine.
- 40 (4) Examine documentation pertaining to a person's eligibility to register
41 or renew registration with this Office.
- 42 (5) Collect fees for registration, registration renewal, and other services
43 deemed necessary to carry out the provisions of this Article.

(6) Adopt a seal containing the name of the Office for use on all documents and official reports issued by the Office pertaining to the registration of naturopathic physicians.

(7) Receive complaints against persons who violate this Article and either investigate those complaints or refer them to the appropriate agencies for investigation and enforcement.

"§ 90-686. Fees.

The Office may impose the following fees:

(1) Application \$100.00

(2) Registration \$600.00

(3) Registration renewal \$400.00

(4) Late renewal \$200.00

(5) Reasonable charges for duplication services and material.

(6) A fee to conduct a criminal history record check. The fee may not exceed the amount charged by the Department of Justice to conduct the criminal history record check.

"§ 90-687. Disciplinary authority.

(a) The Office may deny, suspend, revoke, or refuse to issue or renew a registration if the registrant or applicant:

(1) Engages in any act or practice in violation of any of the provisions of this Article or of any of the rules adopted by the Office, or aids, abets, or assists any other person in the violation of these provisions or rules.

(2) Gives false information to or withholds information from the Office in procuring, renewing, attempting to procure, or attempting to renew a registration.

(3) Has been convicted of or pled guilty or no contest to a crime that indicates that the person is unfit or incompetent to practice as a naturopathic physician or that indicates the person has deceived or defrauded the public. A felony conviction shall result in the automatic revocation of a registration issued by the Office unless the Office determines otherwise pursuant to rules adopted by the Office.

(4) Has been declared mentally incompetent by a court of competent jurisdiction.

(5) Habitually uses or is addicted to drugs or intoxicating liquors to an extent that affects his or her professional competency. If a registrant violates this subdivision, the Office may require the registrant to undergo a mental or physical examination by physicians designated by the Office before or after the registrant has been charged. The results of the examination shall be admissible as evidence in a hearing that may be conducted related to eligibility of an applicant or registrant to become or remain registered.

(6) Has demonstrated gross negligence, incompetency, or misconduct in the performance of naturopathic medical treatment.

1 (b) The Office may release confidential or nonpublic information about a
2 registrant to any health care licensure board in this State or another state relating to the
3 granting or refusal to grant registration or the suspension or revocation of registration,
4 including the reasons for the action or any investigative report prepared by the Office.
5 The Office shall notify the naturopathic physician within 60 days after the information
6 is released. The Office shall furnish to the naturopathic physician a summary of the
7 information being released. However, if the naturopathic physician requests, in writing,
8 within 30 days from the date of notice, a copy of the information being released, the
9 Office shall give to the naturopathic physician a copy of all the information being
10 released. Notice or copies shall not be provided by the Office if the information relates
11 to an ongoing criminal investigation by a law enforcement agency or any Department of
12 Health and Human Services personnel with enforcement or investigative
13 responsibilities.

14 **"§ 90-688. Enforcement; injunctive relief.**

15 (a) On or after January 1, 2006, it is unlawful for a person not registered or
16 exempted from registration under this Article to engage in any of the following:

17 (1) Practice of naturopathic medicine.

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

20 (3) Use any title descriptive of any branch of naturopathic medicine, as
21 provided in G.S. 90-683(a), to describe his or her practice.

22 (b) A person who violates subsection (a) of this section shall be guilty of a Class
23 1 misdemeanor.

24 **"§ 90-689. Reports; immunity from suit.**

25 (a) A person who has reasonable cause to suspect misconduct or incapacity of a
26 registrant, or who has reasonable cause to suspect that a person is in violation of this
27 Article, shall report the relevant facts to the Office. Upon receipt of a charge, or upon its
28 own initiative, the Office may give notice of an administrative hearing or may, after
29 diligent investigation, either dismiss unfounded charges or refer the matter to another
30 appropriate agency for action. A person who, in good faith, makes a report pursuant to
31 this section shall be immune from any criminal prosecution or civil liability resulting
32 from making the report.

33 (b) The Office and its staff shall be immune from any criminal prosecution or
34 civil liability for exercising, in good faith, its powers and duties authorized by this
35 Article.

36 **"§ 90-690. Third-party reimbursement.**

37 Nothing in this Article shall be construed to require direct third-party reimbursement
38 to persons registered under this Article."

39 **SECTION 2.** G.S. 90-18(c) is amended by adding a new subdivision to read:

40 "(c) The following shall not constitute practicing medicine or surgery as defined
41 in subsection (b) of this section:

42 ...

43 (20) The practice of naturopathic medicine by a licensed naturopathic
44 physician under the provisions of Article 40 of this Chapter."

1 **SECTION 3.** Article 4 of Chapter 114 of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 114-19.16. Criminal record checks of applicants for naturopathic physician**
4 **registration.**

5 The Department of Justice may provide to the Office of Regulatory and Legal
6 Affairs, Division of Public Health, Department of Health and Human Services, from the
7 State and National Repositories of Criminal Histories the criminal history of any
8 applicant for registration as a naturopathic physician under Article 40 of Chapter 90 of
9 the General Statutes. Along with the request, the Office shall provide to the Department
10 of Justice the fingerprints of the applicant, a form signed by the applicant consenting to
11 the criminal record check and use of fingerprints and other identifying information
12 required by the State and National Repositories and any additional information required
13 by the Department of Justice. The applicant's fingerprints shall be forwarded to the State
14 Bureau of Investigation for a search of the State's criminal history record file, and the
15 State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of
16 Investigation for a national criminal history record check. The Office shall keep all
17 information obtained pursuant to this section confidential. The Department of Justice
18 may charge a fee to offset the cost incurred by it to conduct a criminal record check
19 under this section. The fee shall not exceed the actual cost of locating, editing,
20 researching, and retrieving the information."

21 **SECTION 4.** This act is effective when it becomes law.