

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1080*

Short Title: Naturopathic Physician Licensing Act. (Public)

Sponsors: Senators Kinnaird; Clodfelter, Hartsell, Nesbitt, Queen, and Shaw.

Referred to: Commerce, Small Business and Entrepreneurship.

March 22, 2007

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

"Article 42.

"Naturopathic Physicians.

9 **"§ 90-801. Short title.**

10 This Article may be cited as the 'North Carolina Naturopathic Physicians Licensure
11 Act'.

12 **"§ 90-802. Intent; purpose.**

13 (a) Intent. – The General Assembly finds that a significant number of residents of
14 the State of North Carolina choose complementary and alternative health care and
15 declares that naturopathic medicine is a distinct health care profession that affects the
16 public health, safety, and welfare and provides for freedom of choice in health care. The
17 General Assembly concludes that licensure 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. Licensure can provide a process by which citizens may more confidently rely
20 with respect to the level of skill, education, and competency possessed by licensed
21 persons.

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

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

3 **"§ 90-803. Definitions.**

4 The following definitions apply in this act:

5 (1) Approved program of naturopathic medicine. – A program that meets
6 all of the following conditions:

7 a. A program that provides graduate-level full-time didactic and
8 supervised clinical training that is accredited, or has achieved
9 candidacy status for accreditation, by the Council on
10 Naturopathic Medical Education Program or its federally
11 recognized successor agency.

12 b. A program that is offered by an institution of higher education
13 that is either accredited, or is a candidate for accreditation, by a
14 regional or national institutional accrediting agency recognized
15 by the United States Secretary of Education.

16 c. If the program is offered in the United States, it must be a
17 program that awards the degree of Doctor of Naturopathy or
18 Doctor of Naturopathic Medicine. If the program is offered in
19 Canada, it must be a program that awards the degree or diploma
20 of Doctor of Naturopathy or Doctor of Naturopathic Medicine,
21 and the program must be offered by an institution of higher
22 education that has provincial approval for participation in
23 government-funded student aid programs.

24 (2) Board. – The North Carolina Naturopathic Medicine Licensing Board.

25 (3) Criminal history. – A history of conviction of a State crime, whether a
26 misdemeanor or felony.

27 (4) Integrative medicine. – Same as defined in G.S. 90-2.1.

28 (5) Natural medicines. – Any herbal, nutritional, supplemental,
29 homeopathic, or other nonprescription remedies.

30 (6) Naturopathic medicine. – A system of natural health care that employs
31 diagnosis and treatment using natural therapies and diagnostic
32 techniques for the promotion, maintenance, and restoration of health
33 and the prevention of disease, including the following:

34 a. Administering or providing any of the following for
35 preventative and therapeutic purposes: natural medicines,
36 natural therapies, natural topical medicines, counseling,
37 hydrotherapy, dietary therapy, and naturopathic physical
38 medicine.

39 b. Using diagnostic procedures including physical and orificial
40 examination but excluding endoscopy, sigmoidoscopy, and
41 colonoscopy.

42 c. Ordering laboratory tests and diagnostic imaging, but excluding
43 electrocardiograms, echocardiograms, electroencephalograms,
44 nuclear imagings, MRIs, and CT scans and other tests that

1 should be conducted and interpreted by an appropriate medical
2 specialist.

3 (7) Naturopathic physical medicine. – The manual use of massage,
4 stretching, or resistance.

5 (8) Naturopathic physician. – A person licensed to practice naturopathic
6 medicine under this act.

7 "**§ 90-804. License required; exemptions.**

8 (a) License Required. – On or after May 1, 2009, no person shall practice or offer
9 to practice as a naturopathic physician, perform naturopathic medicine, or use any card,
10 title, or abbreviation, to indicate that the person is a naturopathic physician unless the
11 person has been licensed under the provisions of this act. Persons licensed under this act
12 have the exclusive right to use the terms: 'naturopathic physician', 'naturopathic doctor',
13 'doctor of naturopathic medicine', 'doctor of naturopathy', 'naturopathic medicine',
14 'naturopath', 'N.D.', 'ND', and 'NMD'.

15 (b) Exemptions. – Nothing in this act shall be construed to prohibit or affect:

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

19 (2) The practice of naturopathic medicine by a person employed by the
20 federal government while the person is engaged in the performance of
21 duties prescribed by laws and regulations of the United States.

22 (3) A person giving advice in the use of a therapy that is within the scope
23 of practice of a naturopathic physician so long as the person is not
24 otherwise prohibited by law from providing that advice.

25 (4) A person rendering aid in an emergency situation, when no fee or other
26 compensation for the service is received.

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

34 (6) The ability of a person engaged in the practice of complementary and
35 alternative healthcare from continuing that practice, so long as the
36 person does not make the representation of being licensed under this
37 act and does not use one of the terms listed in subsection (a) of this
38 section.

39 (7) A person, who in good faith, offers naturopathic services for religious
40 reasons.

41 (8) The practice of naturopathic medicine by a naturopathic physician duly
42 licensed in another state, territory, or the District of Columbia when
43 incidentally called into this State to consult with a licensed physician.

1 (9) The practice of naturopathic medicine by students enrolled in an
2 approved naturopathic medicine program as described in
3 G.S. 90-687(a) while completing a clinical requirement for graduation
4 that is performed under the supervision of an instructor.

5 (c) Unlawful Act. – A person who violates this section is guilty of a Class 1
6 misdemeanor. The Board may make application to superior court for an order enjoining
7 a violation of this section. Upon a showing by the Board that a person has violated or is
8 about to violate this section, the court may grant an injunction, restraining order, or take
9 other appropriate action.

10 **"§ 90-805. Practice of naturopathic medicine; prohibitions.**

11 (a) Scope of Practice. – A naturopathic physician is a licensed health care
12 provider having the same responsibilities as other licensed doctors regarding public
13 health laws, reportable diseases and conditions, communicable disease control and
14 prevention, and recording vital statistics. In treating an individual, a naturopathic
15 physician may employ the following naturopathic therapies, modalities, and remedies
16 consistent with naturopathic education and training:

17 (1) Dispense, administer, and advise the use of natural remedies derived
18 from or substantially similar in molecular structure or function to
19 natural sources for preventive and therapeutic purposes, including
20 food, extracts of food, nutraceuticals, vitamins, minerals, enzymes,
21 botanicals and their extracts, homeopathic remedies prepared
22 according to the Homeopathic Pharmacopoeia of the United States,
23 and all dietary supplements and nonprescription drugs as defined by
24 the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.A. § 301, et seq.

25 (2) Order and perform physical and laboratory examinations and
26 diagnostic imaging studies.

27 (3) Perform hot or cold hydrotherapy, colon hydrotherapy, naturopathic
28 physical medicine, electromagnetic energy, and therapeutic exercise.

29 (4) Perform health education and health counseling.

30 (5) Perform musculoskeletal manipulation.

31 (6) Perform utilization routes of administration that include oral, nasal,
32 auricular, ocular, rectal, vaginal, transdermal, intradermal, and
33 subcutaneous.

34 (7) Perform repair and care incidental to superficial lacerations and
35 abrasions.

36 (8) Remove foreign bodies located in the superficial tissues.

37 (9) Perform topical and local anesthetics and antimicrobials incidental to
38 minor in-office procedures allowed under this section.

39 (10) Other Board-approved therapies for which the licensee has been
40 trained and educated.

41 (b) Prohibitions. – A naturopathic physician shall not:

42 (1) Prescribe, dispense, or administer a prescription drug or any controlled
43 substance or device identified in the Controlled Substance Act, 21
44 U.S.C.A. § 801, et seq., except as authorized by this Article.

- 1 (2) Practice or attempt to practice as a medical physician, osteopath,
2 acupuncturist, dentist, podiatrist, optometrist, chiropractor,
3 psychologist, advanced practice professional nurse, physician assistant,
4 physical therapist, or any other health care professional not authorized
5 by this Article unless licensed by this State to do so.
- 6 (3) Use general or spinal anesthetics unless licensed by the State to do so.
- 7 (4) Perform surgical procedures using a laser device.
- 8 (5) Perform surgical procedures involving the eye, ear, tendons, nerves,
9 veins, or arteries extending beyond superficial tissue.
- 10 (6) Administer ionizing radioactive substances for therapeutic purposes.
- 11 (7) Perform chiropractic adjustments unless licensed by this State to do so.
- 12 (8) Perform acupuncture, unless licensed by this State to do so.

13 **"§ 90-806. North Carolina Naturopathic Physicians Licensing Board.**

14 (a) Board. – The North Carolina Naturopathic Physicians Licensing Board is
15 created. The Board consists of six members serving for staggered terms. Upon the
16 expiration of the terms of the initial Board members, each member is appointed for a
17 term of three years, beginning on January 1 of each year. A member serves until the
18 member's successor is appointed. No member may serve more than two consecutive full
19 terms.

20 The initial Board members shall be appointed on or before January 1, 2008, as
21 follows:

- 22 (1) The General Assembly, upon the recommendation of the President Pro
23 Tempore of the Senate, shall appoint two naturopathic physicians who
24 are licensed under this act. One member shall serve for a term of one
25 year and one member shall serve a term of three years.
- 26 (2) The General Assembly, upon the recommendation of the Speaker of
27 the House of Representatives, shall appoint two naturopathic
28 physicians who are licensed under this act. One member shall serve for
29 a term of one year and one member shall serve a term of two years.
- 30 (3) The Governor shall appoint for a three-year term a physician licensed
31 under Article 1 of Chapter 90 of the General Statutes who is involved
32 in the practice of integrative medicine or who teaches integrative
33 medicine at a medical school.
- 34 (4) The Governor shall appoint for a two-year term a public member who
35 is not a licensed health care professional and is not employed in the
36 health care profession.

37 (b) Vacancies. – A member of the Board serves at the pleasure of the authority
38 that appointed it. A vacancy must be filled in the same manner as the original
39 appointment. An appointee to fill a vacancy shall serve the remainder of the unexpired
40 term and until its successor has been duly appointed.

41 (c) Removal. – The Board may remove any of its members for neglect of duty,
42 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings
43 as a licensee is disqualified from participating in the official business of the Board until
44 the charges have been resolved.

1 (d) General Administration. – A Board member may not receive compensation,
2 but may receive reimbursement as provided in G.S. 93B-5. The officers of the Board
3 include a chair, a secretary, and any other officer deemed necessary by the Board to
4 carry out the purposes of this act. All officers shall be elected annually by the Board at
5 its first meeting held after appointments to the Board are made. The Board must hold a
6 meeting within 45 days of the appointment of new Board members. All officers serve
7 for one-year terms and shall serve until their successors are elected and qualified. No
8 person shall chair the Board for more than five consecutive years. The Board may adopt
9 rules governing the calling, holding, and conducting of regular and special meetings. A
10 majority of Board members constitutes a quorum.

11 **"§ 90-807. Powers of the Board.**

12 The Board shall have the power and duty to:

- 13 (1) Administer and enforce the provisions of this act.
- 14 (2) Adopt rules as may be necessary to carry out the provisions of this act.
- 15 (3) Establish, examine, and determine the qualifications and fitness of
16 applicants for licensure and renewal of licensure.
- 17 (4) Issue, renew, deny, suspend, or revoke licenses and conduct any
18 disciplinary actions authorized by this act.
- 19 (5) Collect fees for licensure, licensure renewal, and other services
20 deemed necessary to carry out the provisions of this act.
- 21 (6) Recommend and advocate for the establishment of one or more
22 approved programs of naturopathic medicine in this State.
- 23 (7) Establish and approve continuing education requirements for persons
24 licensed under this act.
- 25 (8) Develop and implement a plan for instituting a naturopathic medicine
26 residency program as a condition for licensure no later than July 1,
27 2010.
- 28 (9) Employ and fix the compensation of personnel that the Board
29 determines is necessary to carry out the provisions of this act and incur
30 other expenses necessary to perform the duties of the Board.
- 31 (10) Adopt a seal containing the name of the Board for use on all licenses
32 and official reports issued by the Board.
- 33 (11) Institute corrective measures, as necessary, to rehabilitate naturopathic
34 physicians or limit their practice.

35 **"§ 90-808. Qualifications for licensure; renewal; reinstatement.**

36 (a) Licensure. – Upon application to the Board and payment of the required fees,
37 an applicant may be licensed under this act as a naturopathic physician if the applicant
38 meets all of the following qualifications and conditions:

- 39 (1) Is of good moral and ethical character.
- 40 (2) Is a graduate of an approved program of naturopathic medicine.
- 41 (3) Meets one of the following two conditions:
 - 42 a. Has successfully passed a competency-based national
43 naturopathic licensing examination administered by the North

1 American Board of Naturopathic Examiners, or equivalent
2 agency as recognized by the Board.

3 b. Has successfully passed a state competency-based examination
4 or a Canadian provincial examination. The examination must be
5 one that is approved by the Board and by the North American
6 Board of Naturopathic Medical Education or its successor
7 agency. An applicant may qualify for licensure under this
8 sub-subdivision only if the applicant graduated from an
9 approved program of naturopathic medicine prior to 1987.

10 (4) Provides the Board with a list of physicians licensed to practice
11 medicine in this State who have agreed to work with the applicant and
12 accept referrals from the applicant. The applicant must also provide the
13 Board with letters of verification from the listed physicians. The list
14 must include physicians with specialties in at least four of the
15 following areas: allergy and immunology, cancer and oncology,
16 cardiology, endocrinology and metabolism, family medicine,
17 gastroenterology, internal medicine, obstetrics and gynecology,
18 pediatrics, psychiatry, and urology.

19 (5) Submits any other documentation the Board deems necessary to
20 determine the applicant's fitness for licensure under this act. This
21 documentation may include successful completion of a
22 Board-approved examination on State laws and rules related to
23 naturopathic medicine.

24 (b) Renewal. – A license expires two years after the date it is issued unless it is
25 renewed. Failure to renew a license within six months of the date the license expires
26 shall result in automatic forfeiture of the right to practice naturopathic medicine in this
27 State until such time that the license has been reinstated. To renew a license, a licensee
28 must meet all of the following conditions:

29 (1) Submit an application for license renewal.

30 (2) Pay the required fees.

31 (3) Complete at least 40 hours of continuing education approved by the
32 Board.

33 (c) Reinstatement. – A licensed naturopathic physician who has allowed the
34 license to lapse by failure to renew within the time allowed under subsection (b) of this
35 section may apply for reinstatement. The Board may reinstate the applicant's license if
36 the applicant pays the required fees, furnishes a statement of the reason for failure to
37 apply for renewal prior to the deadline, and complies with any other requirements
38 established in rules adopted by the Board. If the license has lapsed for five years or
39 longer, the Board may require the applicant to complete satisfactorily a refresher course
40 approved by the Board or to provide proof of active licensure within the past five years
41 in another jurisdiction.

42 **"§ 90-809. Reciprocity.**

- 1 (7) Has had a license denied, restricted, revoked, or suspended by another
2 state or jurisdiction.
- 3 (8) Fails to consent to a criminal history record check.
- 4 (9) Fails to respond, within a reasonable time, to inquiries from the Board
5 concerning any matter affecting the individual's license to practice
6 naturopathic medicine.
- 7 (10) Fails to complete continuing education requirements within the time
8 prescribed.

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

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

28 **"§ 90-812. Criminal history record check of applicants and licensees.**

29 (a) Criminal History Record Check. – The Board may require a criminal history
30 record check for a person who is either licensed under this act or applying for licensure
31 under this act. The Board is responsible for providing to the North Carolina Department
32 of Justice the fingerprints of the person to be checked, a form signed by the person
33 consenting to the criminal record check and the use of fingerprints and other identifying
34 information required by the State or National Repositories, and any additional
35 information required by the Department of Justice. The Board shall keep all information
36 obtained pursuant to this section confidential.

37 (b) Conviction. – If a criminal history record check reveals one or more
38 convictions, the conviction does not automatically bar licensure. The Board must
39 consider all of the following factors regarding the conviction:

- 40 (1) The level of seriousness of the crime.
- 41 (2) The date of the crime.
- 42 (3) The age of the person at the time of the conviction.
- 43 (4) The circumstances surrounding the commission of the crime, if known.

1 (5) The nexus between the criminal conduct of the person and the job
2 duties of the position to be filled.

3 (6) The person's prison, jail, probation, parole, rehabilitation, and
4 employment records since the date the crime was committed.

5 (7) The subsequent commission by the person of a crime.

6 (c) Denial of Licensure. – If the Board denies, revokes, or suspends a license
7 based on information obtained in a criminal history record check, the Board must
8 disclose to the person the information contained in the criminal history record check
9 that is relevant to the Board's actions. The Board may not provide a copy of the criminal
10 history record check to the person. A person has the right to appear before the Board to
11 appeal the Board's decision. An appearance before the Board shall constitute an
12 exhaustion of administrative remedies in accordance with Chapter 150B of the General
13 Statutes.

14 (d) Limited Immunity. – The Board, its officers and employees, acting in good
15 faith and in compliance with this section, shall be immune from civil liability for its
16 actions based on information provided in a person's criminal history record check.

17 **"§ 90-813. Reports; immunity from suit.**

18 (a) Report. – A person who has reasonable cause to suspect misconduct or
19 incapacity of a licensee, or who has reasonable cause to suspect that a person is in
20 violation of this act, may report the relevant facts to the Board. Upon receipt of a
21 charge, or upon its own initiative, the Board may give notice of an administrative
22 hearing or may, after diligent investigation, dismiss unfounded charges. A person who,
23 in good faith, makes a report pursuant to this section is immune from any criminal
24 prosecution or civil liability resulting from making the report.

25 (b) Immunity. – The Board and its staff are immune from any criminal
26 prosecution or civil liability for exercising, in good faith, the powers and duties given to
27 the Board under this act.

28 **"§ 90-814. Third-party reimbursement.**

29 Nothing in this act shall be construed to require direct third-party reimbursement to
30 persons licensed under this act.

31 **"§ 90-815. Advisory Council.**

32 (a) Created. – An Advisory Council is created to advise the Board and to develop
33 recommendations to foster coordination and collaboration between naturopathic
34 physicians, medical doctors, and other health professionals for the purpose of providing
35 appropriate care for patients. The Council must meet periodically and report its
36 recommendations to the Naturopathic Medicine Licensing Board and the boards of
37 directors for the North Carolina Medical Society and the North Carolina Association of
38 Naturopathic Physicians.

39 (b) Membership. – The Advisory Council consists of the following six members:

40 (1) Two licensed physicians appointed by the North Carolina Medical
41 Society.

42 (2) Two licensed naturopathic physicians appointed by the North Carolina
43 Association of Naturopathic Physicians.

1 (3) One licensed pharmacist or pharmacologist appointed by the North
2 Carolina Association of Pharmacists.

3 (4) One licensed advanced practice registered nurse appointed by the
4 North Carolina Nursing Association.

5 (b) General Administration. – Each member is appointed for a term of two years
6 beginning January 1. A member serves until a successor is appointed. The members of
7 the Advisory Council may elect a chairperson by a majority vote. Advisory Council
8 members may not receive compensation for their services, but may receive
9 reimbursement as provided in G.S. 93B-5."

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

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

14 ...

15 (20) The practice of naturopathic medicine by a licensed naturopathic
16 physician under the provisions of Article 42 of this Chapter."

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

19 "**§ 114-19.20. Criminal record checks for naturopathic physicians.**

20 (a) The Department of Justice may provide to the North Carolina Naturopathic
21 Medicine Licensing Board from the State and National Repositories of Criminal
22 Histories the criminal history of an applicant for licensure by the Board or a licensee of
23 the Board. The Judicial Department shall provide to the Department of Justice, along
24 with the request, the fingerprints of the applicant or licensee, a form signed by the
25 applicant or licensee consenting to the criminal record check and use of fingerprints and
26 other identifying information required by the State and National Repositories, and any
27 additional information required by the Department of Justice. The fingerprints of the
28 applicant or licensee shall be forwarded to the State Bureau of Investigation for a search
29 of the State's criminal history record file, and the State Bureau of Investigation shall
30 forward a set of fingerprints to the Federal Bureau of Investigation for a national
31 criminal history record check. The Judicial Department shall keep all information
32 obtained pursuant to this section confidential.

33 (b) The Department of Justice may charge a fee to offset the cost incurred by it to
34 conduct a criminal record check under this section. The fee shall not exceed the actual
35 cost of locating, editing, researching, and retrieving the information."

36 **SECTION 4.** Notwithstanding the provisions of G.S. 90-806, the initial
37 naturopathic physicians appointed to the North Carolina Naturopathic Physicians
38 Licensing Board must be eligible for licensure under G.S. 90-808 and, upon
39 appointment, must immediately apply for a license.

40 **SECTION 5.** This act is effective when it becomes law.