

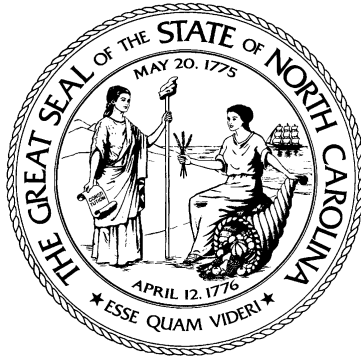
LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

FINAL Assessment Report

For

NATUROPATHIC DOCTORS LICENSURE/FEEES

House Bill 1404
Senate Bill 1043



LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

July 1, 2009

The Legislative Committee on New Licensing Boards is pleased to release this assessment report on the licensure of registered naturopathic doctors. This report constitutes both the preliminary and final assessment report.

Representative Earline W. Parmon

**LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS
(2009-2010)**

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PREFACE

The Legislative Committee on New Licensing Boards is a 9-member joint committee of the House and Senate created and governed by statute (Article 18A of Chapter 120 of the General Statutes). The primary purpose of the Committee is to evaluate the need for a new licensing board or the proposed licensing of previously unregulated practitioners by an existing board. The Committee has been in existence since 1985.

The Committee solicits written and oral testimony on each licensing proposal in carrying out its duty to determine whether the proposal meets the following criteria:

- 1) Whether the unregulated practice of the profession can substantially endanger the public health, safety, or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument.
- 2) Whether the profession possesses qualities that distinguish it from ordinary labor.
- 3) Whether practice of the profession requires specialized skill or training.
- 4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence.
- 5) Whether the public can effectively be protected by other means.
- 6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's good or services.

The Committee issues an assessment report on its findings and recommendations. The recommendation in the report is not binding upon other committees considering the proposal.

**HOUSE BILL 1404
SENATE BILL 1043
NATUROPATHIC DOCTORS LICENSURE/FEEES**

BACKGROUND¹

Current Standards. The North Carolina Association of Naturopathic Physicians (NCANP) is a professional organization of clinically trained and formally educated doctors of naturopathic medicine. The NCANP was incorporated in 1987 as a non-profit entity, supported and funded through annual dues paid by its members and is an association member of the American Association of Naturopathic Physicians. The organization currently has 30 members who are naturopathic physicians -- each of whom has at least eight combined years of college and Naturopathic medical school and meet the national standards for licensure in the USA. Those national standards include completion of a professional Naturopathic Degree from a four-year residential Naturopathic Medical School accredited by the federally recognized accrediting body, the Council on Naturopathic Medical Education, and successful passage of two sets of the Naturopathic Physicians Licensing Exams.

The North Carolina Association of Naturopathic Physicians represents the interests of the clinically trained and formally educated naturopathic doctors in the state of North Carolina. Its function is to serve the profession and the statewide community through effective leadership and commitment to excellence in health education and health care services. NCANP collectively represents the interests of its members to the state legislature and other state and federal governmental entities.

The NCANP serves North Carolina residents by providing referrals to qualified member physicians. The NCANP also serves North Carolina residents by providing information and education on the benefits and limitations of naturopathic medicine. Such services are delivered

¹ **Source:** *Response to Questionnaire for the Legislative Committee for New Licensing Boards.* A copy of the questionnaire is attached to this report.

through the NCANP website and publications, and through the various activities of NCANP members, including public speaking engagements.

The members of NCANP work with businesses, healthcare and educational institutions, as well as other organizations to further the health and well being of North Carolina residents through public and health-care-professional education.

Once licensure is secured in North Carolina, the NCANP like similar organizations in other states will provide continuing education services, including seminars, conferences, webinars, and other live and recorded educational events for naturopathic physicians and other health care professionals.

Over the past 10 years, members of NCANP have actively urged North Carolina lawmakers to enact a licensure law that would regulate the practice of naturopathic medicine. Fifteen states and several American and Canadian provinces currently have laws that license naturopathic doctors. The earliest licensure was enacted in the state of Washington in 1919 and the most recent state to enact a licensure law for naturopathic doctors is the state of Minnesota in 2009. Organized efforts are ongoing in most states to license and regulate the practice of naturopathic medicine.

As primary care providers, trained as general practitioners, naturopathic doctors are increasingly becoming a partner in the establishment and facilitation of an integrated health care delivery model. The National Institute of Health has documented the use of complementary/alternative medicine reporting that approximately 38 percent of adults (about 4 in 10) and approximately 12 percent of children (about 1 in 9) are using some form of complementary/alternative medicine. (Source: Barnes PM, Bloom B, Nahin R. *CDC National Health Statistics Report #12. Complementary and Alternative Medicine Use Among Adults and Children: United States, 2007. December 2008.* Naturopathic doctors are the experts in many of these complementary and alternative health care modalities. North Carolina's laws and regulations should be updated to accommodate the rising demand for natural medicine. Updating laws and regulations relative to

complementary and alternative medicine would help protect the public from harm and improve patient outcomes.

As clinicians with expertise in prevention, nutrition, and patient education, naturopathic doctors work toward maintaining health and wellness before it becomes an issue of disease management. As clinicians trained in the healing physiology of the human body, biochemistry, genetics, and various other clinical and life sciences, naturopathic doctors provide safe effective modalities for treating various acute, chronic and degenerative conditions. Naturopathic care effectively reduces the need for expensive medications and procedures. Naturopathic doctors recognize that the practice of medicine is a privilege granted to practitioners by state officials who are obligated to protect the public's welfare.

LICENSING REQUIREMENTS

§ 90-802. Intent; purpose.

Intent. – The General Assembly finds that a significant number of residents of the State of North Carolina choose complementary and alternative health care and declares that naturopathic treatment is a distinct health care profession that affects the public health, safety, and welfare and provides for freedom of choice in health care. The General Assembly concludes that licensure is in the current interest of North Carolina citizens to aid in protecting them from deception, fraud, and damage to their health status. Licensure can provide a process by which citizens may more confidently rely on the level of skill, education, and competency possessed by licensed persons.

Purpose. – The purpose of this act is to provide standards for the licensure of naturopathic doctors desiring to practice naturopathic medicine in this State and to ensure the maintenance of professional competence and acceptable standards of practice. This act recognizes that many of the therapies used by naturopathic doctors, such as the use of nutritional supplements, herbs, foods, homeopathic preparations, and such physical forces as heat, cold, water, touch, and light, are not the exclusive privilege of naturopathic doctors.

§ 90-803. Definitions.

The following definitions apply in this act:

- Approved program of naturopathic medicine. – A program that meets all of the following conditions:
 - A program that provides graduate-level full-time didactic and supervised clinical training that is accredited, or has achieved candidacy status for

accreditation, by the Council on Naturopathic Medical Education Program or its federally recognized successor agency.

- A program that is offered by an institution of higher education that is either accredited, or is a candidate for accreditation, by a regional or national institutional accrediting agency recognized by the United States Secretary of Education.
- If the program is offered in the United States, it must be a program that awards the degree of Doctor of Naturopathy or Doctor of Naturopathic Medicine. If the program is offered in Canada, it must be a program that awards the degree or diploma of Doctor of Naturopathy or Doctor of Naturopathic Medicine, and the program must be offered by an institution of higher education that has provincial approval for participation in government-funded student aid programs.
- Board. – The North Carolina Naturopathic Doctors Licensing Board.
- Criminal history. – A history of conviction of a State or federal crime, whether a misdemeanor or felony.
- Integrative medicine. – Same as defined in G.S. 90-1.1.
- Natural medicines. – Any herbal, nutritional, supplemental, homeopathic, or other nonprescription remedies.
- Naturopathic medicine. – A system of natural health care that employs diagnosis and treatment using natural therapies and diagnostic techniques for the promotion, maintenance, and restoration of health and the prevention of disease, including the following:

- Administering or providing any of the following for preventive and therapeutic purposes: natural medicines, natural therapies, natural topical medicines, counseling, hydrotherapy, dietary therapy, and naturopathic physical medicine.
- Using diagnostic procedures including physical and orificial examination but excluding endoscopy, sigmoidoscopy, and colonoscopy.
- Ordering and interpreting laboratory tests and diagnostic imaging, but excluding electrocardiograms, echocardiograms, electroencephalograms, nuclear imagings, MRIs, CT scans, and other tests that should be conducted and interpreted by an appropriate medical specialist.
- Naturopathic physical medicine. – The manual use of massage, stretching, or resistance.
- Naturopathic doctor. – A person licensed to practice naturopathic medicine under this act.

§ 90-804. Practice of naturopathic medicine; scope of practice.

Practice of Naturopathic Medicine. – A naturopathic doctor is a licensed health care provider having the same responsibilities as other licensed doctors regarding public health laws, reportable diseases and conditions, communicable disease control and prevention, and recording vital statistics. In diagnosing and treating an individual, a naturopathic doctor may employ the following naturopathic therapies, modalities, procedures, and remedies consistent with naturopathic education and training:

- Dispense, administer, and advise the use of natural remedies derived from or substantially similar in molecular structure or function to natural sources for preventive and therapeutic purposes, including food, extracts of food, nutraceuticals,

vitamins, minerals, enzymes, botanicals and their extracts, homeopathic remedies prepared according to the Homeopathic Pharmacopoeia of the United States, and all dietary supplements and nonprescription drugs as defined by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.A. § 301, et seq.

- Order and perform physical examinations.
- Order, perform, and interpret laboratory examinations and diagnostic imaging studies, provided the naturopathic doctor has a supervision agreement with a licensed physician as provided in subsection (b) of this section.
- Perform hot or cold hydrotherapy, colon hydrotherapy, naturopathic physical treatment, electromagnetic energy, and therapeutic exercise.
- Perform health education and health counseling.
- Perform musculoskeletal manipulation.
- Perform utilization routes of administration that include oral, nasal, auricular, ocular, rectal, vaginal, and transdermal.
- Perform repair and care incidental to superficial lacerations and abrasions and apply topical and local anesthetics and antimicrobials.
- Remove foreign bodies located in the superficial tissues.
- Other Board-approved therapies, modalities, procedures, and remedies for which the licensee has been trained and educated.

Supervision Agreement. – A naturopathic doctor must designate a physician licensed to practice medicine to supervise the naturopathic doctor's ordering and interpretation of laboratory tests and diagnostic imaging studies. The designation must be on a form provided by the North Carolina Medical Board and the North Carolina Naturopathic Board. The

designation will remain in effect until one of the parties to the designation revokes the agreement.

Prohibitions. – A naturopathic doctor shall not:

- Prescribe, dispense, or administer any legend drug, except as authorized by this Article.
- Practice or attempt to practice as a medical physician, osteopath, acupuncturist, dentist, podiatrist, optometrist, chiropractor, dietitian or nutritionist, psychologist, advanced practice professional nurse, physician assistant, physical therapist, or any other health care professional not authorized by this Article unless licensed by this State to do so.
- Use general or spinal anesthetics unless licensed by the State to do so.
- Perform surgical procedures using a laser device.
- Perform surgical procedures.
- Administer ionizing radioactive substances for therapeutic purposes.
- Perform chiropractic adjustments unless licensed by this State to do so.
- Perform acupuncture unless licensed by this State to do so.

§ 90-805. License required; exemptions.

License Required. – On or after May 1, 2010, no person shall practice or offer to practice as a naturopathic doctor, perform naturopathic medicine, or use any card, title, or abbreviation to indicate that the person is a naturopathic doctor unless the person has been licensed under the provisions of this act. Persons licensed under this act have the exclusive right to use the terms: 'naturopathic doctor,' 'doctor of naturopathic medicine,' 'doctor of naturopathy,' 'naturopathic medicine,' 'naturopath,' 'D.N.,' 'N.D.,' 'ND,' and 'N.M.D.'

Exemptions. – Nothing in this act shall be construed to prohibit or affect:

- The practice of a profession by an individual who is licensed, certified, or registered under other laws of this State and is performing services within the authorized scope of practice.
- The practice of naturopathic medicine by a person employed by the federal government while the person is engaged in the performance of duties prescribed by laws and regulations of the United States.
- A person rendering aid in an emergency situation when no fee or other compensation for the service is received.
- The practice of naturopathic medicine by a naturopathic doctor duly licensed in another state, territory, or the District of Columbia when called into this State to consult with a licensed physician for a period not to exceed six months.
- The practice of naturopathic medicine by students completing a clinical requirement for graduation from a naturopathic training program approved by the Board, so long as the practice is performed under the supervision of a licensed physician and the clinical requirement does not exceed one year.
- A person who does not hold himself out to be a naturopathic doctor when that person furnishes nutrition information to customers on food, food materials, dietary supplements, and other goods sold at the person's retail establishment in connection with the marketing and distribution of those goods at the retail establishment.

Unlawful Act. – A person who violates this section is guilty of a Class I felony. The Board may make application to superior court for an order enjoining a violation of this section. Upon a showing by the Board that a person has violated or is about to violate this

section, the court may grant an injunction, restraining order, or take other appropriate action.

§ 90-806. North Carolina Naturopathic Doctors Licensing Board.

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

The initial Board members shall be appointed on or before January 1, 2010, as follows:

- The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint two naturopathic doctors who are licensed under this act. One member shall serve a term of one year and one member shall serve a term of three years.
- The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint two naturopathic doctors who are licensed under this act. One member shall serve a term of one year and one member shall serve a term of two years.
- The Governor shall appoint two physicians licensed under Article 1 of Chapter 90 of the General Statutes, at least one of whom must be involved in the practice of integrative medicine or who teaches integrative medicine at a medical school. Both of these members shall serve a term of three years.
- The Governor shall appoint for a two-year term a public member who is not a licensed health care professional and is not employed in a health care profession.

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

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

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

§ 90-807. Powers of the Board.

The Board shall have the power and duty to:

- Administer and enforce the provisions of this act.
- Adopt rules as may be necessary to carry out the provisions of this act.
- Establish, examine, and determine the qualifications and fitness of applicants for licensure and renewal of licensure.

- Issue, renew, deny, suspend, or revoke licenses and conduct any disciplinary actions authorized by this act.
- Collect fees for licensure, licensure renewal, and other services deemed necessary to carry out the provisions of this act.
- Recommend and advocate for the establishment of one or more approved programs of naturopathic medicine in this State.
- Establish and approve continuing education requirements for persons licensed under this act.
- Develop and implement a plan for instituting a naturopathic doctor residency program as a condition for licensure no later than July 1, 2011.
- Employ and fix the compensation of personnel that the Board determines is necessary to carry out the provisions of this act and incur other expenses necessary to perform the duties of the Board.
- Adopt a seal containing the name of the Board for use on all licenses and official reports issued by the Board.
- Institute corrective measures, as necessary, to rehabilitate naturopathic doctors or limit their practice.

§ 90-808. Qualifications for licensure; renewal; reinstatement.

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

- Is of good moral and ethical character.
- Is a graduate of an approved program of naturopathic medicine.

- Meets one of the following two conditions:
 - Has successfully passed a competency-based national naturopathic licensing examination administered by the North American Board of Naturopathic Examiners, or equivalent agency as recognized by the Board.
 - Has successfully passed a competency-based examination approved by the Board and by the North American Board of Naturopathic Medical Education or its successor agency.
 - Provides the Board with a list of physicians licensed to practice medicine in this State who have agreed to work with the applicant and accept referrals from the applicant. The applicant must also provide the Board with letters of verification from the listed physicians. The list must include physicians with specialties in at least four of the following areas: allergy and immunology, cancer and oncology, cardiology, endocrinology and metabolism, family medicine, gastroenterology, internal medicine, obstetrics and gynecology, pediatrics, psychiatry, and urology.
 - Submits any other documentation the Board deems necessary to determine the applicant's fitness for licensure under this act. This documentation may include successful completion of a Board-approved examination on State laws and rules related to naturopathic medicine.

Renewal. – A license expires two years after the date it is issued unless it is renewed. Failure to renew a license within six months of the date the license expires shall result in automatic forfeiture of the right to practice naturopathic medicine in this State until such

time that the license has been reinstated. To renew a license, a licensee must meet all of the following conditions:

- Submit an application for license renewal.
- Pay the required fees.
- Complete at least 40 hours of continuing education approved by the Board.

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

§ 90-809. Reciprocity.

The Board may grant, upon application and payment of fees, a license to a person who resides in this State and has been licensed to practice as a naturopathic doctor in another state or a Canadian province if both of the following conditions are met:

- The standards for licensure in the state or province in which the naturopathic doctor is licensed are substantially equivalent to those provided in this act.
- The applicant provides proof of licensure in good standing in all states and provinces in which the applicant has been licensed.

§ 90-810. Fees.

The Board may impose the following fees:

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| a. Application and examination | \$400.00 |
| b. License | \$600.00 |
| c. License renewal | \$400.00 |
| d. Late renewal | \$200.00 |
| e. Reinstatement | \$1,000 |
| f. Reasonable charges for duplication services and material. | |
| g. Criminal history record check fee equal to the amount imposed by the Department of Justice to conduct the criminal history record check requested by the Board. | |

§ 90-811. Disciplinary authority.

Authority. – The Board may impose probationary conditions upon a licensee, or it may deny, suspend, revoke, or refuse to issue or renew a license, if the licensee or applicant:

- Engages in any act or practice in violation of any of the provisions of this act or of any of the rules adopted by the Board or aids, abets, or assists any other person in the violation of these provisions or rules.
- Gives false information to or withholds information from the Board in procuring or attempting to procure a license.
- 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 doctor or that indicates the person has deceived or defrauded the public. A felony conviction shall result in the automatic revocation of a license issued by the Board unless the Board determines otherwise pursuant to rules adopted by the Board.

- Has been declared mentally incompetent by a court of competent jurisdiction.
- Habitually uses or is addicted to drugs or intoxicating liquors to an extent that affects his or her professional competency. If a licensee violates this subdivision, the Board may require the licensee to undergo a mental or physical examination by physicians designated by the Board before or after the licensee has been charged. The results of the examination shall be admissible as evidence in a hearing before the Board.
- Has demonstrated gross negligence, incompetency, or misconduct in the performance of naturopathic medical treatment.
- Has had a health care provider license denied, restricted, revoked, or suspended by another state or jurisdiction.
- Fails to consent to a criminal history record check.
- Fails to respond, within a reasonable time, to inquiries from the Board concerning any matter affecting the individual's license to practice naturopathic medicine.
- Fails to complete continuing education requirements within the time prescribed.

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

Records. – The Board must keep a record of its proceedings. The Board may in a closed session receive evidence regarding the treatment of a patient who has not expressly or impliedly consented to the public disclosure of the treatment as may be necessary for the protection of the rights of the patient or of the accused naturopathic doctor and the full presentation of relevant evidence. All records, papers, investigative files, investigative

reports, and other documents containing information gathered or received by the Board as a result of investigations, inquiries, or interviews conducted in connection with an application for licensure, a complaint, or a disciplinary matter are not considered public documents within the meaning of Chapter 132 of the General Statutes. If a record, paper, or other document containing information collected and compiled by the Board is admitted into evidence in a hearing held by the Board, it shall then be a public record within the meaning of Chapter 132 of the General Statutes.

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

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

Criminal History Record Check. – The Board may require a criminal history record check for a person who is either licensed under this act or applying for licensure under this act. The Board is responsible for providing to the North Carolina Department of Justice the fingerprints of the person to be checked, a form signed by the person consenting to the

criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential.

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

- The level of seriousness of the crime.
- The date of the crime.
- The age of the person at the time of the conviction.
- The circumstances surrounding the commission of the crime, if known.
- The nexus between the criminal conduct of the person and the job duties of the position to be filled.
- The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
- The subsequent commission by the person of a crime.

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

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

§ 90-813. Reports; immunity from suit.

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

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

90-814. Third-party reimbursement.

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

90-815. Advisory Council.

Created. – An Advisory Council is created to advise the Board and to develop recommendations to foster coordination and collaboration between naturopathic doctors, medical doctors, and other health professionals for the purpose of providing appropriate care for patients. The Council must meet periodically and report its recommendations to the Board and to the boards of directors for the North Carolina Medical Society and the North Carolina Association of Naturopathic Physicians.

Membership. – The Advisory Council consists of the following six members:

- Two licensed physicians appointed by the North Carolina Medical Society.
- Two licensed naturopathic doctors appointed by the North Carolina Association of Naturopathic Physicians.
- One licensed pharmacist or pharmacologist appointed by the North Carolina Association of Pharmacists.
- One licensed advanced practice registered nurse appointed by the North Carolina Nursing Association.

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

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

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

...

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

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

"§ 114-19.20. Criminal record checks for naturopathic doctors.

(a) The Department of Justice may provide to the North Carolina Naturopathic Doctors Licensing Board from the State and National Repositories of Criminal Histories the

criminal history of an applicant for licensure by the Board or a licensee of the Board. The Judicial Department shall provide to the Department of Justice, along with the request, the fingerprints of the applicant or licensee, a form signed by the applicant or licensee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The fingerprints of the applicant or licensee shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Judicial Department shall keep all information obtained pursuant to this section confidential.

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

SECTION 4. Notwithstanding the provisions of G.S. 90-806, the initial naturopathic doctors appointed to the North Carolina Naturopathic Doctors Licensing Board must be North Carolina residents, must be licensed as a naturopathic doctor in a state that licenses this profession, and must be eligible for licensure under G.S. 90-808. Upon appointment, the appointee must immediately apply for a license under this act.

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

FINDINGS AND RECOMMENDATIONS

NATUROPATHIC DOCTORS LICENSURE/FEEES

Findings. The Joint Legislative Committee on New Licensing Boards finds that the sponsors have met the six criteria by which the Committee judges licensure proposals. Specifically, the Committee finds that:

- The unregulated practice of naturopathic medicine can and has substantially harmed and endangered the public health, safety, or welfare of North Carolinians. There currently is no officially recognized regulatory body authorized by North Carolina state statute to investigate complaints, and no state laws, rules or guidelines to regulate the profession. The most probable potential form of injury or harm to a patient is from individuals who lack the appropriate and officially recognized professional credentials to perform medical procedures and diagnoses.
- The profession possesses qualities that distinguish it from ordinary labor as naturopathic medicine is a system of primary health care, naturopathic physicians must be versed and educated in standard medical diagnostic techniques, and required continuing education.
- A doctorate in naturopathic medicine and premedical undergraduate studies render dedicated skill and training presumed and necessary.
- A substantial majority of the public does not have the knowledge or experience to evaluate or assess the competence of naturopathic physicians as reflected in a previous death within the state.
- The public cannot be effectively protected by other means.
- Licensure would not have a substantial adverse economic impact upon the recipient of naturopathic medical services.

Recommendation. The Legislative Committee on New Licensing Boards recommends that the practice of naturopathic medicine be performed by a licensed professional. This assessment report constitutes both the preliminary and final assessment report for the licensure of naturopathic physicians. The report is based on the proposed licensing as set out in House Bill 1404 and Senate Bill 1043, the response to the Committee's questionnaire (Attachment), and testimony before the Committee on July 1, 2009.

ATTACHMENT

*Response to Questionnaire for the
Legislative Committee on New Licensing
Boards*

QUESTIONS FOR THE LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

- **In what ways has the marketplace failed to regulate adequately the profession or occupation?**

More than 80 million Americans turn to complementary and/or alternative medicine every year (Institute of Health and Healing at California Pacific Medical Center, March 2002.) Eighty six percent of American adults have used at least one type of alternative or complementary therapy (Harvard Medical School survey, Annals of Internal Medicine, August 2001). From 1990 to 1997 visits to Complementary practitioners increased by 47% (Eisenberg 1998).

The marketplace has failed to regulate naturopathic medicine adequately in the following ways: Consumers have no way of distinguishing between doctors who are actually educated and trained in naturopathic medicine and individuals who are not trained, but hold themselves out as being naturopathic doctors. Consumers are being given advice in regard to natural medicine without being able to adequately access the credentials of the healthcare provider. In many cases, people whose main occupation is selling products are disseminating health care information to the public under the title naturopathic physician or naturopath. It is difficult to be an informed consumer who understands the different categories of natural medicine without a standardized manner of licensing providers.

Distinguishing between different types of training is next to impossible simply because there are no guidelines or categories. The general public does not know the difference between Bastyr, an accredited school, and non-accredited schools such as Southern College of Naturopathic Medicine and Herbal Healer Academy. The State of Arkansas has won an injunction suit against Southern College of Naturopathic Medicine and Herbal Healer Academy. In Arkansas, these schools may no longer advertise that they offer N.D. or N.M.D. degrees.

An organization registered with the Secretary of State as the North Carolina Board of Naturopathic Examiners claims to be the licensing body for Naturopathic doctors in the state. Under this fraudulent licensing board, over 65 individuals who have mail-order degrees claim to be licensed in North Carolina. Providers themselves are not even aware that the North Carolina Board of Naturopathic Examiners is not recognized by the state of North Carolina. Practitioners with degrees from unregulated and mail-order schools in other states make frequent inquiries to the North Carolina Association of Naturopathic Physicians on how to become licensed in North Carolina. (The North Carolina Association of Naturopathic Physicians a professional organization of naturopathic doctors who meet the National standards for licensure in the USA.)

- **Have there been any complaints about the unregulated profession or occupation?**

Please give specific examples including (unless confidentiality must be maintained) complainants' names and addresses.

The State of North Carolina vs. Laurence Perry: Indictments for manslaughter and practicing medicine without a license. Laurence Perry had a “naturopathic degree” obtained

through a correspondence course. In Buncombe County, the mother of Rosie Kolitwenzew, a 9-year-old diabetic who died under Laurence Perry's care, did not know about the differences in doctors and their training because the state of North Carolina does not currently allow physicians who practice naturopathic medicine to be licensed.

As another example -- Deborah Burris had taken her children to someone who she thought had been educated as a naturopathic physician. As it turned out, the individual had a correspondence degree. For over a week, the individual treated Deborah Burris' babies for an ear inflammation using "detox" herbal treatments. The result was a baby with a severe infection. Licensing of naturopaths would have prevented the individual from calling himself a Doctor of Naturopathy.

- **In what ways has the public health, safety, or welfare sustained harm or is in imminent danger of harm because of the lack of state regulation? *Please give specific examples.***

Lack of state regulation is harmful because there are providers who are practicing beyond the limits of their training. If one has not been trained to assess a patient who is in immediate danger, there is a possibility of treating that patient inappropriately or not referring appropriately, thereby placing the patient's life in danger.

In October of 1999, Rosie Kolitwenzew, a 9-year-old diabetic in Buncombe County, died under the care of an individual, Lawrence Perry, who had acquired a "mail-order naturopath degree" Lawrence Perry held three degrees as a "Doctor of Naturopathy," one degree from a place where the address was noted by the prosecution to be a vacant lot. According to Mr. Perry, Rosie did not really have diabetes, but a viral infection that could be

healed by cleaning the toxins from her system. He was prosecuted and sentenced to serve one and a half years in prison for Rosie Kolutwenzew's death.

Deborah Burriss had taken her children to someone who she thought had been educated and trained as a naturopathic physician. As it turned out the individual caring for her children had a correspondence degree. For over a week, the individual had treated Deborah Burriss' baby for an ear inflammation using "detox" herbal treatments. The result was a baby with a severe infection. Licensing of naturopaths would have prevented the individual from calling himself a Doctor of Naturopathy.

- **Is there potential for substantial harm or danger by the profession or occupation to the public health, safety, or welfare? How can this potential for substantial harm or danger be recognized?**

Potential harm exists primarily through errors of omission by providers claiming to be doctors or practitioners who are unqualified and are delivering substandard care. Patients presenting in the office with abdominal pain require a full evaluation to determine the causative factors. There have been instances of people being given herbs for indigestion when the pain was due to an ectopic pregnancy, a life threatening condition without proper surgical intervention. A naturopathic physician determined that a case of indigestion was caused by heart disease, requiring immediate hospitalization of the patient in the UNC Coronary Care Unit. Without proper training to fully recognize conditions that need immediate treatment by medical doctors, patients will be harmed.

All conditions cannot be treated best by natural therapies and some conditions do require medications. Naturopaths are able to work in collaboration with medical doctors to determine the best natural treatment plan for the person requiring medication. Naturopathic physicians, also trained in pharmacy are well versed in the drug herb interactions. Even though natural therapies tend to be less harmful, their proper administration often requires the kind of education and training received by naturopaths at four-year accredited colleges.

- **Has this potential harm or danger to the public been recognized by other states or the federal government through the licensing or certification process? *Please list the other states and any applicable federal law (including citations)***

Fifteen states and several provinces currently license naturopathic doctors, and efforts are underway in five other states to license and regulate the practice of naturopathic medicine. Requirements for licensure in these states include the following: graduation from a federally accredited, four year postgraduate naturopathic medical school; passage of a comprehensive state naturopathic board examination typically based on a nationally standardized exam; and adherence to codes of conduct and ethics inherent in any professional licensure. Yearly continuing education is also a requirement for maintaining a license.

States: Alaska, Arizona, California, Connecticut, Hawaii, Idaho, Kansas, Maine, Minnesota, Montana, New Hampshire, Oregon, Utah, Vermont, and Washington,

Provinces: District of Columbia, Puerto Rico and the US Virgin Islands and four Canadian provinces: Alberta, British Columbia, Manitoba, and Ontario.

o **What will be the economic advantage of licensing to the public?**

Citizens will be getting naturopathic medical advice from trained professionals, who have a standardized level of education. The public would have knowledgeable professionals to consult and thus avoid the overuse of natural supplements.

Consumers pay less for naturopathic medical care and its impact on the national health care system is less because naturopathic medical care often reduces the need for surgery and pharmaceuticals

Patients of naturopathic physicians participate in healthcare decisions with a focus on preventive medicine. Many of the treatments used by naturopathic physicians are life style changes, which are less costly. Prescription drugs use is one of the fastest growing aspects of medical costs. Naturopathic physicians work with medical doctors and their patients to safely reduce the use of medications and use when appropriate, safe and effective natural therapies.

Some insurers of alternative-care report lower cost for treatment. For example, American Western Life notes a conventional prescription for hay fever, Seldane, costs about \$45.21 for 30 tablets, compared with \$8.10 for a natural-healing alternative – 45 capsules of freeze-dried stinging nettles. The insurer claims savings of between 31% and 76% for natural treatments for arthritis, ear infections and high-blood pressure. In the company's Wellness Plan, medical doctors are often a last resort, after natural cures prove ineffective.

The cost to employers can be reduced as well. For example, the Vermont Automobile Dealers Association hired Bernie Noe, ND to work with the Association's employees to improve their health. Using a program of education and personalized wellness interventions,

Dr. Noe dramatically improved the health of the Association's employees in several categories as well as reduced their health care costs. **See attached document at the end of the questionnaire.**

○ **What will be the economic disadvantage of licensing to the public?**

The public would not have an economic disadvantage if naturopathic doctors were to be licensed.

○ **What will be the economic advantages of licensing the practitioners?**

The economic advantage for the practitioners will be that patients using natural medicine may seek professional advice from licensed providers.

Blue Cross Blue Shield sought participation of naturopathic physicians as part of the company's alternative therapies plans. Unfortunately, the North Carolina Medical Board objected to having "unlicensed practitioners" participate in any insurance plan. Other insurance companies already cover naturopathic physicians that possess the kind of education and training that would be required if HB 1404 or SB 1043 were to be enacted.

○ **What will be the economic disadvantages of licensing to the practitioners?**

Practitioners would be required to pay licensing fees.

People with mail-order degrees currently treating the public would have to seek further education to practice as naturopathic physicians in North Carolina.

Please give other potential benefits to the public of licensing that outweigh the potential harmful effects of licensure such as a decrease in the availability of practitioners and higher cost to the public.

A major potential benefit to the public would be the availability of natural treatment options, which often have fewer side effects, are effective and less expensive. More importantly, naturopaths focus care on health and wellness and disease prevention, educating the person to take responsibility for their own self care. Licensing of naturopathic physicians in North Carolina would not decrease the availability of practitioners, but would have the opposite effect and would in fact bring more qualified physicians into the state. After extensive medical training, providers are reluctant to practice in a state without the security of a license.

- **Please detail the specific specialized skills or training that distinguish the occupation or profession from ordinary labor.**

The education of all modern qualified naturopathic physicians with Doctorate of Naturopathic Medicine (ND) degrees distinguishes the profession from ordinary labor. The naturopathic medical education requires premedical undergraduate coursework. The federally accredited, four-year naturopathic medical schools teach the same basic and clinical sciences as other medical schools, as well as teaching the full spectrum of natural medicines and therapies. The first two years of naturopathic medical school consist of basic medical sciences such as anatomy, physiology, biochemistry, physical and clinical diagnosis, laboratory diagnosis, etc. The second two years emphasize the application of naturopathic

therapies with courses such as clinical nutrition, botanical medicine, homeopathy, physical medicine and lifestyle counseling. These are combined with study of the entire range of human disease in courses on gynecology, obstetrics, pediatrics, neurology, endocrinology, cardiology, pulmonology, urology, dermatology and immunology. Clinical training and therapeutic education are integrated throughout the final academic years. There is a minimum of two years of supervised clinical internship. Many graduates participate in optional residency programs.

In 2007, the Princeton Review of Medical Schools started including the four Naturopathic Schools of Medicine located in the United States in the review of the best 168 medical schools in the country. In July 2008, the U.S. Department of Education approved the reclassification of ND's into the "Professional Practice" category along with MD's, dentists, chiropractors, osteopaths, podiatrists and pharmacists.

- **What are other qualities of the profession or occupation that distinguish it from other labor?**

Naturopathic physicians are educated to be familiar with standard medical diagnostic techniques and educated in conventional medical approaches. They are able to communicate effectively with conventional healthcare providers. Naturopathic physicians are trained to work with and refer to conventional providers as well as receive referrals from other practitioners.

Naturopathic medicine is a system of primary health care with guiding principles that distinguish it from the conventional model of health care. The conventional model emphasizes the treatment of disease and medical conditions, whereas the naturopathic model

emphasizes treatment of the whole person and encompasses education to guide the patient toward health and wellness. Naturopathic physicians tend to practice along the entire spectrum of health from optimal wellbeing to degenerative disease, addressing prevention, wellness and disease. The practice of naturopathic medicine is guided by six basic principles, three of which have been briefly mentioned - treat the whole person, doctor as teacher, and prevention. In the naturopathic model prevention encompasses identifying risk factors, addressing diet, nutritional and life style influences on health and disease, and performing screening procedures. Naturopathic physicians teach their patients how to live healthier lives.

With regard to the disease end of the health spectrum, the other three principles illustrate additional distinctions. These principles include: identify and treat the cause, first do no harm, and the healing power of nature. A naturopathic physician looks for the underlying cause of a condition and treats the cause. For example, a child with recurrent ear infections may be treated by testing for a dairy allergy to identify the underlying cause, and may not necessarily be treated with antibiotics. This same example illustrates the principle of first do no harm. The naturopathic physician tends to apply a therapeutic order trying to find the least intrusive, least harmful intervention that works on the specific individual. Removing dairy, applying an adjustment to open the child's Eustachian tube, and applying a natural-based ear drop solution all would involve less harm than resorting to an antibiotic. The ability to discern when to use these less intrusive treatments is supported by the conventional diagnostic training received by the naturopathic physician. Thus, a naturopathic physician knows which conditions necessitate going straight to an antibiotic, and when a patient should be referred to the ER or to a specialist. With regard to the healing power of nature, the naturopathic physician often relies on their training in

biochemistry, genetics and physiology to support the various body systems and their functions. Various nutrients are needed for various biochemical pathways and optimal physiological functioning. Application of water, cold or heat may stimulate circulation or encourage elimination.

Application of these six principles moves patients toward wellness and a healthier lifestyle. Naturopathic medicine combines basic sciences, clinical sciences, and natural therapeutics to diagnose, treat and monitor a patient's health and wellbeing.

In summary, the six guiding principles of naturopathic medicine are:

- (1) The Healing Power of Nature - Trust in the body's inherent wisdom to heal itself.
- (2) First Do No Harm - Utilize the most natural, least invasive and least toxic therapies first.
- (3) Treat the Whole Person - View the body as an integrated whole in all its physical and spiritual dimensions.
- (4) Identify and Treat the Causes - Look beyond the symptoms to effectively address the underlying cause(s) of illness.
- (5) Doctor As Teacher - Educate patients in the steps to achieving and maintaining optimal health.
- (6) Prevention - Focus on promoting health and wellness, and preventing disease.

- **Will licensing requirements cover all practicing members of the occupation or profession? If any practitioners will be exempt, what is the rationale for the exemption?**

All practicing naturopathic physicians must be able to meet licensing requirements. There are no exemptions in the proposed legislation.

- **What is the approximate number of persons who will be regulated and the number of persons who are likely to utilize the services of the occupation or profession?**

There are about 30 naturopathic physicians with the eight years of college and clinical training that would meet the requirements of the bill. This number will most likely increase in the near future because qualified naturopathic doctors are more inclined to practice in a state with licensing. When the acupuncture licensure act passed in 1993 there were 15 acupuncturists in the state. Now there are over 300.

The number of persons who are likely to utilize the services of this profession is directly related to the number of practitioners. The present number of practitioners provides care for over 25,000 patients.

- **What kind of knowledge or experience does the public need to evaluate the services offered by the practitioner?**

The public has a right to know that their health care professional has met rigorous standards for education, training and testing. Because service offered by practitioners is a matter of public safety, having a license is an essential indicator that conveys to the public that the practitioner has the education and training to provide the kind of care for which the practitioner is licensed.

- **Does the occupational group have an established code of ethics, a voluntary certification program, or other measures to ensure a minimum quality of service?**

The naturopathic physicians presently practicing in this state individually maintain licenses in other states and follow the guidelines of those states in order to ensure a minimum quality of service.

The licensure bill requires continuing education for licensees.

The licensed naturopathic profession has an extraordinary safety record. A review of the twelve United States Naturopathic Physicians Licensing Boards conducted in late 2002 revealed at the time only a handful of disciplinary actions taken nationally. The research firm, Jury Verdicts Northwest, conducted reviews on the results of health-related lawsuits. No malpractice judgments had been found against a naturopathic physician since they began keeping records in 1983. A review of similar research firms in other licensed states revealed the same result: there had not been a single case of an ND going to trial for malpractice in the United States. (These databases report only cases going to trial and do not record out-of-court settlements.)

An examination of malpractice insurance rating scales for claims shows naturopathic physicians have the lowest incidence of malpractice claims of all licensed primary health care professions. Washington Health Casualty rates naturopathic physicians as 0.7, at the bottom of the scale of risk, below other low rate practitioners - dermatologists and family practitioners.

ATTACHMENT: VADA Case Study

Top Money Makers Say “Yes” to Noe

The Vermont Automobile Dealers Association (VADA) is utilizing Dr. Noe’s award winning health and productivity management program to enhance the well-being of their employees, decrease their health care costs, and increase their productivity. VADA is comprised of 171 auto dealers totaling over 6800 employees. Approximately 100 of these dealerships and 2400 employees participate in the VADA insurance trust.

This program is a win-win situation for all involved. In just 18 months, the program not only won Governor James Douglas’ Gold Award for Worksite Wellness, but it also decreased both direct and indirect healthcare costs as well as increased employees’ health significantly.

- VADA excess direct health care costs were reduced by an estimated \$315,817 leading to a 4.6 to 1 return on investment
- VADA excess indirect health care costs were reduced by an estimated \$1,143,657 leading to a 16.5 to 1 return on investment
- Combining the cost savings of direct and indirect health care costs gave VADA an overall 21.1 to 1 return on investment (\$21.10 saved for every dollar invested)
- VADA experienced only a 0.2% increase in per member claims cost last year (2005) compared to a national average of over 7%.

What Goes Down Picks the Business Up

Several risk factor reductions were remarkable for employees with 2 health screenings

- 36% reduction in the incidence of hypertension
- 16% reduction in the incidence of high cholesterol
- 35% reduction in multiple cardiovascular risks
- 17% reduction in smokers
- 21% reduction of physically inactive employees
- 25% reduction of excessive stress (both work and personal)

The *Pedometer Challenge* proved victorious for the wellness program.

- 1067 participants took over 732 million steps during the 12-week challenge beating the daily step goal of 10,000 by 1,728 steps daily.
- A 47% reduction in the incidence of high blood pressure was found in participants who did both the screening and the pedometer program.
- 63% of participants reported improved energy during the challenge
- 42% of participants reported weight loss
- 50% experienced reduced stress
- 72% of participants felt motivated to continue walking after the challenge was over

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