

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 419\*

Short Title: Naturopathic License Required.

(Public)

Sponsors: Senators Hunt, Blackmon, Marshall, Seymour; Richardson, Ballance, Lee, Martin of Guilford, Soles, Perdue, Tally, Carpenter, Walker, Allran, Jordan, and Gulley.

Referred to: Hold for New Licensing Rept. (G.S. 120-149).

February 25, 1993

1 A BILL TO BE ENTITLED  
2 AN ACT REGULATING THE PRACTICE OF NATUROPATHY.

3 The General Assembly of North Carolina enacts:

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

6 **"ARTICLE 28.**  
7 **"NATUROPATHY.**

8 **"§ 90-410. Short title.**

9 This Article shall be known as the North Carolina Naturopathic Practice Act.

10 **"§ 90-411. Purpose; license required.**

11 (a) The General Assembly finds that mandatory licensure of those engaged in the  
12 practice of naturopathy is necessary to ensure minimum standards of competency  
13 among naturopathic physicians and to protect the safety and health of the public.

14 (b) No person shall engage in this State in the practice of naturopathic medicine,  
15 or advertise or represent himself as practicing naturopathic medicine, or adopt or use  
16 any title or description of services using the terms or abbreviations listed in subsection  
17 (c) without a license issued pursuant to the provisions of this Article, except as  
18 otherwise permitted herein.

19 (c) Persons licensed pursuant to this Article shall use the title 'naturopathic  
20 physician' and the recognized abbreviation 'N.D.'. Naturopathic physicians shall have  
21 the exclusive right to the use of the following terms: 'naturopathic physician',  
22 'naturopathic doctor', 'naturopath', 'doctor of naturopathic medicine', 'doctor of

1 naturopathy', 'naturopathic medical doctor', 'naturopathic medicine', 'naturopathic health  
2 care', 'naturopathy', 'N.D.', or 'N.M.D.'

3 **"§ 90-412. Definitions.**

4 As used in this Article, unless the context requires otherwise:

- 5 (1) 'Acupuncture' means the insertion of acupuncture needles into specific  
6 points on the skin to treat human disease and impairment and to relieve  
7 pain.
- 8 (2) 'Approved naturopathic medical college' means a college or program  
9 granting the degree of Doctor of Naturopathic Medicine or Doctor of  
10 Naturopathy that is approved by the Board and which:
- 11 a. Is accredited by the Council of Naturopathic Medical Education  
12 or other accrediting agency recognized by the federal  
13 government.
- 14 b. Has candidate for accreditation status with such agency.
- 15 c. Has been investigated by the Board and found to meet  
16 education standards equivalent to those established by such  
17 agency.
- 18 (3) 'Board' means the Naturopathic Board of Examiners.
- 19 (4) 'Homeopathic preparations' means medicines prepared according to  
20 the Homeopathic Pharmacopoeia of the United States.
- 21 (5) 'Minor surgery' means the use of operative, electrical, or other methods  
22 for the surgical repair and care incidental to superficial lacerations and  
23 abrasions, superficial lesions, and the removal of foreign bodies  
24 located in the superficial tissues and the use of antiseptics and local  
25 anesthetics in connection with such methods, except that it shall not  
26 include general or spinal anesthetics, major surgery, surgery of the  
27 body cavities, or specialized surgeries such as plastic surgery, surgery  
28 involving the eye, or surgery of the hand when tendons are involved.
- 29 (6) 'Natural antibiotics' means antimicrobial, antifungal, and antiprotozal  
30 agents that are naturally occurring substances or manufactured  
31 substances that are substantially identical to such naturally occurring  
32 substances.
- 33 (7) 'Naturopathic medicine' means a system of primary health care  
34 practiced by naturopathic physicians for the prevention, diagnosis, and  
35 treatment of human health conditions, injuries, and diseases that uses  
36 education, natural medicines and therapies to support and stimulate the  
37 individual's intrinsic self-healing processes.
- 38 (8) 'Naturopathic childbirth' means natural childbirth which includes the  
39 use of natural obstetrical medicines, ophthalmic antibiotics, obstetrical  
40 emergency medicines, and minor surgery including episiotomies, but  
41 which does not include the use of forceps delivery, general or spinal  
42 anesthesia, and cesarean section, or induced abortions.
- 43 (9) 'Naturopathic physician' means a person authorized and licensed to  
44 practice naturopathic medicine under this Chapter.

1 (10) 'Naturopathic physical medicine' means the therapeutic use of the  
2 physical agents of air, water, heat, cold, sound, light, and  
3 electromagnetic nonionizing radiation and the physical modalities of  
4 electrotherapy, diathermy, ultraviolet light, ultrasound, hydrotherapy,  
5 naturopathic manipulative therapy, and therapeutic exercise.

6 (11) 'Topical medicines' means topical analgesics, anesthetics, antiseptics,  
7 scabicides, antifungals, and antibacterials.

8 **"§ 90-413. Scope of practice.**

9 (a) Naturopathic physicians may use for preventive and therapeutic purposes the  
10 following natural medicines and therapies: food, food extracts, vitamins, minerals,  
11 enzymes, digestive aids, whole gland thyroid, plant substances, homeopathic  
12 preparations, natural antibiotics, immunizations, topical medicines, counseling,  
13 hypnotherapy, biofeedback, dietary therapy, naturopathic physical medicine, therapeutic  
14 devices, barrier devices for contraception, and minor surgery.

15 (b) Naturopathic physicians may use for diagnostic purposes the following:  
16 physical and orificial examinations, X rays, electrocardiograms, ultrasound,  
17 phlebotomy, clinical laboratory tests and examinations, and physiological function tests.

18 (c) Naturopathic physicians may prescribe nonprescription medications and  
19 therapeutic devices or use noninvasive diagnostic procedures commonly used by  
20 physicians in general practice.

21 (d) Naturopathic physicians shall not:

22 (1) Prescribe, dispense, or administer any controlled substances except  
23 those natural medicines authorized by this Chapter.

24 (2) Perform surgical procedures except those procedures authorized by  
25 this Chapter.

26 (3) Practice emergency medicine except as a good samaritan rendering  
27 gratuitous services in the case of emergency and except for the care of  
28 minor injuries.

29 (4) Practice or claim to practice medicine and surgery, osteopathy,  
30 dentistry, podiatry, optometry, chiropractic, physical therapy, or any  
31 other system or method of treatment not authorized in this Chapter.

32 **"§ 90-414. Exemptions.**

33 (a) Nothing in this Chapter shall be construed to prohibit or to restrict:

34 (1) The practice of a profession by individuals who are licensed, certified,  
35 or registered under other laws of this State who are performing  
36 services within their authorized scope of practice.

37 (2) The practice of naturopathic medicine by an individual employed by  
38 the government of the United States while the individual is engaged in  
39 the performance of duties prescribed by the laws and regulations of the  
40 United States.

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

1           (4) The practice of naturopathic medicine by students enrolled in an  
2 approved naturopathic medical college. The performance of services  
3 shall be pursuant to a course of instruction or assignments from an  
4 instructor and under the supervision of the instructor who is licensed as  
5 a naturopathic physician pursuant to this Chapter.

6           (b) A resident of this State may become licensed under this Chapter without  
7 meeting the requirements of G.S. 90-417(a)(1) by filing an application and affidavit  
8 with the Board, within six months of the effective date of this act, attesting that the  
9 applicant:

10           (1) Is not licensed as a health care provider under any other law of this  
11 State;

12           (2) Derives the majority of his income from the practice of naturopathic  
13 medicine; and

14           (3) Has practiced naturopathy, in a manner acceptable to the Board, for at  
15 least three years immediately prior to the effective date of this act.

16           To become licensed under this subsection, an applicant must also meet the  
17 requirements of G.S. 90-417(a)(2), (3), (4), and (5).

18 **"§ 90-415. Naturopathic Board of Examiners.**

19           (a) There shall be a Naturopathic Board of Examiners consisting of three  
20 members, selected as follows:

21           (1) Two naturopathic physicians appointed by the Governor, each of  
22 whom shall:

23           a. Be a graduate of an approved naturopathic college;

24           b. Be licensed in this State as a naturopath; and

25           c. Have three years' experience in the practice of naturopathy  
26 immediately prior to appointment.

27           (2) One public member appointed by the Governor, who shall:

28           a. Be a resident of this State for five years immediately preceding  
29 appointment;

30           b. Be unaffiliated with and have no financial or other interest in a  
31 school of medicine, health care institution, or any person  
32 practicing any form of healing or treatment of bodily or mental  
33 ailments; and

34           c. Demonstrate an interest in the health problems in this State.

35           (b) Of the initial appointments, the Governor shall designate one naturopathic  
36 physician for a six-year term of office, one naturopathic physician for a four-year term  
37 of office, and one public member for a two-year term of office. Their successors shall  
38 serve six-year terms. No member may serve more than two complete consecutive six-  
39 year terms. The Governor may remove a member for malfeasance, misfeasance, or  
40 dishonorable conduct.

41           (c) Board members and Board personnel are not liable for any act done or  
42 proceeding undertaken or performed in good faith and in furtherance of the purposes of  
43 this Article.

1 (d) The Board shall meet at least semiannually. In addition, the Board may hold  
 2 special meetings as it deems necessary.

3 (e) Two members of the Board constitute a quorum for the transaction of  
 4 business.

5 (f) The Board shall receive compensation in accordance with the provisions of  
 6 G.S. 93B-5.

7 **"§ 90-416. Powers and duties of the Board.**

8 (a) The Board shall:

9 (1) Establish reasonable fees for examination, licensure, and license  
 10 renewal, subject to the following maximum amounts:

11	<u>Examination</u>	<u>\$ 100.00</u>
12	<u>Licensure</u>	<u>200.00</u>
13	<u>License Renewal</u>	<u>150.00</u>
14	<u>Late Renewal Penalty</u>	<u>50.00.</u>

15 (2) Maintain an accurate account of all receipts, expenditures, and refunds  
 16 granted under this Chapter.

17 (3) Maintain a record of its acts and proceedings, including the issuance,  
 18 refusal, renewal, suspension, or revocation of licenses.

19 (4) Maintain a roster of all naturopathic physicians licensed under this  
 20 Chapter which indicates:

21 a. The name of the licensee;

22 b. His current professional office address;

23 c. The date of issuance and the number of his license;

24 d. Whether the licensee is in good standing.

25 (5) Keep all applications for licensure as a permanent record.

26 (6) Keep all examination records including written examination records  
 27 and tape recordings of the questions and answers in oral exams.

28 (7) Adopt and use a seal, the imprint of which, together with the  
 29 signatures of the chairman or vice-chairman and the secretary-treasurer  
 30 of the Board, shall evidence its official acts.

31 (8) Annually compile and publish a directory.

32 (9) Adopt rules concerning the following:

33 a. Standards and criteria for approval of colleges or programs  
 34 granting the degree of Doctor of Naturopathic Medicine or  
 35 Doctor of Naturopathy;

36 b. Standards defining the scope of practice of naturopathic  
 37 physicians licensed pursuant to G.S. 90-414(b), based on the  
 38 licensee's training and experience;

39 c. Naturopathic health care;

40 d. Naturopathic medical assistants who assist naturopathic  
 41 physicians, including the qualification of naturopathic medical  
 42 assistants who are not otherwise licensed by law;

43 e. Continuing education programs and requirements; and

44 f. Certification of naturopathic physicians for specialty practice.

- 1           (10) Adopt any other rules which are necessary or proper for the  
2           administration of this Article.
- 3       (b) The Board may:
- 4           (1) Employ an executive secretary and other permanent or temporary  
5           personnel as it deems necessary to carry out the purposes of this  
6           Article and designate their duties.
- 7           (2) Appoint qualified personnel to administer any part or all of any  
8           examination provided for under this Chapter.
- 9           (3) Rent, lease, or purchase office space, supplies, and equipment for the  
10          operation of the Board.
- 11          (4) Authorize expenditures deemed necessary to carry out the provisions  
12          of this Article from the fees which it collects, but in no event shall  
13          expenditures exceed the revenues of the Board during any fiscal year.

14 **"§ 90-417. Qualification for licensure.**

15       (a) To be eligible for a license to practice naturopathic medicine, the applicant  
16 shall:

- 17           (1) Be a graduate of an approved naturopathic medical college and pass a  
18           competency-based examination prescribed by the Board covering the  
19           appropriate naturopathic subjects.
- 20           (2) Possess a good moral and professional reputation.
- 21           (3) Be physically and mentally fit to practice naturopathic medicine.
- 22           (4) Not have had a license to practice naturopathic medicine or  
23           naturopathy refused, revoked, or suspended by any other state or  
24           country for reasons which relate to the applicant's ability to skillfully  
25           and safely practice naturopathic medicine.
- 26           (5) File an application and pay the licensing fees.
- 27       (b) To obtain a license to practice naturopathy by reciprocity, the applicant shall:
- 28           (1) Qualify under subsection (a), except that no written examination shall  
29           be required; and
- 30           (2) Be licensed to practice naturopathic medicine by another state or the  
31           District of Columbia, provided that the jurisdiction from which the  
32           license was obtained requires a written examination which is  
33           substantially equivalent to the written examination required by the  
34           Board of this State.

35 **"§ 90-418. Natural childbirth and acupuncture specialty certification.**

36       (a) No naturopathic physician shall practice naturopathic childbirth or  
37 acupuncture without first obtaining a certificate of specialty practice.

- 38       (b) To be certified in naturopathic childbirth, a naturopathic physician must:
- 39           (1) Pass a specialty examination in natural childbirth approved by the  
40           Board.
- 41           (2) Have at least 100 hours of course work, internship, or preceptorship in  
42           obstetrics or natural childbirth approved by the Board.
- 43           (3) Have participated in 40 supervised births, including prenatal and  
44           postnatal care, under the direct supervision of a licensed naturopathic,

1           medical, or osteopathic physician with specialty training in obstetrics  
2           or natural childbirth. The Board may prescribe a national standardized  
3           examination in natural childbirth as constituting the specialty  
4           examination.

5       (c) To be certified in acupuncture, a naturopathic physician must:

6           (1) Complete a program in acupuncture approved by the Board that  
7           includes at least 500 hours of training in acupuncture, including both  
8           didactic and clinical training; and

9           (2) Pass a specialty examination in acupuncture approved by the Board.  
10           The Board may prescribe a national standardized examination in  
11           acupuncture as constituting the specialty examination.

12 **"§ 90-419. License renewal and continuing education.**

13       The license to practice naturopathic medicine shall be renewed biennially. When  
14       renewing a license, each naturopathic physician shall submit to the Board evidence of  
15       successful completion of the requisite hours of continuing education approved by the  
16       Board. The Board shall not require more than 30 hours of continuing education  
17       biennially.

18 **"§ 90-420. Disciplinary action.**

19       The Board may deny, suspend, or revoke a license, require remedial education, or  
20       issue a letter of reprimand, if a licensed naturopath or applicant:

21           (1) Engages in false or fraudulent conduct which demonstrates an  
22           unfitness to practice naturopathy, including:

23           a. Misrepresentation in connection with an application for a  
24           license or an investigation by the Board; or

25           b. Attempting to collect fees for services which were not  
26           performed; or

27           c. False advertising, including guaranteeing that a cure will result  
28           from a naturopathic treatment; or

29           d. Dividing, or agreeing to divide, a fee for naturopathic services  
30           with anyone for referring the patient.

31           (2) Fails to exercise proper control over one's practice by:

32           a. Aiding an unlicensed person in practicing naturopathy;

33           b. Delegating professional responsibilities to a person the  
34           naturopath knows or should know is not qualified to perform; or

35           c. Failing to exercise proper control over unlicensed personnel  
36           working with the naturopath in the practice.

37           (3) Fails to maintain records in a proper manner by:

38           a. Failing to keep written records describing the course of  
39           treatment for each patient; or

40           b. Refusing to provide to a patient upon request records that have  
41           been prepared for or paid for by the patient; or

42           c. Revealing personally identifiable information about a patient,  
43           without consent, unless otherwise allowed by law.

44           (4) Fails to exercise proper care for a patient, including:

- 1           a.     Abandoning or neglecting a patient without making reasonable  
2                 arrangements for the continuation of care; or  
3           b.     Exercising, or attempting to exercise, undue influence within  
4                 the naturopath/patient relationship by making sexual advances  
5                 or requests for sexual activity, or making submission to such  
6                 conduct a condition of treatment.
- 7           (5)    Displays habitual substance abuse or mental impairment to such a  
8                 degree as to interfere with the ability to provide effective treatment.
- 9           (6)    Is convicted or pleads guilty or no contest to any crime which  
10                demonstrates an unfitness to practice naturopathy.
- 11           (7)    Negligently fails to practice naturopathy with the level of skill  
12                recognized within the profession as acceptable under such  
13                circumstances.
- 14           (8)    Willfully violates any provision of this Article or rule of the Board.
- 15           (9)    Has had a license denied, suspended, or revoked in another jurisdiction  
16                for any reason which would be grounds for such action in this State.

17 **"§ 90-421. Enforcement; injunctive relief.**

18       (a)    Any person not licensed pursuant to this Article, or not otherwise exempted  
19 hereunder, who

- 20           (1)    Engages in the practice of naturopathic medicine;  
21           (2)    Advertises, represents, or holds himself out as a naturopathic physician  
22                or as practicing naturopathic medicine; or  
23           (3)    Uses a title listed in G.S. 90-411

24 shall be guilty of a misdemeanor, punishable by a fine, imprisonment, or both in the  
25 discretion of the court.

26       (b)    The Board may make application to superior court for an order enjoining a  
27 violation of this Article, and upon a showing by the Board that a person has violated or  
28 is about to violate this Article, the court may grant an injunction or restraining order, or  
29 take other appropriate action.

30 **"§ 90-422. Third-party reimbursement.**

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

33       Sec. 2. G.S. 90-18 reads as rewritten:

34 **"§ 90-18. Practicing without license; practicing defined; penalties.**

35       No person shall practice medicine or surgery, or any of the branches thereof, nor in  
36 any case prescribe for the cure of diseases unless he shall have been first licensed and  
37 registered so to do in the manner provided in this Article, and if any person shall  
38 practice medicine or surgery without being duly licensed and registered, as provided in  
39 this Article, he shall not be allowed to maintain any action to collect any fee for such  
40 services. The person so practicing without license shall be guilty of a misdemeanor, and  
41 upon conviction thereof shall be fined not less than fifty dollars (\$50.00) nor more than  
42 one hundred dollars (\$100.00), or imprisoned at the discretion of the court for each and  
43 every offense.



1 Any person shall be regarded as practicing medicine or surgery within the meaning  
2 of this Article who shall diagnose or attempt to diagnose, treat or attempt to treat,  
3 operate or attempt to operate on, or prescribe for or administer to, or profess to treat any  
4 human ailment, physical or mental, or any physical injury to or deformity of another  
5 person: Provided, that the following cases shall not come within the definition above  
6 recited:

- 7 (1) The administration of domestic or family remedies in cases of  
8 emergency.
- 9 (2) The practice of dentistry by any legally licensed dentist engaged in the  
10 practice of dentistry and dental surgery.
- 11 (3) The practice of pharmacy by any legally licensed pharmacist engaged  
12 in the practice of pharmacy.
- 13 (4) The practice of medicine and surgery by any surgeon or physician of  
14 the United States army, navy, or public health service in the discharge  
15 of his official duties.
- 16 (5) The treatment of the sick or suffering by mental or spiritual means  
17 without the use of any drugs or other material means.
- 18 (6) The practice of optometry by any legally licensed optometrist engaged  
19 in the practice of optometry.
- 20 (7) The practice of midwifery as defined in G.S. 90-178.2.
- 21 (8) The practice of chiropody by any legally licensed chiropodist when  
22 engaged in the practice of chiropody, and without the use of any drug.
- 23 (9) The practice of osteopathy by any legally licensed osteopath when  
24 engaged in the practice of osteopathy as defined by law, and especially  
25 G.S. 90-129.
- 26 (10) The practice of chiropractic by any legally licensed chiropractor when  
27 engaged in the practice of chiropractic as defined by law, and without  
28 the use of any drug or surgery.
- 29 (11) The practice of medicine or surgery by any reputable physician or  
30 surgeon in a neighboring state coming into this State for consultation  
31 with a resident registered physician. This proviso shall not apply to  
32 physicians resident in a neighboring state and regularly practicing in  
33 this State.
- 34 (12) Any person practicing radiology as hereinafter defined shall be  
35 deemed to be engaged in the practice of medicine within the meaning  
36 of this Article. 'Radiology' shall be defined as, that method of medical  
37 practice in which demonstration and examination of the normal and  
38 abnormal structures, parts or functions of the human body are made by  
39 use of X ray. Any person shall be regarded as engaged in the practice  
40 of radiology who makes or offers to make, for a consideration, a  
41 demonstration or examination of a human being or a part or parts of a  
42 human body by means of fluoroscopic exhibition or by the shadow  
43 imagery registered with photographic materials and the use of X rays;  
44 or holds himself out to diagnose or able to make or makes any

1 interpretation or explanation by word of mouth, writing or otherwise of  
2 the meaning of such fluoroscopic or registered shadow imagery of any  
3 part of the human body by use of X rays; or who treats any disease or  
4 condition of the human body by the application of X rays or radium.  
5 Nothing in this subdivision shall prevent the practice of radiology by  
6 any person licensed under the provisions of Articles 2, 7, 8, and 12A  
7 of this Chapter.

- 8 (13) Any act, task or function performed by an assistant to a person  
9 licensed as a physician by the Board of Medical Examiners when  
10 a. Such assistant is approved by and annually registered with the  
11 Board as one qualified by training or experience to function as  
12 an assistant to a physician, except that no more than two  
13 assistants may be currently registered for any physician, and  
14 b. Such act, task or function is performed at the direction or under  
15 the supervision of such physician, in accordance with rules and  
16 regulations promulgated by the Board, and  
17 c. The services of the assistant are limited to assisting the  
18 physician in the particular field or fields for which the assistant  
19 has been trained, approved and registered;

20 Provided that this subdivision shall not limit or prevent any physician  
21 from delegating to a qualified person any acts, tasks or functions  
22 which are otherwise permitted by law or established by custom.

- 23 (14) The practice of nursing by a registered nurse engaged in the practice of  
24 nursing and the performance of acts otherwise constituting medical  
25 practice by a registered nurse when performed in accordance with  
26 rules and regulations developed by a joint subcommittee of the Board  
27 of Medical Examiners and the Board of Nursing and adopted by both  
28 boards.

- 29 (15) The practice of naturopathy by a licensed naturopath under the  
30 provisions of Article 28 of this Chapter."

31 Sec. 3. If a bill entitled "AN ACT REGULATING THE PRACTICE OF  
32 ACUPUNCTURE" has been enacted, G.S. 90-452, as created by said act, reads as  
33 rewritten:

34 **"§ 90-452. Practice of acupuncture without license prohibited.**

35 (a) It is unlawful to practice acupuncture without a license issued pursuant to this  
36 Article. This restriction does not apply, however, to the following:

- 37 (1) A physician licensed pursuant to Article I of this Chapter;  
38 (2) A student practicing acupuncture under the direct supervision of a  
39 licensed acupuncturist as part of a course of study approved by the  
40 Board; or  
41 (3) A chiropractor licensed pursuant to Article 8 of this ~~Chapter~~ Chapter;  
42 or

1           (4) A naturopath licensed pursuant to Article 28 of this Chapter and  
2           certified by the Board of Naturopathic Examiners as an acupuncture  
3           specialist.

4           It is also unlawful to advertise or otherwise represent oneself as qualified or  
5 authorized to practice acupuncture without having the license required by this Article.

6           (b) A violation of this section is a misdemeanor punishable by imprisonment for  
7 up to two years, a fine, or both."

8           Sec. 4. This act is effective upon ratification.