

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 419*
Introduced and Referred 3/11/93

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: Judiciary I.

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.