

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2221

Introduced by

Senators Dwyer, Hogue, K. Roers

Representatives Lefor, Rohr, Weisz

1 A BILL for an Act to create and enact section 43-58-08.1 and three new sections to chapter
2 43-58 of the North Dakota Century Code, relating to the regulation of the practice of
3 naturopathic medicine; to amend and reenact section 43-17-03, subsection 2 of section
4 43-57-01, section 43-57-03, subsection 1 of section 43-57-06, subsection 2 of section 43-57-07,
5 section 43-57-11, subsection 2 of section 43-58-01, and sections 43-58-05, 43-58-08, and
6 43-58-09 of the North Dakota Century Code, relating to the regulation of the practice of
7 naturopathic medicine; and to provide a penalty.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 43-17-03 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-17-03. North Dakota board of medicine - How appointed - Qualifications.**

- 12 1. The governor shall appoint a North Dakota board of medicine consisting of
13 ~~thirteen~~fifteen members, ~~ten physicians~~, nine of whom are doctors of medicine; and
14 one of whom is a doctor of osteopathy, ~~one of whom is a~~two physician
15 ~~assistant~~assistants, one naturopath, and ~~two of whom are designated as public~~
16 members. If no osteopathic physician is qualified and willing to serve, any qualified
17 physician may be appointed in place of the osteopathic physician.
- 18 2. Each physician member must:
- 19 a. Be a practicing physician of integrity and ability.
- 20 b. Be a resident of and duly licensed to practice medicine in this state.
- 21 c. Be a graduate of a medical or osteopathic school of high educational
22 requirements and standing.
- 23 d. Have been engaged in the active practice of the physician's profession within this
24 state for a period of at least five years.

- 1 3. Each public member of the board must:
 - 2 a. Be a resident of this state.
 - 3 b. Be at least twenty-one years of age.
 - 4 c. Not be affiliated with any group or profession that provides or regulates health
 - 5 care in any form.
- 6 4. ~~The~~Each physician assistant member of the board must:
 - 7 a. Be a practicing physician assistant of integrity and ability.
 - 8 b. Be a resident of and be duly licensed to practice as a physician assistant in this
 - 9 state.
 - 10 c. Have been engaged in the active practice as a physician assistant within this
 - 11 state for a period of at least five years.
- 12 5. The naturopath member must:
 - 13 a. Be a practicing naturopath of integrity and ability.
 - 14 b. Be a resident of and duly licensed to practice as a naturopath in this state.
 - 15 c. Have been engaged in the active practice as a naturopath within this state for a
 - 16 period of at least five years.
- 17 6. An individual appointed to the board shall qualify by taking the oath required of civil
- 18 officers.

19 **SECTION 2. AMENDMENT.** Subsection 2 of section 43-57-01 of the North Dakota Century
20 Code is amended and reenacted as follows:

- 21 2. "Licensee" means an individual licensed by the board under this chapter and under
- 22 chapter ~~43-58~~, 43-59, 43-61, or 43-64.

23 **SECTION 3. AMENDMENT.** Section 43-57-03 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **43-57-03. Powers and duties of board.**

- 26 1. The board shall adopt rules:
 - 27 a. To administer and enforce this chapter and chapters ~~43-58~~, 43-59, 43-61, and
 - 28 43-64;
 - 29 b. That specify the scope of practice, which must be consistent with the required
 - 30 education for each profession regulated by the board;
 - 31 c. To establish any exemptions from licensure;

- 1 d. That endorse equivalent licensure examinations of another state or foreign
- 2 country and which may include licensure by reciprocity;
- 3 e. That establish educational standards for each profession regulated by the board
- 4 as appropriate; and
- 5 f. That set fees for licensure, which may include:
- 6 (1) Application fee;
- 7 (2) License fee;
- 8 (3) Renewal fee;
- 9 (4) Late fee;
- 10 (5) Administrative fees; and
- 11 (6) Continuing education fees.
- 12 2. The board shall produce an annual list of the names and level of licensure of all
- 13 individuals licensed by the board and make the list available upon request.
- 14 3. The board may employ staff and provide for staff compensation.
- 15 4. The board shall receive all moneys collected under this chapter and chapters ~~43-58,~~
- 16 ~~43-59,~~ 43-61, and 43-64 and shall deposit and disburse all fees and moneys collected
- 17 in accordance with section 54-44-12.
- 18 5. The board may establish continuing education requirements for license renewal.
- 19 6. The board may adopt a code of ethics for each profession regulated by the board.
- 20 7. The board may adopt rules allowing students to practice under licensed supervision.

21 **SECTION 4. AMENDMENT.** Subsection 1 of section 43-57-06 of the North Dakota Century
22 Code is amended and reenacted as follows:

- 23 1. If the board determines an applicant possesses the qualifications required under this
- 24 chapter and under chapter ~~43-58,~~ 43-59, 43-61, or 43-64, the board shall issue a
- 25 license to the applicant.

26 **SECTION 5. AMENDMENT.** Subsection 2 of section 43-57-07 of the North Dakota Century
27 Code is amended and reenacted as follows:

- 28 2. A license issued under chapter ~~43-58~~ or 43-59 expires on December thirty-first of
- 29 every odd-numbered year. A license issued under chapter 43-61 or 43-64 expires on
- 30 December thirty-first of every even-numbered year.

1 **SECTION 6. AMENDMENT.** Section 43-57-11 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-57-11. Enforcement - Penalty.**

4 A person that violates this chapter or chapter ~~43-58~~, 43-59, 43-61, or 43-64 is guilty of a
5 class B misdemeanor. In addition to the criminal penalties provided under this section, the civil
6 remedy of injunction is available to restrain and enjoin any violation of this chapter or chapter
7 ~~43-58~~, 43-59, 43-61, or 43-64 without proof of actual damages sustained by any person.

8 **SECTION 7. AMENDMENT.** Subsection 2 of section 43-58-01 of the North Dakota Century
9 Code is amended and reenacted as follows:

10 2. "Board" means the ~~state~~North Dakota board of ~~integrative health care~~medicine
11 created under chapter ~~43-57~~43-17.

12 **SECTION 8. AMENDMENT.** Section 43-58-05 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **43-58-05. Application for licensure.**

- 15 1. An applicant for naturopathic licensure shall file an application on forms provided by
16 the board showing to the board's satisfaction that the applicant ~~is of good moral~~
17 ~~character and~~has satisfied all of the requirements of this chapter and ~~chapter 43-57~~set
18 by rule of the board, including:
- 19 a. Successful graduation of an approved naturopathic medical college;
 - 20 b. Successful completion of an examination prescribed or endorsed by the board,
21 such as part I and part II of the naturopathic physicians licensing examinations;
 - 22 c. Physical, mental, and professional capability for the practice of naturopathic
23 medicine in a manner acceptable to the board; and
 - 24 d. A history free of any finding by the board, any other state licensure board, or any
25 court of competent jurisdiction of the commission of any act that would constitute
26 grounds for disciplinary action under this chapter and ~~chapter 43-57~~set by rule of
27 the board. The board may modify this restriction for cause.
- 28 2. The application must be accompanied by the board-established license fees and
29 application fees and by the documents, affidavits, and certificates necessary to
30 establish that the applicant possesses the necessary qualifications.

1 **SECTION 9. AMENDMENT.** Section 43-58-08 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-58-08. Practice of naturopathic health care.**

4 1. A naturopath may practice naturopathic medicine as a limited practice of the healing
5 arts as exempted under section 43-17-02. A naturopath may not:

6 a. Prescribe, dispense, or administer any prescription drug without obtaining a
7 license endorsement under this chapter;

8 b. Administer ionizing radioactive substances for therapeutic purposes;

9 c. Perform a surgical procedure; or

10 d. Claim to practice any licensed health care profession or system of treatment
11 other than naturopathic medicine unless holding a separate license in that
12 profession. A naturopath may not hold out to the public that the naturopath is a
13 primary care provider.

14 2. A naturopath may prescribe and administer for preventive and therapeutic purposes a
15 prescriptive device and the following nonprescriptive natural therapeutic substances,
16 drugs, and therapies:

17 a. Food, vitamins, minerals, dietary supplements, enzymes, botanical medicines,
18 and homeopathic preparations;

19 b. Topical drugs, health care counseling, nutritional counseling and dietary therapy,
20 naturopathic physical applications, and therapeutic devices; and

21 c. Barrier devices for contraception.

22 3. A naturopath:

23 a. May prescribe, dispense, administer, and procure drugs and medical devices as
24 authorized under this chapter.

25 b. May plan and initiate a therapeutic regimen of ordering and prescribing
26 nonpharmacological interventions.

27 c. May not prescribe or dispense schedule I through V substances as designated by
28 the federal drug enforcement administration except for testosterone and may
29 prescribe and dispense all other legend drugs authorized by a formulary
30 approved by the board and set forth in rule.

- 1 d. May not dispense a drug as authorized under this chapter unless pharmacy
2 services are not available or if an emergency exists.
- 3 e. May request, receive, and sign for a professional sample of a drug authorized to
4 be prescribed under this chapter and may distribute the sample to a patient.
- 5 f. If prescribing or dispensing a drug as authorized by this chapter, shall register, if
6 appropriate, with the federal drug enforcement administration and shall comply
7 with appropriate state and federal laws, including participating in the prescription
8 drug monitoring program under chapter 19-03.5.
- 9 4. A naturopath may perform or order for diagnostic purposes a physical or official
10 examination, ultrasound, phlebotomy, clinical laboratory test or examination,
11 physiological function test, and any other noninvasive diagnostic procedure commonly
12 used by physicians in general practice and as authorized by the board.

13 **SECTION 10.** Section 43-58-08.1 of the North Dakota Century Code is created and enacted
14 as follows:

15 **43-58-08.1. Endorsement for prescribing authority.**

- 16 1. A naturopath may not prescribe, dispense, or administer a prescription medication
17 without first obtaining an endorsement for licensure.
- 18 2. The naturopath first must apply for a limited endorsement with the board in which the
19 naturopath enters a written collaborative agreement with a supervising physician
20 licensed under chapter 43-17, who will review the first one hundred prescriptions
21 issued by the naturopath or twelve months of prescribing, whichever occurs first. The
22 supervising physician shall possess an unencumbered license and have been
23 prescribing and administering prescription drugs without limitation for at least five
24 years in the state. The supervising physician shall evaluate the naturopath's ability to
25 safely prescribe and administer prescription drugs within the naturopath's scope of
26 practice and to comply with federal and state laws. The written collaborative
27 agreement must address the requirements of this subsection and be provided to the
28 board along with the application for endorsement. The board, by rule, further shall
29 define the terms of the supervising physician's role in reviewing the naturopath's
30 prescribing practices.

- 1 3. A naturopath who satisfies the requirements of subsection 2 shall notify the board in
2 writing with verification from the supervising physician that this requirement has been
3 met. Upon verification subsection 2 has been met, and the naturopath successfully
4 completed the pharmacology elective examination approved by the board, the board
5 shall issue the naturopath an endorsement to prescribe independently.
- 6 4. The board may waive the requirements of section 2 and examination under section 3 if
7 a naturopath shows the naturopath has substantial experience in prescribing
8 prescription medications under the laws of another jurisdiction that has standards and
9 qualifications for a naturopath to prescribe prescription medications at least equal to
10 those required under this chapter.
- 11 5. To maintain the endorsements provided under this section, the naturopath shall obtain
12 five hours of continuing education hours annually regarding pharmacology of
13 testosterone and legend drugs.

14 **SECTION 11. AMENDMENT.** Section 43-58-09 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-58-09. Public health duties.**

17 A naturopath has the same powers and duties as a licensed physician with regard to public
18 health laws, reportable diseases and conditions, communicable disease control and prevention,
19 recording of vital statistics, health and physical examinations, and local boards of health, except
20 that the authority and responsibility are limited to activities consistent with the scope of practice
21 established under this chapter ~~and chapter 43-57.~~

22 **SECTION 12.** A new section to chapter 43-58 of the North Dakota Century Code is created
23 and enacted as follows:

24 **Powers and duties of the board.**

- 25 1. The board shall adopt rules:
- 26 a. To administer and enforce this chapter;
27 b. To specify the scope of practice, which must be consistent with the required
28 education;
29 c. To establish any exemptions from licensure;
30 d. That endorse equivalent licensure examinations of another state or foreign
31 country and which may include licensure by reciprocity;

- 1 e. That establish appropriate educational standards:
- 2 f. To establish renewal requirements; and
- 3 g. That set required fees, including:
 - 4 (1) An application fee;
 - 5 (2) A license fee;
 - 6 (3) A renewal fee;
 - 7 (4) A late fee;
 - 8 (5) Administrative fees; and
 - 9 (6) Continued education fees.
- 10 2. The board may establish continuing education requirements for license renewal.
- 11 3. The board may adopt a code of ethics for naturopaths.
- 12 4. If the number of naturopath licensees in the state increases to at least one hundred,
13 the board shall consider whether to introduce legislation creating an independent
14 board to regulate the profession.

15 **SECTION 13.** A new section to chapter 43-58 of the North Dakota Century Code is created
16 and enacted as follows:

17 **Discipline.**

- 18 1. The board may take disciplinary action against a licensee by any of the following
19 means:
 - 20 a. Revocation of license;
 - 21 b. Suspension of license;
 - 22 c. Probation;
 - 23 d. Imposition of stipulations, limitations, or conditions relating to the licensee's
24 practice;
 - 25 e. Letter of censure;
 - 26 f. Require the licensee to provide free public or charitable service for a defined
27 period; and
 - 28 g. Impose fines, not to exceed five thousand dollars for any single disciplinary
29 action.
- 30 2. The board may impose disciplinary action against a licensee upon any of the following
31 grounds:

- 1 a. The use of any false, fraudulent, or forged statement or document, or the use of
- 2 any fraudulent, deceitful, dishonest, or immoral practice, in connection with any of
- 3 the licensing requirements.
- 4 b. The making of false or misleading statements about the licensee's skill or the
- 5 efficacy of any medicine, treatment, or remedy.
- 6 c. The conviction of any misdemeanor determined by the board to have a direct
- 7 bearing upon the licensee's ability to serve the public or any felony. A license may
- 8 not be withheld contrary to the provisions of chapter 12.1-33.
- 9 d. The use of alcohol or drugs to such a degree as to interfere with the licensee's
- 10 ability to safely practice.
- 11 e. The presence of a physical or mental disability materially affecting the ability to
- 12 perform the duties of the profession in a competent manner.
- 13 f. The performance of any dishonorable, unethical, or unprofessional conduct likely
- 14 to deceive, defraud, or harm the public.
- 15 g. Obtaining any fee by fraud, deceit, or misrepresentation.
- 16 h. Aiding or abetting the practice of the profession by an unlicensed, incompetent,
- 17 or impaired individual.
- 18 i. The violation of any provision of this chapter or the rules of the board, or any
- 19 action, stipulation, condition, or agreement imposed by the board or the board's
- 20 investigative panels.
- 21 j. The practice of the profession under a false or assumed name.
- 22 k. The advertising for the practice of the profession in an untrue or deceptive
- 23 manner.
- 24 l. The representation to a patient that a manifestly incurable condition, sickness,
- 25 disease, or injury can be cured.
- 26 m. The willful or negligent violation of the confidentiality between licensee and
- 27 patient, except as required by law.
- 28 n. A finding of negligence in the practice of the profession.
- 29 o. A finding of abuse, misconduct, or exploitation related to the licensee's practice of
- 30 the profession.
- 31 p. A continued pattern of inappropriate care.

- 1 q. The imposition by another state or jurisdiction of disciplinary action against a
2 license or other authorization to practice based upon acts or conduct by the
3 licensee which would constitute grounds for disciplinary action as set forth in this
4 section. A certified copy of the record of the action taken by the other state or
5 jurisdiction is conclusive evidence of that action.
- 6 r. The lack of appropriate documentation in medical records for diagnosis, testing,
7 and treatment of patients.
- 8 s. The representation of oneself to be a physician.
- 9 t. The prescription, sale, administration, distribution, or gift of any drug legally
10 classified as a controlled substance or as an addictive or dangerous drug for
11 other than medically accepted therapeutic purposes.
- 12 u. The use of any false, fraudulent, or deceptive statement in any document
13 connected with the performance of the licensee's duties.
- 14 v. The prescribing, selling, administering, distributing, or giving to the naturopath or
15 to the naturopath's spouse or child any drug legally classified as a controlled
16 substance or recognized as an addictive or dangerous drug.
- 17 w. The violation of any state or federal statute or regulation relating to controlled
18 substances.
- 19 x. The failure to furnish the board or the investigative panels or the board's or
20 investigative panel's investigators or representatives, information legally
21 requested by the board or the investigative panel.
- 22 y. A finding of noncompliance with the physician health program established under
23 chapter 43-17.3.

24 **SECTION 14.** A new section to chapter 43-58 of the North Dakota Century Code is created
25 and enacted as follows:

26 **Enforcement - Penalty.**

27 An individual who practices naturopathic health care in this state without complying with the
28 provisions of this chapter, and an individual who violates any of the provisions of this chapter for
29 which another penalty is not specified, is guilty of a class B misdemeanor. In addition to the
30 criminal penalties provided under this section, the civil remedy of injunction is available to

- 1 restrain and enjoin a violation of this chapter without proof of actual damages sustained by any
- 2 person.