

## **CHAPTER 43-58 NATUROPATHS**

### **43-58-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Approved naturopathic medical college" means a college and program granting the degree of doctor of naturopathy or naturopathic medicine which must require as a minimum a four-year, full-time resident program of academic and clinical study and which:
  - a. Is accredited, or has the status of candidate for accreditation, by an organization approved by the board, such as the council on naturopathic medical education; or
  - b. Has been approved by the board after an investigation that determines that the college or program meets education standards equivalent to those established by the accrediting agency under subdivision a and complies with the board's rules.
2. "Board" means the North Dakota board of medicine created under chapter 43-17.
3. "Homeopathic preparations" means nonprescriptive substances prepared according to the official homeopathic pharmacopoeia of the United States. The term does not include prescriptive drugs.
4. "Licensee" means an individual licensed by the board under this chapter.
5. "Naturopath" means an individual licensed to practice naturopathic health care under this chapter.
6. "Naturopathic health care", "naturopathic medicine", or "naturopathy" means a system of primary health care practiced by naturopaths for the prevention, diagnosis, and treatment of human health conditions, injury, and disease. The purpose of naturopathic health care, naturopathic medicine, or naturopathy is to promote or restore health by the support and stimulation of the individual's inherent self-healing processes. This is accomplished through education of the patient by a naturopath and through the use of natural therapies and therapeutic substances.
7. "Naturopathic physical application" means the therapeutic use by a naturopath of the actions or devices of electrical muscle stimulation, galvanic, diathermy, ultrasound, ultraviolet light, hydrotherapy, and naturopathic manipulative therapy. The term does not include manipulation of the spine.

### **43-58-02. Exemptions.**

Many of the therapies used by a naturopath, 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 naturopaths, and their use, practice, prescription, or administration by individuals not licensed to practice naturopathic medicine is not prohibited by this chapter. This chapter does not restrict or apply to the scope of practice of any other profession licensed, certified, or registered under the laws of this state.

### **43-58-03. License required - Title restrictions.**

1. Effective January 1, 2012, a person may not practice naturopathy without a current naturopathic license issued by the board.
2. A naturopath may use the title "naturopath" or "doctor of naturopathic medicine" and the abbreviation "N.D." when used to reflect either of these titles. Effective January 1, 2012, a person that uses these terms or initials as identification without having received a naturopathic license under this chapter is engaging in the practice of naturopathy without a license.

#### **43-58-03.1. Powers and duties of the board.**

1. The board shall adopt rules:
  - a. To administer and enforce this chapter;
  - b. To specify the scope of practice, which must be consistent with the required education;

- c. To establish any exemptions from licensure;
- d. That endorse equivalent licensure examinations of another state or foreign country and which may include licensure by reciprocity;
- e. That establish appropriate educational standards;
- f. To establish renewal requirements; and
- g. That set required fees, including:
  - (1) An application fee;
  - (2) A license fee;
  - (3) A renewal fee;
  - (4) A late fee;
  - (5) Administrative fees; and
  - (6) Continued education fees.
- 2. The board may establish continuing education requirements for license renewal.
- 3. The board may adopt a code of ethics for naturopaths.
- 4. If the number of naturopath licensees in the state increases to at least one hundred, the board shall consider whether to introduce legislation creating an independent board to regulate the profession.

**43-58-04. Qualifications for licensure.**

In order to obtain a license to practice naturopathic medicine in this state, an application must be made to the board. The application must be upon the form adopted by the board and must be made in the manner prescribed by the board.

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

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

**43-58-06. Initial applications - Education and testing exception.**

Notwithstanding the education and examination requirements for licensure under subdivisions a and b of subsection 1 of section 43-58-05, if an applicant was a bona fide resident of the state from January 1, 2011, through December 31, 2011, was practicing naturopathic medicine in this state immediately preceding January 1, 2012, was required to apply for licensure under this chapter in order to continue that practice, and does not meet the educational or examination requirements or both, the board may issue a license or limited license to that applicant if, following an examination of the applicant's education and experience, the board determines the applicant has sufficient education and experience to prepare the applicant to practice naturopathic medicine.

**43-58-07. Licensure granted without examination to individuals licensed in other states.**

- 1. The board may issue a naturopathic license by endorsement to an applicant who has complied with licensure requirements and who has passed an examination given by a

recognized certifying agency approved by the licensing agency if the board determines the examination was equivalent in every respect to the examination required under this chapter.

2. The board may enter reciprocal agreements with licensing agencies of other states providing for reciprocal waiver of further examination or any part of the examination.
3. If an applicant is exempt from the examination required under this chapter, the applicant shall comply with the other requirements for licensure. The board may adopt rules allowing for temporary and special licensure to be in effect during the interval between board meetings.

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

1. A naturopath may practice naturopathic medicine as a limited practice of the healing arts as exempted under section 43-17-02. A naturopath may not:
  - a. Prescribe, dispense, or administer any prescription drug without obtaining a license endorsement under this chapter;
  - b. Administer ionizing radioactive substances for therapeutic purposes;
  - c. Perform a surgical procedure; or
  - d. Claim to practice any licensed health care profession or system of treatment other than naturopathic medicine unless holding a separate license in that profession. A naturopath may not hold out to the public that the naturopath is a primary care provider.
2. A naturopath may prescribe and administer for preventive and therapeutic purposes a prescriptive device and the following nonprescriptive natural therapeutic substances, drugs, and therapies:
  - a. Food, vitamins, minerals, dietary supplements, enzymes, botanical medicines, and homeopathic preparations;
  - b. Topical drugs, health care counseling, nutritional counseling and dietary therapy, naturopathic physical applications, and therapeutic devices; and
  - c. Barrier devices for contraception.
3. A naturopath:
  - a. May prescribe, dispense, administer, and procure drugs and medical devices as authorized under this chapter.
  - b. May plan and initiate a therapeutic regimen of ordering and prescribing nonpharmacological interventions.
  - c. May not prescribe or dispense schedule I through V substances as designated by the federal drug enforcement administration except for testosterone and may prescribe and dispense all other legend drugs authorized by a formulary approved by the board and set forth in rule.
  - d. May not dispense a drug as authorized under this chapter unless pharmacy services are not available or if an emergency exists.
  - e. May request, receive, and sign for a professional sample of a drug authorized to be prescribed under this chapter and may distribute the sample to a patient.
  - f. If prescribing or dispensing a drug as authorized by this chapter, shall register, if appropriate, with the federal drug enforcement administration and shall comply with appropriate state and federal laws, including participating in the prescription drug monitoring program under chapter 19-03.5.
4. A naturopath may perform or order for diagnostic purposes a physical or official examination, ultrasound, phlebotomy, clinical laboratory test or examination, physiological function test, and any other noninvasive diagnostic procedure commonly used by physicians in general practice and as authorized by the board.

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

1. A naturopath may not prescribe, dispense, or administer a prescription medication without first obtaining an endorsement for licensure.
2. The naturopath first must apply for a limited endorsement with the board in which the naturopath enters a written collaborative agreement with a supervising physician

licensed under chapter 43-17, who will review the first one hundred prescriptions issued by the naturopath or twelve months of prescribing, whichever occurs first. The supervising physician shall possess an unencumbered license and have been prescribing and administering prescription drugs without limitation for at least five years in the state. The supervising physician shall evaluate the naturopath's ability to safely prescribe and administer prescription drugs within the naturopath's scope of practice and to comply with federal and state laws. The written collaborative agreement must address the requirements of this subsection and be provided to the board along with the application for endorsement. The board, by rule, further shall define the terms of the supervising physician's role in reviewing the naturopath's prescribing practices.

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

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

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

#### **43-58-10. Employment by hospitals.**

A hospital may employ a naturopath in the same manner as provided under section 43-17-42.

#### **43-58-11. Discipline.**

1. The board may take disciplinary action against a licensee by any of the following means:
  - a. Revocation of license;
  - b. Suspension of license;
  - c. Probation;
  - d. Imposition of stipulations, limitations, or conditions relating to the licensee's practice;
  - e. Letter of censure;
  - f. Require the licensee to provide free public or charitable service for a defined period; and
  - g. Impose fines, not to exceed five thousand dollars for any single disciplinary action.
2. The board may impose disciplinary action against a licensee upon any of the following grounds:
  - a. The use of any false, fraudulent, or forged statement or document, or the use of any fraudulent, deceitful, dishonest, or immoral practice, in connection with any of the licensing requirements.

- b. The making of false or misleading statements about the licensee's skill or the efficacy of any medicine, treatment, or remedy.
- c. The conviction of any misdemeanor determined by the board to have a direct bearing upon the licensee's ability to serve the public or any felony. A license may not be withheld contrary to the provisions of chapter 12.1-33.
- d. The use of alcohol or drugs to such a degree as to interfere with the licensee's ability to safely practice.
- e. The presence of a physical or mental disability materially affecting the ability to perform the duties of the profession in a competent manner.
- f. The performance of any dishonorable, unethical, or unprofessional conduct likely to deceive, defraud, or harm the public.
- g. Obtaining any fee by fraud, deceit, or misrepresentation.
- h. Aiding or abetting the practice of the profession by an unlicensed, incompetent, or impaired individual.
- i. The violation of any provision of this chapter or the rules of the board, or any action, stipulation, condition, or agreement imposed by the board or the board's investigative panels.
- j. The practice of the profession under a false or assumed name.
- k. The advertising for the practice of the profession in an untrue or deceptive manner.
- l. The representation to a patient that a manifestly incurable condition, sickness, disease, or injury can be cured.
- m. The willful or negligent violation of the confidentiality between licensee and patient, except as required by law.
- n. A finding of negligence in the practice of the profession.
- o. A finding of abuse, misconduct, or exploitation related to the licensee's practice of the profession.
- p. A continued pattern of inappropriate care.
- q. The imposition by another state or jurisdiction of disciplinary action against a license or other authorization to practice based upon acts or conduct by the licensee which would constitute grounds for disciplinary action as set forth in this section. A certified copy of the record of the action taken by the other state or jurisdiction is conclusive evidence of that action.
- r. The lack of appropriate documentation in medical records for diagnosis, testing, and treatment of patients.
- s. The representation of oneself to be a physician.
- t. The prescription, sale, administration, distribution, or gift of any drug legally classified as a controlled substance or as an addictive or dangerous drug for other than medically accepted therapeutic purposes.
- u. The use of any false, fraudulent, or deceptive statement in any document connected with the performance of the licensee's duties.
- v. The prescribing, selling, administering, distributing, or giving to the naturopath or to the naturopath's spouse or child any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug.
- w. The violation of any state or federal statute or regulation relating to controlled substances.
- x. The failure to furnish the board or the investigative panels or the board's or investigative panel's investigators or representatives, information legally requested by the board or the investigative panel.
- y. A finding of noncompliance with the physician health program established under chapter 43-17.3.

#### **43-58-12. Enforcement - Penalty.**

An individual who practices naturopathic health care in this state without complying with the provisions of this chapter, and an individual who violates any of the provisions of this chapter for which another penalty is not specified, is guilty of a class B misdemeanor. In addition to the

criminal penalties provided under this section, the civil remedy of injunction is available to restrain and enjoin a violation of this chapter without proof of actual damages sustained by any person.