

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1784 Session of
2009

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SOLOBAY, STABACK, WANSACZ, WHEATLEY, WHITE AND YOUNGBLOOD,
JUNE 29, 2009

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, JUNE 29, 2009

AN ACT

1 Licensing and regulating the practice of naturopathic medicine;
2 imposing penalties; and making an appropriation.

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13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 CHAPTER 1

16 PRELIMINARY PROVISIONS

17 Section 101. Short title.

18 This act shall be known and may be cited as the Naturopathic
19 Medicine Act.

20 Section 102. Declaration of policy.

21 The General Assembly finds and declares as follows:

22 (1) The practice of naturopathic medicine in this
23 Commonwealth is declared to affect the public health, safety
24 and welfare and to be subject to regulation and control in
25 the public interest.

26 (2) It is a matter of public interest that naturopathic
27 doctors and the practice of naturopathic medicine merit the
28 confidence of the public, that only qualified persons be
29 authorized to practice naturopathic medicine in this
30 Commonwealth and that no person shall practice naturopathic

1 medicine without a valid existing license to do so.

2 (3) The General Assembly recognizes that naturopathic
3 doctors comprise a distinct health care profession that
4 affects the public health, safety and welfare and increases
5 freedom of choice in health care.

6 (4) This act shall be liberally construed to best carry
7 out these subjects and purposes.

8 Section 103. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Board." The State Board of Chiropractic.

13 "Bureau." The Bureau of Professional and Occupational
14 Affairs.

15 "Commissioner." The Commissioner of Professional and
16 Occupational Affairs.

17 "Department." The Department of State of the Commonwealth.

18 "Minor office procedures." The methods for the repair and
19 care incidental to superficial lacerations and abrasions,
20 superficial lesions and the removal of foreign bodies located in
21 the superficial tissues.

22 "Naturopathic doctor." A practitioner of naturopathic
23 medicine who has been properly licensed for that purpose by the
24 State Board of Chiropractic.

25 "Naturopathic medicine." A system of primary health care for
26 the prevention, diagnosis and treatment of human health
27 conditions, injury and disease; the promotion or restoration of
28 health; and the support and stimulation of a patient's inherent
29 self-healing process through patient education and the use of
30 naturopathic therapies and therapeutic substances.

1 CHAPTER 3

2 BOARD

3 Section 301. Powers and duties of board.

4 The board has the following powers and duties:

5 (1) To pass upon the qualifications and fitness of
6 applicants for licenses and reciprocal licenses and to
7 promulgate regulations requiring applicants to pass
8 examinations relating to qualifications as a prerequisite to
9 the issuance of a license.

10 (2) To promulgate regulations not inconsistent with this
11 act and only as necessary to carry out this act.

12 (3) To examine, deny, approve, issue, revoke, suspend or
13 renew licenses of naturopathic doctors under this act and to
14 conduct hearings in connection with those powers and duties.

15 (4) To conduct hearings upon complaints concerning
16 violations of this act and the regulations promulgated under
17 this act and to seek the prosecution and enjoinder of
18 violations.

19 (5) To promulgate regulations establishing requirements
20 for continuing education under this act.

21 (6) To expend money necessary to the proper carrying out
22 of its assigned duties.

23 (7) To submit annually to the Consumer Protection and
24 Professional Licensure Committee of the Senate and the
25 Professional Licensure Committee of the House of
26 Representatives a report containing a description of the
27 types of complaints received, status of the cases, board
28 action which has been taken and length of time from the
29 initial complaint to final board resolution.

30 (8) To submit annually to the Appropriations Committee

1 of the Senate and the Appropriations Committee of the House
2 of Representatives, within 15 days after the Governor has
3 submitted a budget to the General Assembly, a copy of the
4 budget request for the upcoming fiscal year which the board
5 previously submitted to the department.

6 CHAPTER 5

7 LICENSURE

8 Section 501. Qualifications for licensure.

9 (a) Applicants.--An applicant shall be considered to be
10 qualified for a license if the applicant submits proof
11 satisfactory to the board of all of the following:

12 (1) The applicant is of good moral character.

13 (2) The applicant has completed a doctorate level
14 naturopathic medical program which is accredited or from an
15 accredited college recognized by the United States Department
16 of Education.

17 (3) The applicant has passed a competency-based national
18 naturopathic licensing examination administered by the North
19 American Board of Naturopathic Examiners or successor agency
20 that has been nationally recognized to administer a
21 naturopathic examination that represents Federal standards of
22 education and training.

23 (4) The application is accompanied by the application
24 fee as established by the board by regulation.

25 (5) The applicant is not addicted to the habitual use of
26 alcohol, narcotics or other habit-forming drugs.

27 (6) (i) The applicant has not been convicted of a
28 felony under the act of April 14, 1972 (P.L.233, No.64),
29 known as The Controlled Substance, Drug, Device and
30 Cosmetic Act, or of an offense under the laws of another

jurisdiction which, if committed in this Commonwealth,
would be a felony under The Controlled Substance, Drug,
Device and Cosmetic Act, unless the following apply:

(A) At least ten years have elapsed from the
date of conviction.

(B) The applicant satisfactorily demonstrates to
the board that the applicant has made significant
progress in personal rehabilitation since the
conviction and that licensure of the applicant should
not be expected to create a substantial risk of harm
to the public or a substantial risk of further
criminal violations.

(C) The applicant otherwise satisfies the
qualifications required under this act.

(ii) As used in this paragraph, the term "convicted"
includes a judgment, admission of guilt or a plea of nolo
contendere, or receiving probation without verdict,
disposition in lieu of trial or an accelerated
rehabilitative disposition of the disposition of felony
charges.

(7) The applicant has not been convicted of an offense
under the law of another jurisdiction which, if committed in
this Commonwealth, would constitute a sexual offense or a
felony. Compliance with this paragraph must be documented by
a report of criminal history record information from the
Pennsylvania State Police or by a statement from the
Pennsylvania State Police that its central repository
contains no information relating to the applicant. The costs
associated with the report or statement shall be paid by the
applicant.

(b) Transferability.--A license and a temporary practice permit are not transferable.

Section 502. License status and continuing education.

(a) Duration of license.--A license shall be renewable on a biennial basis. The biennial expiration date shall be established by regulation of the board. Application for renewal of a license shall biennially be forwarded to an individual holding a current license prior to the expiration date of the current renewal biennium.

(b) Procedure.--To renew a license, a licensee must do all of the following:

(1) File a renewal application with the board. The license must provide all of the following:

(i) Current certification to administer cardiopulmonary resuscitation.

(ii) Successful completion of a minimum of 24 hours of continuing education in the field of naturopathic medicine during the immediately preceding two years as approved by the board.

(2) Pay a fee established by regulation of the board.

(c) Inactive status.--A licensee may request an application for inactive status. The application form must be completed and returned to the board. Upon receipt of an application, the individual shall be maintained on inactive status without fee and shall be entitled to apply for licensure renewal at any time. An individual who requests the board to activate the individual's license and who has been on inactive status for a period of five consecutive years must, prior to receiving an active license, satisfy the requirements of the board's regulations for ensuring continued education, including holding

1 current certification to administer cardiopulmonary
2 resuscitation and remitting the required fee. The board shall
3 promulgate regulations to carry into effect the provisions of
4 this subsection.

5 (d) Reporting of multiple licensure.--A licensee who is also
6 licensed to practice naturopathic medicine in another
7 jurisdiction shall report this information to the board on the
8 biennial registration application. Any disciplinary action taken
9 in another jurisdiction shall be reported to the board on the
10 biennial registration application or within 90 days of final
11 disposition, whichever is sooner. Multiple licensures shall be
12 noted by the board on the licensee's record, and the other
13 licensing jurisdiction shall be notified by the board of any
14 disciplinary actions taken against the licensee in this
15 Commonwealth.

16 Section 503. Examinations.

17 The board shall contract with a professional testing
18 organization for the examination of qualified applicants for
19 licensure. The board must approve the examination before it is
20 administered. All written, oral and practical examinations shall
21 be prepared and administered by a qualified and approved
22 professional testing organization in the manner prescribed for
23 written examinations by section 812.1 of the act of April 9,
24 1929 (P.L.177, No.175), known as The Administrative Code of
25 1929.

26 Section 504. Reciprocity.

27 The board has the power to grant a reciprocal license to an
28 applicant who is licensed or certified as a naturopathic doctor
29 or similar practice in another state and has demonstrated
30 qualifications which equal or exceed those required under this

1 act in the determination of the board. No license shall be
2 granted under this section to an applicant unless the state in
3 which the applicant is licensed affords reciprocal treatment to
4 individuals who are residents of this Commonwealth and who are
5 licensed under this act.

6 CHAPTER 7

7 PRACTICE OF NATUROPATHIC MEDICINE

8 Section 701. Scope of practice.

9 (a) Scope.--If consistent with the education and training of
10 a naturopathic doctor, the following are deemed to be within the
11 scope of practice for a naturopathic doctor:

12 (1) Order and perform physical and laboratory
13 examinations consistent with naturopathic education and
14 training, for diagnostic purposes, including phlebotomy,
15 clinical laboratory tests, orificial examinations and
16 physiological function tests.

17 (2) Order diagnostic imaging studies consistent with
18 naturopathic training.

19 (3) Dispense, administer, order, prescribe or perform
20 the following:

21 (i) Foods, extracts of food, nutraceuticals,
22 vitamins, amino acids, minerals, enzymes, botanicals and
23 their extracts, botanical medicines, homeopathic
24 medicines, dietary supplements and nonprescription drugs
25 as defined by the Federal Food, Drug, and Cosmetic Act
26 (52 Stat. 1040, 21 U.S.C. § 301 et seq.).

27 (ii) Hot and cold hydrotherapy, naturopathic
28 physical medicine, electromagnetic energy, colon
29 hydrotherapy and therapeutic exercise.

30 (iii) Devices, including therapeutic devices,

1 barrier contraception and durable medical equipment.

2 (iv) Health education and health counseling.

3 (v) Repair and care incidental to superficial
4 lacerations and abrasions.

5 (vi) Removal of foreign bodies located in the
6 superficial tissues.

7 (vii) Musculoskeletal manipulation.

8 (4) Utilize routes of administration that include oral,
9 nasal, auricular, ocular, rectal, vaginal, transdermal,
10 intradermal, subcutaneous, intravenous and intramuscular.

11 (b) Prohibitions.--A naturopathic doctor licensed under this
12 act shall not:

13 (1) Prescribe, dispense or administer any controlled
14 substance or device identified in the Controlled Substances
15 Act (Public Law 91-513, 84 Stat. 1236), except as authorized
16 by this act.

17 (2) Perform surgical procedures except those minor
18 office procedures authorized by this act.

19 (3) Practice or claim to practice as any other licensed
20 health care professional not authorized in this act unless
21 licensed as such.

22 (4) Use general or spinal anesthetics.

23 (5) Administer ionizing radioactive substances for
24 therapeutic purposes.

25 (6) Perform surgical procedures using a laser device.

26 (7) Perform surgical procedures involving the eye, ear,
27 tendons, nerves, veins or arteries extending beyond
28 superficial tissue.

29 (8) Perform chiropractic adjustments or musculoskeletal
30 manipulation.

1 (9) Perform acupuncture, unless licensed as an
2 acupuncturist by the Commonwealth.

3 CHAPTER 9

4 ADMINISTRATION AND ENFORCEMENT

5 Section 901. Refusal, suspension and revocation of licenses.

6 (a) Grounds.--The board may refuse, suspend, revoke, limit
7 or restrict a license or reprimand a licensee for any of the
8 following:

9 (1) Being convicted under Federal law, under the law of
10 any state or under the law of any foreign jurisdiction of an
11 offense of moral turpitude or of an offense which, if
12 committed in this Commonwealth, would constitute a sexual
13 offense or a felony. As used in this paragraph, the term
14 "convicted" includes a finding or verdict of guilt, an
15 admission of guilt or a plea of nolo contendere or receiving
16 probation without verdict, disposition in lieu of trial or an
17 accelerated rehabilitative disposition in the disposition of
18 felony charges.

19 (2) Being found to have engaged in immoral or
20 unprofessional conduct. In proceedings based on this
21 paragraph, actual injury to the patient need not be
22 established. As used in this paragraph, the term
23 "unprofessional conduct" includes:

24 (i) a departure from or failure to conform to the
25 standards of acceptable and prevailing practice; and

26 (ii) sexual exploitation of a patient.

27 (3) Violating standards of professional practice or
28 conduct adopted by the board.

29 (4) Presenting false credentials or documents or making
30 a false statement of fact in support of the applicant's

1 application for a license.

2 (5) Submitting a false or deceptive biennial renewal to
3 the board.

4 (6) Having a license suspended, revoked or refused or
5 receiving other disciplinary action by the proper licensing
6 authority of any other jurisdiction.

7 (7) Violating a regulation promulgated by the board,
8 including standards of professional practice and conduct or
9 violating an order of the board previously entered in a
10 disciplinary proceeding.

11 (8) Failing to refer a patient to a physician when the
12 patient is presenting a contradiction to naturopathic
13 medicine.

14 (9) Incompetence, negligence or misconduct in carrying
15 out the practice of naturopathic medicine.

16 (10) Practicing beyond the licensee's defined scope of
17 practice.

18 (11) Knowingly aiding, assisting, hiring or advising
19 someone in the unlawful practice of naturopathic medicine.

20 (12) Being unable to practice with reasonable skill and
21 safety by reason of illness; drunkenness; excessive use of
22 drugs, narcotics, chemicals or any other type of material; or
23 as a result of any mental or physical condition. In enforcing
24 this paragraph, the board, upon probable cause, has authority
25 to compel a licensee to submit to a mental or physical
26 examination by a physician approved by the board. Failure of
27 a licensee to submit to an examination when directed by the
28 board, unless the failure is due to circumstances beyond the
29 licensee's control, shall constitute an admission of the
30 allegations against the licensee, consequent upon which a

1 default and final order may be entered without the taking of
2 testimony or presentation of evidence. A licensee affected
3 under this paragraph shall, at reasonable intervals as
4 determined by the board, be afforded an opportunity to
5 demonstrate that the licensee can resume competent practice
6 with reasonable skill and safety.

7 (b) Board action.--If the board finds that the license or
8 application for license may be refused, revoked, restricted or
9 suspended under the terms of subsection (a), the board may do
10 any of the following:

11 (1) Deny the application for license.

12 (2) Administer a public reprimand.

13 (3) Revoke, suspend, limit or otherwise restrict a
14 license.

15 (4) Require a licensee to submit to the care, counseling
16 or treatment of a physician designated by the board.

17 (5) Restore a suspended license and impose any
18 disciplinary or corrective measure which it might originally
19 have imposed.

20 (c) Administrative Agency Law.--Actions of the board under
21 subsections (a) and (b) are subject to 2 Pa.C.S. Chs. 5 Subch. A
22 (relating to practice and procedure of Commonwealth agencies)
23 and 7 Subch. A (relating to judicial review of Commonwealth
24 agency action).

25 (d) Temporary suspension.--The board shall temporarily
26 suspend a license under circumstances as determined by the board
27 to be an immediate and clear danger to the public health and
28 safety. The board shall issue an order to that effect without a
29 hearing, but upon notice to the licensee concerned at the
30 licensee's last known address, which must include a written

statement of all allegations against the licensee. Subsection (c) shall not apply to temporary suspension. Upon issuance of an order under this subsection, the board shall commence formal action to suspend, revoke or restrict the license as otherwise provided for in this act. All actions shall be taken promptly. Within 30 days following the issuance of an order temporarily suspending a license, the board shall conduct a preliminary hearing to determine that there is a prima facie case supporting the suspension. The licensee whose license has been temporarily suspended may be present at the preliminary hearing and may be represented by counsel, cross-examine witnesses, inspect physical evidence, call witnesses, offer evidence and testimony and make a record of the proceedings. If it is determined that there is not a prima facie case, the suspended license shall be immediately restored. The temporary suspension shall remain in effect until vacated by the board, but in no event longer than 180 days.

(e) Automatic suspension.--

(1) A license shall automatically be suspended upon the legal commitment of a licensee to an institution because of mental incompetence from any cause upon filing with the board a certified copy of the commitment.

(2) A license shall automatically be suspended upon conviction of a felony under the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or conviction of an offense under the laws of another jurisdiction, which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act. As used in this paragraph, the term "conviction" includes a judgment, an

admission of guilt or a plea of nolo contendere.

(3) Automatic suspension under this section shall not be stayed pending an appeal.

(4) Reinstatement of a license shall be made under section 902.

(5) Subsection (c) shall not apply to automatic suspension.

Section 902. Reinstatement of license.

Unless ordered to do so by a court of competent jurisdiction, the board shall not reinstate the license of an individual which has been revoked. An individual whose license has been revoked may reapply for a license after a period of at least five years but must meet all of the licensing requirements of this act.

Section 903. License renewal; records and fees.

(a) Records.--A record of all licensees shall be kept in the office of the board and shall be open to public inspection and copying upon payment of a reasonable fee for copying the record.

(b) Fees.--

(1) All fees required under this act shall be fixed by the board by regulation. If the revenue raised by fees, fines and civil penalties imposed under this act are not sufficient to meet expenditures over a two-year period, the board shall increase those fees by regulation so that the projected revenues will meet or exceed projected expenditures.

(2) If the bureau determines that the fees established by the board under paragraph (1) are inadequate to meet the minimum enforcement efforts required by this act, the bureau, after consultation with the board, shall increase the fees by regulation in an amount so that adequate revenues are raised to meet the required enforcement effort.

1 Section 904. Duty of licensee.

2 A licensee shall refer a patient to a physician when the
3 patient is presenting a contraindication to the practice of
4 naturopathic medicine.

5 Section 905. Other professions.

6 Nothing in this act shall be construed as preventing,
7 restricting or requiring licensure of any of the following
8 activities:

9 (1) The practice of a profession by an individual who is
10 licensed, certified or registered by a Commonwealth agency
11 under other law and who is performing services or advertising
12 within the authorized scope of practice.

13 (2) The practice of naturopathic medicine by an
14 individual employed by the Federal Government while the
15 individual is engaged in the performance of duties under
16 Federal law.

17 (3) The practice of naturopathic medicine by an
18 individual licensed, registered or certified in another
19 jurisdiction when incidentally called into this Commonwealth
20 to teach a course related to the practice of naturopathic
21 medicine or to consult with a licensee.

22 Section 906. Unlawful practice.

23 (a) General rule.--An individual may not practice
24 naturopathic medicine or hold himself out as a naturopathic
25 doctor unless licensed by the board.

26 (b) Title.--An individual who holds a license or is
27 maintained on inactive status may use the title "Licensed
28 Naturopathic Doctor" and the abbreviation "N.D." No other
29 individual may use the title "Licensed Naturopathic Doctor" or
30 hold himself out to others as a naturopathic doctor. This

1 subsection includes advertising as a naturopathic doctor and
2 adopting or using any title or description, including
3 naturopathic doctor, naturopath, doctor of naturopathic
4 medicine, naturopathic health care, naturopathic medicine or a
5 derivative of those terms and their related abbreviations, which
6 implies directly or indirectly that naturopathic services are
7 being provided.

8 (c) Employment.--An individual, corporation, partnership,
9 firm or other entity may not employ an individual in
10 naturopathic medicine unless the individual is licensed by the
11 board.

12 (d) Terminology.--A business entity may not utilize in
13 connection with a business name or activity the words
14 naturopathic doctor, naturopath, doctor of naturopathic
15 medicine, naturopathic health care, naturopathic medicine or a
16 derivative of those terms and their related abbreviations, which
17 imply directly or indirectly that naturopathic services are
18 being provided, unless the services of the business are provided
19 by licensees.

20 (e) Injunction.--Unlawful practice may be enjoined by the
21 courts upon petition of the commissioner or the board. In a
22 proceeding under this section, it shall not be necessary to show
23 that an individual has been injured. If the court finds that the
24 respondent has violated this section, it shall enjoin the
25 respondent from practicing until the respondent has been
26 licensed. Procedure in such cases shall be the same as in any
27 other injunction suit.

28 (f) Remedy cumulative.--The injunctive remedy provided in
29 this section shall be in addition to any other civil or criminal
30 prosecution and punishment.

1 Section 907. Violation of act.

2 (a) General rule.--A person that violates a provision of
3 this act or a regulation of the board commits a misdemeanor of
4 the third degree and shall, upon conviction, be sentenced to pay
5 a fine of not more than \$1,000 or to imprisonment for not more
6 than six months for the first violation and to pay a fine of not
7 more than \$2,000 or to imprisonment for not less than six months
8 or more than one year, or both, for each subsequent violation.

9 (b) Civil penalty.--In addition to any other civil remedy or
10 criminal penalty provided for in this act, the board, by a vote
11 of the majority of the maximum number of the authorized
12 membership of the board or by a vote of the majority of the
13 qualified and confirmed membership or a minimum of five members,
14 whichever is greater, may levy a civil penalty of up to \$1,000
15 on any of the following:

16 (1) A naturopathic doctor who violates a provision of
17 this act.

18 (2) A person that employs a naturopathic doctor in
19 violation of this act.

20 (3) An individual who holds himself out as a licensee
21 without being properly licensed as provided in this act.

22 (4) The responsible officers or employees of a
23 corporation, partnership, firm or other entity that violates
24 a provision of this act.

25 (c) Administrative Agency Law.--Action of the board under
26 subsection (b) is subject to 2 Pa.C.S. Chs. 5 Subch. A (relating
27 to practice and procedure of Commonwealth agencies) and 7 Subch.
28 A (relating to judicial review of Commonwealth agency action).

29 CHAPTER 21

30 MISCELLANEOUS PROVISIONS

1 Section 2101. Appropriation and repayment.

2 (a) Appropriation.--The sum of \$85,000, or as much thereof
3 as may be necessary, is hereby appropriated from the
4 Professional Licensure Augmentation Account to the department
5 for the payment of costs associated with processing licenses and
6 renewing licenses, for the operation of the board and for other
7 costs associated with this act.

8 (b) Repayment.--The appropriation shall be repaid by the
9 board to the Professional Licensure Augmentation Account within
10 three years of the beginning of issuance of licenses by the
11 board.

12 Section 2102. Regulations.

13 The board shall promulgate regulations to carry out this act.
14 Publication of the final-form regulations under this section
15 shall take place within 18 months of the effective date of this
16 section. The board shall report, within 60 days of the effective
17 date of this section, and every 30 days thereafter, on the
18 status of the regulations to the Consumer Protection and
19 Professional Licensure Committee of the Senate and the
20 Professional Licensure Committee of the House of
21 Representatives.

22 Section 2103. Effective date.

23 This act shall take effect as follows:

24 (1) Chapter 3 and this chapter shall take effect
25 immediately.

26 (2) The remainder of this act shall take effect in two
27 years.