

SENATE No. 2335

The Commonwealth of Massachusetts

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In the One Hundred and Eighty-Ninth General Court
(2015-2016)
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SENATE, Monday, June 13, 2016

The committee on Ways and Means, to whom was referred the Senate Bill establishing a board of registration in naturopathy (Senate, No. 2148),-- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2335) [Estimated cost: \$300,000].

For the committee,
Karen E. Spilka

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act establishing a board of registration in naturopathy.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 9 of chapter 13 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by inserting after the word “counselors”, in line 7, the
3 following words:- , the board of registration in naturopathy.

4 SECTION 2. Chapter 13 of the General Laws is hereby amended by adding the following
5 section:-

6 Section 109. (a) There shall be a board of registration in naturopathy which shall consist
7 of 5 persons to be appointed by the governor, 2 of whom shall be naturopathic doctors with at
8 least 5 years of experience in the practice of naturopathic health care and who shall be licensed
9 under section 268 or 270 of chapter 112, 1 of whom shall be a physician licensed to practice
10 medicine under section 2 of said chapter 112 with experience working with naturopathic doctors,
11 1 of whom shall be a clinical pharmacologist and 1 of whom shall be a member of the general
12 public. The appointed members shall serve for terms of 3 years. Upon the expiration of a term of
13 office, a member shall continue to serve until a successor has been appointed and qualified. A
14 member shall not serve for more than 2 consecutive terms; provided, however, that a person who

15 is chosen to fill a vacancy in an unexpired term of a prior board member may serve for 2
16 consecutive terms in addition to the remainder of that unexpired term. A member may be
17 removed by the governor for neglect of duty, misconduct, malfeasance or misfeasance in the
18 office after a written notice of the charges against the member and sufficient opportunity to be
19 heard thereon.

20 (b) The board shall annually elect from its membership a chair and a secretary who shall
21 serve until successors have been elected. The board shall meet not less than quarterly and may
22 hold additional meetings at the call of the chair or upon the request of any 4 members. A quorum
23 for the conduct of official business shall be a majority of members appointed at that time. Board
24 members shall serve without compensation, but shall be reimbursed for actual and reasonable
25 expenses incurred in the performance of board member duties. The members shall be public
26 employees for the purposes of chapter 258 for all acts or omissions within the scope of their
27 duties as board members.

28 SECTION 3. Chapter 112 of the General Laws is hereby amended by adding the
29 following 9 sections:-

30 Section 265. For the purposes of this section and sections 266 to 273, inclusive, the
31 following terms shall have the following meanings unless the context clearly requires otherwise:

32 "Approved naturopathic medical college", a college or program granting the degree of
33 doctor of naturopathic medicine or doctor of naturopathy that is approved by the board of
34 registration in naturopathy and which is accredited by an accrediting agency recognized by the
35 United States Department of Education or such other college or program as may be approved by

36 the board; provided, however, that the naturopathic doctoral program shall be further accredited
37 by the Council on Naturopathic Medical Education or its successor.

38 "Board", the board of registration in naturopathy established in section 109 of chapter 13.

39 "Homeopathic preparations", medicines prepared according to the Homeopathic
40 Pharmacopoeia of the United States.

41 "Naturopathic doctor", a person who is licensed by the board to practice naturopathic
42 health care.

43 "Naturopathic health care", a system of health care practices for the prevention,
44 evaluation and treatment of illnesses, injuries and conditions of the human body through the use
45 of education, nutrition, natural medicines and therapies and other modalities which are designed
46 to support, stimulate or supplement the human body's own natural self-healing processes.

47 "Naturopathic manipulative therapy", the manually-administered mechanical treatment of
48 body structures or tissues in accordance with naturopathic principles to restore the normal
49 physiological function of the human body.

50 "Naturopathic physical medicine", the therapeutic use of the physical agents of air, water,
51 heat, cold, sound, light and the physical modalities of electrotherapy, diathermy, ultraviolet light,
52 hydrotherapy, naturopathic manipulative therapy and therapeutic exercise.

53 "Person", an individual; provided, however, that "person" shall not include a partnership,
54 corporation, association or business organization.

55 Section 266. (a) The practice of naturopathic health care shall include, but not be limited
56 to:

57 (i) the prevention and treatment of human illness, injury or disease through
58 education, dietary or nutritional advice and the promotion of healthy ways of living;

59 (ii) the use of non-invasive physical examinations and the ordering of clinical and
60 laboratory procedures from licensed clinics or laboratories to evaluate injuries, illnesses and
61 conditions in the human body;

62 (iii) dispensing, administering, ordering and prescribing natural medicines of
63 mineral, animal or botanical origin, including, but not limited to, food products or extracts,
64 vitamins, minerals, enzymes, digestive aids, natural hormones, plant substances, homeopathic
65 preparations, natural antibiotics, topical medicines and nonprescription drugs, therapeutic
66 devices and barrier contraceptives to prevent or treat illnesses, injuries and conditions of the
67 human body;

68 (iv) the use of manual mechanical manipulation of body structures or tissues in
69 accordance with naturopathic principles;

70 (v) the use of naturopathic physical medicine to maintain or restore normal
71 physiological functioning of the human body; and

72 (vi) mandatory tracking and documentation of the immunization status of a
73 patient under 18 years of age and the required referral of that patient to a primary care or
74 collaborative care physician where evidence exists that the individual has not been immunized.

75 (b) The practice of naturopathic health care shall not include:

76 (i) performing surgery or invasive procedures or examinations, abortions or the
77 use of radiation, radioactive substances or local, general or spinal anesthesia;

78 (ii) prescribing, dispensing or administering a drug classified as a controlled
79 substance or prescription drug under chapter 94C;

80 (iii) the practice of acupuncture and traditional Chinese medicine; or

81 (iv) the practice of emergency medicine, except as a person rendering gratuitous
82 services in an emergency or for the care of minor injuries.

83 (c) Nothing in sections 265 to 273, inclusive, shall prohibit or restrict:

84 (i) a person who is licensed, certified or registered to practice a profession or
85 occupation under another law from engaging in activities which are within the lawful scope of
86 practice for the profession or occupation for which that person is licensed;

87

88 (ii) the practice of naturopathic health care by a person employed by the United
89 States government if that person engages in that practice in the performance of the employee's
90 duties;

91 (iii) the practice of naturopathic health care by students enrolled in an approved
92 naturopathic medical college; provided, however, that the performance of those services shall be
93 under a course of instruction or assignments from and under the supervision of an instructor who
94 is licensed as a naturopathic doctor under this chapter or a licensed professional in the field in
95 which that professional is providing instruction;

96 (iv) a person from self-treatment or treatment of an immediate family member
97 based on religious or health beliefs;

98 (v) a person who sells vitamins and herbs from providing information about those
99 products; or

100 (vi) a person or practitioner who is not licensed as a naturopathic doctor from
101 recommending ayurvedic medicine, herbal remedies, nutritional advice, homeopathy or other
102 therapy that is within the scope of practice of naturopathic health care; provided, however, that
103 the person or practitioner shall not represent or assume the character or appearance of a person
104 practicing naturopathic health care or otherwise use a name, title or other designation which
105 indicates or implies that the person is licensed to practice naturopathic health care.

106 (d) Licensed naturopathic doctors shall have the same authority and responsibilities as
107 licensed physicians regarding public health laws, reportable diseases and conditions,
108 communicable disease control and prevention, recording of vital statistics, health and physical
109 examinations and local boards of health, except that the authority of licensed naturopathic
110 doctors regarding such matters shall be limited to the scope of practice authorized by this
111 chapter. Naturopathic doctors shall be mandated reporters as required of physicians and nurses.

112 Section 267. (a) The board shall have the following powers and duties:

113 (i) to adopt rules and regulations governing the licensing of naturopathic doctors
114 and the practice of naturopathic health care to promote the public health, welfare and safety of
115 the residents of the commonwealth including, but not limited to:

116 (1) regulations governing the activities of naturopathic assistants;

117 (2) requirements for specialty practice by licensed naturopathic doctors;

118 and

119 (3) continuing education requirements for the renewal of licenses
120 including, but not limited to, the number of hours required, the subjects required and board
121 approval of continuing education programs or lectures;

122 (ii) to receive, review and approve or disapprove applications for licensing and to
123 issue licenses;

124 (iii) to establish administrative procedures for processing applications and
125 renewals;

126 (iv) to provide a uniform, proctored, psychometrically-sound examination to
127 license naturopathic doctors, which shall adequately test the diagnostic and therapeutic skill of
128 license applicants; provided, however, that the board may adopt a standardized national
129 examination, including the Naturopathic Physicians Licensing Examinations or its equivalent;
130 provided further, that nothing in this section shall prohibit the board from administering a
131 licensing examination developed in cooperation with another state licensing authority;

132 (v) to establish a code of ethics for naturopathic doctors;

133 (vi) to establish and maintain records of its actions and proceedings in
134 accordance with public records laws; and

135 (vii) to perform other functions and duties as necessary to carry out sections 265
136 to 273, inclusive.

137 (b) The board may investigate complaints related to the proper practice of naturopathy,
138 including violations of sections 265 to 273, inclusive, or of a rule or regulation of the board. A
139 complaint may be brought by a person or by the board.

140 (c) The board shall have the powers and duties provided in sections 61 to 65E, inclusive.
141 For the purposes of this section and sections 61 to 65E, inclusive, conduct which places into
142 question the license holder's competence to practice naturopathy shall include, but not be limited
143 to:

- 144 (i) the commission of fraud or misrepresentation in obtaining a license;
- 145 (ii) criminal conduct which the board determines to be of such a nature as to
146 render the person unfit to practice naturopathy, as evidenced by criminal proceedings resulting in
147 a conviction, a guilty plea, a plea of nolo contendere or an admission of sufficient facts;
- 148 (iii) violation of a rule or regulation of the board;
- 149 (iv) failure to cooperate with the board or its agents in the conduct of an
150 inspection or investigation;
- 151 (v) failure to fulfill continuing education requirements set out by the board;
- 152 (vi) aiding or abetting an unlicensed person to practice naturopathy
- 153 (vii) negligence in the course of professional practice; or
- 154 (viii) evidence that the license holder's ability to safely practice is impaired by a
155 physical or mental illness, alcohol abuse or substance abuse.

156 (d) The board may, without a hearing, suspend or refuse to renew a registrant's license if
157 the board finds that the health, safety and welfare of the public warrants summary action;
158 provided, however, that the board shall, within 7 days of the summary action, afford the
159 registrant the opportunity for a hearing pursuant to chapter 30A and provide a written statement

160 of reason for suspension or refusal to renew. A suspension imposed by the board shall remain in
161 effect until the conclusion of the proceedings, including judicial review thereof, unless the
162 suspension is dissolved sooner by a court of competent jurisdiction or withdrawn by the board.

163 (e) Nothing in this section shall limit the board's authority to impose sanctions that are
164 considered reasonable and appropriate by the board. A person aggrieved by a disciplinary action
165 taken by the board under this section or taken due to a violation of another law, rule or regulation
166 may, under section 64, file a petition for judicial review.

167 (f) The commissioner of public health may review and approve or disapprove rules and
168 regulations proposed by the board of naturopathic medicine; provided, however, that following
169 review, the commissioner shall provide the board with written notice of approval or disapproval
170 and shall set forth in writing the reasons for a disapproval.

171 Section 268. (a) An application for original licensure as a naturopathic doctor shall be
172 made on forms approved by the board. The application shall be sworn and shall be accompanied
173 by payment of the fee prescribed by the secretary of administration and finance pursuant to
174 section 3B of chapter 7. The board shall issue a license as a naturopathic doctor to an applicant
175 upon receipt of satisfactory proof that the applicant meets all requirements set forth in this
176 section, is at least 18 years old, of good moral character and possesses a baccalaureate degree
177 from an accredited educational institution or its equivalent, as determined by the board.

178 (b) An applicant for a license under this section shall have graduated from and hold a
179 doctor of naturopathic medicine or doctor of naturopathy degree from an approved naturopathic
180 medical college; provided, however, that an applicant shall have satisfactorily completed a
181 minimum of 1,200 hours of board-approved clinical training before graduation from such

182 college. The clinical training may have been completed in either an inpatient or outpatient setting
183 and may include components of conventional medicine as well as naturopathic health care.

184 (c) An applicant for a license under this section shall have successfully passed a
185 competency-based national naturopathic licensing examination approved by the board.

186 (d) The board may approve an applicant who attended and graduated from a 4-year
187 naturopathic doctoral program which is located in a country or territory outside the United States
188 if, in the opinion of the board, the training and education provided by that naturopathic doctoral
189 program is substantially equivalent to that provided by a naturopathic doctoral program which
190 meets the requirements of subsection (b).

191 Section 269. The board, in consultation with the department of public health, shall
192 determine the renewal cycle and renewal period for naturopathic licenses. A naturopathic doctor
193 licensed under this chapter shall apply to the board for a license renewal by not later than the
194 expiration date, as determined by the board, unless earlier revoked, suspended or cancelled as a
195 result of a disciplinary proceeding instituted pursuant to section 61 or 272.

196 As a condition for renewal under this section, the board may require a naturopathic
197 doctor to provide the board with satisfactory proof that the naturopathic doctor has successfully
198 completed the required number of hours of continuing education for naturopathic doctors in
199 courses or programs approved by the board or has complied with other requirements or
200 equivalent requirements as approved by the board. The board may provide for the late renewal of
201 a license that has lapsed and may require payment of a late fee.

202 Section 270. The board may grant license reciprocity to a registered, certified or licensed
203 naturopathic doctor from another jurisdiction; provided, however, that the requirements for

204 registration, certification or licensing in the other jurisdictions are, in the opinion of the board,
205 substantially equivalent to the requirements in section 268. The board shall promulgate rules and
206 regulations as may be necessary to implement this section.

207 Section 271. A licensed naturopathic doctor shall advise the board, in writing, of the
208 address of the naturopathic doctor's principal place of business and any other address at which
209 that doctor is currently engaged in practice. The naturopathic doctor shall provide written notice
210 to the board of a change in the address of a place of business at which the doctor practices within
211 10 days of moving to a new principal place of business or other new address at which that doctor
212 is engaged in practice. The naturopathic doctor shall also advise the board, in writing, of that
213 doctor's current residential address and of subsequent changes to that address.

214 Section 272. (a) No person shall represent or assume the character or appearance of a
215 licensed naturopathic doctor unless that person is licensed. A person who is not licensed shall not
216 use any of the following titles: naturopathic physician, naturopathic practitioner, natural doctor,
217 naturopathic doctor, doctor of naturopathy, doctor of natural medicine, doctor of naturopathic
218 medicine, NMD, doctor of nutritional medicine, N.D, naturopathic medicine, naturopath or any
219 other term that indicates or implies that the person is licensed to practice naturopathic health
220 care.

221 (b) A licensed naturopathic doctor shall not use the term physician nor assume the
222 character or appearance of a primary care provider.

223 (c) Except as provided under subsection (c) of section 266, a person acting or purporting
224 to act as a naturopathic doctor without first obtaining a license under this chapter shall be
225 punished by a fine of not more than \$5,000 or by imprisonment for not more than 1 year in a

226 house of correction or by both such fine and imprisonment. Upon conviction of a second or
227 subsequent offense, the person shall be punished by a fine of not more than \$10,000 or by
228 imprisonment for not more than 2 years in a house of correction or by both such fine and
229 imprisonment.

230 (d) A person who receives money or an equivalent item of value as a fee, commission,
231 compensation or profit by or as the consequence of a violation of sections 266 to 272, inclusive,
232 shall, in addition to any other penalty, be liable for a fine of not less than the sum of the money
233 received and not more than 3 times the sum received, as determined by the board.

234 (e) There shall be no action brought by a person for recovery of compensation, nor actual
235 recovery of compensation, for services rendered by that person as a licensed naturopathic
236 practitioner unless that person held a current valid license pursuant to this chapter at the time the
237 act or service was provided.

238 Section 273. All licensing and application fees and civil administrative penalties collected
239 pursuant to sections 265 to 272, inclusive, shall be deposited into the trust fund established in
240 section 35X of chapter 10.

241 SECTION 4. An applicant who earned a doctor of naturopathic medicine or doctor of
242 naturopathy degree from a 4-year, in-residence naturopathic college or program before 1987 that
243 had, at the time of the applicant's graduation, a license, authority or other approval from its state
244 or province to grant such degree may apply to the board of registration in naturopathy for
245 licensure without examination, provided, that the person satisfactorily demonstrates an ability to
246 practice naturopathic medicine as determined by the board.

247 SECTION 5. The terms of the initial appointed members of the board of registration in
248 naturopathy pursuant to section 109 of chapter 13 of the General Laws shall be as follows: 1
249 member shall serve for a term of 1 year; 2 members shall serve for terms of 2 years and the
250 remaining 2 members shall serve for terms of 3 years. The 2 members required to be
251 naturopathic doctors shall be persons with 5 years of experience in the practice of naturopathic
252 health care who would be eligible for licensure in the commonwealth if said section 109 of said
253 chapter 13 had been in effect prior to the effective date of this act.

254 SECTION 6. The penalties established under section 272 of chapter 112 of the General
255 Laws shall take effect not later than 6 months after the board of registration in naturopathy first
256 issues licenses pursuant to said chapter 112.

257 SECTION 7. This act shall take effect on January 1, 2017.