

SENATE No. 889

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

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

3 Section 101. (a) There shall be within the division of professional licensure a board of
4 registration in naturopathy which shall consist of the chairman of the board of registration in
5 medicine or his designee, the commissioner of public health or his designee and 7 persons to be
6 appointed by the governor, 5 of whom shall be naturopathic doctors who have attended and
7 graduated from an approved naturopathic college that is accredited, or is a candidate for
8 accreditation, by the Council of Naturopathic Medical Educators or its successor, who have at
9 least 5 years of experience in the practice of naturopathic health care and who shall be licensed
10 under section 239 or 241 of chapter 112; 1 of whom shall be a physician licensed to practice
11 medicine under section 2 of chapter 112 with experience working with naturopathic doctors and
12 1 of whom shall be a clinical pharmacologist. The appointed members shall serve for terms of 3
13 years. Upon the expiration of a term of office, a member shall continue to serve until a successor
14 has been appointed and qualified. No member shall serve for more than 2 consecutive terms, but

15 a person who is chosen to fill a vacancy in an unexpired term of a prior board member may serve
16 for 2 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 or malfeasance or misfeasance in the
18 office after a written notice of the charges against him and sufficient opportunity to be heard
19 thereon.

20 (b) The board shall annually elect from its membership a chair and a secretary who shall
21 serve until their successors have been elected and qualified. The board shall meet at least 4 times
22 annually and may hold additional meetings at the call of the chair or upon the request of 4
23 members. A quorum for the conduct of official business shall be a majority of those appointed.
24 Board members shall serve without compensation, but shall be reimbursed for actual and
25 reasonable expenses incurred in the performance of their 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 2. Chapter 112 of the General Laws is hereby amended by adding the
29 following 9 sections:

30 Section 236. For the purposes of this section and sections 237 to 244, 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 and
34 which is accredited by an accrediting agency recognized by the United States Department of
35 Education or such other college or program as may be approved by the board; provided,

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

38 “Board”, the board of registration in naturopathy established in section 101 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 pursuant to this chapter.

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

48 “Naturopathic manipulative therapy”, the manually-administered mechanical treatment of
49 body structures or tissues in accordance with naturopathic principles for the purpose of restoring
50 the normal physiological function of the human body.

51 “Naturopathic physical medicine”, the therapeutic use of the physical agents of air, water,
52 heat, cold, sound, light and electromagnetic non-ionizing radiation and the physical modalities of
53 electrotherapy, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic manipulative
54 therapy and therapeutic exercise.

55 “Person”, an individual; provided, however, that “person” shall not include a partnership,
56 corporation, association or business organization of any kind.

57 Section 237. (a) The practice of naturopathic health care shall include, but not be limited
58 to:

59 (1) the prevention and treatment of human illness, injury or disease through education,
60 dietary or nutritional advice and the promotion of healthy ways of living;

61 (2) the use of physical examinations and the ordering of clinical, laboratory and
62 radiological diagnostic procedures from licensed clinics or laboratories for the purpose of
63 diagnosing and evaluating injuries, illnesses and conditions in the human body;

64 (3) dispensing, administering, ordering and prescribing natural medicines of mineral,
65 animal or botanical origin, including food products or extracts, vitamins, minerals, enzymes,
66 digestive aids, natural hormones, plant substances, homeopathic preparations, natural antibiotics
67 and topical medicines and nonprescription drugs, therapeutic devices and barrier contraceptives
68 to prevent or treat illnesses, injuries and conditions of the human body;

69 (4) the use of manual mechanical manipulation of body structures or tissues, in
70 accordance with naturopathic principles; the use of naturopathic physical medicine for the
71 purpose of maintaining or restoring normal physiological functioning of the human body; and

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

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

76 (1) performing surgery or abortions or the administration of therapeutic ionizing
77 radiation, radioactive substances or general or spinal anesthesia;

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

80 (3) the practice of acupuncture and Traditional Chinese Medicine; or

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

83 (c) Nothing in sections 236 to 244, inclusive, shall prohibit or restrict:

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

87 (2) the practice of naturopathic health care by a person employed by the government of
88 the United States if that person engages in such practice in the performance of his duties as such
89 an employee;

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

95 (4) Any person from treating himself or a member of his immediate family based on
96 religious or health beliefs;

97 (5) Any person who sells vitamins and herbs from providing information about his
98 products; or

99 (6) a person or practitioner who is not licensed as a naturopathic doctor pursuant to this
100 chapter from recommending ayurvedic medicine, herbal remedies, nutritional advice,
101 homeopathy or any other therapy that is within the scope of practice of naturopathic health care;
102 provided, however, that such person or practitioner shall not represent himself or hold himself
103 out to the public as practicing naturopathic health care in the commonwealth or otherwise use
104 any name, title or other designation which indicates or implies that he is licensed to practice
105 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.

112 Section 238 (a) The board shall have the following powers and duties:

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

116 (i) regulations governing the activities of naturopathic medical assistants;

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

118 (iii) continuing education requirements for the renewal of licenses including, but

119 not limited to, the number of hours required, the subjects required and board approval of

120 continuing education programs or lectures;

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

123 (3) to establish administrative procedures for processing applications and renewals;

124 (4) To provide a uniform, proctored national naturopathic licensing examination
125 administered by the North American Board of Naturopathic Examiners, or successor agency that
126 has been nationally recognized to administer a naturopathic examination that represents federal
127 standards of education and training;

128 (5) to establish a code of ethics for naturopathic doctors;

129 (6) to establish and maintain records of its actions and proceedings in accordance with the
130 public records laws;

131 (7) to perform such other functions and duties as may be necessary to carry out the
132 provisions of this chapter.

133 (b) The board shall have the right to investigate all complaints relating to the proper
134 practice of naturopathy, including any violations of this chapter or any rule or regulation of the
135 board. Such complaints may be brought by any person or the board.

136 (c) The board shall be under the supervision of the division of professional licensure and
137 it shall have the powers and duties provided in sections 61 to 65E, inclusive. For the purposes of
138 this section and sections 61 to 65E, inclusive, conduct which places into question the holder's
139 competence to practice naturopathy shall include, but not be limited to:

- 140 (1) the commission of fraud or misrepresentation in obtaining a license;
- 141 (2) criminal conduct which the board determines to be of such a nature as to
- 142 render the person unfit to practice naturopathy, as evidenced by criminal proceedings
- 143 resulting in a conviction, a guilty plea, a plea of nolo contendere or an admission of
- 144 sufficient facts;
- 145 (3) violation of a rule or regulation of the board;
- 146 (4) failure to cooperate with the board or its agents in the conduct of an inspection or
- 147 investigation;
- 148 (5) failure to fulfill any continuing education requirements set out by the board;
- 149 (6) aiding or abetting an unlicensed person to practice naturopathy; or
- 150 (7) negligence in the course of professional practice.

151 (d) The board may issue an order to a licensee directing him to cease and desist from

152 unethical or unprofessional conduct if the board finds, after notice and the opportunity for a

153 hearing, that the licensee has engaged in such conduct.

154 (e) Nothing in this section shall limit the board's authority to impose, by agreement,

155 sanctions that are considered reasonable and appropriate by the board. Any person aggrieved by

156 any disciplinary action taken by the board pursuant to this section or for violation of any other

157 law or rule or regulations may, pursuant to section 64, file a petition for judicial review.

158 Section 239. (a) An application for original licensure as a naturopathic doctor shall be
159 made on forms approved by the board. Such application shall be sworn and shall be accompanied
160 by payment of the fee prescribed by the secretary of administration pursuant to section 3B of
161 chapter 7. The board shall issue a license as a naturopathic doctor to an applicant upon receipt of
162 satisfactory proof that the applicant:

163 (1) is at least 18 years old and of good moral character; and

164 (2) possesses a baccalaureate degree from an accredited educational institution or
165 its equivalent, as determined by the board;

166 (3) has graduated from and holds a doctor of naturopathic medicine or doctor of
167 naturopathy degree from an approved naturopathic medical college; provided, however, that an
168 applicant shall have satisfactorily completed a minimum of 1,200 hours of board-approved
169 clinical training prior to graduation from such college. Such clinical training may have been
170 completed in either an inpatient or outpatient setting and may include components of
171 conventional medicine as well as naturopathic health care.

172 (4) successfully passed a competency-based national naturopathic licensing examination
173 administered by the North American Board of Naturopathic Examiners, or successor agency that
174 has been nationally recognized to administer a naturopathic examination that represents federal
175 standards of education and training;

176 (5) has not had a license to practice naturopathic medicine or other health care license
177 registration or certificate refused, revoked or suspended by any other jurisdiction for reasons that

178 relate to the applicant's ability to skillfully and safely practice naturopathic medicine unless that
179 license, registration or certification has been restored to good standing by that jurisdiction.

180 (b) The board may approve an applicant to sit for the licensing exam, or approve an
181 applicant for reciprocity if the applicant has already passed the licensing examination as outlined
182 in Section 239, (a) (4), if the applicant has attended and graduated from a 4-year naturopathic
183 doctoral program which is located in a country or territory outside the United States if, in the
184 opinion of the board, the training and education provided by that naturopathic doctoral program
185 is substantially equivalent to that provided by a naturopathic doctoral program which meets the
186 requirements of Section 239 (a) (3) and the applicant meets the other requirements in Section
187 239 (1- 5).

188 Section 240. The board, in consultation with the division of professional licensure, shall
189 determine the renewal cycle and renewal period for naturopathic licenses. A naturopathic doctor
190 licensed under this chapter shall apply to the board for renewal of his license on or before the
191 expiration date, as determined by the board, unless earlier revoked, suspended or cancelled as a
192 result of a disciplinary proceeding instituted pursuant to section 243. As a condition for renewal
193 under this section, the board may require a naturopathic doctor to furnish the board with
194 satisfactory proof that he has successfully completed the required number of hours of continuing
195 education for naturopathic doctors in courses or programs approved by the board has complied
196 with such other requirements or equivalent requirements as approved by the board. Upon
197 satisfactory compliance with the licensing requirements for naturopathic doctors and successful
198 completion of the continuing education requirements, the board shall issue a renewal license.
199 The board may provide for the late renewal of a license that has lapsed and may require payment
200 of a late fee.

201 Section 241. The board may grant license reciprocity to registered, certified or licensed
202 naturopathic doctors from other jurisdictions; provided, that the requirements for registration,
203 certification or license in the other jurisdictions are, in the opinion of the board, substantially
204 equivalent to those set forth in section 239. The board shall promulgate such rules and
205 regulations as may be necessary to implement this section.

206 Section 242. Each licensed naturopathic doctor shall advise the board, in writing, of the
207 address of his principal place of business and all other addresses at which he is currently engaged
208 in practice. The naturopathic doctor shall immediately provide written notice to the board of any
209 change in the address of any place of business at which he practices. He shall also advise the
210 board, in writing, of his current residential address and of any change thereof.

211 Section 243. (a) No person shall represent himself or hold himself out to the public as a
212 licensed naturopathic doctor in the commonwealth unless he is licensed pursuant to this chapter.
213 A person who is not licensed pursuant to this act shall not use any of the following titles:
214 naturopathic physician, naturopathic practitioner, natural doctor, naturopathic doctor, doctor of
215 naturopathy, doctor of natural medicine, doctor of naturopathic medicine, NMD, doctor of
216 nutritional medicine, N.D, naturopathic medicine, naturopath or any other term that indicates or
217 implies that the person is licensed to practice any form of naturopathic health care in the
218 commonwealth. The board of registration in naturopathy may modify the list of titles.

219 (b) A licensed naturopathic doctor shall not use the term physician nor hold himself out
220 to be a primary care provider but nothing in this section shall prevent a naturopathic doctor from
221 disclosing that he is a member of the American Association of Naturopathic Physicians.

222 (c) A person acting or purporting to act as a naturopathic doctor without first obtaining a
223 license under this chapter shall be punished by a fine of not more than \$5,000 or by
224 imprisonment for not more than 1 year, or both. Upon conviction of a second or subsequent
225 offense, such person shall be punished by a fine of not more than \$10,000 or by imprisonment
226 for not more than 2 years, or both(d) A person who receives money or an equivalent thing of
227 value as a fee, commission, compensation or profit by or as the consequence of a violation of
228 sections 237 to 243, inclusive, shall, in addition to any other penalty, be liable for a fine of not
229 less than the sum of the money so received and not more than 3 times the sum so received, as
230 determined by the board.

231 (d) A person who receives money or an equivalent thing of value as a fee, commission,
232 compensation or profit by or as the consequence of a violation of sections 237 to 243, inclusive,
233 shall, in addition to any other penalty, be liable for a fine of not less than the sum of the money
234 so received and not more than 3 times the sum so received, as determined by the board.

235 (e) No action shall be commenced and no recovery shall be had by any person for
236 compensation for any act performed or service rendered by him as a licensed naturopathic
237 practitioner unless such person held a current valid license under this chapter at the time of
238 performance of such act or service.

239 Section 244. All licensing and application fees and civil administrative penalties collected
240 pursuant to sections 236 to 244, inclusive, shall be deposited into the trust fund established in
241 section 35V of chapter 10.

242 SECTION 3. (a) A license to practice as a naturopathic doctor may be issued without
243 examination to an applicant who meets the requirements of subsections (1,2,3 and 5), of section

244 239 of chapter 112 of the General Laws if he submits satisfactory proof to the board that he is or
245 has been actively engaged in the practice of naturopathic health care for compensation in the
246 Commonwealth for at least 5 of the last 10 years immediately preceding the effective date of this
247 act. Applications for licensure under this section shall be filed with the board not later than 18
248 months after the effective date of this act.

249 (b) An applicant who graduated before 1987 and earned a doctor of naturopathic
250 medicine or doctor of naturopathy degree from a 4-year, in-residence naturopathic college or
251 program that had, at the time of the applicant's graduation, a license, authority or other approval
252 from its state or province to grant such degree may apply to the board of registration in
253 naturopathy for licensure provided he satisfactorily demonstrates his ability to practice
254 naturopathic medicine in the commonwealth as determined by the board.

255 SECTION 4. The terms of the initial appointed members of the board of registration in
256 naturopathy pursuant to section 101 of chapter 13 of the General Laws shall be as follows: 2
257 shall serve for a term of 1 year; 2 shall serve for terms of 2 years and the remaining 3 shall serve
258 for terms of 3 years. The 5 members required to be naturopathic doctors shall be persons with 5
259 years of experience in the practice of naturopathic health care who would be eligible for
260 licensure in the commonwealth if said section 101 of said chapter 13 were in effect prior to the
261 effective date of this act and must have attended and graduated from an approved naturopathic
262 college that is accredited, or is a candidate for accreditation, by the Council of Naturopathic
263 Medical Educators or its successor.

264 SECTION 5. The punishment provisions of section 243 of chapter 112 of the General
265 Laws shall take effect not later than 6 months after the board of registration in naturopathy first
266 issues licenses pursuant to said chapter 112.0.

267 SECTION 6. This act shall take effect in 180 days.