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HOUSE . . . . . No. 3674

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

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:

SECTION 1. Chapter 13 of the General Laws is hereby amended by adding the following section:

Section 109. (a) There shall be within the department of public health a board of registration in naturopathy which shall consist of 5 persons to be appointed by the governor, 2 of whom shall be naturopathic doctors withat least 5 years of experience in the practice of naturopathic health care and who shall be licensed under section 267 or 269 of chapter 112; 1 of whom shall be a physician licensed to practice medicine under section 2 of chapter 112 with experience working with naturopathic doctors, 1 of whom shall be a clinical pharmacologist, and 1 of whom shall be a member of the public. The appointed members shall serve for terms of 3 years. Upon the expiration of a term of office, a member shall continue to serve until a successor has been appointed and qualified. No member shall serve for more than 2 consecutive terms; provided, however, that a person who is chosen to fill a vacancy in an unexpired term of a prior board member may serve for 2 consecutive terms in addition to the remainder of that unexpired term. A member may be removed by the governor for neglect of duty, misconduct or malfeasance or misfeasance in the office after a written notice of the charges against him and sufficient opportunity to be heard thereon.

(b) The board shall annually elect from its membership a chair and a secretary who shall serve until their successors have been elected and qualified. The board shall meet at least 4 times annually and may hold additional meetings at the call of the chair or upon the request of 4 members. A quorum for the conduct of official business shall be a majority of those appointed. Board members shall serve without compensation, but shall be reimbursed for actual and reasonable expenses incurred in the performance of their duties. The members shall be public

23 employees for the purposes of chapter 258 for all acts or omissions within the scope of their
24 duties as board members.

25 SECTION 2. Chapter 112 of the General Laws is hereby amended by adding the
26 following 10 sections:

27 Section 264. For the purposes of this section and sections 265 to 272, inclusive, the
28 following terms shall have the following meanings unless the context clearly requires otherwise:

29 "Approved naturopathic medical college", a college or program granting the degree of
30 doctor of naturopathic medicine or doctor of naturopathy that is approved by the board and
31 which is accredited by an accrediting agency recognized by the United States Department of
32 Education or such other college or program as may be approved by the board; provided,
33 however, that the naturopathic doctoral program shall be further accredited by the Council on
34 Naturopathic Medical Education or its successor. "Board", the board of registration in
35 naturopathy established in section 109 of chapter 13.

36 "Homeopathic preparations", medicines prepared according to the Homeopathic
37 Pharmacopoeia of the United States.

38 "Naturopathic doctor", a person who is licensed by the board to practice naturopathic
39 health care pursuant to this chapter.

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

44 "Naturopathic manipulative therapy", the manually-administered mechanical treatment of
45 body structures or tissues in accordance with naturopathic principles for the purpose of restoring
46 the normal physiological function of the human body.

47 "Naturopathic physical medicine", the therapeutic use of the physical agents of air, water,
48 heat, cold, sound, light and the physical modalities of electrotherapy, diathermy, ultraviolet light,
49 ultrasound, hydrotherapy, naturopathic manipulative therapy and therapeutic exercise.

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

52 Section 265. (a) The practice of naturopathic health care shall include, but not be limited
53 to:

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

56 (2) the use of physical examinations and the ordering of clinical, laboratory and
57 radiological diagnostic procedures from licensed clinics or laboratories to evaluate injuries,
58 illnesses and conditions in the human body;

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

64 (4) the use of manual mechanical manipulation of body structures or tissues, in
65 accordance with naturopathic principles;

66 (5) the use of naturopathic physical medicine to maintain or restore normal physiological
67 functioning of the human body; and

68 (6) mandatory tracking and documentation of the immunization status of a patient under
69 18 years of age and the required referral of such patient to a primary care or collaborative care
70 physician where evidence exists that the individual has not been immunized.

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

72 (1) performing surgery or invasive procedures or examinations, abortions or the use of
73 radiation, radioactive substances or general or spinal anesthesia;

74 (2) prescribing, dispensing or administering a drug classified as a controlled substance or
75 prescription drug under chapter 94C;

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

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

79 (c) Nothing in sections 264 to 272, inclusive, shall prohibit or restrict:

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

83 (2) the practice of naturopathic health care by a person employed by the United States
84 government if that person engages in such practice in the performance of the employee's duties;

85 (3) the practice of naturopathic health care by students enrolled in an approved
86 naturopathic medical college; provided, however, that the performance of all such services shall
87 be under a course of instruction or assignments from and under the supervision of an instructor

88 who is licensed as a naturopathic doctor under this chapter or a licensed professional in the field
89 in which that professional is providing instruction;

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

92 (5) a person who sells vitamins and herbs from providing information about his products;
93 or

94 (6) a person or practitioner who is not licensed as a naturopathic doctor pursuant to this
95 chapter from recommending ayurvedic medicine, herbal remedies, nutritional advice,
96 homeopathy or any other therapy that is within the scope of practice of naturopathic health care;
97 provided, however, that such person or practitioner shall not represent himself or assume the
98 character or appearance of a person practicing naturopathic health care in the commonwealth or
99 otherwise use any name, title or other designation which indicates or implies that such person is
100 licensed to practice naturopathic health care.

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

107 Section 266. (a) The board shall have the following powers and duties:

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

111 (i) regulations governing the activities of naturopathic assistants;

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

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

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

115 continuing education programs or lectures;

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

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

119 (4) to provide a uniform, proctored, psychometrically-sound examination for use in
120 licensing naturopathic doctors, which shall adequately test the diagnostic and therapeutic skill of
121 license applicants; provided, however, that the board may adopt a standardized national
122 examination, including the Naturopathic Physicians Licensing Examination or its equivalent;
123 provided further, nothing in this section shall prohibit the board from administering a licensing
124 examination developed in cooperation with other state licensing authorities;

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

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

128 (7) to perform such other functions and duties as may be necessary to carry out sections
129 264 to 272, inclusive.

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

133 (c) The board shall be under the supervision of the department of public health and it
134 shall have the powers and duties provided in sections 61 to 65E, inclusive. For the purposes of
135 this section and sections 61 to 65E, inclusive, conduct which places into question the holder's
136 competence to practice naturopathy shall include, but not be limited to:

137 (i) the commission of fraud or misrepresentation in obtaining a license;

138 (ii) criminal conduct which the board determines to be of such a nature as to render the
139 person unfit to practice naturopathy, as evidenced by criminal proceedings resulting in a
140 conviction, a guilty plea, a plea of nolo contendere or an admission of sufficient facts;

141 (iii) violation of a rule or regulation of the board;

142 (iv) failure to cooperate with the board or its agents in the conduct of an inspection or
143 investigation;

144 (v) failure to fulfill any continuing education requirements set out by the board;

145 (vi) aiding or abetting an unlicensed person to practice naturopathy; or

146 (vii) negligence in the course of professional practice.

147 (d) The board may issue an order to a licensee directing him to cease and desist from
148 unethical or unprofessional conduct if the board finds, after notice and the opportunity for a
149 hearing, that the licensee has engaged in such conduct.

150 (e) Nothing in this section shall limit the board's authority to impose sanctions that are
151 considered reasonable and appropriate by the board. Any person aggrieved by any disciplinary
152 action taken by the board under this section or for violation of any other law or rule or
153 regulations may, pursuant to section 64, file a petition for judicial review.

154 Section 267. (a) An application for original licensure as a naturopathic doctor shall be
155 made on forms approved by the board. Such application shall be sworn and shall be accompanied
156 by payment of the fee prescribed by the secretary of administration pursuant to section 3B of
157 chapter 7. The board shall issue a license as a naturopathic doctor to an applicant upon receipt of
158 satisfactory proof that the applicant:

159 (i) is at least 18 years old and of good moral character; and

160 (ii) possesses a baccalaureate degree from an accredited educational institution or its
161 equivalent, as determined by the board;

162 (b) An applicant for a license under this section shall have graduated from and hold a
163 doctor of naturopathic medicine or doctor of naturopathy degree from an approved naturopathic
164 medical college; provided, however, that an applicant shall have satisfactorily completed a
165 minimum of 1,200 hours of board-approved clinical training prior to graduation from such
166 college. Such clinical training may have been completed in either an inpatient or outpatient
167 setting and may include components of conventional medicine as well as naturopathic health
168 care.

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

171 (d) The board may approve an applicant who attended and graduated from a 4-year
172 naturopathic doctoral program which is located in a country or territory outside the United States
173 if, in the opinion of the board, the training and education provided by that naturopathic doctoral
174 program is substantially equivalent to that provided by a naturopathic doctoral program which
175 meets the requirements of subsection (b). Section 268. The board, in consultation with the
176 department of public health, shall determine the renewal cycle and renewal period for
177 naturopathic licenses. A naturopathic doctor licensed under this chapter shall apply to the board
178 for renewal of his license on or before the expiration date, as determined by the board, unless
179 earlier revoked, suspended or canceled as a result of a disciplinary proceeding instituted pursuant
180 to section 271. As a condition for renewal under this section, the board may require a
181 naturopathic doctor to provide the board with satisfactory proof that he has successfully
182 completed the required number of hours of continuing education for naturopathic doctors in
183 courses or programs approved by the board or has complied with such other requirements or
184 equivalent requirements as approved by the board. Upon satisfactory compliance with the
185 licensing requirements for naturopathic doctors and successful completion of the continuing

186 education requirements, the board shall issue a renewal license. The board may provide for the
187 late renewal of a license that has lapsed and may require payment of a late fee.

188 Section 269. The board may grant license reciprocity to registered, certified or licensed
189 naturopathic doctors from other jurisdictions; provided, that the requirements for registration,
190 certification or licensing in the other jurisdictions are, in the opinion of the board, substantially
191 equivalent to the requirements in section 267. The board shall promulgate such rules and
192 regulations as may be necessary to implement this section.

193 Section 270. Each licensed naturopathic doctor shall advise the board, in writing, of the
194 address of his principal place of business and all other addresses at which that doctor is currently
195 engaged in practice. The naturopathic doctor shall immediately provide written notice to the
196 board of any change in the address of any place of business at which he practices. The
197 naturopathic doctor shall also advise the board, in writing, of that doctor's current residential
198 address and of any change of such address.

199 Section 271. (a) No person shall represent himself or hold himself out to the public as a
200 licensed naturopathic doctor in the commonwealth unless that person is licensed under this
201 chapter. A person who is not licensed under this chapter shall not use any of the following titles:
202 naturopathic physician, naturopathic practitioner, natural doctor , naturopathic doctor, doctor of
203 naturopathy, doctor of natural medicine, doctor of naturopathic medicine, NMD, doctor of
204 nutritional medicine, N.D, naturopathic medicine, naturopath or any other term that indicates or
205 implies that the person is licensed to practice any form of naturopathic health care in the
206 commonwealth.

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

209 (c) A person acting or purporting to act as a naturopathic doctor without first obtaining a
210 license under this chapter shall be punished by a fine of not more than $5,000 or by
211 imprisonment for not more than 1 year in a house of correction, or both. Upon conviction of a
212 second or subsequent offense, such person shall be punished by a fine of not more than $10,000
213 or by imprisonment for not more than 2 years in a house of correction, or both

214 (d) A person who receives money or an equivalent thing of value as a fee, commission,
215 compensation or profit by or as the consequence of a violation of sections 265 to 271, inclusive,
216 shall, in addition to any other penalty, be liable for a fine of not less than the sum of the money
217 so received and not more than 3 times the sum so received, as determined by the board.

218 (e) There shall be no action brought by a person for recovery of compensation, nor actual
219 recovery of compensation, for services rendered by that person as a licensed naturopathic
220 practitioner unless such person held a current valid license under this chapter at the time the act
221 or service was provided.

222 Section 272. All licensing and application fees and civil administrative penalties collected
223 pursuant to sections 264 to 272, inclusive, shall be deposited into the trust fund established in
224 section 35V of chapter 10.

225 SECTION 3. An applicant who graduated before 1987 and earned a doctor of
226 naturopathic medicine or doctor of naturopathy degree from a 4-year, in-residence naturopathic
227 college or program that had, at the time of the applicant's graduation, a license, authority or other
228 approval from its state or province to grant such degree may apply to the board of registration in
229 naturopathy for licensure without examination, provided that the person satisfactorily
230 demonstrates an ability to practice naturopathic medicine in the commonwealth as determined by
231 the board.

232 SECTION 4. The terms of the initial appointed members of the board of registration in
233 naturopathy pursuant to section 109 of chapter 13 of the General Laws shall be as follows: 1
234 shall serve for a term of 1 year; 2 shall serve for terms of 2 years and the remaining 2 shall serve
235 for terms of 3 years. The 2 members required to be naturopathic doctors shall be persons with 5
236 years of experience in the practice of naturopathic health care who would be eligible for
237 licensure in the commonwealth if said section 109 of said chapter 13 were in effect prior to the
238 effective date of this act.

239 SECTION 5. The punishment provisions of section 271 of chapter 112 of the General
240 Laws shall take effect not later than 6 months after the board of registration in naturopathy first
241 issues licenses pursuant to said chapter 112.

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