HOUSE DOCKET, NO. 846 FILED ON: 1/14/2015

# HOUSE . . . . . No. 1992

## The Commonwealth of Massachusetts

PRESENTED BY:

***Jay R. Kaufman***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing a board of registration in naturopathy.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Jay R. Kaufman* | *15th Middlesex* |
| *Ellen Story* | *3rd Hampshire* |
| *Jennifer E. Benson* | *37th Middlesex* |
| *Marjorie C. Decker* | *25th Middlesex* |
| *Aaron Vega* | *5th Hampden* |
| *Kate Hogan* | *3rd Middlesex* |
| *Frank I. Smizik* | *15th Norfolk* |
| *Stephen Kulik* | *1st Franklin* |
| *Kathleen O'Connor Ives* | *First Essex* |
| *Mathew Muratore* | *1st Plymouth* |
| *Michael S. Day* | *31st Middlesex* |
| *Marc R. Pacheco* | *First Plymouth and Bristol* |

HOUSE DOCKET, NO. 846 FILED ON: 1/14/2015

# HOUSE . . . . . No. 1992

By Mr. Kaufman of Lexington, a petition (accompanied by bill, House, No. 1992) of Jay R. Kaufman and others relative to establishing a board of registration in naturopathy and further regulating naturopathic health care. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *2003* OF 2013-2014.]

## 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:*

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 with at 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 whom shall be a member of the general 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

11 successor has been appointed and qualified. No member shall serve for more than 2 consecutive
12 terms; provided, however, that a person who is chosen to fill a vacancy in an unexpired term of a
13 prior board member may serve for 2 consecutive terms in addition to the remainder of that
14 unexpired term. A member may be removed by the governor for neglect of duty, misconduct,
15 malfeasance or misfeasance in the office after a written notice of the charges against the member
16 and sufficient opportunity to be heard thereon.

17 (b) The board shall annually elect from its membership a chair and a secretary who shall
18 serve until successors have been elected and qualified. The board shall meet at least 4 times
19 annually and may hold additional meetings at the call of the chair or upon the request of 4
20 members. A quorum for the conduct of official business shall be a majority of those appointed.
21 Board members shall serve without compensation, but shall be reimbursed for actual and
22 reasonable expenses incurred in the performance of board member duties. The members shall be
23 public employees for the purposes of chapter 258 for all acts or omissions within the scope of
24 their duties as board members.

25 SECTION 2. Chapter 112 of the General Laws is hereby amended by adding the
26 following 9 sections:

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

30 "Approved naturopathic medical college", a college or program granting the degree of
31 doctor of naturopathic medicine or doctor of naturopathy that is approved by the board and
32 which is accredited by an accrediting agency recognized by the United States Department of

33 Education or such other college or program as may be approved by the board; provided,
34 however, that the naturopathic doctoral program shall be further accredited by the Council on
35 Naturopathic Medical Education or its successor.

36 "Board", the board of registration in naturopathy established in section 109 of chapter 13.
37 'Homeopathic preparations", medicines prepared according to the Homeopathic Pharmacopoeia
38 of the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

77 (3) the practice of acupuncture and Traditional Chinese medicine; or

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

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

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

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

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

91 (4) a person from self-treatment or treatment of an immediate family member based on
92 religious or health beliefs;

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

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

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

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

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

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

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

114 (iii) continuing education requirements for the renewal of licenses including, but not
115 limited to, the number of hours required, the subjects required and board approval of continuing
116 education programs or lectures;

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

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

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

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

127 (6) to establish and maintain records of its actions and proceedings under the public
128 records laws;

129 (7) to perform other functions and duties as may be necessary to carry out sections 264 to
130 272, inclusive.

131 (b) The board shall have the authority to investigate all complaints relating to the proper
132 practice of naturopathy, including any violations of sections 264 to 272, inclusive or any rule or
133 regulation of the board. Such complaints may be brought by any person or the board.

134 (c) The board shall be under the supervision of the division of professional licensure and
135 it shall have the powers and duties provided in sections 61 to 65E, inclusive. For the purposes of
136 this section and sections 61 to 65E, inclusive, conduct which places into question the license
137 holder's competence to practice naturopathy shall include, but not be limited to: (i) the
138 commission of fraud or misrepresentation in obtaining a license; (ii) criminal conduct which the
139 board determines to be of such a nature as to render the person unfit to practice naturopathy, as
140 evidenced by criminal proceedings resulting in a conviction, a guilty plea, a plea of nolo
141 contendere or an admission of sufficient facts; (iii) violation of a rule or regulation of the board;
142 (iv) failure to cooperate with the board or its agents in an inspection or investigation; (v) failure
143 to fulfill any continuing education requirements set out by the board; (vi) aiding or abetting an
144 unlicensed person to practice naturopathy; or (vii) negligence in the course of professional
145 practice.

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

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

153 Section 267. (a) An application for original licensure as a naturopathic doctor shall be
154 made on forms approved by the board. Such application shall be sworn and shall be accompanied
155 by payment of the fee prescribed by the secretary of administration and finance under section 3B

156 of chapter 7. The board shall issue a license as a naturopathic doctor to an applicant upon receipt
157 of satisfactory proof that the applicant:

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

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

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

168 (c) successfully passed a competency-based national naturopathic licensing examination
169 approved by the board.

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

175 Section 268. The board, in consultation with the division of professional licensure, shall
176 determine the renewal cycle and renewal period for naturopathic licenses. A naturopathic doctor

177 licensed under this chapter shall apply to the board for renewal of a license on or before the
178 expiration date, as determined by the board, unless earlier revoked, suspended or cancelled as a
179 result of a disciplinary proceeding instituted under section 271. As a condition for renewal under
180 this section, the board may require a naturopathic doctor to provide the board with satisfactory
181 proof that the naturopathic doctor has successfully completed the required number of hours of
182 continuing education for naturopathic doctors in courses or programs approved by the board or
183 has complied with other requirements or equivalent requirements approved by the board. Upon
184 satisfactory compliance with the licensing requirements for naturopathic doctors and successful
185 completion of the continuing education requirements, the board shall issue a renewal license.
186 The board may provide for the late renewal of a license that has lapsed and may require payment
187 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 that naturopathic doctor's principal place of business and all other addresses at which
195 that doctor is currently engaged in practice. The naturopathic doctor shall immediately provide
196 written notice to the board of any change in the address of a place of business at which the doctor
197 practices. The naturopathic doctor shall also advise the board, in writing, of that doctor's current
198 residential address and of any change of such address.

199 Section 271. (a) No person shall represent or assume the character or appearance of 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 received and not more than 3 times the sum 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 under sections 264 to 272, inclusive, shall be deposited into the trust fund established in section
224 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, provided that the person satisfactorily demonstrates an ability to
230 practice naturopathic medicine in the commonwealth as determined by the board.

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

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

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