

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas *As Engrossed: H2/22/13 H2/28/13 H3/20/13*
89th General Assembly **A Bill**
Regular Session, 2013

HOUSE BILL 1011

By: Representative D. Altes

For An Act To Be Entitled

AN ACT TO LICENSE NATUROPATHIC PRACTITIONERS; TO
PROVIDE PENALTIES; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO LICENSE NATUROPATHIC
PRACTITIONERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 17 is amended to add an additional chapter to read as follows:

Chapter 108 – NATUROPATHIC PRACTITIONERS

Subchapter 1 – General Provisions

17-108-101.

This chapter shall be known and may be cited as the "Naturopathic Practitioner Act".

17-108-102. Findings and purpose.

(a) The General Assembly finds that:

(1) A significant number of the citizens of this state are turning to naturopathic practitioners for their healthcare needs; and

(2) Naturopathy is a distinct health care profession that affects the public health, safety, and welfare and provides the public with freedom of choice in health care.

(b) This chapter is intended to:



(1) Provide standards for the licensing and regulation of naturopathy to protect the public health, safety, and welfare; and

(2) Provide a means of identifying qualified naturopathic practitioners.

17-108-103. Definitions.

As used in this chapter:

(1) "Approved naturopathic college" means a college or university granting the degree of Doctor of Naturopathy, Doctor of Naturopathic Health Care, or Doctor of Nutritional Science that:

(A) Is accredited by the federal government or accredited and approved by a nationally recognized accreditation and certification board such as the Council on Naturopathic Medical Education or American Association of Naturopathic Medical Colleges;

(B) Has candidate-for-accreditation status with the accrediting agency; or

(C) Has been approved by the Naturopathic Practitioners Advisory Committee after the college was investigated and found to meet education standards equivalent to those established by the accrediting agency;

(2) "Natural antibiotics" means antimicrobial, antifungal, and antiprotozoal agents that are naturally occurring substances or manufactured substances that are substantially identical to the naturally occurring substances;

(3) "Natural medicines" means food, food extracts, and dietary supplements as defined by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C., Chapter 9, as in effect January 1, 2013, homeopathic remedies, plant substances that are not designated as prescription drugs or controlled substances, over-the-counter medications, and substances prepared according to the official Homeopathic Pharmacopoeia of the United States, as in effect January 1, 2013;

(4) "Naturopathic medicine" means a system of health care practiced by naturopathic practitioners for the prevention, evaluation, and care of human health conditions that uses education, natural substances, and remedies to support and stimulate the individual's intrinsic self-healing processes;

(5)(A) "Naturopathic physical modality" means the use of the physical agents of air, water, heat, cold, sound, light, and electromagnetic non-

ionizing radiation and the physical modalities of electrotherapy, biofeedback, diathermy, ultraviolet light, ultrasound, hydrotherapy, and exercise.

(B) "Naturopathic physical modality" does not include the practice of physical therapy, acupuncture, or chiropractic, unless the naturopath is qualified and has passed an examination approved by an appropriate board to practice in physical therapy, acupuncture, or chiropractic;

(6) "Naturopathic practitioner" means a person who is licensed by the Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine to practice naturopathy;

(7) "Practice of naturopathy" means a system of health care for the prevention and care of human conditions, injuries, and diseases that uses education, natural substances, and natural therapies to support and stimulate the patient's intrinsic self-healing processes; and

(8) "Topical preparations" means over-the-counter preparations for application to the skin.

17-108-104. Exceptions.

(a) This chapter does not:

(1) Prevent any other professional who is licensed, certified, or registered under the laws of this state from providing services consistent with the professional's scope of practice;

(2) Apply to a student of naturopathy who is currently enrolled in an approved naturopathic course of study and who gratuitously evaluates human conditions under the direct supervision of a naturopathic physician regulated under the laws of this state if the student's activities are within the scope of practice of the supervising naturopathic practitioner and are limited to activity consistent with the scope of practice authorized by this chapter;

(3) Prohibit or restrict a person engaged in the sale of vitamins, health foods, dietary supplements, herbs, or other products of nature not otherwise prohibited under state or federal law;

(4) Prohibit a person from providing nutritional advice, giving advice concerning proper nutrition, or giving information as to the use and role of food and food ingredients, including dietary supplements, except that

providing nutritional advice under this subdivision does not include the authority to:

(A) Practice medicine or surgery;

(B) Undertake the treatment or cure of a disease, pain, injury, deformity, or physical or mental condition; or

(C) State that a product might cure a disease, pain, injury, deformity, or other condition; or

(5) Apply to a naturopathic practitioner who is licensed in another state, a territory of the United States, or the District of Columbia if the state, territory, or the District of Columbia requires credentials equivalent to those of this chapter and who is called into this state for consultation with another naturopathic practitioner licensed in this state.

(b) This chapter does not apply to:

(1) The activities and services of members of other professions licensed or certified by the state performing counseling consistent with the laws of this state, their training, and any code of ethics of their professions, if they do not represent themselves by any title or description in the manner prescribed by § 17-108-303, including without limitation:

(A) Physicians;

(B) Registered nurses;

(C) Psychologists;

(D) Social workers;

(E) Marriage and family therapists;

(F) Chemical dependency counselors;

(G) Physician assistants;

(H) Occupational therapists;

(I) Optometrists;

(J) Christian Science practitioners; or

(K) Other recognized religious practitioners;

(2) The activities, services, titles, and descriptions of persons licensed to practice law;

(3)(A) A student in training in a medical school approved by the State Board of Health while performing the duties assigned in the course of training if the duties are performed under the supervision of a licensed practitioner;

(B) However, medical residents, interns, and fellows shall

be required to register and be subject to the other applicable provisions of this chapter; or

(4) A physician licensed in another state who is in this state for consultation with a naturopathic practitioner licensed in this state but does not:

(A) Have an office in this state; or

(B) Appoint a place in this state for seeing, examining, or treating patients.

Subchapter 2 – The Naturopathic Practitioner Act – Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine

17-108-201. Powers and duties of the Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine.

(a) The Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine shall adopt rules consistent with this chapter.

(b) The board shall administer this chapter, investigate violations of this chapter, prepare and administer examinations required by the board, and perform other duties authorized by this chapter.

(c) The board shall adopt rules authorizing the use by naturopathic practitioners of other evaluative procedures and other natural substances, treatments, procedures, and therapies if the substances, treatments, procedures, and therapies are taught in approved courses of study or used by practitioners licensed by other entities of the state and are consistent with this chapter.

17-108-202. Naturopathic Practitioners Advisory Committee.

(a)(1) The Naturopathic Practitioners Advisory Committee is created as an advisory committee to the Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine, to be composed of nine (9) members appointed by the board.

(2) The board shall appoint the members of the committee within ninety (90) days of the effective date of this chapter.

(b)(1)(A) Six (6) members shall be acupuncturists licensed by the board; and

(B) Three (3) members shall be naturopathic practitioners licensed under this chapter.

(2) In appointing the initial naturopathic practitioner members of the Naturopathic Practitioners Advisory Committee, the board, in lieu of appointing members who are naturopathic practitioners licensed under this chapter, may appoint three (3) members who are otherwise qualified and have applied for licenses as naturopathic practitioners under this chapter.

(c)(1) Members shall be appointed for staggered terms of four (4) years.

(2) The initial members shall draw lots so that:

(A) Three (3) members serve three-year terms; and

(B) Four (4) members serve four-year terms.

(d) The board shall call the first meeting of the committee within sixty (60) days of the effective date of this chapter.

(e) If a vacancy occurs on the committee, the board shall appoint a person having the appropriate qualifications to serve the unexpired part of the term.

(f) The committee may adopt rules for the conduct of its activities and shall elect from among its members a chair who shall serve a term of one (1) year.

(g) A majority of the members of the committee constitutes a quorum to transact the business of the committee.

(h) The committee shall meet at least once each calendar year and shall meet at other times at the call of the presiding officer as necessary to transact its business.

(i) The members of the committee may not receive compensation but may receive expense reimbursement in accordance with § 25-16-902.

(j) The committee shall:

(1) Recommend to the board rules to implement standards adopted under this chapter;

(2) Perform other duties assigned by the board; and

(3) Recommend to the board examinations required by this chapter.

(k) A naturopathic practitioner member of the committee may be licensed as a member of another health profession regulated or licensed by the state.

17-108-203. Complaint procedure in general.

(a) The Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine shall establish and keep current an information file that contains a record for each complaint of:

(1) All persons contacted in relation to the complaint;

(2) A summary of findings made at each step of the complaint process;

(3) An explanation of the legal basis and reason for a complaint that is dismissed; and

(4) Other relevant information.

(b) If a written complaint is filed with the board that the board has authority to resolve, the board, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(c)(1) The board shall adopt a form to standardize information concerning complaints made to the board.

(2) The board shall provide to a person who files a complaint with the board a list and explanation of the required standardized information.

(d) The board shall provide reasonable assistance to a person who wishes to file a complaint with the board.

17-108-204. Complaint investigation procedure.

(a) The Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine shall adopt rules concerning the investigation of a complaint filed under this chapter.

(b) The rules adopted under this section shall:

(1) Distinguish between categories of complaints;

(2) Ensure that complaints are not dismissed without appropriate consideration;

(3) Require that the Naturopathic Practitioners Advisory Committee be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint; and

(4) Ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint.

(c) The board shall complete an investigation of each complaint in a timely manner.

17-108-205. Discipline of license holder.

(a) A license to practice naturopathy may be denied or, after notice and hearing, suspended, probated, or revoked if the applicant for a license or the holder of a license:

(1) Uses drugs or intoxicating liquors to an extent that affects the professional competence of the applicant or license holder;

(2) Obtains or attempts to obtain a license by fraud or deception;

(3) Is adjudged mentally incompetent by a court of competent jurisdiction;

(4) Practices naturopathy in a manner detrimental to the public health and welfare;

(5) Violates this chapter or a rule adopted under this chapter;

(6) Pleads guilty or nolo contendere to, or is found guilty of a felony, a crime involving moral turpitude, or fraud of any kind; or

(7) Holds himself or herself out as a physician or surgeon or any combination or derivative of those terms unless the person is also licensed under the Arkansas Medical Practices Act, § 17-95-201 et seq.

(b) If a license suspension is probated, the *Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine* may require the license holder to:

(1) Report regularly to the board on matters that are the basis of the probation;

(2) Limit practice to areas prescribed by the board; or

(3) Continue professional education until he or she attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

(c) A person whose application for a license is denied or whose license is suspended or revoked is entitled to a hearing before the board if the person submits a written request to the board.

Subchapter 3 – The Naturopathic Practitioner Act – Licensing

17-108-301. License qualifications.

(a) A person is qualified to be licensed as a naturopathic practitioner if the person:

(1) Completes and submits to the *Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine* an application accompanied by the appropriate fees;

(2) Is a graduate of an approved naturopathic college or university under § 17-108-103;

(3) Has passed an examination prescribed or endorsed by the Naturopathic Practitioners Advisory Committee covering the appropriate naturopathic subjects; and

(4) Is of good moral character.

(b) A person is qualified to be licensed as a naturopathic practitioner without examination if the applicant:

(1) Is licensed to practice naturopathy in another state, a territory of the United States, or the District of Columbia under conditions and circumstances that the *board* finds to be comparable to the requirements of this state for obtaining a license to practice naturopathy, and the state, the territory, or the District of Columbia requires the successful completion of a professional examination for the issuance of a license;

(2) Has graduated from a naturopathic college or university approved by the *board* or, if the applicant was licensed before a date designated by board rule, the applicant graduated from a college or university approved by the committee after the college or university was investigated and found to meet the acceptable educational standards in existence at the time of the applicant's graduation;

(3) Produces evidence satisfactory to the committee that the applicant holds a valid, unsuspended, and unrevoked license;

(4) Has been actively engaged in the practice of naturopathy for not less than one (1) year; and

(5) Is of good moral character.

(c) A person may sit for the examination prescribed or endorsed by the committee under subsection (a) of this section and be eligible for licensure as a naturopathic practitioner on the passage of the examination if, before

December 1, 2013, the person files a license application, pays the required fees, and submits proof to the *board* that the person:

(1) Attended a naturopathic college or university and received a doctorate degree in naturopathy from the college or university before January 1, 2013, and the college or university is subsequently approved by the committee;

(2) Before May 1, 2013, provided in this state and on a regular and ongoing basis health care services within the scope of practice of naturopathic medicine for patients in this state; and

(3) Is of good moral character.

(d) A person licensed under this chapter may:

(1) Use the title "Naturopathic Practitioner" and any other title permitted under § 17-108-303(a); and

(2) Practice naturopathic medicine only within the scope of practice that reflects the limits of his or her training and experience.

(e)(1) The *board* may adopt rules providing for limitations on the practice of a person licensed under *this chapter*.

(2) However, the board may not require a person licensed under *this chapter* to be identified as a person whose practice is limited.

17-108-302. Examination.

(a)(1) The Naturopathic Practitioners Advisory Committee may prescribe a nationally developed standard examination as part or all of the examination prescribed or endorsed under § 17-108-301(a).

(2)(A) The *Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine* shall promulgate rules to establish criteria for passing the examination.

(B) The board may promulgate other rules necessary to the administration of the examination.

(b) The board shall set the fees for the examination, reexamination of the entire examination, and reexamination of separate components of the examination in amounts necessary to cover the actual cost of the examination and the expenses of administration.

17-108-303. Use of titles – Penalty – Injunction.

(a) Only a naturopathic practitioner may use the title "Naturopathic

Practitioner", "Doctor of Naturopathy", "Naturopath", or "ND".

(b) A person not licensed under this chapter is guilty of a Class A misdemeanor and is subject to penalties applicable to the unlicensed practice of naturopathic medicine if he or she:

(1) Holds himself or herself out as a person who practices naturopathic medicine;

(2) Uses any combination or abbreviation of the terms described in subsection (a) of this section without holding a license or while he or she is on retired or inactive status; or

(3) Acts as a naturopathic practitioner.

(c) The Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine may seek an injunction against a person who violates this section in the circuit court of the county in which the violation occurs.

17-108-304. License fees.

The Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine shall adopt an initial licensing fee and annual renewal fees in amounts necessary to cover the costs of administering this chapter.

17-108-305. License renewal.

(a) Annual renewal of a license to practice as a naturopathic practitioner is required.

(b) To renew a license, a naturopathic practitioner shall submit to the Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine evidence of successful completion of the required hours of continuing education from programs approved by the board.

(c) The board shall adopt rules establishing approved programs of continuing education and the manner for verifying participation.

(d) The board may adopt other rules necessary for the administration of license renewals.

17-108-306. Continuing education.

(a) The Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine shall require not fewer than fifteen (15) hours annually of continuing education hours for all naturopathic practitioners.

(b)(1) A person who seeks to renew a license that expired within the preceding year shall comply with the continuing education requirements for the regular renewal of the license.

(2) A person seeking to renew a license that has been expired for more than one (1) year must present evidence of completion of not less than one-half (1/2) of the required hours of approved continuing education requirements during the year preceding the date of the application for renewal.

17-108-307. Inactive status – Retired status.

(a) To place a license on inactive status, the license holder shall notify the *Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine* at the time of renewal and pay a fee for inactive status.

(b) To activate a license on inactive status, the license holder shall pay the regular renewal fee and present evidence of having completed not less than one-half (1/2) of the required hours of approved continuing education requirements during the year preceding the date of the application for activation.

(c)(1) A license holder seeking to place a license on retired status shall notify the *board* at the time of renewal.

(2) A license on retired status may not be reactivated.

(d) A license holder who holds a license that is on inactive or retired status may not practice naturopathic medicine.

Subchapter 4 – The Naturopathic Medicine Act – Naturopathic Practice

17-108-401. Authorized activities.

(a) A person licensed as a naturopathic practitioner under this chapter may use for preventive and therapeutic purposes the following preparations and therapies:

- (1) Natural medicines;
- (2) Minor office procedures;
- (3) Natural antibiotics;
- (4) Topical preparations; and
- (5) Naturopathic physical modality.

(b) A person licensed as a naturopathic practitioner under this chapter may use the following for evaluation purposes, if the practitioner has met the appropriate educational requirements and has obtained the approval of the *Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine*:

- (1) Physical and orificial examinations;
- (2) X-rays;
- (3) Electrocardiograms;
- (4) Therapeutic ultrasound;
- (5) Phlebotomy;
- (6) Clinical laboratory tests and examinations;
- (7) Physiological function tests; and
- (8) The noninvasive diagnostic procedures commonly used in naturopathic medical practice.

17-108-402. Specialty practice.

(a) A person licensed under this chapter as a naturopathic practitioner shall comply with the requirements adopted by the *Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine* for issuance of the specialty certification that are equivalent to the minimum requirements, including any examination required by the board, to obtain a license to practice in this state a different specialty not covered under this chapter.

(b) The Naturopathic Practitioners Advisory Committee may recommend a national standardized examination in a requested specialty as constituting the specialty examination.

17-108-403. Use of X-ray.

(a) A naturopathic practitioner licensed under this chapter may use an X-ray in the course of practice only if the naturopathic practitioner is certified by the *Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine* as qualified to perform X-ray procedures.

(b) The board shall adopt rules for the issuance of a certification under this section that are equivalent to the requirements for other health professionals to engage in the use of X-rays.

17-108-404. Prohibited acts.A naturopathic practitioner shall not:

(1) Prescribe, dispense, or administer any legend drugs or controlled substances;

(2) Perform X-ray procedures except those procedures authorized by this chapter;

(3) Practice emergency care except as a Samaritan rendering gratuitous services in the case of emergency, and except for the care of minor injuries; or

(4) Claim to practice allopathic medicine or surgery, osteopathy, dentistry, podiatry, optometry, chiropractic, physical therapy, acupuncture, or any other system or method of treatment not authorized by this chapter.

17-108-405. Duties and responsibilities.

A naturopathic practitioner has the same duty and responsibility as any other licensed health care provider regarding public health laws, reportable diseases and conditions, communicable disease control and prevention, the recording of vital statistics, health and physical examinations, and competency examinations, except that the authority under this section is limited to activity consistent with the scope of practice authorized by this chapter.

SECTION 2. Arkansas Code § 17-102-201, concerning the creation of the Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine, is amended to read as follows:

(a)(1)(A) There is created the Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine.

(B) The board shall consist of five (5) persons appointed by the Governor as full members and one (1) person appointed by the Governor as an ex officio member.

SECTION 3. DO NOT CODIFY. The Arkansas Code Revision Commission shall replace the name "Arkansas State Board of Acupuncture and Related Techniques" in all appropriate sections of the Arkansas Code with the name "Arkansas State Board of Acupuncture and Related Techniques and Naturopathic Medicine".

/s/D. Altes