

HOUSE No. 02367

The Commonwealth of Massachusetts

PRESENTED BY:

Jay 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 passage of the accompanying bill:

An Act establishing a board of registration in naturopathy.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jay Kaufman</i>	<i>15th Middlesex</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Kathi-Anne Reinstein</i>	<i>16th Suffolk</i>
<i>John D. Keenan</i>	<i>7th Essex</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Joyce A. Spiliotis</i>	<i>12th Essex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Anthony W. Petruccelli</i>	<i>First Suffolk and Middlesex</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>

HOUSE No. 02367

By Mr. Kaufman of Lexington, a petition (accompanied by bill, House, No. 2367) of Jay 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. 3476 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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 serve
21 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 following 10
29 sections:

30 Section 236. For the purposes of this section and sections 237 to 245, inclusive, the following
31 terms shall have the following meanings unless the context clearly requires otherwise:

32 “Approved naturopathic medical college”, a naturopathic medical education program in the
33 United States providing the degree of Doctor of Naturopathy or Doctor of Naturopathic
34 Medicine. Such program shall offer graduate-level full-time didactic and supervised clinical
35 training and shall be accredited, or has achieved candidacy status for accreditation by the
36 Council on Naturopathic Medical Education (CNME) or an equivalent federally recognized
37 accrediting body for naturopathic medical programs also recognized by the Board. Additionally,
38 the program shall be an institution, or part of an institution of higher education that is either
39 accredited or is a candidate for accreditation by a regional or national institutional accrediting
40 agency recognized by the United States Secretary of Education

41 “Board”, the board of registration in naturopathy established in section 101 of chapter 13.

42 “Homeopathic preparations”, medicines prepared according to the Homeopathic Pharmacopoeia
43 of the United States.

44 “Naturopathic doctor”, a person who is licensed by the board to practice naturopathic health care
45 pursuant to this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

88 (3) the practice of naturopathic health care by students enrolled in an approved naturopathic
89 medical college; provided, however, that the performance of all such services shall be pursuant

90 to a course of instruction or assignments from and under the supervision of an instructor who is
91 licensed as a naturopathic doctor pursuant to this chapter or a licensed professional in the field in
92 which he or she is providing instruction;

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

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

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

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

108 Section 238 (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 practice
110 of naturopathic health care to promote the public health, welfare and safety of the citizens of the
111 commonwealth including, but not limited to:

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

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

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

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

116 continuing education programs or lectures;

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

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

119 (4) to establish a code of ethics for naturopathic doctors;

120 (5) to establish and maintain records of its actions and proceedings in accordance with the public

121 records laws;

122 (6) to perform such other functions and duties as may be necessary to carry out the provisions of

123 this chapter.

124 (b) The board shall have the right to investigate all complaints relating to the proper practice of

125 naturopathy, including any violations of this chapter or any rule or regulation of the board. Such

126 complaints may be brought by any person or the board.

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

131 (1) the commission of fraud or misrepresentation in obtaining a license;

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

135 (3) violation of a rule or regulation of the board;

136 (4) failure to cooperate with the board or its agents in the conduct of an inspection or
137 investigation;

138 (5) failure to fulfill any continuing education requirements set out by the board;

139 (6) aiding or abetting an unlicensed person to practice naturopathy; or

140 (7) negligence in the course of professional practice.

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

144 (e) Nothing in this section shall limit the board's authority to impose, by agreement, sanctions
145 that are considered reasonable and appropriate by the board. Any person aggrieved by any

146 disciplinary action taken by the board pursuant to this section or for violation of any other law or
147 rule or regulations may, pursuant to section 64, file a petition for judicial review.

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

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

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

156 (3) has graduated from and holds a doctor of naturopathic medicine or doctor of naturopathy
157 degree from:

158 (a) an approved naturopathic medical college as defined in section 236; or

159 (b) a degree granting college or university that, prior to the existence of the CNME, offered a
160 full-time structured curriculum in basic sciences and supervised patient care comprising a
161 doctoral naturopathic medical education; such course, as a prerequisite to graduation there from,
162 having been not less than 132 weeks in duration and which required completion within a period
163 of not less than 35 months; such college of naturopathic medicine shall have been reputable and
164 in good standing in the judgment of the Board; and if still in existence has current programmatic
165 accreditation by the CNME or federally recognized equivalent accrediting agency; or

166 (c) a diploma granting, degree-equivalent college or university, that if in Canada and prior to
167 accreditation by the CNME, had provincial approval for participation in government funded
168 student aid programs, and that offered a full-time structured curriculum in basic sciences and
169 supervised patient care comprising a doctoral naturopathic medical education; such course, as a
170 prerequisite to graduation there from, having been not less than 132 weeks in duration and shall
171 require completion within a period of not less than 35 months; such college of liberal arts and
172 naturopathic medicine having been reputable and in good standing in the judgment of the Board;
173 and if still in existence has current programmatic accreditation by the CNME or federally
174 recognized equivalent accrediting agency. Additionally, this college or university currently has
175 provincial approval for participation in government funded student aid programs; or:

176 (d) a diploma granting, degree-equivalent college or university in Canada that offers graduate-
177 level full-time didactic and supervised clinical training and shall be accredited, or has achieved
178 candidacy status for accreditation by the Council on Naturopathic Medical Education or an
179 equivalent federally recognized accrediting body for naturopathic medical programs also
180 recognized by the Board. Additionally, this college or university has provincial approval for
181 participation in government funded student aid programs.

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

186 (b) if graduating from an institution outlined in Section 239, (b), 3, b, c, or d, has successfully
187 passed a state or provincial (Canadian) competency-based licensing examination that was
188 substantially similar to the licensing examination outlined in Section 239 (4) (a).

189 (5) has not had a license to practice naturopathic medicine or other health care license
190 registration or certificate refused, revoked or suspended by any other jurisdiction for reasons that
191 relate to the applicant's ability to skillfully and safely practice naturopathic medicine unless that
192 license, registration or certification has been restored to good standing by that jurisdiction.

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

206 Section 241. Each licensed naturopathic doctor shall advise the board, in writing, of the address
207 of his principal place of business and all other addresses at which he is currently engaged in

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

219 (b) Nothing in this section shall prevent a person who is licensed under this statute from
220 disclosing that he is a member of the American Association of Naturopathic Physicians.

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

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

234 Section 243. All licensing and application fees and civil administrative penalties collected
235 pursuant to sections 236 to 244, inclusive, shall be deposited into the trust fund established in
236 section 35V of chapter 10.

237 Section 244. Nothing in sections 236 to 244 of this chapter shall be construed as requiring
238 reimbursement by insurance policies purchased under chapter 32A, an insurer licensed or
239 otherwise authorized to transact accident and health insurance under chapter 175; a nonprofit
240 hospital service corporation organized under chapter 176A; a non-profit medical service
241 corporation organized under chapter 176B; or a health maintenance organization organized under
242 chapter 176G.

243 SECTION 3. A license to practice as a naturopathic doctor may be issued without examination
244 to an applicant who meets the requirements of subsections (1 ,2,3 and 5), of section 239 of
245 chapter 112 of the General Laws if he submits satisfactory proof to the board that he is or has
246 been actively engaged in the practice of naturopathic health care for compensation in the
247 Commonwealth for at least 5 of the last 10 years immediately preceding the effective date of this
248 act. Applications for licensure under this section shall be filed with the board not later than 18
249 months after the effective date of this act.

250 SECTION 4. The terms of the initial appointed members of the board of registration in
251 naturopathy pursuant to section 101 of chapter 13 of the General Laws shall be as follows: 2

252 shall serve for a term of 1 year; 2 shall serve for terms of 2 years and the remaining 3 shall serve
253 for terms of 3 years. The 5 members required to be naturopathic doctors shall be persons with 5
254 years of experience in the practice of naturopathic health care who would be eligible for
255 licensure in the commonwealth if said section 101 of said chapter 13 were in effect prior to the
256 effective date of this act and must have attended and graduated from an approved naturopathic
257 college that is accredited, or is a candidate for accreditation, by the Council of Naturopathic
258 Medical Educators or its successor.

259 SECTION 5. The punishment provisions of section 243 of chapter 112 of the General Laws shall
260 take effect not later than 6 months after the board of registration in naturopathy first issues
261 licenses pursuant to said chapter 112. 0.

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