

SENATE No. 02377

The Commonwealth of Massachusetts

SENATE, July 25, 2012

The committee on Ways and Means, to whom was referred the Senate bill establishing a board of registration in naturopathy (Senate, No. 1158); report recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2377).

For the committee,

STEPHEN M. BREWER.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

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 following
2 section:

3 Section 109. (a) There shall be within the division of professional licensure a board of
4 registration in naturopathy which shall consist of: (i) the chairman of the board of registration in
5 medicine or a designee; (ii) the commissioner of public health or a designee; and (iii) 7 persons
6 to be appointed by the governor, 5 of whom shall be naturopathic doctors with at least 5 years of
7 experience in the practice of naturopathic health care and who shall be licensed under section
8 267 or 269 of chapter 112, 1 of whom shall be a physician licensed to practice medicine under
9 section 2 of chapter 112 with experience working with naturopathic doctors and 1 of whom shall
10 be a clinical pharmacologist. The appointed members shall serve for terms of 3 years. Upon the
11 expiration of a term of office, a member shall continue to serve until a successor has been
12 appointed and qualified. No member shall serve for more than 2 consecutive terms; provided,
13 however, that a person who is chosen to fill a vacancy in an unexpired term of a prior board
14 member may serve for 2 consecutive terms in addition to the remainder of that unexpired term. A

15 member may be removed by the governor for neglect of duty, misconduct, malfeasance or
16 misfeasance in the office after a written notice of the charges against the member and sufficient
17 opportunity to be heard thereon.

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

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

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

31 “Approved naturopathic medical college”, a college or program granting the degree of
32 doctor of naturopathic medicine or doctor of naturopathy that is approved by the board and
33 which is accredited by an accrediting agency recognized by the United States Department of
34 Education or such other college or program as may be approved by the board; provided,
35 however, that the naturopathic doctoral program shall be further accredited by the Council on
36 Naturopathic Medical Education or its successor or otherwise approved by the board.

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

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

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

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

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

53 “Person”, an individual; provided, however, that 'person” shall not include a partnership,
54 corporation, association or business organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

117 and

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

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

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

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

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

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

134 (7) to perform other functions and duties as may be necessary to carry out sections
135 264 to 272, inclusive.

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

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

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

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

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

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

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

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

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

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

178 Section 268. The board, in consultation with the division of professional licensure, shall
179 determine the renewal cycle and renewal period for naturopathic licenses. A naturopathic doctor
180 licensed under this chapter shall apply to the board for renewal of a license on or before the
181 expiration date, as determined by the board, unless earlier revoked, suspended or cancelled as a
182 result of a disciplinary proceeding instituted under section 271. As a condition for renewal under

183 this section, the board may require a naturopathic doctor to provide the board with satisfactory
184 proof that the naturopathic doctor has successfully completed the required number of hours of
185 continuing education for naturopathic doctors in courses or programs approved by the board or
186 has complied with other requirements or equivalent requirements approved by the board. Upon
187 satisfactory compliance with the licensing requirements for naturopathic doctors and successful
188 completion of the continuing education requirements, the board shall issue a renewal license.
189 The board may provide for the late renewal of a license that has lapsed and may require payment
190 of a late fee.

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

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

202 Section 271. (a) No person shall represent or assume the character or appearance of a
203 licensed naturopathic doctor in the commonwealth unless that person is licensed under this
204 chapter. A person who is not licensed under this chapter shall not use any of the following titles:

205 naturopathic physician, naturopathic practitioner, natural doctor, naturopathic doctor, doctor of
206 naturopathy, doctor of natural medicine, doctor of naturopathic medicine, NMD, doctor of
207 nutritional medicine, N.D, naturopathic medicine, naturopath or any other term that indicates or
208 implies that the person is licensed to practice any form of naturopathic health care in the
209 commonwealth. The board of registration in naturopathy may modify the list of titles.

210 (b) A licensed naturopathic doctor shall not use the term physician nor assume the
211 character or appearance of a primary care provider; provided, however, that nothing in this
212 section shall prevent a naturopathic doctor from disclosing membership in the American
213 Association of Naturopathic Physicians.

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

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

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

227 Section 272. All licensing and application fees and civil administrative penalties collected
228 under sections 264 to 272, inclusive, shall be deposited into the trust fund established in section
229 35V of chapter 10.

230 SECTION 3. (a) A license to practice as a naturopathic doctor may be issued without
231 examination to an applicant who meets the requirements of section 267 of chapter 112 of the
232 General Laws if the person submits satisfactory proof to the board that shows the person is or has
233 been actively engaged in the practice of naturopathic health care for compensation in the
234 commonwealth for at least 5 of the last 10 years immediately preceding the effective date of this
235 act. Applications for licensure under this section shall be filed with the board not later than 18
236 months after the effective date of this act.

237 (b) An applicant who graduated before 1987 and earned a doctor of naturopathic
238 medicine or doctor of naturopathy degree from a 4-year, in-residence naturopathic college or
239 program that had, at the time of the applicant's graduation, a license, authority or other approval
240 from its state or province to grant such degree may apply to the board of registration in
241 naturopathy for licensure, provided that the person satisfactorily demonstrates an ability to
242 practice naturopathic medicine in the commonwealth as determined by the board.

243 SECTION 4. The terms of the initial appointed members of the board of registration in
244 naturopathy under section 109 of chapter 13 of the General Laws shall be as follows: 2 shall
245 serve for a term of 1 year; 2 shall serve for terms of 2 years and the remaining 3 shall serve for
246 terms of 3 years. The 5 members required to be naturopathic doctors shall be persons with 5
247 years of experience in the practice of naturopathic health care who would be eligible for

248 licensure in the commonwealth if said section 109 of said chapter 13 were in effect prior to the
249 effective date of this act

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

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