

SENATE BILL NO. 2271

Introduced by

Senators Sitte, Christmann, Mathern

Representatives Hofstad, R. Kelsch, J. Kelsh

1 A BILL for an Act to create and enact a new subsection to section 43-17-02 and chapter 43-57
2 of the North Dakota Century Code, relating to regulation of naturopathic physicians; to amend
3 and reenact section 43-17-41 of the North Dakota Century Code, relating to duties of
4 naturopathic physicians; to provide a penalty; and to provide for application.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new subsection to section 43-17-02 of the North Dakota Century Code is
7 created and enacted as follows:

8 A naturopathic physician duly licensed to practice in this state pursuant to the statutes
9 regulating such profession.

10 **SECTION 2. AMENDMENT.** Section 43-17-41 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **43-17-41. Duty of physicians and others to report injury - Penalty.**

- 13 1. Any physician, physician assistant, naturopathic physician licensed under chapter
14 43-57, or any individual licensed under chapter 43-12.1 who performs any diagnosis or
15 treatment for any individual suffering from any wound, injury, or other physical trauma:
16 a. Inflicted by the individual's own act or by the act of another by means of a knife,
17 gun, or pistol shall as soon as practicable report the wound, injury, or trauma to a
18 law enforcement agency in the county in which the care was rendered; or
19 b. Which the individual performing diagnosis or treatment has reasonable cause to
20 suspect was inflicted in violation of any criminal law of this state, shall as soon as
21 practicable report the wound, injury, or trauma to a law enforcement agency in
22 the county in which the care was rendered.
23 2. The report under subsection 1 must state the name of the injured individual and the
24 character and extent of the individual's injuries.

- 1 3. When a report of domestic violence, as defined in section 14-07.1-01, or a report of
2 physical injury resulting from a sexual offense, as defined in chapter 12.1-20, is made
3 to a law enforcement agency as required by this section, the injured individual must be
4 provided with information regarding a domestic violence sexual assault organization
5 as defined in section 14-07.1-01 or other victims' assistance program by the physician,
6 physician assistant, naturopathic physician, or any individual licensed under chapter
7 43-12.1, unless it is known that the information has previously been provided to the
8 injured individual.
- 9 4. The reports mandated by this section must be made as soon as practicable and may
10 be either oral or in writing. Oral reports must be followed by written reports within
11 forty-eight hours if so requested by the sheriff or state's attorney to whom the oral
12 report is originally made.
- 13 5. Any individual required to report as provided by this section who willfully fails to do so
14 is guilty of an infraction.
- 15 6. Any individual making or not making a report in good faith pursuant to this section is
16 immune from liability for making or not making a report.

17 **SECTION 3.** Chapter 43-57 of the North Dakota Century Code is created and enacted as
18 follows:

19 **43-57-01. Definitions.**

20 As used in this chapter, unless the context otherwise requires:

- 21 1. "Approved naturopathic medical college" means a college and program granting the
22 degree of doctor of naturopathy or naturopathic medicine which must require as a
23 minimum a four-year, full-time resident program of academic and clinical study and
24 which:
 - 25 a. Is accredited, or has the status of candidate for accreditation, by an organization
26 approved by the board, such as the council on naturopathic medical education; or
 - 27 b. Has been approved by the board after an investigation that determines that the
28 college or program meets education standards equivalent to those established by
29 the accrediting agency under subdivision a and complies with the board's rules.
- 30 2. "Board" means the state board of integrative health care.

- 1 3. "Homeopathic preparations" means substances prepared according to the official
2 homeopathic pharmacopoeia of the United States.
- 3 4. "Licensee" means a person licensed by the board under this chapter.
- 4 5. "Naturopathic health care", "naturopathic medicine", or "naturopathy" means a system
5 of primary health care practiced by naturopathic physicians for the prevention,
6 diagnosis, and treatment of human health conditions, injury, and disease. The purpose
7 of naturopathic health care, naturopathic medicine, or naturopathy is to promote or
8 restore health by the support and stimulation of the individual's inherent self-healing
9 processes. This is accomplished through education of the patient by a naturopathic
10 physician and through the use of natural therapies and therapeutic substances.
- 11 6. "Naturopathic physical application" means the therapeutic use by a naturopathic
12 physician of the actions or devices of electrical muscle stimulation, galvanic,
13 diathermy, ultrasound, ultraviolet light, hydrotherapy, and naturopathic manipulative
14 therapy. The term does not include manipulation of the spine.
- 15 7. "Naturopathic physician" means an individual licensed to practice naturopathic health
16 care under this chapter.

17 **43-57-02. Board - Qualifications - Appointment - Term of office - Compensation.**

- 18 1. The governor shall appoint the state board of integrative health care, which must
19 consist of five members, one of whom must be a naturopathic physician, one of whom
20 must be an acupuncturist, one of whom must be a doctor of medicine or osteopathy,
21 one of whom must be a pharmacist, and one of whom must be a layperson. If a doctor
22 of medicine or osteopathy is not willing and able to serve, the governor may appoint
23 an advanced practice registered nurse to fill this position. A board member must be a
24 resident of this state. The four professional members must be licensed to practice in
25 this state, except the initial naturopathic physician appointment, who must be eligible
26 for licensure, and except the acupuncturist appointment, who needs not be licensed.
27 The layperson must be at least twenty-one years of age and may not be affiliated with
28 any organization or profession that represents, provides, or regulates health care.
- 29 2. The term of office of each board member is three years with no more than two
30 members appointed annually. A member may not serve more than two consecutive full
31 terms.

- 1 3. The governor may remove any board member for good cause after giving that
2 member a written statement of the reasons for removal and after that member has had
3 an opportunity for a hearing.
- 4 4. Each board member shall serve without compensation but is entitled to receive
5 expenses as provided in section 54-06-09 and per diem as must be fixed by the board.
- 6 5. Annually, board members shall elect a chairman to preside at meetings of the board
7 and a vice chairman to preside at meetings of the board in the chairman's absence.

8 **43-57-03. Powers and duties of board.**

- 9 1. The board shall adopt rules:
- 10 a. To administer and enforce this chapter;
- 11 b. That specify the scope of practice of naturopathic medicine which are consistent
12 with the education provided by approved naturopathic medical colleges;
- 13 c. That endorse equivalent licensure examinations of another state or foreign
14 country and which may include licensure by reciprocity;
- 15 d. That approve naturopathic medical colleges;
- 16 e. That contain the naturopathic formulary list created by the board;
- 17 f. That set fees for licensure, which may include:
- 18 (1) Application fee;
- 19 (2) License fee;
- 20 (3) Renewal fee;
- 21 (4) Late fee;
- 22 (5) Administrative fees; and
- 23 (6) Continuing education fees.
- 24 2. The board shall produce an annual list of the names and level of licensure of all
25 individuals licensed under this chapter and make the list available upon request.
- 26 3. The board may employ staff and provide for staff compensation.
- 27 4. The board shall receive all moneys collected under this chapter and shall deposit and
28 disburse all fees and moneys collected in accordance with section 54-44-12.
- 29 5. The board may establish continuing education requirements for license renewal.
- 30 6. The board may adopt a code of ethics for each profession licensed by the board.

1 **43-57-04. Practice of naturopathic health care.**

2 1. A naturopathic physician may practice naturopathic medicine as a limited practice of
3 the healing arts as exempted under section 43-17-02. A naturopathic physician may
4 not:

5 a. Prescribe, dispense, or administer any prescription drug or device unless the
6 drug or device is included on the naturopathic formulary list;

7 b. Administer ionizing radioactive substances for therapeutic purposes;

8 c. Perform a surgical procedure; or

9 d. Claim to practice any licensed health care profession or system of treatment
10 other than naturopathic medicine unless holding a separate license in that
11 profession.

12 2. A naturopathic physician may prescribe and administer for preventive and therapeutic
13 purposes the following nonprescriptive natural therapeutic substances, drugs, and
14 therapies:

15 a. Food, vitamins, minerals, dietary supplements, enzymes, botanical medicines,
16 and homeopathic preparations;

17 b. Topical drugs, health care counseling, nutritional counseling and dietary therapy,
18 naturopathic physical applications, and therapeutic devices; and

19 c. Barrier devices for contraception.

20 3. A naturopathic physician may perform or order for diagnostic purposes a physical or
21 orificial examination, ultrasound, phlebotomy, clinical laboratory test or examination,
22 physiological function test, and any other noninvasive diagnostic procedure commonly
23 used by physicians in general practice and as authorized by the board.

24 4. Except as provided by this subsection, a naturopathic physician may not engage,
25 directly or indirectly, in the dispensing of any drug that a naturopathic physician is
26 authorized to prescribe by the naturopathic formulary list. If the place where a
27 naturopathic physician maintains an office for the practice of naturopathy is more than
28 ten miles [16.10 kilometers] from a place of business that sells and dispenses the
29 drugs a naturopathic physician may prescribe under the naturopathic formulary list,
30 then, to the extent the drugs are not available within ten miles [16.10 kilometers] of the

1 naturopathic physician's office, the naturopathic physician may sell the drugs that are
2 unavailable.

3 **43-57-05. Naturopathic formulary list.**

4 1. The board shall establish a naturopathic formulary list. A naturopathic physician may
5 prescribe and administer for preventive and therapeutic purposes prescriptive
6 therapeutic substances, drugs, and therapies that have been placed on the
7 naturopathic formulary list.

8 2. In establishing the naturopathic formulary list, the board shall limit the included
9 prescriptive drugs and devices to natural medicines and legend drugs and devices
10 covered by naturopathic education and training. The naturopathic formulary list may
11 not include medicines or devices that are inconsistent with the training provided by
12 approved naturopathic medical programs.

13 **43-57-06. Naturopathic - Exemptions.**

14 Many of the therapies used by a naturopathic physician, such as the use of nutritional
15 supplements, herbs, foods, homeopathic preparations, and such physical forces as heat, cold,
16 water, touch, and light, are not the exclusive privilege of naturopathic physicians, and their use,
17 practice, prescription, or administration by individuals not licensed to practice naturopathic
18 medicine is not prohibited by this chapter. This chapter does not restrict or apply to the scope of
19 practice of any other profession licensed, certified, or registered under the laws of this state.

20 **43-57-07. Naturopathic - Public health duties.**

21 A naturopathic physician has the same powers and duties as a licensed physician with
22 regard to public health laws, reportable diseases and conditions, communicable disease control
23 and prevention, recording of vital statistics, health and physical examinations, and local boards
24 of health, except that the authority and responsibility are limited to activities consistent with the
25 scope of practice established under this chapter.

26 **43-57-08. Naturopathic - License required - Title restrictions.**

27 1. A person may not practice naturopathy without a current naturopathic license issued
28 by the board.

29 2. A naturopathic physician may use the title "doctor of naturopathic medicine",
30 "naturopath", "doctor of naturopathy", "naturopathic doctor", "naturopathic physician",
31 and the abbreviation "N.D." when used to imply any of these titles. A person who uses

1 these terms or initials as identification without having received a naturopathic license
2 under this chapter is engaging in the practice of naturopathy without a license.

3 **43-57-09. Naturopathic - Qualifications for licensure.**

4 In order to obtain a license to practice naturopathic medicine in this state, an application
5 must be made to the board. The application must be upon the form adopted by the board and
6 must be made in the manner prescribed by the board.

7 **43-57-10. Naturopathic - Application for licensure.**

- 8 1. An applicant for naturopathic licensure shall file an application on forms provided by
9 the board showing to the board's satisfaction that the applicant is of good moral
10 character and satisfied all of the requirements of this chapter, including:
- 11 a. Successful graduation of an approved naturopathic medical college;
 - 12 b. Successful completion of an examination prescribed or endorsed by the board,
13 such as part I and part II of the naturopathic physicians licensing examinations;
 - 14 c. Physical, mental, and professional capability for the practice of naturopathic
15 medicine in a manner acceptable to the board; and
 - 16 d. A history free of any finding by the board, any other state licensure board, or any
17 court of competent jurisdiction of the commission of any act that would constitute
18 grounds for disciplinary action under this chapter. The board may modify this
19 restriction for cause.
- 20 2. The application must be accompanied by the board-established license fees and
21 application fees and by the documents, affidavits, and certificates necessary to
22 establish that the applicant possesses the necessary qualifications.

23 **43-57-11. Naturopathic - Licensure granted without examination to individuals**
24 **licensed in other states.**

- 25 1. The board may issue a naturopathic license by endorsement to an applicant who has
26 complied with licensure requirements and who has passed an examination given by a
27 recognized certifying agency approved by the licensing agency if the board determines
28 the examination was equivalent in every respect to the examination required under
29 this chapter.
- 30 2. The board may enter reciprocal agreements with licensing agencies of other states
31 providing for reciprocal waiver of further examination or any part of the examination.

1 3. If an applicant is exempt from the examination required under this chapter, the
2 applicant shall comply with the other requirements for licensure. The board may adopt
3 rules allowing for temporary and special licensure to be in effect during the interval
4 between board meetings.

5 **43-57-12. Issuance of license.**

6 If the board determines that an applicant possesses the qualifications required under this
7 chapter, the board shall issue a license to the applicant.

8 **43-57-13. License renewal - Continuing education.**

- 9 1. A license is effective when granted by the board.
10 2. A license expires on December thirty-first of every odd-numbered year.
11 3. A license may be renewed by payment of the renewal fee and completion of any
12 continuing education requirements set by the board, provided the applicant's license is
13 not currently revoked or grounds for denial do not exist.
14 4. If the application for renewal is not received on or before the expiration date, the
15 license expires and the individual may not practice until a new application is made and
16 a license is granted by the board.
17 5. At the time of renewal, the board shall require each applicant to present satisfactory
18 evidence that the applicant has completed any continuing education requirements
19 specified by the board.
20 6. If a license has not been renewed as a result of nonpayment of the renewal fee or the
21 failure of the licensee to present satisfactory evidence of completion of any continuing
22 education requirements, the licensee must reapply for licensure.
23 7. The board may extend the renewal deadline for an applicant having proof of medical
24 or other hardship rendering the applicant unable to meet the renewal deadline.

25 **43-57-14. Naturopathic - Employment by hospitals.**

26 A hospital may employ a naturopathic physician in the same manner as provided under
27 section 43-17-42.

28 **43-57-15. Discipline.**

- 29 1. The board may take disciplinary action against a licensee by any of the following
30 means:
31 a. Revocation of license;

- 1 b. Suspension of license;
- 2 c. Probation;
- 3 d. Imposition of stipulations, limitations, or conditions relating to the licensee's
- 4 practice;
- 5 e. Letter of censure;
- 6 f. Require the licensee to provide free public or charitable service for a defined
- 7 period; and
- 8 g. Impose fines, not to exceed five thousand dollars for any single disciplinary
- 9 action. Any fines collected by the board must be deposited in the state general
- 10 fund.
- 11 2. Disciplinary action may be imposed against a licensee upon any of the following
- 12 grounds:
- 13 a. The use of any false, fraudulent, or forged statement or document, or the use of
- 14 any fraudulent, deceitful, dishonest, or immoral practice, in connection with any of
- 15 the licensing requirements.
- 16 b. The making of false or misleading statements about the licensee's skill or the
- 17 efficacy of any medicine, treatment, or remedy.
- 18 c. The conviction of any misdemeanor determined by the board to have a direct
- 19 bearing upon the licensee's ability to serve the public or any felony. A license may
- 20 not be withheld contrary to the provisions of chapter 12.1-33.
- 21 d. Habitual use of alcohol or drugs.
- 22 e. Physical or mental disability materially affecting the ability to perform the duties of
- 23 the profession in a competent manner.
- 24 f. The performance of any dishonorable, unethical, or unprofessional conduct likely
- 25 to deceive, defraud, or harm the public.
- 26 g. Obtaining any fee by fraud, deceit, or misrepresentation.
- 27 h. Aiding or abetting the practice of the profession by an unlicensed, incompetent,
- 28 or impaired person.
- 29 i. The violation of any provision of the rules of the board, or any action, stipulation,
- 30 condition, or agreement imposed by the board.
- 31 j. The practice of the profession under a false or assumed name.

- 1 k. The advertising for the practice of the profession in an untrue or deceptive
2 manner.
- 3 l. The representation to a patient that a manifestly incurable condition, sickness,
4 disease, or injury can be cured.
- 5 m. The willful or negligent violation of the confidentiality between licensee and
6 patient, except as required by law.
- 7 n. Gross negligence in the practice of the profession.
- 8 o. Sexual abuse, misconduct, or exploitation related to the licensee's practice of the
9 profession.
- 10 p. A continued pattern of inappropriate care.
- 11 q. The imposition by another state or jurisdiction of disciplinary action against a
12 license or other authorization to practice based upon acts or conduct by the
13 licensee which would constitute grounds for disciplinary action as set forth in this
14 section. A certified copy of the record of the action taken by the other state or
15 jurisdiction is conclusive evidence of that action.
- 16 r. The lack of appropriate documentation in medical records for diagnosis, testing,
17 and treatment of patients.

18 **43-57-16. Disciplinary proceedings - Appeals.**

- 19 1. Upon the filing of a written and signed complaint that alleges that a licensee practicing
20 in this state has engaged in conduct identified as grounds for disciplinary action under
21 this chapter, and which sets forth information upon which a reasonable and prudent
22 person might believe that further inquiry should be made, the board shall cause the
23 matter to be investigated.
- 24 2. The board may investigate a complaint on the board's own motion, without requiring
25 the identity of the complainant to be made a matter of public record, if the board
26 concludes that good cause exists for preserving the anonymity of the complainant.
- 27 3. If the investigation reveals no grounds to support the complaint, the board, three years
28 following the date on which the complaint was filed, shall expunge the complaint from
29 the licensee's individual record in the board's office.
- 30 4. If the investigation reveals grounds to support the complaint, the board shall initiate a
31 disciplinary action by serving upon the licensee a notice of disciplinary action setting

1 forth the allegations upon which the action is based, as well as a specification of the
2 issues to be considered and determined.

3 5. If a written response contesting the allegations is not received by the board within
4 twenty days of the date that the notice of disciplinary action was received or refused,
5 the allegations may be deemed admitted and disciplinary sanctions deemed
6 appropriate by the board must be imposed.

7 6. The board may at any time enter an informal resolution to resolve the complaint or
8 disciplinary action.

9 7. An appeal from the board's final decision may be taken in accordance with chapter
10 28-32.

11 **43-57-17. Disciplinary proceedings - Cost of prosecution.**

12 In any order or decision issued by the board in resolution of a disciplinary proceeding in
13 which disciplinary action is imposed against a licensee, the board may direct the licensee to pay
14 the board a sum not to exceed the reasonable and actual costs, including reasonable attorney's
15 fees, incurred by the board in the investigation and prosecution of the case. When applicable,
16 the licensee's license may be suspended until the costs are paid to the board. A licensee may
17 challenge the reasonableness of any cost item in a hearing under chapter 28-32 before an
18 administrative law judge. The administrative law judge may approve, deny, or modify any cost
19 item, and the determination of the administrative law judge is final. The administrative hearing
20 must occur before the licensee's license may be suspended for nonpayment.

21 **43-57-18. Enforcement - Penalty.**

22 A person that violates this chapter is guilty of a class B misdemeanor. In addition to the
23 criminal penalties provided under this section, the civil remedy of injunction is available to
24 restrain and enjoin any violation of this chapter without proof of actual damages sustained by
25 any person.

26 **SECTION 4. APPLICATION.** The terms of the initial state board of integrative health care
27 may be for less than two years in order to establish staggered terms with no more than two
28 members' terms expiring in any year.