

NATUROPATHIC PHYSICIAN AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael S. Kennedy

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the prescribing authority of naturopathic physicians.

Highlighted Provisions:

This bill:

- ▶ describes what categories of prescription drugs a naturopathic physician may prescribe;
- ▶ repeals the naturopathic formulary peer committee; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-71-102, as last amended by Laws of Utah 2014, Chapter 110

58-71-804, as last amended by Laws of Utah 2009, Chapter 42

REPEALS:

58-71-202, as last amended by Laws of Utah 2014, Chapter 110

Be it enacted by the Legislature of the state of Utah:



28 Section 1. Section **58-71-102** is amended to read:

29 **58-71-102. Definitions.**

30 In addition to the definitions in Section **58-1-102**, as used in this chapter:

31 (1) "Acupuncture" [~~has the same definition as~~] means the same as that term is defined
32 in Section **58-72-102**.

33 (2) "Administrative penalty" means a monetary fine imposed by the division for acts or
34 omissions determined to constitute unprofessional or unlawful conduct, as a result of an
35 adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative
36 Procedures Act.

37 (3) "Board" means the Naturopathic Physicians Licensing Board created in Section
38 **58-71-201**.

39 (4) "Diagnose" means:

40 (a) to examine in any manner another [~~person, parts of a person's~~] individual, parts of
41 an individual's body, substances, fluids, or materials excreted, taken, or removed from [~~a~~
42 ~~person's~~] an individual's body, or produced by [~~a person's~~] an individual's body, to determine
43 the source, nature, kind, or extent of a disease or other physical or mental condition;

44 (b) to attempt to conduct an examination or determination described under Subsection
45 (4)(a);

46 (c) to hold oneself out as making or to represent that one is making an examination or
47 determination as described in Subsection (4)(a); or

48 (d) to make an examination or determination as described in Subsection (4)(a) upon or
49 from information supplied directly or indirectly by another [~~person~~] individual, whether or not
50 in the presence of the [~~person making or attempting the diagnosis or examination~~] individual
51 the examination or determination concerns.

52 [~~(5) "Local anesthesia" means an agent, whether a natural medicine or nonscheduled~~
53 ~~prescription drug, which:]~~

54 (5) "Local anesthesia" means a natural medicine that:

55 (a) is applied topically or by injection associated with the performance of minor office
56 procedures;

57 (b) has the ability to produce loss of sensation [~~at the site of minor office procedures;~~
58 ~~and~~] to a targeted area of an individual's body;

59 (c) does not cause loss of consciousness or produce general sedation[-]; and
60 (d) is part of the competent practice of naturopathic medicine during minor office
61 procedures.

62 (6) "Medical naturopathic assistant" means an unlicensed individual working under the
63 direct and immediate supervision of a licensed naturopathic physician and engaged in specific
64 tasks assigned by the licensed naturopathic physician in accordance with the standards and
65 ethics of the profession.

66 (7) (a) "Minor office procedures" means:

67 (i) the use of operative, electrical, or other methods for repair and care of superficial
68 lacerations, abrasions, and benign lesions;

69 (ii) removal of foreign bodies located in the superficial tissues, excluding the eye or
70 ear;

71 (iii) the use of antiseptics and local anesthetics in connection with minor office surgical
72 procedures; and

73 (iv) [~~if approved by the United States Food and Drug Administration,~~] percutaneous
74 injection into skin, tendons, ligaments, muscles, and joints with:

75 [~~(A) local anesthetics and nonscheduled prescription medications; and~~]

76 (A) local anesthesia or a prescription drug described in Subsection (8)(d); or

77 (B) natural substances.

78 (b) "Minor office procedures" does not include:

79 (i) general or spinal anesthesia;

80 (ii) office procedures more complicated or extensive than those set forth in Subsection
81 (7)(a);

82 (iii) procedures involving the eye; and

83 (iv) any office procedure involving [~~tendons,~~] nerves, veins, or arteries.

84 (8) "Natural medicine" means any:

85 [~~(a) food, food extracts, dietary supplements as defined by the federal Food, Drug, and~~
86 ~~Cosmetics Act, all homeopathic remedies, and plant substances that are not designated as~~
87 ~~prescription drugs or controlled substances;~~]

88 (a) food, food extract, dietary supplement as defined by the Federal Food, Drug, and
89 Cosmetic Act, 21 U.S.C. Sec. 301 et seq., homeopathic remedy, or plant substance that is not

90 designated a prescription drug or controlled substance;

91 (b) over-the-counter [~~medications~~] medication;

92 (c) other nonprescription [~~substances~~] substance, the prescription or administration of
93 which is not otherwise prohibited or restricted under federal or state law; or

94 (d) prescription drug that is not any of the following as determined by the federal Food
95 and Drug Administration:

96 (i) a controlled substance except for tramadol and testosterone;

97 (ii) an antineoplastic;

98 (iii) an antipsychotic;

99 (iv) a barbiturate;

100 (v) a cytotoxic;

101 (vi) a sedative;

102 (vii) a sleeping drug; and

103 (viii) a tranquilizer.

104 [~~(d) prescription drugs:~~]

105 [~~(i) that, except as provided in Subsection (8)(c), are not controlled substances as~~
106 ~~defined in Section 58-37-2;~~]

107 [~~(ii) the prescription of which is consistent with the competent practice of naturopathic~~
108 ~~medicine; and]~~

109 [~~(iii) the prescription of which is approved by the division in collaboration with the~~
110 ~~naturopathic formulary advisory peer committee; and]~~

111 [~~(e) testosterone, if the testosterone is:~~]

112 [~~(i) bio-identical;~~]

113 [~~(ii) designed to be:~~]

114 [~~(A) administered topically, for transdermal absorption; or]~~

115 [~~(B) absorbed across the mucosal membranes of the mouth; and]~~

116 [~~(iii) prescribed or administered, in accordance with the requirements of federal and~~
117 ~~state law, solely for the purpose of treating a patient with a low testosterone level in order to~~
118 ~~restore the patient to a normal testosterone level.]~~

119 (9) (a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a
120 naturopathic physician[, and includes the use of:].

121 (b) "Naturopathic childbirth" includes the use of:

- 122 (i) natural medicines; and
- 123 (ii) uncomplicated episiotomy.

124 ~~[(b)]~~ (c) "Naturopathic childbirth" does not include the use of:

- 125 (i) forceps delivery;
- 126 (ii) general or spinal anesthesia;
- 127 (iii) caesarean section delivery; or
- 128 (iv) induced labor or abortion.

129 (10) (a) "Naturopathic mobilization therapy"~~["-(a)]~~ means manually administering
130 mechanical treatment of body structures or tissues for the purpose of restoring normal
131 physiological function to the body by normalizing and balancing the musculoskeletal system of
132 the body;

133 (b) "Naturopathic mobilization therapy" does not mean manipulation or adjustment of
134 the joints of the human body beyond the elastic barrier; and

135 (c) "Naturopathic mobilization therapy" does not include manipulation as used in Title
136 58, Chapter 73, Chiropractic Physician Practice Act.

137 (11) (a) "Naturopathic physical medicine" means the use of the physical agents of air,
138 water, heat, cold, sound, light, and electromagnetic nonionizing radiation, and the physical
139 modalities of electrotherapy, acupuncture, diathermy, ultraviolet light, ultrasound,
140 hydrotherapy, naturopathic mobilization therapy, and exercise.

141 (b) "Naturopathic physical medicine" does not include the practice of physical therapy
142 or physical rehabilitation.

143 (12) "Practice of naturopathic medicine" means:

144 (a) a system of primary health care for the prevention, diagnosis, and treatment of
145 human health conditions, injuries, and diseases that uses education, natural medicines, and
146 natural therapies, to support and stimulate the patient's intrinsic self-healing processes:

147 (i) using naturopathic childbirth, but only if:

148 (A) the licensee meets standards of the American College of Naturopathic
149 Obstetricians (ACNO) or ~~[its]~~ ACNO's successor as determined by the division in collaboration
150 with the board; and

151 (B) the licensee follows a written plan for naturopathic physicians practicing

152 naturopathic childbirth approved by the division in collaboration with the board, which
153 includes entering into an agreement with a consulting physician and surgeon or osteopathic
154 physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and
155 specialty care and delivery is indicated, detailing the guidelines by which the naturopathic
156 physician will:

- 157 (I) refer patients to the consulting physician; and
- 158 (II) consult with the consulting physician;
- 159 (ii) using naturopathic mobilization therapy;
- 160 (iii) using naturopathic physical medicine;
- 161 (iv) using minor office procedures;
- 162 (v) prescribing or administering natural medicine;
- 163 (vi) prescribing medical equipment and devices, diagnosing by the use of medical
164 equipment and devices, and administering therapy or treatment by the use of medical devices
165 necessary and consistent with the competent practice of naturopathic medicine;
- 166 (vii) prescribing barrier devices for contraception;
- 167 (viii) using dietary therapy;
- 168 (ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and
169 physiological function tests;
- 170 (x) taking of body fluids for clinical laboratory tests and using the results of the tests in
171 diagnosis;
- 172 (xi) taking of a history from and conducting of a physical examination upon a human
173 patient; and
- 174 ~~[(xii) prescribing and administering natural medicines and medical devices, except a
175 naturopathic physician may only administer:]~~
- 176 ~~[(A) a prescription drug, as defined in Section 58-17b-102, in accordance with
177 Subsection (8)(d); and]~~
- 178 ~~[(B) local anesthesia that is not a controlled substance, and only in the performance of
179 minor office procedures;]~~
- 180 (xii) administering local anesthesia during the performance of a minor office
181 procedure.
- 182 (b) to maintain an office or place of business for the purpose of doing any of the acts

183 described in Subsection (12)(a), whether or not for compensation; or

184 (c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
185 treatment of human diseases or conditions, in any printed material, stationery, letterhead,
186 envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic
187 doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy,"
188 "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care,"
189 "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that
190 might cause a reasonable person to believe the individual using the designation is a licensed
191 naturopathic physician.

192 (13) "Prescribe" means to issue a prescription:

193 (a) orally or in writing; or

194 (b) by telephone, facsimile transmission, computer, or other electronic means of
195 communication as defined by division rule.

196 (14) "Prescription device" means an instrument, apparatus, implement, machine,
197 contrivance, implant, in vitro reagent, or other similar or related article, and any component
198 part or accessory, which is required under federal or state law to be prescribed by a practitioner
199 and dispensed by or through a person [~~or entity~~] licensed under this chapter or exempt from
200 licensure under this chapter.

201 (15) "Prescription drug" means a drug that is required by federal or state law or rule to
202 be dispensed only by prescription or is restricted to administration only by practitioners.

203 (16) "Unlawful conduct" [~~is as defined in~~] means the same as that term is defined in
204 Sections 58-1-501 and 58-71-501.

205 (17) "Unprofessional conduct" [~~is as defined in~~] means the same as that term is defined
206 in Sections 58-1-501 and 58-71-502, and as may be further defined by division rule.

207 Section 2. Section 58-71-804 is amended to read:

208 **58-71-804. Insurance coverage not mandated.**

209 (1) This chapter does not mandate health insurance coverage for naturopathic medical
210 services.

211 (2) This chapter does not establish a class of health care providers for the purposes of
212 Section 31A-22-618.

213 (3) This chapter does not mandate health insurance coverage for the prescription or

214 administration of testosterone[~~, as described in Subsection 58-71-102(8)(c),~~] by a naturopathic
215 physician.

216 Section 3. **Repealer.**

217 This bill repeals:

218 Section **58-71-202, Naturopathic formulary peer committee.**