

Sixty-second
Legislative Assembly
of North Dakota

ENGROSSED 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 naturopaths; to amend and reenact
3 section 43-17-41 of the North Dakota Century Code, relating to duties of naturopaths; to provide
4 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 naturopath duly licensed to practice in this state pursuant to the statutes regulating
9 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, naturopath licensed under chapter 43-57, or any
14 individual licensed under chapter 43-12.1 who performs any diagnosis or treatment for
15 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, naturopath, or any individual licensed under chapter 43-12.1,
7 unless it is known that the information has previously been provided to the injured
8 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 nonprescriptive substances prepared according to
2 the official homeopathic pharmacopoeia of the United States. The term does not
3 include prescriptive drugs.
- 4 4. "Licensee" means a person licensed by the board under this chapter.
- 5 5. "Naturopath" means an individual licensed to practice naturopathic health care under
6 this chapter.
- 7 6. "Naturopathic health care", "naturopathic medicine", or "naturopathy" means a system
8 of primary health care practiced by naturopaths for the prevention, diagnosis, and
9 treatment of human health conditions, injury, and disease. The purpose of
10 naturopathic health care, naturopathic medicine, or naturopathy is to promote or
11 restore health by the support and stimulation of the individual's inherent self-healing
12 processes. This is accomplished through education of the patient by a naturopath and
13 through the use of natural therapies and therapeutic substances.
- 14 7. "Naturopathic physical application" means the therapeutic use by a naturopath of the
15 actions or devices of electrical muscle stimulation, galvanic, diathermy, ultrasound,
16 ultraviolet light, hydrotherapy, and naturopathic manipulative therapy. The term does
17 not include manipulation of the spine.

18 **43-57-02. Board - Qualifications - Appointment - Term of office - Compensation.**

- 19 1. The governor shall appoint the state board of integrative health care, which must
20 consist of five members, one of whom must be a naturopath, one of whom must be an
21 acupuncturist, one of whom must be a doctor of medicine or osteopathy, one of whom
22 must be a pharmacist, and one of whom must be a layperson. If a doctor of medicine
23 or osteopathy is not willing and able to serve, the governor may appoint an advanced
24 practice registered nurse to fill this position. A board member must be a resident of this
25 state. The four professional members must be licensed to practice in this state, except
26 the initial naturopath appointment, who must be eligible for licensure, and except the
27 acupuncturist appointment, who needs not be licensed. The layperson must be at
28 least twenty-one years of age and may not be affiliated with any organization or
29 profession that represents, provides, or regulates health care.

- 1 2. The term of office of each board member is three years with no more than two
2 members appointed annually. A member may not serve more than two consecutive full
3 terms.
- 4 3. The governor may remove any board member for good cause after giving that
5 member a written statement of the reasons for removal and after that member has had
6 an opportunity for a hearing.
- 7 4. Each board member shall serve without compensation but is entitled to receive
8 expenses as provided in section 54-06-09 and per diem as must be fixed by the board.
- 9 5. Annually, board members shall elect a chairman to preside at meetings of the board
10 and a vice chairman to preside at meetings of the board in the chairman's absence.

11 **43-57-03. Powers and duties of board.**

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

1 6. The board may adopt a code of ethics for each profession licensed by the board.

2 **43-57-04. Practice of naturopathic health care.**

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

5 a. Prescribe, dispense, or administer any prescription drug or device, except if
6 authorized by the board, a naturopath may prescribe antibiotics and hormones
7 that are not controlled substances;

8 b. Administer ionizing radioactive substances for therapeutic purposes;

9 c. Perform a surgical procedure; or

10 d. Claim to practice any licensed health care profession or system of treatment
11 other than naturopathic medicine unless holding a separate license in that
12 profession. A naturopath may not hold out to the public that the naturopath is a
13 primary care provider.

14 2. A naturopath may prescribe and administer for preventive and therapeutic purposes
15 the following nonprescriptive natural therapeutic substances, drugs, and therapies:

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

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

20 c. Barrier devices for contraception.

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

25 **43-57-05. Naturopathic - Exemptions.**

26 Many of the therapies used by a naturopath, such as the use of nutritional supplements,
27 herbs, foods, homeopathic preparations, and such physical forces as heat, cold, water, touch,
28 and light, are not the exclusive privilege of naturopaths, and their use, practice, prescription, or
29 administration by individuals not licensed to practice naturopathic medicine is not prohibited by
30 this chapter. This chapter does not restrict or apply to the scope of practice of any other
31 profession licensed, certified, or registered under the laws of this state.

1 **43-57-06. Naturopathic - Public health duties.**

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

7 **43-57-07. Naturopathic - License required - Title restrictions.**

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

10 2. A naturopath may use the title "naturopath". A person who uses this title as
11 identification without having received a naturopathic license under this chapter is
12 engaging in the practice of naturopathy without a license.

13 **43-57-08. Naturopathic - Qualifications for licensure.**

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

17 **43-57-09. Naturopathic - Application for licensure.**

18 1. An applicant for naturopathic licensure shall file an application on forms provided by
19 the board showing to the board's satisfaction that the applicant is of good moral
20 character and satisfied all of the requirements of this chapter, including:

21 a. Successful graduation of an approved naturopathic medical college;

22 b. Successful completion of an examination prescribed or endorsed by the board,
23 such as part I and part II of the naturopathic physicians licensing examinations;

24 c. Physical, mental, and professional capability for the practice of naturopathic
25 medicine in a manner acceptable to the board; and

26 d. A history free of any finding by the board, any other state licensure board, or any
27 court of competent jurisdiction of the commission of any act that would constitute
28 grounds for disciplinary action under this chapter. The board may modify this
29 restriction for cause.

1 2. The application must be accompanied by the board-established license fees and
2 application fees and by the documents, affidavits, and certificates necessary to
3 establish that the applicant possesses the necessary qualifications.

4 **43-57-10. Naturopathic - Licensure granted without examination to individuals**
5 **licensed in other states.**

6 1. The board may issue a naturopathic license by endorsement to an applicant who has
7 complied with licensure requirements and who has passed an examination given by a
8 recognized certifying agency approved by the licensing agency if the board determines
9 the examination was equivalent in every respect to the examination required under
10 this chapter.

11 2. The board may enter reciprocal agreements with licensing agencies of other states
12 providing for reciprocal waiver of further examination or any part of the examination.

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

17 **43-57-11. Issuance of license.**

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

20 **43-57-12. License renewal - Continuing education.**

21 1. A license is effective when granted by the board.

22 2. A license expires on December thirty-first of every odd-numbered year.

23 3. A license may be renewed by payment of the renewal fee and completion of any
24 continuing education requirements set by the board, provided the applicant's license is
25 not currently revoked or grounds for denial do not exist.

26 4. If the application for renewal is not received on or before the expiration date, the
27 license expires and the individual may not practice until a new application is made and
28 a license is granted by the board.

29 5. At the time of renewal, the board shall require each applicant to present satisfactory
30 evidence that the applicant has completed any continuing education requirements
31 specified by the board.

1 6. If a license has not been renewed as a result of nonpayment of the renewal fee or the
2 failure of the licensee to present satisfactory evidence of completion of any continuing
3 education requirements, the licensee must reapply for licensure.

4 7. The board may extend the renewal deadline for an applicant having proof of medical
5 or other hardship rendering the applicant unable to meet the renewal deadline.

6 **43-57-13. Naturopathic - Employment by hospitals.**

7 A hospital may employ a naturopath in the same manner as provided under section
8 43-17-42.

9 **43-57-14. Discipline.**

10 1. The board may take disciplinary action against a licensee by any of the following
11 means:

12 a. Revocation of license;

13 b. Suspension of license;

14 c. Probation;

15 d. Imposition of stipulations, limitations, or conditions relating to the licensee's
16 practice;

17 e. Letter of censure;

18 f. Require the licensee to provide free public or charitable service for a defined
19 period; and

20 g. Impose fines, not to exceed five thousand dollars for any single disciplinary
21 action. Any fines collected by the board must be deposited in the state general
22 fund.

23 2. Disciplinary action may be imposed against a licensee upon any of the following
24 grounds:

25 a. The use of any false, fraudulent, or forged statement or document, or the use of
26 any fraudulent, deceitful, dishonest, or immoral practice, in connection with any of
27 the licensing requirements.

28 b. The making of false or misleading statements about the licensee's skill or the
29 efficacy of any medicine, treatment, or remedy.

- 1 c. The conviction of any misdemeanor determined by the board to have a direct
2 bearing upon the licensee's ability to serve the public or any felony. A license may
3 not be withheld contrary to the provisions of chapter 12.1-33.
- 4 d. Habitual use of alcohol or drugs.
- 5 e. Physical or mental disability materially affecting the ability to perform the duties of
6 the profession in a competent manner.
- 7 f. The performance of any dishonorable, unethical, or unprofessional conduct likely
8 to deceive, defraud, or harm the public.
- 9 g. Obtaining any fee by fraud, deceit, or misrepresentation.
- 10 h. Aiding or abetting the practice of the profession by an unlicensed, incompetent,
11 or impaired person.
- 12 i. The violation of any provision of the rules of the board, or any action, stipulation,
13 condition, or agreement imposed by the board.
- 14 j. The practice of the profession under a false or assumed name.
- 15 k. The advertising for the practice of the profession in an untrue or deceptive
16 manner.
- 17 l. The representation to a patient that a manifestly incurable condition, sickness,
18 disease, or injury can be cured.
- 19 m. The willful or negligent violation of the confidentiality between licensee and
20 patient, except as required by law.
- 21 n. Gross negligence in the practice of the profession.
- 22 o. Sexual abuse, misconduct, or exploitation related to the licensee's practice of the
23 profession.
- 24 p. A continued pattern of inappropriate care.
- 25 q. The imposition by another state or jurisdiction of disciplinary action against a
26 license or other authorization to practice based upon acts or conduct by the
27 licensee which would constitute grounds for disciplinary action as set forth in this
28 section. A certified copy of the record of the action taken by the other state or
29 jurisdiction is conclusive evidence of that action.
- 30 r. The lack of appropriate documentation in medical records for diagnosis, testing,
31 and treatment of patients.

1 **43-57-15. Disciplinary proceedings - Appeals.**

- 2 1. Upon the filing of a written and signed complaint that alleges that a licensee practicing
3 in this state has engaged in conduct identified as grounds for disciplinary action under
4 this chapter, and which sets forth information upon which a reasonable and prudent
5 person might believe that further inquiry should be made, the board shall cause the
6 matter to be investigated.
- 7 2. The board may investigate a complaint on the board's own motion, without requiring
8 the identity of the complainant to be made a matter of public record, if the board
9 concludes that good cause exists for preserving the anonymity of the complainant.
- 10 3. If the investigation reveals no grounds to support the complaint, the board, three years
11 following the date on which the complaint was filed, shall expunge the complaint from
12 the licensee's individual record in the board's office.
- 13 4. If the investigation reveals grounds to support the complaint, the board shall initiate a
14 disciplinary action by serving upon the licensee a notice of disciplinary action setting
15 forth the allegations upon which the action is based, as well as a specification of the
16 issues to be considered and determined.
- 17 5. If a written response contesting the allegations is not received by the board within
18 twenty days of the date that the notice of disciplinary action was received or refused,
19 the allegations may be deemed admitted and disciplinary sanctions deemed
20 appropriate by the board must be imposed.
- 21 6. The board may at any time enter an informal resolution to resolve the complaint or
22 disciplinary action.
- 23 7. An appeal from the board's final decision may be taken in accordance with chapter
24 28-32.

25 **43-57-16. Disciplinary proceedings - Cost of prosecution.**

26 In any order or decision issued by the board in resolution of a disciplinary proceeding in
27 which disciplinary action is imposed against a licensee, the board may direct the licensee to pay
28 the board a sum not to exceed the reasonable and actual costs, including reasonable attorney's
29 fees, incurred by the board in the investigation and prosecution of the case. When applicable,
30 the licensee's license may be suspended until the costs are paid to the board. A licensee may
31 challenge the reasonableness of any cost item in a hearing under chapter 28-32 before an

1 administrative law judge. The administrative law judge may approve, deny, or modify any cost
2 item, and the determination of the administrative law judge is final. The administrative hearing
3 must occur before the licensee's license may be suspended for nonpayment.

4 **43-57-17. Enforcement - Penalty.**

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

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