

April 13, 2011

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2271

That the House recede from its amendments as printed on pages 1153-1160 of the Senate Journal and pages 1336-1342 of the House Journal and that Reengrossed Senate Bill No. 2271 be amended as follows:

Page 1, line 1, replace "chapter" with "chapters"

Page 1, line 1, after "43-57" insert ", 43-58, and 43-59"

Page 1, line 2, after the first "to" insert "creation of the state board of integrative health,"

Page 1, line 2, after "naturopaths" insert ", and regulation of music therapists"

Page 1, line 4, after the semicolon insert "to provide an appropriation;"

Page 1, line 13, replace "43-57" with "43-58"

Page 2, line 21, remove "Approved naturopathic medical college means a college and program granting the"

Page 2, remove lines 22 through 29

Page 2, line 30, remove "2."

Page 3, remove lines 1 through 3

Page 3, line 4, replace "4." with "2."

Page 3, line 4, replace "a person" with "an individual"

Page 3, line 4, after "chapter" insert "and under chapter 43-58 or 43-59"

Page 3, remove lines 5 through 17

Page 3, line 20, after the first "of" insert "at least"

Page 3, line 20, remove ", one of whom must be a naturopath, one of whom must be an"

Page 3, line 21, replace "acupuncturist, one of whom" with ". Each profession regulated by the board must have one member on the board representing that profession. In addition, one member"

Page 3, line 21, replace the second "of whom" with "member"

Page 3, line 22, after the underscored comma insert "one member must be an advanced practice registered nurse."

Page 3, line 22, after "and" insert "at least"

Page 3, line 22, replace "of whom" with "but no more than two members"

Page 3, line 22, replace "a layperson" with "laypersons"

Page 3, line 25, remove "four"

Page 3, line 26, remove "naturopath"

Page 3, line 26, after "appointment" insert "for a newly regulated profession"

Page 3, line 26, remove ", and except the"

Page 3, line 27, remove "acupuncturist appointment, who needs not be licensed"

Page 4, line 1, remove "no more than two"

Page 4, line 2, replace "members appointed annually" with "appointments distributed evenly from year to year"

Page 4, line 13, after "chapter" insert "and chapters 43-58 and 43-59"

Page 4, line 14, remove "of naturopathic medicine which are consistent"

Page 4, line 15, replace "with the education provided by approved naturopathic medical colleges" with ", which must be consistent with the required education for each profession regulated by the board"

Page 4, line 18, replace "approve naturopathic medical colleges" with "establish educational standards for each profession regulated by the board as appropriate"

Page 4, line 27, replace "under this chapter" with "by the board"

Page 4, line 29, after "chapter" insert ", chapter 43-58, and chapter 43-59"

Page 5, line 1, replace "licensed" with "regulated"

Page 5, remove lines 2 through 30

Page 6, remove lines 1 through 30

Page 7, replace lines 1 through 16 with:

"43-57-04. Board duties in regulating professions - Subgroups.

1. The board shall establish a subgroup for each profession regulated by the board. The board shall appoint at least three and no more than five members of the profession to serve as volunteer members of the subgroup. A subgroup member must be a licensed member of the profession, except in the case of a newly regulated profession in which case each subgroup member must be eligible for licensure. The board may appoint a board member to serve on a subgroup representing that board member's profession. The subgroup members serve at the pleasure of the board.
2. A subgroup established under this section shall serve in an advisory capacity to advise the board when requested by the board. The subgroup on its own motion may advise the board as the subgroup determines necessary.
3. The board may not take any action that impacts a profession regulated by the board as a whole or which impacts one or more licensees of that profession unless the board first consults with and requests the recommendation of the appropriate subgroup. If the board takes an action that is contrary to a subgroup's recommendation, the board shall articulate in writing why the subgroup's recommendation was not followed.

43-57-05. Petition to the board - Inclusion as a board-regulated profession - Consideration of additional health care professions.

1. An existing occupational or professional board of this state or agency of this state which regulates the practice of a health profession or a representative of a health profession that is not regulated by this state may submit to the board a petition and proposed bill draft requesting inclusion of that health profession as a profession regulated by the board. Upon receipt of a petition and proposed bill draft submitted under this section, the board shall review the petition and may work with the person submitting the petition to provide assistance in accomplishing this requested inclusion.
2. If a committee of the legislative assembly considers a measure to regulate a health care profession with fewer than fifty likely members, the committee shall consider whether it is desirable and feasible to have the state board of integrative health, some other existing board, or an existing state agency regulate that profession rather than create a new board.
3. If the membership of a board-regulated profession increases to at least one hundred licensees, the board may introduce legislation creating an independent board to regulate that profession."

Page 7, line 17, replace "**43-57-11.**" with "**43-57-06.**"

Page 7, line 19, after "chapter" insert "and under chapter 43-58 or 43-59"

Page 7, line 20, replace "**43-57-12.**" with "**43-57-07.**"

Page 8, remove lines 6 through 8

Page 8, line 9, replace "**43-57-14.**" with "**43-57-08.**"

Page 10, line 1, replace "**43-57-15.**" with "**43-57-09.**"

Page 10, line 25, replace "**43-57-16.**" with "**43-57-10.**"

Page 11, line 4, replace "**43-57-17.**" with "**43-57-11.**"

Page 11, line 5, after "chapter" insert ", chapter 43-58, or chapter 43-59"

Page 11, line 7, after "chapter" insert ", chapter 43-58, or chapter 43-59"

Page 11, after line 8, insert:

"**SECTION 4.** Chapter 43-58 of the North Dakota Century Code is created and enacted as follows:

43-58-01. Definitions.

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

1. "Approved naturopathic medical college" means a college and program granting the degree of doctor of naturopathy or naturopathic medicine which must require as a minimum a four-year, full-time resident program of academic and clinical study and which:

- a. Is accredited, or has the status of candidate for accreditation, by an organization approved by the board, such as the council on naturopathic medical education; or
 - b. Has been approved by the board after an investigation that determines that the college or program meets education standards equivalent to those established by the accrediting agency under subdivision a and complies with the board's rules.
2. "Board" means the state board of integrative health care created under chapter 43-57.
 3. "Homeopathic preparations" means nonprescriptive substances prepared according to the official homeopathic pharmacopoeia of the United States. The term does not include prescriptive drugs.
 4. "Licensee" means an individual licensed by the board under this chapter.
 5. "Naturopath" means an individual licensed to practice naturopathic health care under this chapter.
 6. "Naturopathic health care", "naturopathic medicine", or "naturopathy" means a system of primary health care practiced by naturopaths for the prevention, diagnosis, and treatment of human health conditions, injury, and disease. The purpose of naturopathic health care, naturopathic medicine, or naturopathy is to promote or restore health by the support and stimulation of the individual's inherent self-healing processes. This is accomplished through education of the patient by a naturopath and through the use of natural therapies and therapeutic substances.
 7. "Naturopathic physical application" means the therapeutic use by a naturopath of the actions or devices of electrical muscle stimulation, galvanic, diathermy, ultrasound, ultraviolet light, hydrotherapy, and naturopathic manipulative therapy. The term does not include manipulation of the spine.

43-58-02. Exemptions.

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

43-58-03. License required - Title restrictions.

1. Effective January 1, 2012, a person may not practice naturopathy without a current naturopathic license issued by the board.
2. A naturopath may use the title "naturopath" or "doctor of naturopathic medicine" and the abbreviation "N.D." when used to reflect either of these titles. Effective January 1, 2012, a person that uses these terms or initials

as identification without having received a naturopathic license under this chapter is engaging in the practice of naturopathy without a license.

43-58-04. Qualifications for licensure.

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

43-58-05. Application for licensure.

1. An applicant for naturopathic licensure shall file an application on forms provided by the board showing to the board's satisfaction that the applicant is of good moral character and satisfied all of the requirements of this chapter and chapter 43-57, including:
 - a. Successful graduation of an approved naturopathic medical college;
 - b. Successful completion of an examination prescribed or endorsed by the board, such as part I and part II of the naturopathic physicians licensing examinations;
 - c. Physical, mental, and professional capability for the practice of naturopathic medicine in a manner acceptable to the board; and
 - d. A history free of any finding by the board, any other state licensure board, or any court of competent jurisdiction of the commission of any act that would constitute grounds for disciplinary action under this chapter and chapter 43-57. The board may modify this restriction for cause.
2. The application must be accompanied by the board-established license fees and application fees and by the documents, affidavits, and certificates necessary to establish that the applicant possesses the necessary qualifications.

43-58-06. Initial applications - Education and testing exception.

Notwithstanding the education and examination requirements for licensure under subdivisions a and b of subsection 1 of section 43-58-05, if an applicant was a bona fide resident of the state from January 1, 2011, through December 31, 2011, was practicing naturopathic medicine in this state immediately preceding January 1, 2012, was required to apply for licensure under this chapter in order to continue that practice, and does not meet the educational or examination requirements or both, the board may issue a license or limited license to that applicant if, following an examination of the applicant's education and experience, the board determines the applicant has sufficient education and experience to prepare the applicant to practice naturopathic medicine.

43-58-07. Licensure granted without examination to individuals licensed in other states.

1. The board may issue a naturopathic license by endorsement to an applicant who has complied with licensure requirements and who has passed an examination given by a recognized certifying agency approved

by the licensing agency if the board determines the examination was equivalent in every respect to the examination required under this chapter.

2. The board may enter reciprocal agreements with licensing agencies of other states providing for reciprocal waiver of further examination or any part of the examination.
3. If an applicant is exempt from the examination required under this chapter, the applicant shall comply with the other requirements for licensure. The board may adopt rules allowing for temporary and special licensure to be in effect during the interval between board meetings.

43-58-08. Practice of naturopathic health care.

1. A naturopath may practice naturopathic medicine as a limited practice of the healing arts as exempted under section 43-17-02. A naturopath may not:
 - a. Prescribe, dispense, or administer any prescription drug;
 - b. Administer ionizing radioactive substances for therapeutic purposes;
 - c. Perform a surgical procedure; or
 - d. Claim to practice any licensed health care profession or system of treatment other than naturopathic medicine unless holding a separate license in that profession. A naturopath may not hold out to the public that the naturopath is a primary care provider.
2. A naturopath may prescribe and administer for preventive and therapeutic purposes a prescriptive device and the following nonprescriptive natural therapeutic substances, drugs, and therapies:
 - a. Food, vitamins, minerals, dietary supplements, enzymes, botanical medicines, and homeopathic preparations;
 - b. Topical drugs, health care counseling, nutritional counseling and dietary therapy, naturopathic physical applications, and therapeutic devices; and
 - c. Barrier devices for contraception.
3. A naturopath may perform or order for diagnostic purposes a physical or orificial examination, ultrasound, phlebotomy, clinical laboratory test or examination, physiological function test, and any other noninvasive diagnostic procedure commonly used by physicians in general practice and as authorized by the board.

43-58-09. Public health duties.

A naturopath has the same powers and duties as a licensed physician with regard to public health laws, reportable diseases and conditions, communicable disease control and prevention, recording of vital statistics, health and physical examinations, and local boards of health, except that the authority and responsibility are limited to activities consistent with the scope of practice established under this chapter and chapter 43-57.

43-58-10. Employment by hospitals.

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

SECTION 5. Chapter 43-59 of the North Dakota Century Code is created and enacted as follows:

43-59-01. Definitions.

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

1. "Board" means the state board of integrative health care created under chapter 43-57.
2. "Licensee" means an individual licensed by the board under this chapter.
3. "Music therapist" is an individual who practices music therapy.
4. "Music therapy" is the specialized use of music and the materials of music to restore, maintain, and improve the following areas of functioning: cognitive, psychological, social or emotional, affective, physical, sensory or sensorimotor, motor, communicative, and physiological functioning. Techniques used in the practice of music therapy include the use of music to provide participatory individual and group experiences; musical improvisation; therapeutic development of verbal skills and nonverbal behavior; receptive music learning; lyric discussions; memory recall; music and imagery; self-expression through composition and songwriting; socialization and enhancement of self-esteem through music performance; relaxation to music, including stress and pain management; learning through music; cultural and spiritual expression; development of fine and gross motor skills through responses to rhythm; respiratory and speech improvements through sound production; sensory integration and stimulation; increased awareness of music for development of recreation and leisure interests; and interactive verbal techniques to help facilitate, elicit, or summarize the techniques listed in this subsection and build the therapeutic relationship.

43-59-02. Music therapy - License required - Title restrictions - Exceptions.

1. Effective August 1, 2012, a person may not hold out as practicing music therapy, hold out as being a music therapist, or use a title or other designation indicating the person is a music therapist in this state unless that person is an individual licensed under this chapter and chapter 43-57.
2. The licensure provisions of this chapter do not prevent or restrict the practice, services, or activities of any individual licensed in another profession or any individual supervised by a licensed professional from performing work incidental to the practice of that profession or occupation, if that individual does not represent the individual as a music therapist.

43-59-03. Qualifications for licensure.

1. In order to obtain a license to practice music therapy in this state, an application must be made to the board. The application must be upon the

form adopted by the board and must be made in the manner prescribed by the board.

2. An applicant for licensure to practice music therapy shall file an application on forms provided by the board showing to the board's satisfaction that the applicant is an individual of good moral character, is at least eighteen years of age, and satisfied all the requirements established by the board which may include:
 - a. Successful graduation of a board-approved educational program;
 - b. Successful completion of a board-approved examination prescribed or endorsed by the board;
 - c. Hold in good standing a board-approved designation, such as:
 - (1) A music therapist board-certified credential from the certification board for music therapists; or
 - (2) A professional designation from the national music therapy registry, which may include registered music therapist, certified music therapist, and advanced certified music therapist.
 - d. Physical, mental, and professional capability for the practice of music therapy in a manner acceptable to the board;
 - e. A history free of any finding by the board, any other state licensure board, or any court of competent jurisdiction of the commission of any act that would constitute grounds for disciplinary action under this chapter or chapter 43-57. The board may modify this restriction for cause.
3. The application must be accompanied by the board-established license fees and application fees and by the documents, affidavits, and certificates necessary to establish that the applicant possesses the necessary qualifications.

SECTION 6. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$4,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of providing a grant to the state board of integrative health for assisting with costs associated with establishing the board, for the biennium beginning July 1, 2011, and ending June 30, 2013."

Renumber accordingly