

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Jay R. Kaufman

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act establishing a board of registration in naturopathy.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Jay R. Kaufman	15th Middlesex
Denise Provost	27th Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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

2 following section:

3

4 Section 101. (a) There shall be within the division of professional licensure a board of
5 registration in naturopathy which shall consist of the chairman of the board of registration in
6 medicine or his designee, the commissioner of public health or his designee and 7 persons to be
7 appointed by the governor, 5 of whom shall be naturopathic doctors who have attended and
8 graduated from an approved naturopathic college that is accredited, or is a candidate for
9 accreditation, by the Council of Naturopathic Medical Educators or its successor, who have at
10 least 5 years of experience in the practice of naturopathic health care and who shall be licensed
11 under section 239 or 241 of chapter 112; 1 of whom shall be a physician licensed to practice
12 medicine under section 2 of chapter 112 with experience working with naturopathic doctors
13 and 1 of whom shall be a clinical pharmacologist. The appointed members shall serve for terms
14 of 3 years. Upon the expiration of a term of office, a member shall continue to serve until a
15 successor has been appointed and qualified. No member shall serve for more than 2

16 consecutive terms, but a person who is chosen to fill a vacancy in an unexpired term of a prior
17 board member may serve for 2 consecutive terms in addition to the remainder of that
18 unexpired term. A member may be removed by the governor for neglect of duty, misconduct or
19 malfeasance or misfeasance in the office after a written notice of the charges against him and
20 sufficient opportunity to be heard thereon.

21

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

30

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

33

34 Section 236. For the purposes of this section and sections 237 to 244, inclusive, the following
35 terms shall have the following meanings unless the context clearly requires otherwise:

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

42 “Board”, the board of registration in naturopathy established in section 101 of chapter 13.

43 “Homeopathic preparations”, medicines prepared according to the Homeopathic
44 Pharmacopoeia of the United States.

45 “Naturopathic doctor”, a person who is licensed by the board to practice naturopathic health
46 care pursuant to this chapter.

47 “Naturopathic health care”, a system of health care practices for the prevention, diagnosis,
48 evaluation and treatment of illnesses, injuries and conditions of the human body through the
49 use of education, nutrition, natural medicines and therapies and other modalities which are
50 designed to support, stimulate or supplement the human body’s own natural self-healing
51 processes.

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

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

59 “Person”, an individual; provided, however, that “person” shall not include a partnership,
60 corporation, association or business organization of any kind.

61

62 Section 237. (a) The practice of naturopathic health care shall include, but not be limited to:

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

65 (2) the use of physical examinations and the ordering of clinical, laboratory and radiological
66 diagnostic procedures from licensed clinics or laboratories for the purpose of diagnosing and
67 evaluating injuries, illnesses and conditions in the human body;

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

73 (4) the use of manual mechanical manipulation of body structures or tissues, in accordance
74 with naturopathic principles; the use of naturopathic physical medicine for the purpose of
75 maintaining or restoring normal physiological functioning of the human body; and

76 (5) tracking and documenting of the immunization status of a patient under 18 years of age and
77 the referral of such patient to a primary care or collaborative care physician where evidence
78 exists that the individual has not been immunized.

79

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

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

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

85 (3) the practice of acupuncture and Traditional Chinese Medicine; or

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

88 (c) Nothing in sections 236 to 244, inclusive, shall prohibit or restrict:

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

92 (2) the practice of naturopathic health care by a person employed by the government of the
93 United States if that person engages in such practice in the performance of his duties as such an
94 employee;

95 (3) the practice of naturopathic health care by students enrolled in an approved naturopathic
96 medical college; provided, however, that the performance of all such services shall be pursuant
97 to a course of instruction or assignments from and under the supervision of an instructor who is
98 licensed as a naturopathic doctor pursuant to this chapter or a licensed professional in the field
99 in which he or she is providing instruction;

100 (4) Any person from treating himself or a member of his immediate family based on religious or
101 health beliefs;

102 (5) Any person who sells vitamins and herbs from providing information about his products; or

103 (6) a person or practitioner who is not licensed as a naturopathic doctor pursuant to this
104 chapter from recommending ayurvedic medicine, herbal remedies, nutritional advice,
105 homeopathy or any other therapy that is within the scope of practice of naturopathic health
106 care; provided, however, that such person or practitioner shall not represent himself or hold
107 himself out to the public as practicing naturopathic health care in the commonwealth or
108 otherwise use any name, title or other designation which indicates or implies that he is licensed
109 to practice naturopathic health care.

110

111 (d) Licensed naturopathic doctors shall have the same authority and responsibilities as licensed
112 physicians regarding public health laws, reportable diseases and conditions, communicable
113 disease control and prevention, recording of vital statistics, health and physical examinations

114 and local boards of health, except that the authority of licensed naturopathic doctors regarding
115 such matters shall be limited to the scope of practice authorized by this chapter.

116

117 Section 238 (a) The board shall have the following powers and duties:

118 (1) to adopt rules and regulation governing the licensing of naturopathic doctors and the
119 practice of naturopathic health care to promote the public health, welfare and safety of the
120 citizens of the commonwealth including, but not limited to:

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

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

123 (iii) continuing education requirements for the renewal of licenses including, but

124 not limited to, the number of hours required, the subjects required and board approval of

125 continuing education programs or lectures;

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

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

128 (4) To provide a uniform, proctored national naturopathic licensing examination administered

129 by the North American Board of Naturopathic Examiners, or successor agency that has been

130 nationally recognized to administer a naturopathic examination that represents federal

131 standards of education and training;

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

133 (6) to establish and maintain records of its actions and proceedings in accordance with the

134 public records laws;

135 (7) to perform such other functions and duties as may be necessary to carry out the provisions

136 of this chapter.

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

140 (c) The board shall be under the supervision of the division of professional licensure and it shall
141 have the powers and duties provided in sections 61 to 65E, inclusive. For the purposes of this
142 section and sections 61 to 65E, inclusive, conduct which places into question the holder's
143 competence to practice naturopathy shall include, but not be limited to:

144 (1) the commission of fraud or misrepresentation in obtaining a license;

145 (2) criminal conduct which the board determines to be of such a nature as to

146 render the person unfit to practice naturopathy, as evidenced by criminal proceedings

147 resulting in a conviction, a guilty plea, a plea of nolo contendere or an admission of

148 sufficient facts;

149 (3) violation of a rule or regulation of the board;

150 (4) failure to cooperate with the board or its agents in the conduct of an inspection or

151 investigation;

152 (5) failure to fulfill any continuing education requirements set out by the board;

153 (6) aiding or abetting an unlicensed person to practice naturopathy; or

154 (7) negligence in the course of professional practice.

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

158 (e) Nothing in this section shall limit the board's authority to impose, by agreement, sanctions
159 that are considered reasonable and appropriate by the board. Any person aggrieved by any

160 disciplinary action taken by the board pursuant to this section or for violation of any other law
161 or rule or regulations may, pursuant to section 64, file a petition for judicial review.

162

163 Section 239. (a) An application for original licensure as a naturopathic doctor shall be made on
164 forms approved by the board. Such application shall be sworn and shall be accompanied by
165 payment of the fee prescribed by the secretary of administration pursuant to section 3B of
166 chapter 7. The board shall issue a license as a naturopathic doctor to an applicant upon receipt
167 of satisfactory proof that the applicant:

168 (1) is at least 18 years old and of good moral character; and

169 (2) possesses a baccalaureate degree from an accredited educational institution or

170 its equivalent, as determined by the board;

171 (3) has graduated from and holds a doctor of naturopathic medicine or doctor of naturopathy
172 degree from an approved naturopathic medical college; provided, however, that an applicant
173 shall have satisfactorily completed a minimum of 1,200 hours of board-approved clinical
174 training prior to graduation from such college. Such clinical training may have been completed
175 in either an inpatient or outpatient setting and may include components of conventional
176 medicine as well as naturopathic health care.

177 (4) successfully passed a competency-based national naturopathic licensing
178 examination administered by the North American Board of Naturopathic Examiners, or
179 successor agency that has been nationally recognized to administer a naturopathic
180 examination that represents federal standards of education and training;

181 (5) has not had a license to practice naturopathic medicine or other health care license
182 registration or certificate refused, revoked or suspended by any other jurisdiction for reasons
183 that relate to the applicant's ability to skillfully and safely practice naturopathic medicine unless
184 that license, registration or certification has been restored to good standing by that jurisdiction.

185 (b) The board may approve an applicant to sit for the licensing exam, or approve an applicant
186 for reciprocity if the applicant has already passed the licensing examination as outlined in
187 Section 239, (a) (4), if the applicant has attended and graduated from a 4-year naturopathic
188 doctoral program which is located in a country or territory outside the United States if, in the
189 opinion of the board, the training and education provided by that naturopathic doctoral
190 program is substantially equivalent to that provided by a naturopathic doctoral program which
191 meets the requirements of Section 239 (a) (3) and the applicant meets the other requirements
192 in Section 239 (1- 5).

193

194 Section 240. The board, in consultation with the division of professional licensure, shall
195 determine the renewal cycle and renewal period for naturopathic licenses. A naturopathic
196 doctor licensed under this chapter shall apply to the board for renewal of his license on or
197 before the expiration date, as determined by the board, unless earlier revoked, suspended or
198 cancelled as a result of a disciplinary proceeding instituted pursuant to section 243. As a
199 condition for renewal under this section, the board may require a naturopathic doctor to
200 furnish the board with satisfactory proof that he has successfully completed the required
201 number of hours of continuing education for naturopathic doctors in courses or programs
202 approved by the board has complied with such other requirements or equivalent requirements
203 as approved by the board. Upon satisfactory compliance with the licensing requirements for
204 naturopathic doctors and successful completion of the continuing education requirements, the
205 board shall issue a renewal license. The board may provide for the late renewal of a license that
206 has lapsed and may require payment of a late fee.

207

208 Section 241. The board may grant license reciprocity to registered, certified or licensed
209 naturopathic doctors from other jurisdictions; provided, that the requirements for registration,
210 certification or license in the other jurisdictions are, in the opinion of the board, substantially
211 equivalent to those set forth in section 239. The board shall promulgate such rules and
212 regulations as may be necessary to implement this section.

213

214 Section 242. Each licensed naturopathic doctor shall advise the board, in writing, of the address
215 of his principal place of business and all other addresses at which he is currently engaged in
216 practice. The naturopathic doctor shall immediately provide written notice to the board of any
217 change in the address of any place of business at which he practices. He shall also advise the
218 board, in writing, of his current residential address and of any change thereof.

219

220 Section 243. (a) No person shall represent himself or hold himself out to the public as a
221 licensed naturopathic doctor in the commonwealth unless he is licensed pursuant to this
222 chapter. A person who is not licensed pursuant to this act shall not use any of the
223 following titles: naturopathic physician, naturopathic practitioner, natural doctor,
224 naturopathic doctor, doctor of naturopathy, doctor of natural medicine, doctor of
225 naturopathic medicine, NMD, doctor of nutritional medicine, N.D, naturopathic medicine,
226 naturopath or any other term that indicates or implies that the person is licensed to
227 practice any form of naturopathic health care in the commonwealth. The board of
228 registration in naturopathy may modify the list of titles.

229 (b) A licensed naturopathic doctor shall not use the term physician nor hold himself out to be a
230 primary care provider but nothing in this section shall prevent a naturopathic doctor from
231 disclosing that he is a member of the American Association of Naturopathic Physicians.

232 (c) A person acting or purporting to act as a naturopathic doctor without first obtaining a
233 license under this chapter shall be punished by a fine of not more than \$5,000 or by
234 imprisonment for not more than 1 year, or both. Upon conviction of a second or subsequent
235 offense, such person shall be punished by a fine of not more than \$10,000 or by imprisonment
236 for not more than 2 years, or both(d) A person who receives money or an equivalent thing of
237 value as a fee, commission, compensation or profit by or as the consequence of a violation of
238 sections 237 to 243, inclusive, shall, in addition to any other penalty, be liable for a fine of not
239 less than the sum of the money so received and not more than 3 times the sum so received, as
240 determined by the board.

241 (d) A person who receives money or an equivalent thing of value as a fee, commission,
242 compensation or profit by or as the consequence of a violation of sections 237 to 243, inclusive,
243 shall, in addition to any other penalty, be liable for a fine of not less than the sum of the money
244 so received and not more than 3 times the sum so received, as determined by the board.

245 (e) No action shall be commenced and no recovery shall be had by any person for
246 compensation for any act performed or service rendered by him as a licensed naturopathic
247 practitioner unless such person held a current valid license under this chapter at the time of
248 performance of such act or service.

249

250 Section 244. All licensing and application fees and civil administrative penalties collected
251 pursuant to sections 236 to 244, inclusive, shall be deposited into the trust fund established in
252 section 35V of chapter 10.

253

254 SECTION 3. (a) A license to practice as a naturopathic doctor may be issued without
255 examination to an applicant who meets the requirements of subsections (1,2,3 and 5), of
256 section 239 of chapter 112 of the General Laws if he submits satisfactory proof to the board
257 that he is or has been actively engaged in the practice of naturopathic health care for
258 compensation in the Commonwealth for at least 5 of the last 10 years immediately preceding
259 the effective date of this act. Applications for licensure under this section shall be filed with the
260 board not later than 18 months after the effective date of this act.

261

262 (b) An applicant who graduated before 1987 and earned a doctor of naturopathic medicine or
263 doctor of naturopathy degree from a 4-year, in-residence naturopathic college or program that
264 had, at the time of the applicant's graduation, a license, authority or other approval from its
265 state or province to grant such degree may apply to the board of registration in naturopathy

266 for licensure provided he satisfactorily demonstrates his ability to practice naturopathic
267 medicine in the commonwealth as determined by the board.

268

269 SECTION 4. The terms of the initial appointed members of the board of registration in
270 naturopathy pursuant to section 101 of chapter 13 of the General Laws shall be as follows: 2
271 shall serve for a term of 1 year; 2 shall serve for terms of 2 years and the remaining 3 shall serve
272 for terms of 3 years. The 5 members required to be naturopathic doctors shall be persons with
273 5 years of experience in the practice of naturopathic health care who would be eligible for
274 licensure in the commonwealth if said section 101 of said chapter 13 were in effect prior to the
275 effective date of this act and must have attended and graduated from an approved
276 naturopathic college that is accredited, or is a candidate for accreditation, by the Council of
277 Naturopathic Medical Educators or its successor.

278

279 SECTION 5. The punishment provisions of section 243 of chapter 112 of the General Laws shall
280 take effect not later than 6 months after the board of registration in naturopathy first issues
281 licenses pursuant to said chapter 112.0.

282

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