

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1532

H.P. 1087

House of Representatives, May 16, 1995

**An Act Requiring Doctors of Naturopathic Medicine to Be Licensed by
the Naturopathic Board of Examiners and Regulating Naturopathic
Health Care Practice.**

Reference to the Committee on Business and Economic Development suggested and
ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative MITCHELL of Portland.
Cosponsored by Representatives: BRENNAN of Portland, CHASE of China, DAVIDSON of
Brunswick, ETNIER of Harpswell, FARNUM of South Berwick, FITZPATRICK of Durham,
GATES of Rockport, JOHNSON of South Portland, JONES of Bar Harbor, KILKELLY of
Wiscasset, LEMONT of Kittery, MARVIN of Cape Elizabeth, MITCHELL of Vassalboro,
PLOWMAN of Hampden, SHIAH of Bowdoinham, SPEAR of Nobleboro, STEVENS of
Orono, TREAT of Gardiner, WATSON of Farmingdale, Senators: AMERO of Cumberland,
BEGLEY of Lincoln, LAWRENCE of York, McCORMICK of Kennebec, PINGREE of
Knox, RAND of Cumberland.

Be it enacted by the People of the State of Maine as follows:

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Sec. 1. 5 MRSA §12004-A, sub-§46 is enacted to read:

<u>46. Naturopathic</u>	<u>Not</u>	<u>32 MRSA §14706</u>
<u>Board of Examiners</u>	<u>Authorized</u>	

Sec. 2. 32 MRSA c. 130 is enacted to read:

CHAPTER 130

NATUROPATHIC PHYSICIANS

§14701. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Acupuncture. "Acupuncture" means the insertion of acupuncture needles into specific points on the skin to treat human disease and impairment and to relieve pain.

2. Approved naturopathic medical college. "Approved naturopathic medical college" means a college or program granting the degree of doctor of naturopathic medicine or doctor of naturopathy that is approved by the Naturopathic Board of Examiners and that:

A. Is accredited by an accrediting agency recognized by the Federal Government;

B. Is a candidate for accreditation with that agency; or

C. Has been investigated by the Naturopathic Board of Examiners and found to meet education standards equivalent to those established by the agency described in paragraph A.

3. Board. means the Naturopathic Board of Examiners established under this chapter.

4. Homeopathic preparation. "Homeopathic preparation" means medicine prepared according to the homeopathic pharmacopoeia of the United States.

5. Natural antibiotics. "Natural antibiotics" means antimicrobial, antifungal and antiprotozoal agents that are naturally occurring substances or manufactured substances that are substantially identical to those naturally occurring substances.

2 **6. Naturopathic childbirth.** "Naturopathic childbirth"
means natural childbirth, which includes the use of natural
3 obstetrical medicines, ophthalmic antibiotics, obstetrical
4 emergency medicines and minor surgery including episiotomies, but
does not include the use of forceps delivery, general or spinal
5 anesthesia, caesarean section or induced abortions.

8 **7. Naturopathic manipulative therapy.** "Naturopathic
manipulative therapy" means the manually administered, mechanical
9 treatment of body structures or tissues, in accordance with
10 naturopathic principles, for the purpose of restoring normal
11 physiological function to the body by normalizing and balancing
the musculoskeletal system of the body.

14 **8. Naturopathic medicine.** "Naturopathic medicine" means a
15 system of primary health care practiced by naturopathic
16 physicians for the prevention, diagnosis and treatment of human
17 health conditions, injuries and diseases that uses education,
18 natural medicines and therapies to support and stimulate the
individual's intrinsic self-healing processes and naturopathic
19 childbirth.

22 **9. Naturopathic physical medicine.** "Naturopathic physical
23 medicine" means the therapeutic use of physical agents of air,
24 water, heat, cold, sound, light and electromagnetic nonionizing
25 radiation and the physical modalities of electrotherapy,
26 acupuncture, diathermy, ultraviolet light, ultrasound,
27 hydrotherapy, naturopathic manipulative therapy and therapeutic
exercise.

30 **10. Naturopathic physician.** "Naturopathic physician" means
31 a person authorized and licensed to practice naturopathic
32 medicine under this chapter.

34 **11. Surgical procedures.** "Surgical procedures" means the
35 use of operative, electrical or other methods for the surgical
36 repair and care incidental to superficial lacerations and
37 abrasions, superficial lesions and the removal of foreign bodies
38 located in the superficial tissues and the use of antiseptics and
local anesthetics in connection with those methods, except that
39 it does not include general or spinal anesthetics, major surgery,
40 surgery of the body cavities or specialized surgeries such as
41 plastic surgery, surgery involving the eye or surgery when
42 tendons are involved.

46 **12. Topical medicine.** "Topical medicine" means topical
47 analgesics, anesthetics, antiseptics, scabicides, antifungals and
48 antibacterials.

50 **§14702. License required; licensee title**

2 1. License required. A person may not practice or profess
4 to be practicing naturopathic medicine in this State without
6 first applying for and receiving a license from the board to
 practice naturopathic medicine.

8 2. Title. A licensee must use the title "naturopathic
10 physician." Naturopathic physicians have the exclusive right to
12 the use of the terms "naturopathic physician," "naturopathic
14 doctor," "naturopathic," "doctor of naturopathic medicine,"
 "doctor of naturopathy," "naturopathic medical doctor,"
 "naturopathic medicine," "naturopathic health care,"
 "naturopathy" and the recognized abbreviations "N.D." and "N.M.D."

16 **§14703. Scope of practice**

18 1. Medicines and therapies. A naturopathic physician may
20 use and order for preventative and therapeutic purposes the
22 following natural medicines and therapies including food, food
24 extracts, vitamins, minerals, enzymes, digestive aids, whole
26 gland thyroid and other natural hormones, plant substances, all
 homeopathic preparations, natural antibiotics, immunizations,
 topical medicines, counseling, hypnotherapy, biofeedback, dietary
 therapy, naturopathic physical medicine, therapeutic devices,
 barrier devices for contraception and surgical procedures.

28 2. Diagnostic procedures. A naturopathic physician may use
30 for diagnostic purposes physical and orificial examinations
32 including x rays, electrocardiograms, ultrasound, phlebotomy,
 clinical laboratory tests and examinations and physiological
 function tests.

34 3. Other medications, devices and procedures. A
36 naturopathic physician may prescribe nonprescription medications
 and therapeutic devices or use noninvasive diagnostic procedures
 commonly used by physicians in general practice.

38 4. Prohibition. A naturopathic physician may not:

40 A. Prescribe, dispense or administer any controlled
42 substances or devices except those natural medicines and
 devices authorized by this chapter;

44 B. Perform surgical procedures except those procedures
46 authorized by this chapter;

48 C. Practice emergency medicine except as a good samaritan
50 rendering gratuitous services in the case of emergency and
 except for the care of minor injuries; and

2 D. Practice or claim to practice medicine and surgery,
3 osteopathy, dentistry, podiatry, optometry, chiropractic,
4 physical therapy or any other system or method of treatment
5 not authorized in this chapter.

6 **§14704. Application**

8 Nothing in this chapter is intended to prohibit or restrict:

10 1. Practice within authorized scope of practice. The
11 practice of a profession by individuals who are licensed,
12 certified or registered under other laws of this State who are
13 performing services within the authorized scope of practice;

14 2. Individual performing duties prescribed by federal law.
15 The practice of naturopathic medicine by an individual employed
16 by the government of the United States while the individual is
17 engaged in the performance of duties prescribed by the laws and
18 regulations of the United States;

19 3. Duly licensed elsewhere. The practice by a naturopathic
20 physician duly licensed in another state, territory or the
21 District of Columbia when that naturopathic physician is
22 incidentally called into this State for consultation with a
23 licensed physician;

24 4. Students. The practice of naturopathic medicine by
25 students enrolled in an approved naturopathic medical college.
26 The performance of services must be pursuant to a course of
27 instruction or assignments from an instructor and under the
28 supervision of the instructor. The instructor must be a
29 naturopathic physician licensed pursuant to this chapter; or

30 5. Professed to be naturopathic physician prior to January
31 1, 1995. A resident of this State who is of legal majority and
32 who professed to be a naturopath or a naturopathic physician
33 before January 1, 1995 from being licensed under this chapter if
34 the person:

35 A. Is not licensed as a health care provider under any
36 other law of this State;

37 B. Derives the majority of their earned income from the
38 practice of naturopathic medicine; and

39 C. Applies for a license in a manner prescribed by the
40 board on or before March 1, 1996.

41 A person licensed pursuant to this subsection is subject to all
42 eligibility requirements to practice naturopathic medicine

2 pursuant to section 14708, except that the person is exempt from
3 section 14708, subsection 1, paragraph A, subparagraph (1).

4 A person licensed pursuant to this subsection may practice
5 naturopathic medicine within a scope of practice that reflects
6 the limits of that person's training and experience as determined
7 and approved by the board.

8
9 **§14705. Public health authority and responsibility**

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11 A naturopathic physician is a licensed physician and has the
12 same authority and responsibility as other licensed physicians
13 regarding public health laws, reportable disease and conditions,
14 communicable disease control and prevention, recording of vital
15 statistics, health and physical examinations and local boards of
16 health, except that this authority is limited to activity
17 consistent with the scope of practice authorized by this chapter.

18
19 **§14706. Naturopathic Board of Examiners**

20
21 **1. Membership.** The Naturopathic Board of Examiners as
22 established in Title 5, section 12004-A, subsection 46 consists
23 of 5 members appointed by the Governor. Three of the 5 members
24 must be naturopathic physicians who are graduates of an approved
25 naturopathic college. Beginning 3 years after the effective date
26 of this section, the 3 naturopathic physician members must have
27 been residents in this State for 3 years immediately preceding
28 the appointment and must have been engaged in the practice of
29 naturopathic medicine in this State, under license issued in this
30 State, for the 3 years immediately preceding the appointment.
31 Two of the members must be representatives of the public who are
32 at least 18 years of age, have been residents of this State for 5
33 years immediately preceding the appointment, are not connected in
34 any manner with or have any interest in a school of medicine,
35 health care institution or a person practicing any form of
36 healing or treatment of bodily or mental ailments and
37 demonstrates an interest in the health problems in this State.

38
39 **2. Terms of office.** Each appointment is for a term of 6
40 years for board members who are naturopathic physicians and 2
41 years for public members, except that of the initial board
42 appointees, one naturopathic physician member must be appointed
43 for a term of 6 years, one naturopathic physician member must be
44 appointed for a term of 4 years, one naturopathic physician
45 member must be appointed for a term of 2 years, one public member
46 must be appointed for a term of 3 years and one public member
47 must be appointed for a term of 2 years. A member may be removed
48 from office by the Governor if the Governor finds that the member
49 was guilty of malfeasance, misfeasance or dishonorable conduct.

2 3. Liability. There is no monetary liability on the part
4 of and no cause of action may arise against the members of the
6 board or personnel of the board for any act done or any
8 proceeding undertaken or performed in good faith and in
10 furtherance of the purposes of this chapter.

12 4. Meetings. The board shall meet at least semiannually.
14 The board may hold any special meetings it considers necessary.

16 5. Quorum. Three members of the board constitute a quorum
18 for the transaction of business.

20 6. Compensation. The board is not entitled to compensation
22 for its service.

24 **§14707. Powers and duties of the board**

26 1. Duties. The board shall:

28 A. Make and adopt rules necessary to administer this
30 chapter;

32 B. Determine fees for licensure, for application to take
34 the licensing examination pursuant to section 14708 and for
36 renewal of license under section 14710;

38 C. Ensure that naturopathic physicians serving the public
40 meet minimum standards of proficiency and competency to
42 protect the health, safety and welfare of the public;

44 D. Administer and enforce all provisions of this chapter
46 pertaining to licensees and applicants and all rules adopted
48 by the board under the authority granted in this chapter;

50 E. Maintain an accurate account of all receipts,
expenditures and refunds granted under this chapter;

F. Maintain a record of its acts and proceedings, including
the issuance, refusal, renewal, suspension or revocation of
licenses;

G. Maintain a roster of all naturopathic physicians
licensed under this chapter that indicates:

(1) The name of the licensee;

(2) The licensee's current professional office address;

(3) The date of issuance and the number of the
licensee's license; and

2 (4) Whether the licensee is in good standing with the
3 board, including:

4 (a) Any specialty certification that may be
5 required by the board;

6 (b) Any restrictions or limitations to an
7 individual's license;

8 (c) A record of any revocation or suspension of a
9 licensee; and

10 (d) Any information that the board directs must
11 be included in a member's record;

12 H. Keep all applications for licensure as a permanent
13 record;

14 I. Maintain a permanent record of the results of all the
15 examinations it gives;

16 J. Keep all records of examination it gives including
17 written examination records and tape recordings of the
18 questions and answers in oral exams;

19 K. Keep the records of the board open to public inspection
20 at all reasonable times;

21 L. Adopt and use a seal, the imprint of which, together
22 with the signatures of the chair or vice-chair and the
23 secretary-treasurer of the board, shall evidence its
24 official acts; and

25 M. Annually compile and publish a directory.

26 2. Appointment of personnel. The board may appoint
27 qualified personnel to administer any part of or all of any
28 examination provided for under this chapter.

29 3. Subpoena power; administration of oaths; compel
30 production of documents. The board may subpoena witnesses and
31 administer oaths in any hearing or disciplinary proceedings and
32 compel, by subpoena duces tecum, the production of papers and
33 records.

34 4. Witness fees. A witness summoned before the board must
35 be paid the same fee as a witness summoned to appear before the
36 Superior Court and that summons has the same effect as though
37 issued for appearance before the Superior Court.

2 **§14708. Qualification for licensure**

4 **1. Qualification for licensure.** To be eligible for a
6 license to practice naturopathic medicine, the applicant must:

8 A. Be a graduate of:

10 (1) An approved naturopathic medical college and pass
12 a competency-based examination prescribed by the board,
14 covering the appropriate naturopathic subjects; or

16 (2) A naturopathic medical college that is approved by
18 the board as having appropriate education standards for
20 naturopathic medical programs that granted degrees
22 before 1986;

24 B. Possess a good ethical and professional reputation;

26 C. Be physically and mentally fit to practice naturopathic
28 medicine;

30 D. Have had no license to practice naturopathic medicine
32 refused, revoked or suspended by any other state or country
34 for reasons that relate to the applicant's ability to
36 skillfully and safely practice naturopathic medicine unless
38 that license has been restored to good standing by that
40 state or country; and

42 E. File an application and pay the licensing fees.

44 **2. Licensure by reciprocity.** To obtain a license to
46 practice naturopathic medicine by reciprocity, the applicant must:

48 A. Qualify under subsection 1, except that no written
50 examination is required; and

 B. Be licensed to practice naturopathic medicine by another
 state or the District of Columbia that requires a written
 examination substantially equivalent to the written
 examination required by the board.

§14709. Rulemaking

The board shall adopt rules governing:

1. Practice. The practice of naturopathic health care;

2. Naturopathic medical assistants. Naturopathic medical
 assistants who assist naturopathic physicians, including the

2 qualifications of naturopathic medical assistants who are not
3 otherwise licensed by law;

4 3. Requirements. Further requirements, if necessary, of
5 naturopathic physicians for specialty practice; and

6 4. Other necessary requirements. Any other requirements
7 that are necessary or proper for the administration of this
8 chapter.

9 The board may adopt rules prescribing continuing education
10 requirements for the renewal of licenses issued under this
11 chapter.

12 **§14710. License renewal and continuing education**

13 1. License renewal. A license to practice naturopathic
14 medicine must be renewed biennially. A fee in the amount
15 determined by the board must accompany the application for
16 renewal.

17 2. Continuing education. When renewing a license, a
18 naturopathic physician must submit to the board evidence of
19 successful completion of the requisite hours of continuing
20 education approved by the board during the biennial period.

21 **§14711. Enforcement and penalties**

22 1. Unlicensed person. A person not licensed pursuant to
23 this chapter who professes to be a naturopathic physician or
24 suggests in any way that the person practices naturopathic
25 medicine is guilty of a misdemeanor for each offense. A person
26 who violates this subsection may be enjoined by the Superior
27 Court on petition by the board.

28 2. Noncompliance. A person licensed pursuant to this
29 chapter who engages in the practice of naturopathic medicine
30 without complying with this chapter is subject to disciplinary
31 measures and may be subject to refused renewal, limitation,
32 revocation or suspension of the license to practice naturopathic
33 medicine.

34 **§14712. Administrative services**

35 The Department of Human Services shall provide
36 administrative services to the board. The board is responsible
37 for all administrative services and must be reimbursed by fees
38 collected by the board.

39 **Sec. 3. Effective date.** This Act takes effect January 1, 1996.

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STATEMENT OF FACT

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This bill provides for the licensure of naturopathic physicians and:

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1. Delineates licensing and licensing renewal criteria;

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2. Sets forth the scope of practice;

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3. Establishes the Naturopathic Board of Examiners;

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4. Sets forth the powers and duties of the board, including rule-making authority; and

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18

5. Provides for enforcement and penalties under the Maine Revised Statutes, Title 32, chapter 130.