

NATUROPATHIC PRACTICE ACT AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill modifies the Naturopathic Physician Practice Act by amending definitions and membership of a naturopathic formulary advisory peer committee.

Highlighted Provisions:

This bill:

- ▶ permits a naturopath to administer certain percutaneous injections;
- ▶ adds a licensed physician to the naturopathic formulary advisory 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 2012, Chapter 117

58-71-202, as last amended by Laws of Utah 2005, Chapter 73

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

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

58-71-102. Definitions.

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

30 ~~[(2)]~~ (1) "Acupuncture" has the same definition as in Section 58-72-102.

31 ~~[(1)]~~ (2) "Administrative penalty" means a monetary fine imposed by the division for
32 acts or omissions determined to constitute unprofessional or unlawful conduct, as a result of an
33 adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative
34 Procedures Act.

35 (3) "Board" means the Naturopathic Physicians Licensing Board created in Section
36 58-71-201.

37 (4) "Diagnose" means:

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

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

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

46 (d) to make an examination or determination as described in Subsection (4)(a) upon or
47 from information supplied directly or indirectly by another person, whether or not in the
48 presence of the person making or attempting the diagnosis or examination.

49 (5) "Local anesthesia" means an agent, whether a natural medicine or nonscheduled
50 prescription drug, which:

51 (a) is applied topically or by injection [~~in superficial tissues~~] associated with the
52 performance of minor office procedures;

53 (b) has the ability to produce loss of sensation at the site of minor office procedures;
54 and

55 (c) does not cause loss of consciousness or produce general sedation.

56 (6) "Medical naturopathic assistant" means an unlicensed individual working under the
57 direct and immediate supervision of a licensed naturopathic physician and engaged in specific

58 tasks assigned by the licensed naturopathic physician in accordance with the standards and
59 ethics of the profession.

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

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

63 (ii) removal of foreign bodies located in the superficial tissues, excluding the eye or
64 ear; [~~and~~]

65 (iii) the use of antiseptics and local anesthetics in connection with minor office surgical
66 procedures[-]; and

67 (iv) if approved by the United States Food and Drug Administration, percutaneous
68 injection into skin, tendons, ligaments, muscles, and joints with:

69 (A) local anesthetics and nonscheduled prescription medications; and

70 (B) natural substances.

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

72 (i) general or spinal anesthesia;

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

75 (iii) procedures involving the eye; [~~or~~] and

76 (iv) any office procedure involving tendons, nerves, veins, or arteries.

77 (8) "Natural medicine" means:

78 (a) food, food extracts, dietary supplements as defined by the federal Food, Drug, and
79 Cosmetics Act, all homeopathic remedies, and plant substances that are not designated as
80 prescription drugs or controlled substances;

81 (b) over-the-counter medications;

82 (c) other nonprescription substances, the prescription or administration of which is not
83 otherwise prohibited or restricted under federal or state law;

84 (d) prescription drugs:

85 (i) that, except as provided in Subsection (8)(e), are not controlled substances as

86 defined in Section 58-37-2;

87 (ii) the prescription of which is consistent with the competent practice of naturopathic
88 medicine; and

89 (iii) the prescription of which is approved by the division in collaboration with the
90 naturopathic formulary advisory peer committee; and

91 (e) testosterone, if the testosterone is:

92 (i) bio-identical;

93 (ii) designed to be:

94 (A) administered topically, for transdermal absorption; or

95 (B) absorbed across the mucosal membranes of the mouth; and

96 (iii) prescribed or administered, in accordance with the requirements of federal and
97 state law, solely for the purpose of treating a patient with a low testosterone level in order to
98 restore the patient to a normal testosterone level.

99 (9) (a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a
100 naturopathic physician, and includes the use of:

101 (i) natural medicines; and

102 (ii) uncomplicated episiotomy.

103 (b) "Naturopathic childbirth" does not include the use of:

104 (i) forceps delivery;

105 (ii) general or spinal anesthesia;

106 (iii) caesarean section delivery; or

107 (iv) induced labor or abortion.

108 (10) "Naturopathic mobilization therapy":

109 (a) means manually administering mechanical treatment of body structures or tissues
110 for the purpose of restoring normal physiological function to the body by normalizing and
111 balancing the musculoskeletal system of the body;

112 (b) does not mean manipulation or adjustment of the joints of the human body beyond
113 the elastic barrier; and

114 (c) does not include manipulation as ~~defined~~ used in Title 58, Chapter 73,
115 Chiropractic Physician Practice Act.

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

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

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

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

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

127 (A) the licensee meets standards of the American College of Naturopathic
128 Obstetricians (ACNO) or its successor as determined by the division in collaboration with the
129 board; and

130 (B) the licensee follows a written plan for naturopathic physicians practicing
131 naturopathic childbirth approved by the division in collaboration with the board, which
132 includes entering into an agreement with a consulting physician and surgeon or osteopathic
133 physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and
134 specialty care and delivery is indicated, detailing the guidelines by which the naturopathic
135 physician will:

136 (I) refer patients to the consulting physician; and

137 (II) consult with the consulting physician;

138 (ii) using naturopathic mobilization therapy;

139 (iii) using naturopathic physical medicine;

140 (iv) using minor office procedures;

141 (v) prescribing or administering natural medicine;

- 142 (vi) prescribing medical equipment and devices, diagnosing by the use of medical
143 equipment and devices, and administering therapy or treatment by the use of medical devices
144 necessary and consistent with the competent practice of naturopathic medicine;
- 145 (vii) prescribing barrier devices for contraception;
- 146 (viii) using dietary therapy;
- 147 (ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and
148 physiological function tests;
- 149 (x) taking of body fluids for clinical laboratory tests and using the results of the tests in
150 diagnosis;
- 151 (xi) taking of a history from and conducting of a physical examination upon a human
152 patient; and
- 153 (xii) prescribing and administering natural medicines and medical devices, except a
154 naturopathic physician may only administer:
- 155 (A) a prescription drug, as defined in Section [58-17b-102](#), in accordance with
156 Subsection (8)(d); and
- 157 (B) local anesthesia that is not a controlled substance, and only in the performance of
158 minor office procedures;
- 159 (b) to maintain an office or place of business for the purpose of doing any of the acts
160 described in Subsection (12)(a), whether or not for compensation; or
- 161 (c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
162 treatment of human diseases or conditions, in any printed material, stationery, letterhead,
163 envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic
164 doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy,"
165 "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care,"
166 "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that
167 might cause a reasonable person to believe the individual using the designation is a licensed
168 naturopathic physician.
- 169 (13) "Prescribe" means to issue a prescription:

- 170 (a) orally or in writing; or
- 171 (b) by telephone, facsimile transmission, computer, or other electronic means of
- 172 communication as defined by division rule.

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

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

180 (16) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-71-501.

181 (17) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-71-502, and
182 as may be further defined by division rule.

183 Section 2. Section 58-71-202 is amended to read:

184 **58-71-202. Naturopathic formulary peer committee.**

185 (1) The division shall establish a naturopathic formulary advisory peer committee
186 under Subsection 58-1-203(1)(f) to make recommendations to the board for the naturopathic
187 formulary which shall:

188 (a) consist of noncontrolled legend medications deemed appropriate for the scope of
189 practice of naturopathic physicians; and

190 (b) include all homeopathic remedies.

191 (2) The committee shall consist of five members:

192 (a) one naturopathic physician who is a member of the board;

193 (b) ~~three~~ two naturopathic physicians who are not members of the board; ~~and~~

194 (c) one licensed pharmacist who is also a pharmacognosist~~[-];~~ and

195 (d) one physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68,
196 Utah Osteopathic Medical Practice Act.

197 (3) The committee members shall:

- 198 (a) be appointed by the director of the division;
- 199 (b) be appointed and serve in accordance with Section [58-1-201](#), except as those
- 200 provisions are modified by this section; and
- 201 (c) serve without compensation, travel costs, or per diem for their services.
- 202 (4) The committee and the division may seek input from other licensing boards.