

**Senator J. Stuart Adams** proposes the following substitute bill:

**NATUROPATHIC PRACTICE ACT AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: J. Stuart Adams**

House Sponsor: Michael S. Kennedy

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**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

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

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

28 **58-71-102. Definitions.**

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

30 ~~[(2)]~~ (1) "Acupuncture" has the same ~~[definition as]~~ meaning as described under the  
31 definition of the "practice of acupuncture" in Section **58-72-102**.

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

36 (3) "Board" means the Naturopathic Physicians Licensing Board created in Section  
37 **58-71-201**.

38 (4) "Diagnose" means:

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

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

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

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

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

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

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

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

57 (6) "Medical naturopathic assistant" means an unlicensed individual working under the  
58 direct and immediate supervision of a licensed naturopathic physician and engaged in specific  
59 tasks assigned by the licensed naturopathic physician in accordance with the standards and  
60 ethics of the profession.

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

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

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

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

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

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

71 (B) natural substances.

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

73 (i) general or spinal anesthesia;

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

75 (7)(a);

76 (iii) procedures involving the eye; or

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

78 (8) "Natural medicine" means:

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

82 (b) over-the-counter medications;

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

85 (d) prescription drugs:

86 (i) that, except as provided in Subsection (8)(e), are not controlled substances as  
87 defined in Section 58-37-2;

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

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

92 (e) testosterone, if the testosterone is:

93 (i) bio-identical;

94 (ii) designed to be:

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

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

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

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

102 (i) natural medicines; and

103 (ii) uncomplicated episiotomy.

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

105 (i) forceps delivery;

106 (ii) general or spinal anesthesia;

107 (iii) caesarean section delivery; or

108 (iv) induced labor or abortion.

109 (10) "Naturopathic mobilization therapy":

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

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

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

117 (11) (a) "Naturopathic physical medicine" means the use of the physical agents of air,  
118 water, heat, cold, sound, light, and electromagnetic nonionizing radiation, and the physical

119 modalities of electrotherapy, acupuncture, diathermy, ultraviolet light, ultrasound,  
120 hydrotherapy, naturopathic mobilization therapy, and exercise.

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

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

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

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

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

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

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

138 (II) consult with the consulting physician;

139 (ii) using naturopathic mobilization therapy;

140 (iii) using naturopathic physical medicine;

141 (iv) using minor office procedures;

142 (v) prescribing or administering natural medicine;

143 (vi) prescribing medical equipment and devices, diagnosing by the use of medical  
144 equipment and devices, and administering therapy or treatment by the use of medical devices  
145 necessary and consistent with the competent practice of naturopathic medicine;

146 (vii) prescribing barrier devices for contraception;

147 (viii) using dietary therapy;

148 (ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and  
149 physiological function tests;

150 (x) taking of body fluids for clinical laboratory tests and using the results of the tests in  
151 diagnosis;

152 (xi) taking of a history from and conducting of a physical examination upon a human  
153 patient; and

154 (xii) prescribing and administering natural medicines and medical devices, except a  
155 naturopathic physician may only administer:

156 (A) a prescription drug, as defined in Section 58-17b-102, in accordance with  
157 Subsection (8)(d); and

158 (B) local anesthesia that is not a controlled substance, and only in the performance of  
159 minor office procedures;

160 (b) to maintain an office or place of business for the purpose of doing any of the acts  
161 described in Subsection (12)(a), whether or not for compensation; or

162 (c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or  
163 treatment of human diseases or conditions, in any printed material, stationery, letterhead,  
164 envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic  
165 doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy,"  
166 "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care,"  
167 "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that  
168 might cause a reasonable person to believe the individual using the designation is a licensed  
169 naturopathic physician.

170 (13) "Prescribe" means to issue a prescription:

171 (a) orally or in writing; or

172 (b) by telephone, facsimile transmission, computer, or other electronic means of  
173 communication as defined by division rule.

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

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

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

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

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

185 **58-71-202. Naturopathic formulary peer committee.**

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

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

191 (b) include all homeopathic remedies.

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

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

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

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

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

198 (3) The committee members shall:

199 (a) be appointed by the director of the division;

200 (b) be appointed and serve in accordance with Section 58-1-201, except as those  
201 provisions are modified by this section; and

202 (c) serve without compensation, travel costs, or per diem for their services.

203 (4) The committee and the division may seek input from other licensing boards.