

1 **NATUROPATHIC PRACTICE ACT AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: J. Stuart Adams**

5 House Sponsor: Michael S. Kennedy

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ permits a naturopath to:
- 14 • under the general supervision of a physician, prescribe tramadol to a patient; and
 - 15 • administer certain percutaneous injections;
- 16 ▶ adds a licensed physician to the naturopathic formulary advisory peer committee;

17 and

- 18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **58-71-102**, as last amended by Laws of Utah 2012, Chapter 117

26 **58-71-202**, as last amended by Laws of Utah 2005, Chapter 73



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

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

30 **58-71-102. Definitions.**

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

32 [~~2~~] (1) "Acupuncture" has the same [~~definition as~~] meaning as described under the
33 definition of the "practice of acupuncture" in Section **58-72-102**.

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

38 (3) "Board" means the Naturopathic Physicians Licensing Board created in Section
39 **58-71-201**.

40 (4) "Diagnose" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

70 (iv) ~~Ŝ~~ **→ if approved by the United States Food and Drug Administration, ←Ŝ**
 70a percutaneous injection into skin, tendons, ligaments, muscles, and joints with:

71 (A) local anesthetics and nonscheduled prescription medications ~~Ŝ~~ **→ [if approved by the**
 72 **United States Food and Drug Administration for administration by injection]** ~~←Ŝ~~ ; and

73 (B) natural substances.

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

75 (i) general or spinal anesthesia;

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

78 (iii) procedures involving the eye; or

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

80 (8) "Natural medicine" means:

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

84 (b) over-the-counter medications;

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

87 (d) prescription drugs:

88 (i) that, except as provided in ~~[Subsection]~~ Subsections (8)(e) and (f), are not
 89 controlled substances as defined in Section [58-37-2](#);

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

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

94 (e) testosterone, if the testosterone is:

95 (i) bio-identical;

96 (ii) designed to be:

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

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

99 (iii) prescribed or administered, in accordance with the requirements of federal and
 100 state law, solely for the purpose of treating a patient with a low testosterone level in order to
 101 restore the patient to a normal testosterone level[-]; and

102 (f) tramadol, if the tramadol is prescribed and administered:

103 (i) under the general supervision of a physician licensed as described in ~~§~~ → [Subsection

104 ~~58-71-202(2)(d)] Section 58-67-102 ←~~§~~ ; and~~

105 (ii) in accordance with the requirements of federal and state law, solely for the purpose
 106 prescribed.

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

109 (i) natural medicines; and

110 (ii) uncomplicated episiotomy.

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

112 (i) forceps delivery;

113 (ii) general or spinal anesthesia;

114 (iii) caesarean section delivery; or

115 (iv) induced labor or abortion.

116 (10) "Naturopathic mobilization therapy":

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

120 (b) does not mean manipulation or adjustment of the joints of the human body beyond

121 the elastic barrier; and

122 (c) does not include manipulation as [~~defined~~] used in Title 58, Chapter 73,
123 Chiropractic Physician Practice Act.

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

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

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

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

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

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

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

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

145 (II) consult with the consulting physician;

146 (ii) using naturopathic mobilization therapy;

147 (iii) using naturopathic physical medicine;

148 (iv) using minor office procedures;

149 (v) prescribing or administering natural medicine;

150 (vi) prescribing medical equipment and devices, diagnosing by the use of medical

151 equipment and devices, and administering therapy or treatment by the use of medical devices

152 necessary and consistent with the competent practice of naturopathic medicine;

153 (vii) prescribing barrier devices for contraception;

154 (viii) using dietary therapy;

155 (ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and

156 physiological function tests;

157 (x) taking of body fluids for clinical laboratory tests and using the results of the tests in

158 diagnosis;

159 (xi) taking of a history from and conducting of a physical examination upon a human

160 patient; and

161 (xii) prescribing and administering natural medicines and medical devices, except a

162 naturopathic physician may only administer:

163 (A) a prescription drug, as defined in Section [58-17b-102](#), in accordance with

164 Subsection (8)(d); and

165 (B) local anesthesia that is not a controlled substance, and only in the performance of

166 minor office procedures;

167 (b) to maintain an office or place of business for the purpose of doing any of the acts

168 described in Subsection (12)(a), whether or not for compensation; or

169 (c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or

170 treatment of human diseases or conditions, in any printed material, stationery, letterhead,

171 envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic

172 doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy,"

173 "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care,"

174 "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that

175 might cause a reasonable person to believe the individual using the designation is a licensed

176 naturopathic physician.

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

178 (a) orally or in writing; or

179 (b) by telephone, facsimile transmission, computer, or other electronic means of

180 communication as defined by division rule.

181 (14) "Prescription device" means an instrument, apparatus, implement, machine,

182 contrivance, implant, in vitro reagent, or other similar or related article, and any component

183 part or accessory, which is required under federal or state law to be prescribed by a practitioner
184 and dispensed by or through a person or entity licensed under this chapter or exempt from
185 licensure under this chapter.

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

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

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

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

192 **58-71-202. Naturopathic formulary peer committee.**

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

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

198 (b) include all homeopathic remedies.

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

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

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

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

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

205 (3) The committee members shall:

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

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

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

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

Legislative Review Note
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Office of Legislative Research and General Counsel