

## SB0154S01 compared with SB0154

~~text~~ shows text that was in SB0154 but was deleted in SB0154S01.

text shows text that was not in SB0154 but was inserted into SB0154S01.

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Senator Michael S. Kennedy proposes the following substitute bill:

### NATUROPATHIC PHYSICIAN AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael S. Kennedy**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill modifies the prescribing authority of naturopathic physicians.

##### Highlighted Provisions:

This bill:

- ▶ describes what categories of prescription drugs a naturopathic physician may prescribe;
- ▶ allows the Division of Occupational and Professional Licensing to determine whether a naturopathic physician may prescribe newly created prescription drug categories;
- ▶ repeals the naturopathic formulary peer committee; and
- ▶ makes technical changes.

##### Money Appropriated in this Bill:

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None

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

**58-71-102**, as last amended by Laws of Utah 2014, Chapter 110

**58-71-804**, as last amended by Laws of Utah 2009, Chapter 42

#### ENACTS:

**58-71-203, Utah Code Annotated 1953**

#### REPEALS:

**58-71-202**, as last amended by Laws of Utah 2014, Chapter 110

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*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:

(1) "Acupuncture" [~~has the same definition as~~] means the same as that term is defined in Section 58-72-102.

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

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

(4) "Diagnose" means:

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

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

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

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

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

~~{~~ ~~—~~ ~~(5) "Local anesthesia" means a natural medicine that:~~

~~‡~~ (a) is applied topically or by injection associated with the performance of minor office procedures;

(b) has the ability to produce loss of sensation ~~[at the site of minor office procedures; and]~~ to a targeted area of an individual's body;

(c) does not cause loss of consciousness or produce general sedation~~[-]; and~~

(d) is part of the competent practice of naturopathic medicine during minor office procedures.

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

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

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

(ii) removal of foreign bodies located in the superficial tissues, excluding the eye or ear;

(iii) the use of antiseptics and local anesthetics in connection with minor office surgical procedures; and

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

~~[(A) local anesthetics and nonscheduled prescription medications; and]~~

(A) local anesthesia or a prescription drug described in Subsection (8)(d); or

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(B) natural substances.

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

(i) general or spinal anesthesia;

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

(7)(a);

(iii) procedures involving the eye; and

(iv) any office procedure involving [~~tendons;~~] nerves, veins, or arteries.

(8) "Natural medicine" means any:

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

(a) food, food extract, dietary supplement as defined by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., homeopathic remedy, or plant substance that is not designated a prescription drug or controlled substance;

(b) over-the-counter [~~medications~~] medication;

(c) other nonprescription [~~substances~~] substance, the prescription or administration of which is not otherwise prohibited or restricted under federal or state law; or

~~{ (d) prescription drug that is not any of the following as determined by the federal Food and Drug Administration:~~

~~—— (i) a controlled substance except for tramadol and testosterone;~~

~~—— (ii) an antineoplastic;~~

~~—— (iii) an antipsychotic;~~

~~—— (iv) a barbiturate;~~

~~—— (v) a cytotoxic;~~

~~—— (vi) a sedative;~~

~~—— (vii) a sleeping drug; and~~

~~—— (viii) a tranquilizer.~~

~~‡ [(d) prescription drugs:]~~

~~[(i) that, except as provided in Subsection (8)(c), are not controlled substances as defined in Section 58-37-2;]~~

~~[(ii) the prescription of which is consistent with the competent practice of naturopathic~~

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medicine; and]

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

~~[(e) testosterone, if the testosterone is:]~~

~~[(f) bio-identical;]~~

~~[(ii) designed to be:]~~

~~[(A) administered topically, for transdermal absorption; or]~~

~~[(B) absorbed across the mucosal membranes of the mouth; and]~~

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

(d) prescription drug:

(i) the prescription of which is consistent with the competent practice of naturopathic medicine; and

(ii) that is not any of the following as determined by the federal Food and Drug Administration's general drug category list:

(A) a controlled substance except for testosterone;

(B) an anticoagulant for the management of a bleeding disorder;

(C) an anticonvulsant;

(D) an antineoplastic;

(E) an antipsychotic;

(F) a barbiturate;

(G) a cytotoxic;

(H) a sedative;

(I) a sleeping drug;

(J) a tranquilizer; and

(K) any drug category added after April 1, 2022, unless the division determines the drug category to be consistent with the practice of naturopathic medicine under Section 58-71-203.

(9) (a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a naturopathic physician~~[-and includes the use of:]~~.

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(b) "Naturopathic childbirth" includes the use of:

- (i) natural medicines; and
- (ii) uncomplicated episiotomy.

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

- (i) forceps delivery;
- (ii) general or spinal anesthesia;
- (iii) caesarean section delivery; or
- (iv) induced labor or abortion.

(10) (a) "Naturopathic mobilization therapy"~~["(a)"]~~ means manually administering mechanical treatment of body structures or tissues for the purpose of restoring normal physiological function to the body by normalizing and balancing the musculoskeletal system of the body;

(b) "Naturopathic mobilization therapy" does not mean manipulation or adjustment of the joints of the human body beyond the elastic barrier; and

(c) "Naturopathic mobilization therapy" does not include manipulation as used in Title 58, Chapter 73, Chiropractic Physician Practice Act.

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

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

(12) "Practice of naturopathic medicine" means:

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

(i) using naturopathic childbirth, but only if:

(A) the licensee meets standards of the American College of Naturopathic Obstetricians (ACNO) or ~~[its]~~ ACNO's successor as determined by the division in collaboration with the board; and

(B) the licensee follows a written plan for naturopathic physicians practicing

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naturopathic childbirth approved by the division in collaboration with the board, which includes entering into an agreement with a consulting physician and surgeon or osteopathic physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and specialty care and delivery is indicated, detailing the guidelines by which the naturopathic physician will:

- (I) refer patients to the consulting physician; and
- (II) consult with the consulting physician;
  - (ii) using naturopathic mobilization therapy;
  - (iii) using naturopathic physical medicine;
  - (iv) using minor office procedures;
  - (v) prescribing or administering natural medicine;
  - (vi) prescribing medical equipment and devices, diagnosing by the use of medical equipment and devices, and administering therapy or treatment by the use of medical devices necessary and consistent with the competent practice of naturopathic medicine;
  - (vii) prescribing barrier devices for contraception;
  - (viii) using dietary therapy;
  - (ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and physiological function tests;
  - (x) taking of body fluids for clinical laboratory tests and using the results of the tests in diagnosis;
  - (xi) taking of a history from and conducting of a physical examination upon a human patient; and
  - ~~[(xii) prescribing and administering natural medicines and medical devices, except a naturopathic physician may only administer:]~~
- ~~[(A) a prescription drug, as defined in Section 58-17b-102, in accordance with Subsection (8)(d); and]~~
- ~~[(B) local anesthesia that is not a controlled substance, and only in the performance of minor office procedures;]~~
- (xii) administering local anesthesia during the performance of a minor office procedure.
- (b) to maintain an office or place of business for the purpose of doing any of the acts

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

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

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

(a) orally or in writing; or

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

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

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

(16) "Unlawful conduct" [~~is as defined in~~] means the same as that term is defined in Sections 58-1-501 and 58-71-501.

(17) "Unprofessional conduct" [~~is as defined in~~] means the same as that term is defined in Sections 58-1-501 and 58-71-502, and as may be further defined by division rule.

Section 2. Section ~~{58-71-804}~~ 58-71-203 is ~~{amended to read:~~  
enacted to read:

### 58-71-203. Drug category review.

(1) As used in this section, "FDA" means the federal Food and Drug Administration.

(2) After April 1, 2022, if the FDA adds a new drug category to the FDA's general drug category list, the division shall determine whether the drug category is consistent with the practice of naturopathic medicine.



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(3) To make the determination described in Subsection (2), the division shall consult with:

(a) the board; and

(b) the board described in Section 58-67-201.

(4) In accordance with Title 63, Part 3, Utah Administrative Rulemaking Act, the division shall make rules to implement this section.

Section 3. Section 58-71-804 is amended to read:

**58-71-804. Insurance coverage not mandated.**

(1) This chapter does not mandate health insurance coverage for naturopathic medical services.

(2) This chapter does not establish a class of health care providers for the purposes of Section 31A-22-618.

(3) This chapter does not mandate health insurance coverage for the prescription or administration of testosterone~~[, as described in Subsection 58-71-102(8)(c),]~~ by a naturopathic physician.

Section ~~3~~4. **Repealer.**

This bill repeals:

Section **58-71-202, Naturopathic formulary peer committee.**