

By Senator Campbell

32-419-03

1 A bill to be entitled
2 An act relating to the practice of naturopathic
3 medicine; redesignating ch. 462, F.S., as
4 "Naturopathic Medicine," rather than
5 "Naturopathy"; creating s. 462.001, F.S.;
6 providing legislative findings and purpose;
7 amending s. 462.01, F.S.; defining and
8 redefining terms used in ch. 462, F.S.;
9 creating s. 462.0215, F.S.; creating the Board
10 of Naturopathic Medicine; providing membership
11 and duties of the board; providing guidelines
12 for probable cause panels and disciplinary
13 decisions; providing applicability of ch. 456,
14 F.S.; amending ss. 462.023, 462.13, 462.14,
15 462.19, F.S.; providing duties of the board
16 and the Department of Health; amending s.
17 462.08, F.S.; conforming terminology; revising
18 the maximum amount of the biennial license fee;
19 amending s. 462.11, F.S.; conforming
20 terminology; amending s. 462.13, F.S.;
21 conforming terminology; providing duties of the
22 board; providing additional duties of the
23 Department of Health; providing requirements
24 for license applications; providing conditions
25 under which applications are considered
26 withdrawn; amending s. 462.14, F.S.; amending
27 grounds for disciplinary action; authorizing
28 the department to file a petition for
29 enforcement, as specified; defining terms;
30 reassigning certain department responsibilities
31 to the board; providing for rulemaking;

1 providing evidentiary standards; allowing the
2 Division of Medical Quality Assurance to bring
3 a legal action in certain circumstances;
4 providing for investigations by the department;
5 providing procedures; providing requirements
6 for orders; amending ss. 462.16, 462.17, F.S.;
7 conforming terminology; amending s. 462.18,
8 F.S., relating to educational requirements;
9 providing that the section applies only to
10 naturopathic physicians licensed before a
11 specified date; providing that certain rights
12 and privileges are retained; creating s.
13 462.195, F.S.; providing requirements for
14 licensure as a naturopathic physician;
15 providing grounds for denying or restricting
16 licenses; providing for the applicability of
17 certain rights to naturopathic physicians who
18 have certain qualifications; creating s.
19 462.196, F.S.; providing educational
20 requirements for naturopathic physicians
21 licensed after a specified date; providing
22 exemptions from licensure requirements;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Chapter 462, Florida Statutes, which is
28 presently entitled "Naturopathy," is redesignated as
29 "Naturopathic Medicine."

30 Section 2. Section 462.001, Florida Statutes, is
31 created to read:

1 462.001 Legislative findings; purpose.--The
2 Legislature finds that the practice of naturopathic medicine
3 by unskilled and incompetent practitioners presents a danger
4 to the public health and safety. The Legislature further finds
5 that it is difficult for the public to make an informed choice
6 about doctors of naturopathic medicine or naturopathic
7 physicians and that the consequences of a wrong choice could
8 seriously endanger the public's health and safety. The sole
9 legislative purpose for enacting this chapter is to ensure
10 that each doctor of naturopathic medicine or naturopathic
11 physician practicing in this state meets minimum requirements
12 for safe practice. It is the intent of the Legislature that
13 doctors of naturopathic medicine or naturopathic physicians
14 who fall below minimum competency or who otherwise present a
15 danger to the public health be prohibited from practicing in
16 this state.

17 Section 3. Section 462.01, Florida Statutes, is
18 amended to read:

19 462.01 Definitions.--As used in this chapter, the
20 term:

21 (1) "Approved clinical training program" or "clinical
22 training program," means a program for naturopathic medical
23 students in which the training occurred or is being conducted
24 by or in conjunction with an approved school of naturopathic
25 medicine.

26 (2) "Approved internship program" or "internship"
27 means a program of training to practice naturopathic medicine
28 which has been approved for internship training for physicians
29 or for graduates of a school of naturopathic medicine by the
30 board or has been approved or accredited by an educational or
31 professional association recognized by the board or approved

1 by another state's or country's licensing agency recognized by
2 the board.

3 (3) "Approved postdoctoral training" or "postdoctoral
4 training" means training that is part of a program that has
5 been approved for specialty training or for graduate medical
6 education in naturopathic medicine by the board or approved or
7 accredited by an educational or professional association
8 recognized by the board or by another state's or country's
9 licensing agency recognized by the board. Postdoctorate
10 residency programs in this state must be approved by the
11 Council on Naturopathic Medical Education (CNME) or be a
12 Florida-licensed naturopathic medical school.

13 (4) "Approved preceptorship program" or
14 "preceptorship" means a preceptorship program that has been
15 approved for preceptorship training for physicians or for
16 graduates of a school of naturopathic medicine by the board or
17 has been approved or accredited by an educational or
18 professional association recognized by the board or by another
19 state's or country's licensing agency recognized by the board.

20 (5) "Board" means the Board of Naturopathic Medicine.

21 ~~(1) "Natureopathy" and "Naturopathy" shall be~~
22 ~~construed as synonymous terms and mean the use and practice of~~
23 ~~psychological, mechanical, and material health sciences to aid~~
24 ~~in purifying, cleansing, and normalizing human tissues for the~~
25 ~~preservation or restoration of health, according to the~~
26 ~~fundamental principles of anatomy, physiology, and applied~~
27 ~~psychology, as may be required. Naturopathic practice~~
28 ~~employs, among other agencies, phytotherapy, dietetics,~~
29 ~~psychotherapy, suggestotherapy, hydrotherapy, zone therapy,~~
30 ~~biochemistry, external applications, electrotherapy,~~
31 ~~mechanotherapy, mechanical and electrical appliances, hygiene,~~

1 ~~first aid, sanitation, and heliotherapy; provided, however,~~
2 ~~that nothing in this chapter shall be held or construed to~~
3 ~~authorize any naturopathic physician licensed hereunder to~~
4 ~~practice materia medica or surgery or chiropractic medicine,~~
5 ~~nor shall the provisions of this law in any manner apply to or~~
6 ~~affect the practice of osteopathic medicine, chiropractic~~
7 ~~medicine, Christian Science, or any other treatment authorized~~
8 ~~and provided for by law for the cure or prevention of disease~~
9 ~~and ailments.~~

10 (6)(2) "Department" means the Department of Health.

11 (7) "Doctor of naturopathic medicine" means a person
12 who is licensed to practice naturopathic medicine under this
13 chapter.

14 (8) "Letter of reprimand" means a disciplinary letter
15 that is issued by the board and that informs a person who is
16 regulated under this chapter that the person's conduct
17 violates state or federal law but does not require the board
18 to restrict the person's license, certificate, or registration
19 because the person's conduct did not result in harm to a
20 patient or to the public.

21 (9) "Naturopathic medical student" means a person who
22 is enrolled in a course of study at an approved school of
23 naturopathic medicine.

24 (10) "Naturopathic physician" means a person licensed
25 to practice naturopathic medicine under this chapter. The
26 term, "Doctor of Naturopathic Medicine," or "Naturopath," is
27 synonymous with "Naturopathic Physician," and each term means
28 a practitioner of naturopathic medicine as defined in this
29 section, and is subject to the educational licensing
30 requirements stated in this chapter. "Natureopathy" and
31 "Naturopathy" are synonymous terms.

1 (11) "Practice of naturopathic medicine" means the
2 diagnosis, treatment, operation, or prescription for any human
3 disease, pain, injury, deformity, or other physical or mental
4 condition, which practice is based in part upon educational
5 standards and requirements that emphasize the importance of
6 the natural healing arts and natural processes of the human
7 body. The practice of naturopathic medicine includes the
8 practice of psychological, mechanical, and material health
9 sciences to aid in purifying, cleansing, and normalizing human
10 tissues for the preservation or restoration of health,
11 according to the fundamental principles of anatomy,
12 physiology, and applied psychology, as may be required.
13 Naturopathic practice employs, among other agencies, materia
14 medica, minor surgery, phytotherapy, dietetics, acupuncture,
15 psychotherapy, diathermy, suggestotherapy, natural
16 manipulation and mobilization therapy, hydrotherapy,
17 homeopathy, zone therapy, biochemistry, external applications,
18 electrotherapy, mechanotherapy, mechanical and electrical
19 appliances, hygiene, first aid, sanitation, heliotherapy, and
20 other allied modalities. Naturopathic medicine does not
21 include the practice of chiropractic medicine or osteopathic
22 medicine.

23 Section 4. Section 462.0215, Florida Statutes, is
24 created to read:

25 462.0215 Board of Naturopathic Medicine.--

26 (1) There is created within the department the Board
27 of Naturopathic Medicine, composed of seven members appointed
28 by the Governor and confirmed by the Senate.

29 (2) Five members of the board must be licensed
30 naturopathic physicians in good standing in this state who are
31 residents of the state and who have been engaged in the active

1 practice or teaching of naturopathic medicine for at least 5
2 years, or persons holding a doctorate of naturopathic medicine
3 degree who have been teaching naturopathic medicine at an
4 approved college of naturopathic medicine in the state for at
5 least 1 year immediately preceding their appointments. One of
6 the members of the board must be on the full-time faculty of a
7 naturopathic medical school in this state, one must be a
8 physician who holds both an M.D. and a doctorate of
9 naturopathic medicine, one must be licensed as a chiropractic
10 physician or D.O., and one of the naturopathic physicians must
11 be in private practice at the time of his or her appointment.
12 The remaining two members must be residents of the state who
13 are not, and never have been, licensed health care
14 practitioners. At least one member of the board must be 60
15 years of age or older.

16 (3) As the terms of the members expire, the Governor
17 shall appoint successors for terms of 4 years, and such
18 members shall serve until their successors are appointed.

19 (4) The board, in conjunction with the department,
20 shall establish a disciplinary training program for board
21 members. The program shall provide for initial and periodic
22 training in the grounds for disciplinary action, the actions
23 that may be taken by the board and the department, changes in
24 relevant statutes and rules, and any relevant judicial and
25 administrative decisions. A member of the board may not
26 participate on a probable cause panel or in a disciplinary
27 decision of the board unless he or she has completed the
28 disciplinary training program.

29 (5) During the time members are appointed to a
30 probable cause panel, they shall attempt to complete their
31 work on every case presented to them. If consideration of a

1 case is begun but is not completed during the term of the
2 members on the panel, they may reconvene as a probable cause
3 panel for the purpose of completing their deliberations on
4 that case.

5 (6) All provisions of chapter 456 relating to
6 activities of the board are applicable.

7 Section 5. Section 462.023, Florida Statutes, is
8 amended to read:

9 462.023 Powers and duties of the board
10 ~~department.~~--The board ~~department~~ may adopt such rules as are
11 necessary to carry out the purposes of this chapter, may
12 initiate disciplinary action as provided by this chapter, and
13 shall establish fees based on its estimates of the revenue
14 required to administer this chapter which may ~~but shall~~ not
15 exceed the fee amounts provided in this chapter. ~~The~~
16 ~~department shall not adopt any rules which would cause any~~
17 ~~person who was not licensed in accordance with this chapter on~~
18 ~~July 1, 1959, and had not been a resident of the state for 2~~
19 ~~years prior to such date, to become licensed.~~

20 Section 6. Section 462.08, Florida Statutes, is
21 amended to read:

22 462.08 Renewal of license to practice naturopathic
23 medicine ~~naturopathy.~~--Each licenseholder shall biennially
24 renew her or his license to practice naturopathic medicine
25 ~~naturopathy.~~ The applicant must furnish to the board
26 ~~department~~ such evidence as it requires of the applicant's
27 compliance with s. 462.195 ~~s. 462.18~~, relating to educational
28 requirements. The biennial renewal fee, the amount of which
29 shall be determined by the board ~~department~~ but which may not
30 exceed \$3,000 ~~\$1,000~~, must be paid at the time the application
31 for renewal of the license is filed.

1 Section 7. Section 462.11, Florida Statutes, is
2 amended to read:

3 462.11 Naturopaths to observe regulations.--Doctors of
4 naturopathic medicine ~~naturopathy~~ shall observe and be subject
5 to all state, county, and municipal regulations in regard to
6 the control of contagious and infectious diseases, the
7 reporting of births and deaths, and to any and all other
8 matters pertaining to the public health in the same manner as
9 is required of other practitioners of the healing art.

10 Section 8. Section 462.13, Florida Statutes, is
11 amended to read:

12 462.13 Additional powers and duties of the department
13 and board.--

14 (1) The board and the department may administer oaths,
15 summon witnesses, and take testimony in all matters relating
16 to its duties pursuant to this chapter. Every unrevoked
17 license shall be presumptive evidence in all courts and places
18 that the person therein named is legally licensed to practice
19 naturopathic medicine ~~naturopathy~~. The board and the
20 department shall aid the prosecuting attorneys of the state in
21 the enforcement of this chapter.

22 (2) In addition, the board and the department may:

23 (a) Require an applicant to submit credentials or
24 other written or oral proof;

25 (b) Conduct investigations as it considers proper to
26 adequately advise itself with respect to the qualifications of
27 an applicant;

28 (c) Require that the application contain the oath of
29 the applicant that:

30 1. All information contained in the application and
31 evidence submitted with it are true and correct;

1 2. The credentials submitted were not produced by
2 fraud or misrepresentation or any mistake of which the
3 applicant is aware; and

4 3. The applicant is the lawful holder of the
5 credentials.

6 (3)(a) All applications submitted to the board and any
7 attendant evidence, credentials, or other proof submitted with
8 an application are the property of the board, are part of the
9 permanent record of the board, and may not be returned to a
10 withdrawing applicant.

11 (b) The board shall promptly inform an applicant, in
12 writing, of any deficiencies in the application which prevent
13 it from being considered by the board as a completed
14 application.

15 (c) An applicant who disagrees with the statement of
16 deficiencies and believes that he or she has filed a completed
17 application must submit a request to the board within 30 days
18 and, on request, shall be granted a hearing. The hearing may
19 not be held less than 30 days after the board receives the
20 request but must be held at the first meeting of the board
21 which takes place thereafter. At the hearing, the burden of
22 proof is on the applicant to show that he has filed a
23 completed application.

24 (d) The board may interview the applicant to determine
25 whether the application is sufficient or whether the applicant
26 otherwise qualifies for licensure.

27 (e) Applications are considered withdrawn if the
28 applicant:

- 29 1. Requests that the application be withdrawn;
30 2. Fails to appear for an interview with the board,
31 except for good cause shown;

1 3. Fails to submit a completed application within 1
2 year after the date on which the board mails to him or her a
3 statement of the deficiencies in his or her application;

4 4. Fails to show, at the hearing, that deficiencies do
5 not exist; or

6 5. Fails to show, within 1 year after the interview,
7 that his or her completed application is true and correct.

8 Section 9. Section 462.14, Florida Statutes, is
9 amended to read:

10 462.14 Grounds for disciplinary action; action by the
11 board and the department.--

12 (1) The following acts constitute grounds for denial
13 of a license or disciplinary action, as specified in s.
14 456.072(2):

15 (a) Attempting to obtain, obtaining, or renewing a
16 license to practice naturopathic medicine by bribery, by
17 fraudulent misrepresentation, or through an error of the
18 department or the board.

19 (b) Having a license to practice naturopathic medicine
20 revoked, suspended, or otherwise acted against, including the
21 denial of licensure, by the licensing authority of any
22 jurisdiction or its agencies or subdivisions ~~another state,~~
23 ~~territory, or country.~~ The licensing authority's acceptance of
24 a physician's relinquishment of a license, stipulation,
25 consent order, or other settlement, offered in response to or
26 in anticipation of the filing of administrative charges
27 against the physician's license, constitutes action against
28 the physician's license.

29 (c) Being convicted or found guilty of, or entering a
30 plea of nolo contendere to, regardless of adjudication, ~~of a~~
31 crime in any jurisdiction which directly relates to the

1 practice of naturopathic medicine or to the ability to
2 practice naturopathic medicine. ~~Any plea of nolo contendere~~
3 ~~shall be considered a conviction for purposes of this chapter.~~

4 (d) False, deceptive, or misleading advertising.

5 (e) Advertising, practicing, or attempting to practice
6 under a name other than one's own.

7 (f) Failing to report to the department any person who
8 the licensee knows is in violation of this chapter or of the
9 rules of the department or the board. A treatment provider
10 approved under s. 456.076 shall provide the department or the
11 consultant with information in accordance with the
12 requirements of s. 456.076(3), (4), (5), and (6).

13 (g) Aiding, assisting, procuring, or advising any
14 unlicensed person to practice naturopathic medicine contrary
15 to this chapter or to a rule of the department or the board.

16 (h) Failing to perform any statutory or legal
17 obligation placed upon a licensed naturopathic physician.

18 (i) Making or filing a report which the licensee knows
19 to be false, intentionally or negligently failing to file a
20 report or record required by state or federal law, willfully
21 impeding or obstructing such filing or inducing another person
22 to do so. Such reports or records shall include only those
23 which are signed in the capacity as a licensed naturopathic
24 physician.

25 (j) Paying or receiving any commission, bonus,
26 kickback, or rebate, or engaging in any split-fee arrangement
27 in any form whatsoever with a physician, organization, agency,
28 or person, either directly or indirectly, for patients
29 referred to providers of health care goods and services,
30 including, but not limited to, hospitals, nursing homes,
31 clinical laboratories, ambulatory surgical centers, or

1 pharmacies. The provisions of this paragraph shall not be
2 construed to prevent a naturopathic physician from receiving a
3 fee for professional consultation services.

4 (k) Exercising influence within a patient-physician
5 relationship for purposes of engaging a patient in sexual
6 activity. A patient shall be presumed to be incapable of
7 giving free, full, and informed consent to sexual activity
8 with her or his physician.

9 (l) Making deceptive, untrue, or fraudulent
10 representations in the practice of naturopathic medicine or
11 employing a trick or scheme in the practice of naturopathic
12 medicine when such scheme or trick fails to conform to the
13 generally prevailing standards of treatment in the medical
14 community.

15 (m) Soliciting patients, either personally or through
16 an agent, through the use of fraud, intimidation, undue
17 influence, or a form of overreaching or vexatious conduct. A
18 "solicitation" is any communication which directly or
19 implicitly requests an immediate oral response from the
20 recipient.

21 (n) Failing to keep legible, as defined by rule by the
22 department in consultation with the board,~~written~~ medical
23 records that identify by name and professional title the
24 licensed naturopathic physician or the physician extender and
25 supervising naturopathic physician who are responsible for
26 rendering, ordering, supervising, or billing for each
27 diagnostic or treatment procedure and that justify ~~justifying~~
28 the course of treatment of the patient, including, but not
29 limited to, patient histories;~~;~~examination results;~~;~~test
30 results; records of drugs prescribed; dispensed, or
31 administered; and reports of consultations and

1 ~~hospitalizations, X rays, and records of the prescribing,~~
2 ~~dispensing and administering of drugs.~~

3 (o) Exercising influence on the patient or client in
4 such a manner as to exploit the patient or client for the
5 financial gain of the licensee or of a third party, which
6 shall include, but not be limited to, the promoting or selling
7 of services, goods, appliances, or drugs and the promoting or
8 advertising on any prescription form of a community pharmacy
9 unless the form also states "This prescription may be filled
10 at any pharmacy of your choice."

11 (p) Performing professional services which have not
12 been duly authorized by the patient or client, or her or his
13 legal representative, except as provided in s. 743.064, s.
14 766.103, or s. 768.13.

15 (q) Prescribing, dispensing, administering, mixing, or
16 otherwise preparing a legend drug, including any controlled
17 substance, other than in the course of the naturopathic
18 physician's professional practice. For the purposes of this
19 paragraph, it shall be legally presumed that prescribing,
20 dispensing, administering, mixing, or otherwise preparing
21 legend drugs, including all controlled substances,
22 inappropriately or in excessive or inappropriate quantities is
23 not in the best interest of the patient and is not in the
24 course of the naturopathic physician's professional practice,
25 without regard to her or his intent.

26 (r) Prescribing, dispensing, or administering any
27 medicinal drug appearing on any schedule set forth in chapter
28 893 by the naturopathic physician to herself or himself,
29 except one prescribed, dispensed, or administered to the
30 naturopathic physician by another practitioner authorized to
31 prescribe, dispense, or administer medicinal drugs.

1 (s) Being unable to practice naturopathic medicine
2 with reasonable skill and safety to patients by reason of
3 illness or use of alcohol, drugs, narcotics, chemicals, or any
4 other type of material or as a result of any mental or
5 physical condition. In enforcing this paragraph, the
6 department shall have, upon probable cause, authority to
7 compel a naturopathic physician to submit to a mental or
8 physical examination by physicians designated by the
9 department. If the licensee refuses to comply with such order,
10 the department's order directing such examination may be
11 enforced by filing a petition for enforcement in the circuit
12 court where the licensee resides or does business. The
13 licensee against whom the petition is filed may not be named
14 or identified by initials in any public court records or
15 documents, and the proceedings shall be closed to the public.
16 The department shall be entitled to the summary procedure
17 provided in s. 51.011.~~The failure of a naturopathic physician~~
18 ~~to submit to such an examination when so directed shall~~
19 ~~constitute an admission of the allegations against her or him~~
20 ~~upon which a default and final order may be entered without~~
21 ~~the taking of testimony or presentation of evidence, unless~~
22 ~~the failure was due to circumstances beyond the naturopathic~~
23 ~~physician's control.~~A naturopathic physician affected under
24 this paragraph shall at reasonable intervals be afforded an
25 opportunity to demonstrate that she or he can resume the
26 competent practice of naturopathic medicine with reasonable
27 skill and safety to patients. In any proceeding under this
28 paragraph, neither the record of proceedings nor the orders
29 entered by the department may be used against a naturopathic
30 physician in any other proceeding.
31

1 (t) Gross or repeated malpractice or the failure to
2 practice naturopathic medicine with that level of care, skill,
3 and treatment which is recognized by a reasonably prudent
4 similar physician as being acceptable under similar conditions
5 and circumstances. The ~~board~~ department shall give great
6 weight to the provisions of s. 766.102 when enforcing this
7 paragraph. As used in this paragraph, the term "repeated
8 malpractice" includes, but is not limited to, three or more
9 claims for medical malpractice within the previous 5-year
10 period resulting in indemnities being paid in excess of
11 \$25,000 each to the claimant in a judgment or settlement and
12 which incidents involved negligent conduct by the physician.
13 As used in this paragraph, the term "gross malpractice" or
14 "the failure to practice medicine with that level of care,
15 skill, and treatment which is recognized by a reasonably
16 prudent similar physician as being acceptable under similar
17 conditions and circumstances," shall not be construed so as to
18 require more than one instance, event, or act. Nothing in this
19 paragraph shall be construed to require that a naturopathic
20 physician be incompetent to practice medicine in order to be
21 disciplined pursuant to this paragraph.

22 (u) Performing any procedure or prescribing any
23 therapy which, by the prevailing standards of medical practice
24 in the community, constitutes experimentation on a human
25 subject, without first obtaining full, informed, and written
26 consent.

27 (v) Practicing or offering to practice beyond the
28 scope permitted by law or accepting and performing
29 professional responsibilities which the licensee knows or has
30 reason to know that she or he is not competent to perform. The
31 board may by rule establish standards of practice and

1 standards of care for particular practice settings, including,
2 but not limited to, education and training, equipment and
3 supplies, medications, including anesthetics, assistance of
4 and delegation to other personnel, transfer agreements,
5 sterilization, records, performance of complex or multiple
6 procedures, informed consent, and policy and procedure
7 manuals.

8 (w) Delegating professional responsibilities to a
9 person when the licensee delegating such responsibilities
10 knows or has reason to know that such person is not qualified
11 by training, experience, or licensure to perform them.

12 (x) Violating a lawful order of the board or the
13 department which was previously entered in a disciplinary
14 hearing or failing to comply with a lawfully issued subpoena
15 of the department.

16 (y) Conspiring with another licensee or with any other
17 person to commit an act, or committing an act, which would
18 tend to coerce, intimidate, or preclude another licensee from
19 lawfully advertising her or his services.

20 (z) Procuring, or aiding or abetting in the procuring
21 of, an unlawful termination of pregnancy.

22 (aa) Presigning blank prescription forms.

23 (bb) Prescribing ~~by the naturopathic physician for~~
24 ~~office use~~ any medicinal drug appearing on Schedule II in
25 chapter 893 by the naturopathic physician for office use.

26 (cc) Prescribing, ordering, dispensing, administering,
27 supplying, selling, or giving any drug that is a Schedule II
28 ~~which is an~~ amphetamine or a Schedule II sympathomimetic amine
29 drug, or any a compound thereof, ~~designated pursuant to~~
30 ~~chapter 893 as a Schedule II controlled substance~~ to or for
31 any person except for:

1 1. The treatment of narcolepsy; hyperkinesis;
2 behavioral syndrome ~~in children~~ characterized by the
3 developmentally inappropriate symptoms of moderate to severe
4 distractability, short attention span, hyperactivity,
5 emotional lability, and impulsivity; or drug-induced brain
6 dysfunction.

7 2. The differential diagnostic psychiatric evaluation
8 of depression or the treatment of depression shown to be
9 refractory to other therapeutic modalities.

10 3. The clinical investigation of the effects of such
11 drugs or compounds when an investigative protocol therefor is
12 submitted to, reviewed, and approved by the board ~~department~~
13 before such investigation is begun.

14 ~~(dd)~~ Failing to adequately supervise the activities of
15 licensed practitioners who are acting under the supervision of
16 the naturopathic physician.

17 ~~(ee)~~ ~~(dd)~~ Prescribing, ordering, dispensing,
18 administering, supplying, selling, or giving growth hormones,
19 testosterone or its analogs, human chorionic gonadotropin
20 (HCG), or other hormones for the purpose of muscle building or
21 to enhance athletic performance. For the purposes of this
22 subsection, the term "muscle building" does not include the
23 treatment of injured muscle. A prescription written for the
24 drug products listed above may be dispensed by the pharmacist
25 with the presumption that the prescription is for legitimate
26 medical use.

27 ~~(ff)~~ Prescribing, ordering, dispensing, administering,
28 supplying, selling, or giving amygdalin (laetrile) to any
29 person.

30
31

1 (gg) Misrepresenting or concealing a material fact at
2 any time during any phase of a licensing or disciplinary
3 process or procedure.

4 (hh) Improperly interfering with an investigation or
5 with any disciplinary proceeding.

6 (ii) Failing to report to the department any licensee
7 under this chapter, chapter 458, or chapter 459 who the
8 naturopathic physician knows has violated the grounds for
9 disciplinary action set out in the law under which that person
10 is licensed and who provides health care services in a
11 facility licensed under chapter 395, or a health maintenance
12 organization certificated under part I of chapter 641, in
13 which the naturopathic physician also provides services.

14 (jj) Being found by any court in this state to have
15 provided corroborating written medical expert opinion attached
16 to any statutorily required notice of claim or intent or to
17 any statutorily required response rejecting a claim, without
18 reasonable investigation.

19 (kk) Failing to report to the board, in writing,
20 within 30 days if action as defined in paragraph (b) has been
21 taken against one's license to practice naturopathic medicine
22 in another state, territory, or country.

23 (ll) Advertising or holding oneself out as a
24 board-certified specialist, if not qualified under s.
25 458.3312, in violation of this chapter.

26 (mm) Failing to comply with the requirements of ss.
27 381.026 and 381.0261 to provide patients with information
28 about their patient rights and how to file a patient
29 complaint.

30 (nn)~~(ee)~~ Violating any provision of this chapter or
31 chapter 456, or any rules adopted pursuant thereto.

1 (2) The board ~~department~~ may enter an order denying
2 licensure or imposing any of the penalties in s. 456.072(2)
3 against any applicant for licensure or licensee who is found
4 guilty of violating any provision of subsection (1) ~~of this~~
5 ~~section~~ or who is found guilty of violating any provision of
6 s. 456.072(1). In determining what action is appropriate, the
7 board must first consider what sanctions are necessary to
8 protect the public or to compensate the patient. Only after
9 those sanctions have been imposed may the disciplining
10 authority consider and include in the order requirements
11 designed to rehabilitate the naturopathic physician. All costs
12 associated with compliance with orders issued under this
13 subsection are the obligation of the naturopathic physician.

14 (3) In any administrative action against a
15 naturopathic physician which does not involve revocation or
16 suspension of license, the board or department shall have the
17 burden, by the greater weight of the evidence, to establish
18 the existence of grounds for disciplinary action. The board or
19 department shall establish grounds for revocation or
20 suspension of license by clear and convincing evidence.

21 (4) The board shall not reinstate the license of a
22 naturopathic physician, or cause a license to be issued to a
23 person it deems or has deemed unqualified, until such time as
24 it is satisfied that he or she has complied with all the terms
25 and conditions set forth in the final order and that such
26 person is capable of safely engaging in the practice of
27 naturopathic medicine.

28 (5) The board shall by rule establish guidelines for
29 the disposition of disciplinary cases involving specific types
30 of violations. Such guidelines may include minimum and maximum
31 fines, periods of supervision or probation, or conditions of

1 probation or reissuance of a license. "Gross malpractice,"
2 "repeated malpractice," and "failure to practice medicine with
3 that level of care, skill, and treatment which is recognized
4 as being acceptable under similar circumstances" under
5 subsection (10) shall each be considered distinct types of
6 violations requiring specific individual guidelines.

7 (6) Upon the department's receipt from an insurer or
8 self-insurer of a report of a closed claim against a
9 naturopathic physician pursuant to s. 627.912 or from a health
10 care practitioner of a report pursuant to s. 456.049, or upon
11 the receipt from a claimant of a presuit notice against a
12 naturopathic physician pursuant to s. 766.106, the department
13 shall review each report and determine whether it potentially
14 involved conduct by a licensee which is subject to
15 disciplinary action, in which case the provisions of s.
16 456.073 shall apply. However, if it is reported that a
17 naturopathic physician has had three or more claims with
18 indemnities exceeding \$25,000 each within the previous 5-year
19 period, the department shall investigate the occurrences upon
20 which the claims were based and determine if action by the
21 department against the naturopathic physician is warranted.

22 (7) Upon the department's receipt from the Agency for
23 Health Care Administration pursuant to s. 395.0197 of the name
24 of a naturopathic physician whose conduct may constitute
25 grounds for disciplinary action by the department, the
26 department shall investigate the occurrences upon which the
27 report was based and determine if action by the department
28 against the naturopathic physician is warranted.

29 (8) If any naturopathic physician regulated by the
30 Division of Medical Quality Assurance is guilty of such
31 unprofessional conduct, negligence, or mental or physical

1 incapacity or impairment that the division determines that the
2 naturopathic physician is unable to practice with reasonable
3 skill and safety and presents a danger to patients, the
4 division shall be authorized to maintain an action in circuit
5 court enjoining such naturopathic physician from providing
6 medical services to the public until the naturopathic
7 physician demonstrates the ability to practice with reasonable
8 skill and safety and without danger to patients.

9 (9) When an investigation of a naturopathic physician
10 is undertaken, the department shall promptly furnish to the
11 naturopathic physician or the naturopathic physician's
12 attorney a copy of the complaint or document which resulted in
13 the initiation of the investigation. For purposes of this
14 subsection, such documents include, but are not limited to:
15 the pertinent portions of an annual report submitted to the
16 department pursuant to s. 395.0197(6); a report of an adverse
17 incident which is provided to the department pursuant to s.
18 395.0197; a report of peer review disciplinary action
19 submitted to the department pursuant to s. 395.0193(4),
20 provided that the investigations, proceedings, and records
21 relating to such peer review disciplinary action shall
22 continue to retain their privileged status even as to the
23 licensee who is the subject of the investigation, as provided
24 by s. 395.0193(8); a report of a closed claim submitted
25 pursuant to s. 627.912; a presuit notice submitted pursuant to
26 s. 766.106(2); and a petition brought under the Florida
27 Birth-Related Neurological Injury Compensation Plan, pursuant
28 to s. 766.305(2). The naturopathic physician may submit a
29 written response to the information contained in the complaint
30 or document which resulted in the initiation of the
31 investigation within 45 days after service to the naturopathic

1 physician of the complaint or document. The naturopathic
2 physician's written response shall be considered by the
3 probable cause panel.

4 (10) A recommended order by an administrative law
5 judge or a final order of the board finding a violation under
6 this section shall specify whether the licensee was found to
7 have committed "gross malpractice," "repeated malpractice," or
8 "failure to practice medicine with that level of care, skill,
9 and treatment which is recognized as being acceptable under
10 similar conditions and circumstances" or any combination
11 thereof, and any publication by the board shall so specify.

12 ~~(3) The department shall not reinstate the license of~~
13 ~~a naturopathic physician until such time as the department is~~
14 ~~satisfied that such person has complied with all the terms and~~
15 ~~conditions set forth in the final order and that such person~~
16 ~~is capable of safely engaging in the practice of naturopathic~~
17 ~~medicine.~~

18 ~~(4) The department shall by rule establish guidelines~~
19 ~~for the disposition of disciplinary cases involving specific~~
20 ~~types of violations. Such guidelines may include minimum and~~
21 ~~maximum fines, periods of supervision or probation, or~~
22 ~~conditions of probation or reissuance of a license.~~

23 Section 10. Section 462.16, Florida Statutes, is
24 amended to read:

25 462.16 Reissue of license.--Any person who practices
26 naturopathic medicine ~~shall practice naturopathy~~ after her or
27 his license has been revoked and registration annulled shall
28 be deemed to have practiced naturopathic medicine ~~naturopathy~~
29 without a license; ~~provided,~~ however, at any time after 6
30 months after the date of said conviction, the department may
31 grant a license to the person affected, restoring to her or

1 him all the rights and privileges of and pertaining to the
2 practice of naturopathic medicine ~~naturopathy~~ as defined and
3 regulated by this chapter. The fee therefor shall not exceed
4 \$250.

5 Section 11. Section 462.17, Florida Statutes, is
6 amended to read:

7 462.17 Penalty for offenses relating to naturopathic
8 medicine ~~naturopathy~~.--Any person who shall:

9 (1) Sell, fraudulently obtain, or furnish any
10 naturopathic diploma, license, record, or registration or aid
11 or abet in the same;

12 (2) Practice naturopathic medicine ~~naturopathy~~ under
13 the cover of any diploma, license, record, or registration
14 illegally or fraudulently obtained or secured or issued
15 unlawfully or upon fraudulent representations;

16 (3) Advertise to practice naturopathic medicine
17 ~~naturopathy~~ under a name other than her or his own or under an
18 assumed name;

19 (4) Falsely impersonate another practitioner of a like
20 or different name;

21 (5) Practice or advertise to practice naturopathic
22 medicine ~~naturopathy~~ or use in connection with her or his name
23 any designation tending to imply or to designate the person as
24 a practitioner of naturopathic medicine ~~naturopathy~~ without
25 then being lawfully licensed and authorized to practice
26 naturopathic medicine ~~naturopathy~~ in this state; or

27 (6) Practice naturopathic medicine ~~naturopathy~~ during
28 the time her or his license is suspended or revoked
29
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1 ~~commits shall be guilty of~~ a felony of the third degree,
2 punishable as provided in s. 775.082, s. 775.083, or s.
3 775.084.

4 Section 12. Section 462.18, Florida Statutes, is
5 amended to read:

6 462.18 Educational requirements for naturopathic
7 physicians licensed before January 1, 2006.--

8 (1) At the time each licensee shall renew her or his
9 license as otherwise provided in this chapter, each licensee,
10 beginning with the license renewal due May 1, 1944, in
11 addition to the payment of the regular renewal fee, shall
12 furnish to the board or the department satisfactory evidence
13 that, in the year preceding each such application for renewal,
14 the licensee has attended the 2-day educational program as
15 promulgated and conducted by the Florida Naturopathic
16 Physicians Association, Inc., or, as a substitute therefor,
17 the equivalent of that program as approved by the board or the
18 department. The board or the department shall send a written
19 notice to this effect to every person holding a valid license
20 to practice naturopathy within this state at least 30 days
21 prior to May 1 in each biennial year, directed to the last
22 known address of such licensee, and shall enclose with the
23 notice proper blank forms for application for annual license
24 renewal. All of the details and requirements of the aforesaid
25 educational program shall be adopted and prescribed by the
26 board or the department. In the event of national emergencies,
27 or for sufficient reason, the board or the department shall
28 have the power to excuse the naturopathic physicians as a
29 group or as individuals from taking this postgraduate course.

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1 (2) The determination of whether a substitute annual
2 educational program is necessary shall be solely within the
3 discretion of the board or the department.

4 (3) Licensed naturopathic physicians (N.M.D.'s or
5 N.D.'s) shall retain the same rights and privileges that they
6 had before the implementation of amendments to this chapter.

7 Section 13. Section 462.19, Florida Statutes, is
8 amended to read:

9 462.19 Renewal of license; inactive status.--

10 (1) The board or the department shall renew a license
11 upon receipt of the renewal application and fee.

12 (2) The board or the department shall adopt rules
13 establishing a procedure for the biennial renewal of licenses.

14 (3) A licensee may request that her or his license be
15 placed in an inactive status by making application to the
16 board or the department and paying a fee in an amount set by
17 the board or the department not to exceed ~~\$100~~\$50.

18 Section 14. Section 462.195, Florida Statutes, is
19 created to read:

20 462.195 Licensure by examination; requirements;
21 fees.--

22 (1) Any person desiring to be licensed as a
23 naturopathic physician shall apply to the department on forms
24 furnished by the department. The department shall license each
25 applicant who the board certifies:

26 (a) Has completed the application form and remitted a
27 nonrefundable application fee not to exceed \$500;

28 (b) Is at least 21 years of age;

29 (c) Is of good moral character;

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1 (d) Has not committed any act or offense in this or
2 any other jurisdiction which would constitute the basis for
3 disciplining a naturopathic physician pursuant to s. 462.14;

4 (e) Meets one of the following naturopathic medical
5 education training requirements:

6 1. Is a graduate of an approved school of naturopathic
7 medicine which is licensed by the Florida Commission for
8 Independent Education to grant the Doctor of Naturopathic
9 Medicine degree;

10 2. Is a graduate of a regionally accredited college of
11 naturopathic medicine or of a naturopathic medical school that
12 is accredited or is a candidate for accreditation by the
13 Council on Naturopathic Medical Education (CNME);

14 3. Is a graduate of a naturopathic medical school that
15 was at the time licensed by a state board of education and
16 approved by that state's naturopathic licensure board, which
17 has requirements comparable to those of this state; or

18 4. Is a graduate of an international medical school
19 listed by the World Health Organization (WHO), approved by the
20 Educational Commission for Foreign Medical Graduates (ECFMG)
21 to be examined in the basic and clinical medical sciences, or
22 a graduate of an accredited United States allopathic or
23 osteopathic medical school, and has completed a 2-year course
24 in naturopathic medicine from an approved naturopathic medical
25 school in the United States;

26 (f) Has submitted to the department a set of
27 fingerprints on a form and in accordance with procedures
28 specified by the department, along with payment in an amount
29 equal to the costs incurred by the department for the criminal
30 background check of the applicant;

31

1 (g) Has obtained on the examinations in basic medical
2 and clinical medical sciences a passing score, as established
3 by rule of the board, from one of the following:

4 1. Naturopathic Physicians Licensing Examination
5 (NPLEX), with a converted score of not less than 75 percent on
6 all part one examinations and a converted score of not less
7 than 75 percent on all part two examinations, or passage under
8 the compensatory model. North American Board of Naturopathic
9 Examiners (NABNE) administers the NPLEX examination;

10 2. Federation Licensing Examination (FLEX), medical
11 examination part one and two, with a minimum score of 70
12 percent on part one (basic medical sciences) and a minimum
13 score of 75 percent on part two (clinical medical sciences);

14 3. United States Medical Licensing Examination
15 (USMLE), medical examination part one and two, with a minimum
16 score of 70 percent on part one (basic medical sciences) and
17 a minimum score of 75 percent on part two (clinical medical
18 sciences);

19 4. State or national board examination for licensure
20 in another state which is comparable to the examination for
21 licensure in this state;

22 5. A Department of Health special purpose examination
23 (SPEX) for applicants who are in unusual circumstances; or

24 6. Comprehensive Osteopathic Medical Licensing
25 Examination (COMLEX), with a minimum score of 70 percent on
26 part one (basic medical sciences) and a minimum score of 75
27 percent on part two (clinical medical sciences);

28 (h) Has satisfactorily completed an approved
29 internship program, approved preceptorship program, or
30 approved clinical training program in naturopathic medicine;

31

1 (i) Is physically and mentally fit to practice as a
2 doctor of naturopathic medicine;

3 (j) Has not had his or her license to practice any
4 profession refused, revoked, or suspended by any other state,
5 district, or territory of the United States or another country
6 for reasons that relate to his or her ability to skillfully
7 and safely practice as a naturopathic physician in this state;
8 and

9 (k) Has not been found guilty of a felony.

10 (2) As prescribed by board rule, the board may require
11 an applicant who does not pass the licensing examination after
12 five attempts to complete additional remedial education or
13 training. The board shall prescribe the additional
14 requirements in a manner that permits the applicant to
15 complete the requirements and be reexamined within 2 years
16 after the date the applicant petitions the board to retake the
17 examination a sixth or subsequent time.

18 (3) The department and the board shall conduct an
19 investigation to assure that applicants for licensure meet the
20 criteria in subsection (1). When the investigation is not
21 completed within the time set out in s. 120.60(1) and the
22 department or board has reason to believe that the applicant
23 does not meet the criteria, the secretary or the secretary's
24 designee may issue a 90-day licensure delay, which must be in
25 writing and sufficient to notify the applicant of the reason
26 for the delay. This subsection controls over any conflicting
27 provisions of s. 120.60(1).

28 (4) The board may not certify to the department for
29 licensure any applicant who is under investigation in another
30 jurisdiction for an offense that would constitute a violation
31 of this chapter until the investigation has been completed.

1 Upon completion of the investigation, s. 462.14 applies.
2 Furthermore, the department may not issue an unrestricted
3 license to any individual who has committed an act or offense
4 in any jurisdiction which would constitute the basis for
5 disciplining a naturopathic physician under s. 462.14. If the
6 board finds that an individual has committed an act or offense
7 in any jurisdiction which would constitute the basis for
8 disciplining a naturopathic physician under s. 462.14, the
9 board may enter an order imposing one or more of the sanctions
10 set forth in subsection (7).

11 (5) Each applicant who meets the requirements of this
12 chapter shall be licensed as a naturopathic physician, with
13 rights as defined by law.

14 (6) Upon certification by the board, the department
15 shall impose conditions, limitations, or restrictions on a
16 license if the applicant is on probation in another
17 jurisdiction for an act that would constitute a violation of
18 this chapter.

19 (7) If the board determines that an applicant for
20 licensure has failed to meet, to the board's satisfaction, any
21 of the applicable requirements set forth in this section, it
22 may enter an order that imposes one or more of the following
23 sanctions:

24 (a) Refusal to certify to the department an
25 application for licensure, certification, or registration.

26 (b) Certification to the department of an application
27 for licensure, certification, or registration with
28 restrictions on the scope of practice of the licensee.

29 (c) Certification to the department of an application
30 for licensure, certification, or registration with placement
31 of the naturopathic physician on probation for a period of

1 time and subject to such conditions as the board specifies,
2 including, but not limited to, requiring the naturopathic
3 physician to submit to treatment, attend continuing education
4 courses, submit to reexamination, or work under the
5 supervision of another naturopathic physician.

6 (8) A physician who holds the doctor of medicine or
7 doctor of osteopathy degree and has completed a 1-year
8 M.D.-approved or D.O.-approved internship and is licensed
9 under this section, has rights and privileges equal to those
10 of physicians licensed under chapter 458 or chapter 459.

11 Section 15. Section 462.196, Florida Statutes, is
12 created to read:

13 462.196 Educational requirements for naturopathic
14 physicians licensed on or after January 1, 2006.--A physician
15 who applies for a license to practice naturopathic medicine on
16 or after January 1, 2006, must have completed 1 year of
17 approved postdoctoral residence training or internship
18 training at a residency program approved by the Council of
19 Naturopathic Medical Education (CNME), the Accreditation
20 Council for Graduate Medical Education (ACGME), or the
21 American Osteopathic Association.

22 Section 16. Exemptions from naturopathic licensure
23 requirements.--Licensure requirements for practitioners of
24 naturopathic medicine are inapplicable to:

25 (1) SUPPLEMENT RETAILERS.--An individual who is
26 engaged in selling vitamins, health foods, dietary
27 supplements, herbs, or other products of nature, the sale of
28 which is not otherwise prohibited under state or federal law.
29 This exemption does not:

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1 (a) Allow a person to diagnose any human disease,
2 ailment, injury, infirmity, deformity, pain, or other
3 condition; or

4 (b) Prohibit providing information regarding any of
5 the products listed in this subsection, which information is
6 truthful and is not misleading.

7 (2) RELIGIOUS FREEDOMS.--A person who is:

8 (a) Engaged in good faith in the practice of the
9 religious tenets of any church or religious belief, without
10 the use of prescription drugs; or

11 (b) Acting in good faith for religious reasons as a
12 matter of conscience or on the basis of a personal belief when
13 obtaining or providing information regarding health care and
14 the use of any product.

15 (3) FAMILY REMEDIES.--Individuals who are
16 administering a domestic or family remedy.

17 Section 17. This act shall take effect July 1, 2003.

18
19 *****

20 SENATE SUMMARY

21 Provides requirements for the practice of naturopathic
22 medicine. Redesignates ch. 462, F.S., as "Naturopathic
23 Medicine." Creates the Board of Naturopathic Medicine.
24 Redefines terms. Reassigns specified duties of the
25 Department of Health to the board. Provides requirements
26 for the licensure of naturopathic physicians. Amends the
27 maximum amount of the licensure fee. Provides revised
28 educational requirements for naturopathic physicians
29 licensed after January 1, 2006. Provides that licensure
30 requirements are inapplicable to retailers who sell
31 supplements; religious practitioners, as specified; and
 individuals administering family remedies.