

ACT 22

S.B. NO. 420

A Bill for an Act Relating to Naturopathic Medicine.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 455, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§455- Public health emergency; temporary and limited license for licensed out-of-state naturopathic physicians.** (a) If a public health emergency or disaster condition is declared by the governor, the board shall allow naturopathic physicians licensed in another state to provide temporary and limited naturopathic medicine in Hawaii under special provisions during the period of the declared public health emergency or disaster condition, subject to limitations and conditions as the governor and the board may prescribe.

(b) A limited and temporary license issued pursuant to this section shall be valid only for the period of the declared public health emergency or disaster condition.

(c) Out-of-state naturopathic physicians shall submit to the board the following information:

(1) Verification of a valid, permanent, current, and unrestricted license to practice naturopathic medicine in another state which is not the

subject of a pending investigation by a state medical board, or another state or federal agency; and

- (2) A valid United States passport or state-issued driver’s license for photo identification.

**§455- Exceptions; scope of chapter.** Nothing in this chapter shall be construed to prohibit or restrict:

- (1) The practice of a profession by individuals who are licensed, certified, or registered under the laws of this State who are performing services within their authorized scope of practice;
- (2) The practice of naturopathic medicine by an individual employed by the government of the United States while the individual is engaged in the performance of duties required of the individual by the laws and regulations of the United States;
- (3) The practice of naturopathic medicine by students enrolled in a school that meets the requirements of section 455-3. The performance of naturopathic medicine by students shall be pursuant to a course of instruction or assignments from an instructor and under the supervision of an instructor who is a naturopathic physician licensed pursuant to this chapter; and
- (4) The practice by a doctor of naturopathic medicine duly registered or licensed in another state, territory, or the District of Columbia who is called into this state for consultation with a licensed naturopathic physician, including in-person, mail, electronic, telephonic, fiber-optic, or other telemedicine consultation; provided that:
  - (A) The naturopathic physician from another state shall not open an office, appoint a place to meet patients, or receive calls within this state for the provision of care for a patient who is located in this state; and
  - (B) The licensed naturopathic physician of this state retains control and remains responsible for the provision of care for the patient who is located in this state.”

SECTION 2. Chapter 455, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**“[NATUROPATHY] NATUROPATHIC MEDICINE”**

SECTION 3. Section 455-1, Hawaii Revised Statutes, is amended to read as follows:

**“§455-1 Definitions.** As used in this chapter:

**“Behavioral medicine” means therapy techniques including biofeedback, relaxation training, hypnosis, mindfulness-based stress reduction, and cognitive therapy.**

**“Board” means the board of [~~examiners in naturopathy~~] naturopathic medicine.**

**“Common diagnostic procedures” means the use of venipuncture consistent with the practice of naturopathic medicine, commonly used diagnostic modalities consistent with naturopathic practice, taking of health history, physical examination, radiography, laboratory medicine, and obtaining samples of human tissue as authorized as a minor office procedure.**

**“Department” means the department of commerce and consumer affairs.**

“Diagnosis” means using all recognized and accepted physical and laboratory diagnostic procedures including the taking of blood for diagnostic purposes.

“Disaster condition” means a sudden catastrophic event that overwhelms public order, causes loss of property or life, and exceeds or disrupts the capabilities of available medical resources to provide medical care within a community.

“Homeopathic” means minute doses of [natural medicine.] substances that have been highly diluted and shaken according to standardized pharmaceutical methods.

“Hygiene and immunization” means the use of preventative techniques including personal hygiene, asepsis, public health, and, to the extent allowed by rule, immunizations.

“Legend drug” means any drug falling within section 503(b)(1) of the federal Food, Drug and Cosmetic Act and which is required to be labeled with the statement “Rx only.”

“Manual manipulation” or “mechanotherapy” means manipulation of a part or the whole of the body by hand or mechanical means.

“Minor office procedures” means care and procedures relative to superficial lacerations, lesions, and abrasions, and the removal of foreign bodies located in superficial structures not including the eye; and the topical and parenteral use of substances consistent with the practice of naturopathic medicine, in accordance with rules established by the board.

[“Natural medicine” encompasses substances of botanical, mineral, and animal origin, homeopathic preparations thereof, and substances whose natural state has been improved by any process that does not substantially alter the molecular structure found in nature, including vitamins, minerals, and amino acids; excluding prescription drugs, with the following exceptions: vitamins, minerals, amino acids, and fatty acids.]

“Naturopathic formulary” means vitamins, minerals, dietary supplements, botanical medicines, homeopathic medicines, hormones, and those legend drugs consistent with naturopathic medical practice.

“Naturopathic medicine” means the practice of the art and science of diagnosis, prevention, and treatment of disorders of the body by support, stimulation, or both, of the natural processes of the human body. The practice of naturopathic medicine includes the prescription, administration, dispensing, and use of nutrition and food science, physical modalities, manual manipulation, parenteral therapy, minor office procedures, naturopathic formulary, hygiene and immunization, contraceptive devices, common diagnostic procedures, and behavioral medicine of the type taught in education and training at naturopathic medical colleges; provided that the use of parenteral therapy and performance of minor office procedures shall not be allowed until the board adopts rules in accordance with chapter 91 pursuant to section 455-6.

“Naturopathic physician” means a person who holds a current license issued under this chapter to practice [naturopathy.] naturopathic medicine.

[“Naturopathy” means the practice of:

- (1) Natural medicine, natural therapeutics, and natural procedures, for the purpose of removing toxic conditions from the body and improving the quality, quantity, harmony, balance, and flow of the vital fluids, vital tissues, and vital energy; and
- (2) Diagnosing, treating, and caring for patients using a system of practice that bases its treatment of physiological functions and abnormal conditions on natural laws governing the human body: utilizing physiological, psychological, and mechanical methods, such as air, water, light, sunshine, heat and cold, earth, phytotherapy, physio-

therapy, mechano-therapy, naturopathic corrections and manipulation, and natural methods or modalities, together with natural or homeopathic medicines, natural foods, and herbs, and nature's remedies of the type taught in education and training at naturopathic medical colleges. The practice of naturopathy excludes surgery, application of x-rays, and prescribing, dispensing, or using prescription drugs except as provided for in the definition of natural medicine.]

"Nutrition and food science" means the prevention and treatment of disease or other human conditions through the use of diet.

"Parenteral therapy" means the administration of substances by means other than through the gastrointestinal tract, including intravenous, subcutaneous and intramuscular injection.

"Physical modalities" means use of physical, chemical, electrical, and other means, including but not limited to heat, cold, air, light, including lasers, water in any of its forms, sound, massage, and therapeutic exercise.

"Radiography" means the ordering of radiographic diagnostic and other imaging studies, including but not limited to computed tomography scans, x-rays, magnetic resonance imaging, positron emission tomography scans, and ultrasounds. The term also means and includes the taking and interpreting of x-rays."

SECTION 4. Section 455-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any person desiring to practice [~~naturopathy~~] naturopathic medicine shall be licensed under this chapter. To obtain a license under this chapter, a person shall submit a completed application prescribed by the board[;]; provide the information required under this chapter, rules of the board, and other applicable laws and rules[;]; and pay a nonrefundable application fee and other fees provided in rules adopted by the [~~director~~] department in accordance with chapter 91."

SECTION 5. Section 455-3, Hawaii Revised Statutes, is amended to read as follows:

**"§455-3 Education requirements.** Each applicant shall be a graduate of a school, university, or college of [~~naturopathy~~] naturopathic medicine that has received candidacy status with, or has been accredited by, a regional or a national accrediting body recognized by the United States Department of Education; provided that any applicant who graduated from a college of [~~naturopathy~~] naturopathic medicine prior to 1987 shall be deemed qualified if the college was approved by the board prior to 1987 and has been accredited by a regional or national accrediting body recognized by the United States Department of Education."

SECTION 6. Section 455-4, Hawaii Revised Statutes, is amended to read as follows:

**"§455-4 State board of [~~examiners in naturopathy~~] naturopathic medicine.** The governor shall appoint the board of [~~examiners in naturopathy~~] naturopathic medicine, consisting of five members. Each member shall serve until the member's successor is appointed and qualified. Three members of the board, before appointment, shall have been licensed as a naturopathic physician in the [~~State~~] state and two shall be public members. The members of the board may

elect a chairperson and a vice-chairperson who shall each serve one year or until a successor is elected.”

SECTION 7. Section 455-6, Hawaii Revised Statutes, is amended to read as follows:

“**§455-6 Powers and authority of the board.** In addition to any other powers and duties authorized by law, the board may:

- (1) Adopt and use a seal to be affixed to all official acts of the board;
- (2) Adopt, amend, or repeal rules in accordance with chapter 91 to carry out the purposes of this chapter; provided that all rules shall be approved by the governor and the director of commerce and consumer affairs; and provided further that the rules:
  - (A) May forbid acts or practices deemed by the board to be detrimental to the accomplishment of the purpose of this chapter;
  - (B) Shall establish standards of practice, care, and ethics; and
  - (C) Shall establish the education and training requirements for parenteral therapy and the standards to administer parenteral therapy, and establish examination standards and require the passage of an examination on minor office procedures, which standards and requirements shall take effect after December 31, 2009;
- (3) Develop standards for licensure;
- (4) Issue, renew, suspend, and revoke licenses and fine licensees;
- (5) Investigate and conduct hearings regarding any violation of this chapter and any rules of the board;
- (6) Maintain a record of its proceedings; ~~and~~
- (7) Annually establish and publish a naturopathic formulary that has been approved by the board for prescription, administration, or dispensing by naturopathic physicians; and
- (7) (8) Do all things necessary to carry out the functions, powers, and duties set forth in this chapter.”

SECTION 8. Section 455-8, Hawaii Revised Statutes, is amended to read as follows:

“**§455-8 License to practice; biennial registration.** Licenses to practice ~~[naturopathy]~~ naturopathic medicine shall be issued by the board to those who qualify according to this chapter. Naturopathic physicians licensed under this chapter shall observe and be subject to all state requirements relative to reporting births and all matters pertaining to the public health with equal rights and obligations as physicians, surgeons, and practitioners of other schools of medicine. These equal rights shall apply to all matters of public health, including the performance of medical examinations and evaluations. Every licensee shall renew the licensee’s license on or before December 31 of each odd-numbered year. Failure to renew the license on or before December 31 of each odd-numbered year shall automatically constitute a forfeiture of the license; provided that the license shall be restored upon written application therefor together with payment of the renewal fee, all delinquent fees, and a penalty fee.”

SECTION 9. Section 455-9, Hawaii Revised Statutes, is amended to read as follows:

**“§455-9 Penalty.** Any person except a licensed naturopathic physician who practices, attempts to practice, or advertises the practice of [naturopathy] naturopathic medicine, or any person who buys, sells, or fraudulently obtains any diploma or license to practice [naturopathy] naturopathic medicine whether recorded or not, or any person who uses the title “naturopath,”<sup>[s]</sup> “naturopath,”<sup>[s]</sup> “doctor of naturopathy,” “doctor of naturopathic medicine,” “naturopathic healthcare,” “naturopathic physician,” “naturopathic medicine,” “naturopathy,” “naturopathic doctor,” or “N.D.”<sup>[s]</sup> or any word or title to induce the belief that the person is engaged in the practice of [naturopathy] naturopathic medicine without complying with this chapter, or any person who violates this chapter, shall be fined a sum of not less than \$500 nor more than \$10,000 for each violation, which sum shall be collected in a civil action brought by the attorney general or the department on behalf of the State.”

SECTION 10. Section 455-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to any other actions authorized by law, the board shall have the power to deny, revoke, suspend, or refuse to renew any license to practice [naturopathy] naturopathic medicine applied for or issued by the board in accordance with this chapter, and to fine or otherwise discipline a licensee for any cause authorized by law, including but not limited to the following:

- (1) Procuring, or aiding or abetting in procuring, a criminal abortion;
- (2) Employing any person to solicit patients;
- (3) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;
- (4) Betraying a patient's confidence;
- (5) Making any untruthful and improbable statement in advertising one's naturopathic practice or business;
- (6) False, fraudulent, or deceptive advertising;
- (7) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or an habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
- (8) Practicing [naturopathy] naturopathic medicine while the ability to practice is impaired by alcohol, drug, physical disability, or mental instability;
- (9) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;
- (10) Professional misconduct or gross carelessness or manifest incapacity in the practice of [naturopathy] naturopathic medicine;
- (11) Conduct or practice contrary to recognized standard of ethics of the naturopathic profession;
- (12) ~~[Utilizing]~~ Using medical service or treatment which is inappropriate or unnecessary;
- (13) Submitting to or filing with the board any notice, statement, or other document required under this chapter which is false or untrue or contains any material misstatement of fact;
- (14) Failure to report to the board any disciplinary action taken against the licensee in another jurisdiction within thirty days after the disciplinary action becomes final;
- (15) Using the title “physician” without clearly identifying oneself as being a naturopathic physician; ~~[and]~~

- (16) Prescribing, administering, and dispensing naturopathic formulary that are not included in the formulary established by the board under section 455-6; and  
 [(46)] (17) Violation of any [~~provisions~~] provision of this chapter or rules adopted under this chapter.”

SECTION 11. The revisor of statutes shall replace the terms:

- (1) “Board of examiners in naturopathy” or like terms, with “board of naturopathic medicine” or like terms; and
- (2) “Naturopathy” or like terms, with “naturopathic medicine” or like terms,

as those terms appear in the Hawaii Revised Statutes.

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 13. This Act shall take effect upon its approval; provided that sections 1, 2, and 3 shall take effect on January 1, 2010.

(Vetoed by Governor and veto overridden by Legislature on July 15, 2009.)

**Note**

1. Edited pursuant to HRS §23G-16.5.