

CHAPTER 328E
Naturopathic Health Care Practice

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CHAPTER 328E
Naturopathic Health Care Practice

328-E:1 Findings and Purpose. –

I. The general court finds that a significant number of New Hampshire residents choose naturopathic medicine for their health care needs and declares that naturopathic medicine is a distinct health care profession that affects the public health, safety and welfare, and provides for freedom of choice in health care.

II. The purpose of this chapter is:

(a) To provide standards for the licensure and regulation of doctors of naturopathic medicine in order to protect the public health, safety and welfare.

(b) To insure that naturopathic medicine by qualified doctors of naturopathic medicine is available to the people of New Hampshire.

(c) To provide a means of identifying qualified doctors of naturopathic medicine.

Source. 1994, 392:1, eff. Jan. 1, 1995.

328-E:2 Definitions. – In this chapter:

I. "Acupuncture" means the insertion of acupuncture needles into specific points on the skin to treat human disease and impairment and to relieve pain.

II. "Approved naturopathic medical college" means a college or program granting the degree of doctor of naturopathic medicine or doctor of naturopathy that is approved by the board and which:

(a) Is accredited by the Council of Naturopathic Medical Education or other accrediting agency recognized by the federal government.

(b) Has candidate for accreditation status with such agency.

(c) Has been investigated by the board and found to meet education standards equivalent to those established by such agency.

III. "Board" means the naturopathic board of examiners established under RSA 328-E:7.

IV. "Doctor of naturopathic medicine" means a person authorized and licensed to practice naturopathic medicine under this chapter.

V. "Homeopathic preparations" means medicines prepared according to the Homeopathic Pharmacopoeia of the United States.

VI. "Minor office procedures" means care incident to superficial lacerations and abrasions, and the removal of foreign bodies located in superficial structures, not to include the eyes. It shall include the use of antiseptics in connection with such procedures but shall not include the alteration or removal of tissue.

VII. "Naturopathic childbirth" means natural childbirth which includes the use of natural obstetrical medicines, ophthalmic antibiotics, obstetrical emergency medicines and minor surgery including episiotomies, but which does not include the use of forceps delivery, general or spinal anesthesia, cesarean section, or induced abortions.

VIII. "Naturopathic manipulative therapy" means the manually administered, mechanical treatment of body structures or tissues, in accordance with naturopathic principles, for the purpose of restoring normal physiological function to the body by normalizing and balancing the musculoskeletal system of the body.

IX. "Naturopathic medicine" means a system of primary health care practiced by doctors of naturopathic medicine for the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases that uses education, natural medicines and therapies to support and stimulate the individual's intrinsic self-healing processes.

X. "Naturopathic physical medicine" means the therapeutic use of the physical agents of air, water, heat, cold, sound, light, and electromagnetic non-ionizing radiation and the physical modalities of electrotherapy, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic manipulative therapy, and therapeutic exercise.

XI. "Topical medicines" means topical analgesics, anesthetics, antiseptics, scabicides, antifungals, and antibacterials.

Source. 1994, 392:1, eff. Jan. 1, 1995.

328-E:3 License Required; Licensee Title. –

I. No persons shall practice or represent themselves as practicing naturopathic medicine in this state without first applying for and receiving a license from the board to practice naturopathic medicine.

II. Licensees shall use the title "doctor of naturopathic medicine" and the recognized abbreviation "N.D." Doctors of naturopathic medicine shall have the exclusive right to use of the terms: "doctor of naturopathic medicine," "naturopathic doctor," "naturopath," "doctor of naturopathy," "naturopathic medicine," "naturopathic health care," "naturopathy," and "N.D."

III. Persons who represent themselves as doctors of naturopathic medicine are those who adopt or use any title or any description of services that uses one or more of the terms listed in paragraph II of this section.

Source. 1994, 392:1, eff. Jan. 1, 1995.

328-E:4 Scope of Practice. –

I. Doctors of naturopathic medicine shall be authorized to use for preventive and therapeutic purposes the following natural medicines and therapies: food, food extracts, vitamins, minerals, enzymes, digestive aids, whole gland thyroid, plant substances, all homeopathic preparations, topical medicines, counseling, hypnotherapy, biofeedback, dietary therapy, naturopathic physical medicine, therapeutic devices, and barrier devices for contraception.

II. Doctors of naturopathic medicine may use for diagnostic purposes physical and orifical examinations, X-rays, electrocardiograms, ultrasound, phlebotomy, clinical laboratory tests and examinations, and physiological function tests.

III. Doctors of naturopathic medicine may prescribe nonprescription medications and therapeutic devices or use noninvasive diagnostic procedures commonly used by medical practitioners in general practice.

IV. Doctors of naturopathic medicine shall not:

(a) Prescribe, dispense, or administer any legend or controlled substances as defined in RSA 318 and 318-B, except those natural medicines as authorized by this chapter.

(b) Perform surgical procedures.

(c) Practice emergency medicine, except as a good samaritan rendering gratuitous services in the case of emergency and except for the care of minor injuries.

(d) Practice or claim to practice medicine and surgery, osteopathy, dentistry, podiatry, optometry, chiropractic, physical therapy, or any other system or method of treatment not authorized in this chapter.

V. Doctors of naturopathic medicine with specialty certification in naturopathic childbirth pursuant to RSA 328-E:12 shall be authorized to use oxytocin and pitocin.

Source. 1994, 392:1, eff. Jan. 1, 1995.

328-E:5 Exemptions. –

I. Nothing in this chapter shall be construed to prohibit or to restrict:

(a) The practice of a profession by individuals who are licensed, certified, or registered under other laws of this state who are performing services within their authorized scope of practice.

(b) 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 prescribed by the laws and regulations of the United States.

(c) The practice by a doctor of naturopathic medicine duly registered or licensed in another state, territory, or the District of Columbia when incidentally called into this state for consultation with a licensed physician.

(d) The practice of naturopathic medicine by students enrolled in an approved naturopathic medical college. The performance of services shall be pursuant to a course of instruction or assignments from an instructor and under the supervision of the instructor. The instructor shall be a doctor of naturopathic medicine licensed pursuant to this chapter.

(e) Residents of this state who are of legal majority and who have held themselves out as a naturopath or a doctor of naturopathic medicine prior to July 1, 1991, from being licensed under this chapter if they:

(1) Are not licensed, certified, or registered as a health care provider under any other law of this state.

(2) Derive the majority of their earned income from the practice of naturopathic medicine in New Hampshire.

(3) Apply for a license in a manner prescribed by the board on or before March 1, 1998.

(f) The treatment of the sick or suffering by spiritual means through prayer alone in accordance with the tenets and practices of an established church or religious denomination.

(g) Any individual rendering aid in an emergency, when no fee or other consideration for the service is charged, received, expected, or contemplated.

(h) Any individual administering a domestic or family remedy.

(i) Any person engaged in the sale of vitamins, health foods, dietary supplements, and other products of nature, the sale of which is not otherwise prohibited under state or federal law, as long as such person is not diagnosing any human disease, ailment, injury, or other condition.

II. Persons licensed pursuant to RSA 328-E:5, I(e) shall:

(a) Be subject to all eligibility requirements to practice naturopathic medicine pursuant to RSA 328-E:9, except that they shall be exempt from RSA 328-E:9, I(a).

(b) Practice naturopathic medicine within a scope of practice which reflects the limits of their training and experience as determined and approved by the board.

Source. 1994, 392:1, eff. Jan. 1, 1995. 1997, 170:1, 2, eff. June 9, 1997.

328-E:6 Public Health Authority and Responsibility. – Doctors of naturopathic medicine shall have the same authority and responsibility as other medical practitioners regarding public health laws, reportable diseases and conditions, communicable disease control and prevention, recording of vital statistics, health and physical examinations, and local boards of health, except that such authority shall be limited to activity consistent with the scope of practice authorized by this chapter.

Source. 1994, 392:1, eff. Jan. 1, 1995.

328-E:7 Naturopathic Board of Examiners. –

I. There shall be a naturopathic board of examiners consisting of the following members:

(a) Four doctors of naturopathic medicine appointed by the governor, who shall be:

(1) Two persons who have been practitioners in this state for 3 years immediately preceding such appointment.

(2) A doctor of naturopathic medicine who has been engaged in the practice of naturopathic medicine in this state, under licensure issued in this state, for 3 years immediately preceding appointment, except for the initial period of 3 years following enactment of this chapter.

(3) A graduate of an approved naturopathic college.

(b) The commissioner of the department of health and human services.

(c) One public member appointed by the governor, who shall:

(1) Be of legal age of majority.

(2) Be a resident of this state for 5 years immediately preceding such appointment.

(3) Not be connected, in any manner with, or have any interest in, a school of medicine, health care institution or any person practicing any form of healing or treatment of bodily or mental ailments.

4) Demonstrate an interest in the health problems in this state.

II. The terms of office shall be 5 years for all board members. The initial board appointees shall consist of one doctor of naturopathic medicine for a term of 5 years, one doctor of naturopathic medicine for a term of 4 years, one doctor of naturopathic medicine for a term of 3 years, one doctor of naturopathic medicine for a term of 2 years, and one public member for a term of 5 years. A member may be removed from office by the governor if the governor finds the member was guilty of malfeasance, misfeasance or dishonorable conduct.

III. There shall be no monetary liability on the part of and no cause of action shall arise against the members of the board, or personnel of the board, for any act done or proceeding undertaken or performed in good faith and in furtherance of the purposes of this chapter.

IV. The board shall hold a meeting at least semi-annually. In addition, the board may hold special meetings as it deems necessary.

V. Four members of the board constitute a quorum for the transaction of business.

VI. The board shall serve without pay.

VII. The board shall be an administratively attached agency, under RSA 21-G:10, to the department of health and human services.

Source. 1994, 392:1. 1995, 310:182, eff. Nov. 1, 1995.

328-E:8 Powers and Duties of the Board. –

I. The board shall:

(a) Determine fees for licensure, for application to take the examination pursuant to RSA 328-E:9, I(f) and RSA 332-G:2, and for license renewal under RSA 328-E:13.

(b) Insure that doctors of naturopathic medicine serving the public meet minimum standards of proficiency and competency to protect the health, safety and welfare of the public.

(c) Administer and enforce all provisions of this chapter, which pertain to licensees and applicants, and all rules adopted by the board under the authority granted in this chapter.

(d) Maintain an accurate account of all receipts, expenditures and refunds granted under this chapter.

(e) Maintain a record of its acts and proceedings, including the issuance, refusal, renewal, suspension or revocation of licenses.

(f) Maintain a roster of all doctors of naturopathic medicine licensed under this chapter which indicates:

(1) The name of the licensee.

(2) Current professional office address.

(3) The date of issuance and the number of the licensee's license.

(4) Whether the licensee is in good standing.

(g) Keep all applications for licensure as a permanent record.

(h) Maintain a permanent record of the results of all examinations it gives.

(i) Keep all examination records including written examination records and tape recordings of the questions and answers in oral examinations.

(j) Keep the records of the board open to public inspection at all reasonable times.

(k) Adopt and use a seal, the imprint of which, together with the signatures of the chairman or vice-chairman and the secretary-treasurer of the board, shall evidence its official acts.

(l) Annually compile and publish a directory.

II. The board may appoint qualified personnel to administer any part or all of any examination provided for under this chapter.

III. The board shall have the power to subpoena witnesses and administer oaths in any hearing or disciplinary proceedings, and to compel, by subpoena duces tecum, the production of papers and records.

IV. Witnesses summoned before the board shall be paid the same fees as witnesses summoned to appear before the superior court, and such summons shall have the same effect as though issued for appearance before such court.

Source. 1994, 392:1, eff. Jan. 1, 1995.

328-E:9 Qualification for Licensure. –

I. To be eligible for a license to practice naturopathic medicine, the applicant shall:

(a) Be a graduate of a naturopathic medical college which is accredited by the Council on Naturopathic Medical Education or another such accrediting agency recognized by the federal government; and pass a competency-based examination prescribed by the board covering the appropriate naturopathic subjects; or,

(b) Be a graduate of a naturopathic medical college which has been approved by the board as having appropriate education standards for naturopathic medical programs which granted degrees prior to 1981.

(c) Possess a good moral and professional reputation.

(d) Be physically and mentally fit to practice naturopathic medicine.

(e) Have had no license, certification, or registration to practice naturopathic medicine refused, revoked or suspended by any other state or country for reasons which relate to the applicant's ability to skillfully and safely practice naturopathic medicine.

(f) File an application and pay the license fees.

II. To obtain a license to practice naturopathic medicine by reciprocity, the applicant shall:

(a) Qualify under paragraph I, except that no written examination shall be required.

(b) Be licensed, certified, or registered by another state or the District of Columbia to practice naturopathic medicine which requires a written examination which is substantially equivalent to the written examination required by the board of this state.

Source. 1994, 392:1, eff. Jan. 1, 1995.

328-E:10 Rulemaking. –

I. The board shall adopt rules under RSA 541-A relative to:

(a) The practice of naturopathic health care.

(b) Naturopathic assistants who assist doctors of naturopathic medicine, including the qualifications of naturopathic assistants who are not otherwise licensed by law.

(c) Further requirements, as necessary, of doctors of naturopathic medicine for specialty practice, as required under RSA 328-E:12.

(d) The formulary approved by the council on doctors of naturopathic medicine formulary under RSA 328-E:16, III.

(e) Any other rules which are necessary or proper for the administration of this chapter.

II. The board shall adopt rules under RSA 541-A prescribing continuing education requirements for the renewal of licenses issued under this chapter.

Source. 1994, 392:1, eff. Jan. 1, 1995.

328-E:11 Copies of Proposed Rules for Commissioner; Rulemaking to be Consistent With Statutory Authority. –

I. At the same time the board files the text of a proposed rule with the director of legislative services under RSA 541-A:10, the board shall provide the commissioner of the department of health and human services with a copy of the text of the proposed rule. The commissioner shall monitor the rulemaking activity of the board under RSA 328-E:10 to ensure that all rules are:

- (a) Consistent with the provisions of RSA 541-A;
- (b) Consistent with the specific statutory authority under which they are adopted;
- (c) Consistent with other statutes; and
- (d) Consistent with rules adopted by any other board, commission, or agency.

II. If the commissioner determines that a rule proposed for adoption is not consistent with the criteria established in paragraph I of this section, the commissioner shall notify the board in writing. If the board does not take corrective action, the commissioner shall notify in writing the joint legislative committee on administrative rules, the senate executive departments and administration committee, and the house executive departments and administration committee for further corrective oversight action.

Source. 1994, 392:1, eff. Jan. 1, 1995; 392:3, eff. June 10, 1994.

328-E:12 Naturopathic Childbirth or Acupuncture Specialty Certification. –

I. No doctor of naturopathic medicine shall practice naturopathic childbirth or acupuncture without first obtaining a certificate of specialty practice. The board shall adopt rules under RSA 541-A for the certification of doctors of naturopathic medicine for specialty practice.

II. To be certified in naturopathic childbirth, a doctor of naturopathic medicine shall be required to:

- (a) Pass a specialty examination in obstetrics or natural childbirth approved by the board.
- (b) Have at least 100 hours of course work, internship or preceptorship in obstetrics or natural childbirth approved by the board.
- (c) Have participated in 40 supervised births, including prenatal and postnatal care, under the direct supervision of a licensed naturopathic, medical or osteopathic physician with specialty training in obstetrics or natural childbirth. The board may prescribe a national standardized examination in naturopathic childbirth as constituting the specialty examination.
- (d) Meet the American College of Naturopath Obstetricians (ACNO) standards for childbirth.

III. To be certified in acupuncture, a doctor of naturopathic medicine shall be required to complete a program in acupuncture approved by the board that includes at least 500 hours of training in acupuncture, including both didactic and clinical training, and pass a specialty examination in acupuncture approved by

the board. The board may prescribe a national standardized examination in acupuncture as constituting the specialty examination.

Source. 1994, 392:1, eff. Jan. 1, 1995.

328-E:13 License Renewal and Continuing Education. –

I. The license to practice naturopathic medicine shall be renewed biennially. A fee in the amount determined by the board shall accompany the application for renewal.

II. As a condition of renewal of license, the board shall require each licensee to show proof at least every 3 years that the licensee has completed an approved continuing naturopathic medical education program within the preceding 3 years. For the purposes of this section an "approved continuing naturopathic medical education program" means a program designed to continue the education of the licensee in current developments, skills, procedures, or treatment in the licensee's field of practice, which has been certified by a national or state naturopathic medical society or college or university and approved by the board.

Source. 1994, 392:1, eff. Jan. 1, 1995.

328-E:14 Enforcement and Penalties. –

I. Whoever, not being licensed as provided in this chapter, shall advertise oneself or in any way hold oneself out as qualified to practice naturopathy, or shall practice naturopathy, or whoever does so after receiving notice that one's license has been revoked, and whoever, being licensed as provided in this chapter, shall advertise or call oneself or allow oneself to be advertised or called a physician or a doctor, or use any physician's or doctor's insignia as such, except "Doctor (name of naturopath), naturopath," or (name) "doctor of naturopathy", or (name) "naturopathic doctor," or (name) "doctor of naturopathic medicine," shall be guilty of a misdemeanor and, upon conviction, shall, if licensed, have such license revoked.

II. Persons licensed pursuant to this chapter who engage in the practice of naturopathic medicine without complying with this chapter shall be subject to disciplinary measures and may be subject to refused renewal, limitation, revocation, or suspension of their license.

Source. 1994, 392:1, eff. Jan. 1, 1995.

328-E:15 Administration. – The commissioner of the department of health and human services shall provide administrative services to the board created under this chapter. All administrative services shall be a cost to the board and shall be reimbursed by fees collected by the board under RSA 328-E:8, I(a).

Source. 1994, 392:1. 1995, 310:182, eff. Nov. 1, 1995.

328-E:16 Council on Doctors of Naturopathic Medicine Formulary; Members; Duties. –

I. The council on doctors of naturopathic medicine formulary is established and shall consist of the following members:

(a) One member of the naturopathic board of examiners, appointed by the naturopathic board of examiners.

(b) One doctor licensed by the naturopathic board of examiners, appointed by the naturopathic board of examiners.

(c) One physician licensed by the board of medicine under RSA 329, appointed by the board of medicine.

(d) One pharmacist licensed by the state pharmacy board, appointed by the state pharmacy board.

(e) One additional member, who holds an advanced degree in either pharmacology or pharmacognosy, appointed by the council.

II. The chair of the council shall be elected by a majority of the council members.

III. The council established under paragraph I of this section shall determine the substances to be included in the formulary that may be prescribed by a doctor of naturopathic medicine acting under this chapter. The council shall review the formulary periodically. Immediately upon adoption or revision of the formulary, the council shall transmit the approved formulary to the board which shall adopt the formulary by rule. When determined to be appropriate to the scope of practice of doctors of naturopathic medicine the council on doctors of naturopathic medicine formulary may also consider synthetically-produced substances and their salts having an identical or substantially identical molecular structure to a plant or animal substance as found in nature to be plant or animal substances.

IV. The term of each member of the council shall be 2 years. A member shall serve until a successor is appointed. If a vacancy occurs, it shall be filled for the unexpired term by a person with the same qualifications as the retiring member.

Source. 1994, 392:1. 1995, 286:26, eff. Jan. 1, 1996.

328-E:17 Severability. – If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

Source. 1994, 392:1, eff. Jan. 1, 1995.