

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILLS NOS. 1085 & 1262
91ST GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organization, Veterans' Affairs and Elections, May 10, 2002, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

3453S.04C

AN ACT

To amend chapter 324, RSMo, by adding thereto eighteen new sections relating to the regulation and licensing of the practice of naturopathic medicine, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 324, RSMo, is amended by adding thereto eighteen new sections, to be known as sections 324.650, 324.653, 324.656, 324.659, 324.662, 324.665, 324.667, 324.668, 324.671, 324.674, 324.677, 324.680, 324.683, 324.686, 324.689, 324.692, 324.695 and 324.698, to read as follows:

324.650. 1. As used in sections 324.650 to 324.698 the following terms mean:

(1) "Approved naturopathic college", a four academic year in residence naturopathic medical education program that:

(a) Is accredited for training persons licensed pursuant to chapter 331, RSMo, or sections 334.010 to 334.140, RSMo, or as graduate medical education for persons licensed pursuant to chapter 331, RSMo, or sections 334.010 to 334.140, RSMo; and

(b) Is accredited or preaccredited by the Council on Naturopathic Medical Education and which is located at an institution of higher education that is accredited or preaccredited by a regional accrediting agency recognized by the United States Department of Education, or if at an institution in Canada, is accredited or preaccredited by the Council on Naturopathic Medical Education;

(2) "Board", the state board of naturopathic physicians;

(3) "Department", the department of economic development;

(4) "Diagnose", to examine in any manner another person, parts of a person's body, or substances, fluids, or materials excreted, taken or removed from a person's body or produced by a person's body to determine the source, kind, or extent of a

disease or other physical condition;

(5) "Minor office procedure", the use of operative, electrical or other methods for the repair of, and care incidental to, superficial lacerations and abrasions, the removal of foreign bodies located in superficial tissues, and the use of antiseptics and local anesthetics in connection with these methods. The term includes the use of local anesthesia applied topically or by injection, whether natural or prescription, in superficial tissues associated with the performance of minor office procedures. The term does not include general or spinal anesthesia, major surgery, surgery of the body cavities, or specialized surgeries, including plastic surgery or surgery involving the eyes, tendons, ligaments or major blood vessels;

(6) "Naturopathic pharmacopeia", includes:

(a) Food, food extracts and dietary supplements as defined by the Federal Food, Drug and Cosmetic Act (21 U.S.C. Section 301 et seq.), as amended;

(b) Homeopathic remedies;

(c) Plant substances that are not designated as prescription drugs or controlled substances;

(d) Over-the-counter medications;

(e) Prescriptions which are limited to whole gland thyroid, natural hormone and immunizations; and

(f) Substances prepared according to the Homeopathic Pharmacopeia of the United States;

(7) "Naturopath", a person licensed to practice naturopathic medicine pursuant to sections 324.650 to 324.698;

(8) "Naturopathic medicine" or "naturopathy", a system of primary health care for the prevention, diagnosis and care of human health conditions, injuries and diseases that uses education and natural substances and remedies to support and stimulate the individual's intrinsic self-processes;

(9) "Naturopathic mobilization therapy", manually administering mechanical treatment of body structures or tissues to restore the normal physiological function of the body by normalizing and balancing the musculoskeletal system of the body. The term does not include osseous manipulation;

(10) "Naturopathic physical medicine", the use of the physical agents of air, water, heat, cold, sound, light and electromagnetic nonionizing radiation and the physical modalities of electrotherapy, biofeedback, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic mobilization therapy, exercise and other electrical devices as approved by the board. The term does not include the practice of physical therapy, acupuncture or chiropractic;

(11) "Naturopathic physician", a person who holds the person out to the public as licensed to practice naturopathic medicine pursuant to sections 324.650 to 324.698.

2. It shall be unlawful for any person who is not currently a certified or licensed naturopathic doctor within the meaning of the law to practice naturopathic medicine in any of its departments, to engage in the practice of naturopathic medicine or engage in the practice of any aspect of naturopathic medicine in this state except as provided by sections 324.650 to 324.698.

3. As used in the laws of this state, the terms "naturopathic physician", "practitioner of naturopathic medicine", "N.M.D.", "naturopathic doctor", "board of naturopathic medical examiners", or similar terms shall be construed to mean naturopathic medical doctors licensed pursuant to this chapter or the state board of naturopathic physicians.

4. The terms "naturopathic physician", "naturopathic doctor", "naturopathic health care" or any similar designation shall be used in any sign, letterhead, advertisement, solicitation or other method of addressing the public.

324.653. 1. Candidates for licensure as naturopathic medical doctors shall furnish satisfactory evidence of their good moral character and their preliminary qualifications as follows:

- (1) File an application with the department;**
- (2) Earned a degree of doctor of naturopathic medicine from an approved naturopathic college;**
- (3) Have experience as a naturopathic physician satisfactory to the board and in accordance with the board's regulations;**
- (4) Pass an examination satisfactory to the board and in accordance with the board's regulations which may include, but not be restricted to, the Naturopathic Physician's Licensing Exam (NPLEX), its successor or equivalent as determined by the board;**
- (5) Be at least twenty-one years of age;**
- (6) Be a United States citizen or an alien lawfully admitted for permanent residence in the United States; and**
- (7) Pay all application and examination fees required by the board.**

2. The board shall issue a license as a naturopathic physician to any person who is licensed as a physician pursuant to chapter 334, RSMo, or a chiropractor pursuant to chapter 331, RSMo, provided such person meets the following requirements:

- (1) File an application with the department;**
- (2) Pass an examination satisfactory to the board and in accordance with the**

board's regulations which may include, but not be restricted to, the Naturopathic Physician's Licensing Exam (NPLEX), its successor or equivalent as determined by the board;

(3) Be at least twenty-one years of age;

(4) Be a United States citizen or an alien lawfully admitted for permanent residence in the United States; and

(5) Pay all application and examination fees required by the board.

324.656. 1. There is hereby established a "State Board of Naturopathic Medicine" for the purpose of licensing and supervising all naturopathic physicians. The board shall consist of six members, including one voting public member, to be appointed by the governor with the advice and consent of the senate. At least four members of the board, except for the members first appointed, shall be licensed naturopaths in this state. Each naturopath member of the board shall be a citizen of the United States, a resident of the state of Missouri for a period of at least one year immediately preceding his or her appointment and actively engaged in the practice of naturopathy for at least ten years immediately preceding his or her appointment. One member may be appointed from an appropriate healing profession including medicine, osteopathy or chiropractic. No more than four members shall be affiliated with the same political party. All members shall be appointed for a term of four years, except as provided in subsection 3 of this section. Each member shall receive compensation in an amount set by the board not to exceed fifty dollars for each day devoted to the duties of the board, and shall be entitled to reimbursement for the member's expenses necessarily incurred in the discharge of his or her official duties.

2. The public member shall, at the time of his or her appointment, be a citizen of the United States, a resident of this state for a period of one year and a registered voter. The public member shall not be a person who is or ever was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person, and a person who has or has ever had a material financial interest in providing or the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from a list submitted by the director of the department of economic development. The duties of the public member shall not include the determination of technical requirements for licensure or whether any person meets such technical requirements or of the technical competence or judgment of a licensee or candidate.

3. The initial appointments to the board shall be as follows: one member for

a term of one year, one member for a term of two years, two members for terms of three years, and two members for terms of four years.

324.659. 1. The president or secretary of the board may administer oaths, subpoena witnesses, issue subpoenas duces tecum and require production of documents and records. Subpoenas, including subpoenas duces tecum, shall be served by a person authorized to serve subpoenas of courts of record. In lieu of requiring attendance of a person to produce original documents in response to a subpoena duces tecum, the board may require sworn copies of such documents to be filed with the board or delivered to the board's designated representative.

2. The board may enforce its subpoenas, including subpoenas duces tecum, by applying to the circuit court of Cole County, the county of investigation, hearing or proceeding, or any county where the person resides or may be found for an order upon any person who shall fail to obey a subpoena to show cause why such subpoena shall not be enforced, which such order and a copy of the application shall be served upon the person in the same manner as a summons to a civil action. If the circuit court, after hearing, determines that the subpoena should be sustained and enforced, the court shall proceed to enforce the subpoena in the same manner as though the subpoena had been issued in a civil case in the circuit court.

324.662. Any person who reports or provides information to the board or any person who assists the board, including but not limited to applicants or licensees who are the subject of an investigation, naturopathic physicians serving on competency panels, medical records custodians, consultants, attorneys, board members, agents, employees or expert witnesses, in the course of any investigation, hearing or other proceeding conducted by or before the board pursuant to this chapter and who does so in good faith and without malice shall not be subject to an action for civil damages as a result thereof, and no cause of action of any nature shall arise against such person. The attorney general shall defend such persons in any such action or proceedings.

324.665. 1. The state board of naturopathic medicine shall:

(1) Adopt rules that are necessary or proper for the administration of sections 324.650 to 324.698;

(2) Administer and enforce all provisions of sections 324.650 to 324.698 and all rules adopted by the board pursuant to the authority granted in sections 324.650 to 324.698;

(3) Set the amount of the fees which sections 324.650 to 324.698 authorizes and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not

substantially exceed the cost and expense of administering sections 324.650 to 324.698, RSMo;

(4) Deposit all funds received pursuant to sections 324.650 to 324.698, RSMo, in the state board of naturopathic medicine fund established in section 324.667;

(5) Adopt rules for conducting licensing examinations required by sections 324.650 to 324.698;

(6) Have the full and free exchange of information with the licensing and disciplinary boards of other states and countries;

(7) Elect its own president and secretary, each to serve a term of one year.

2. The board may:

(1) Adopt rules that prescribe annual continuing medical education for the renewal of licenses issued pursuant to sections 324.650 to 324.698;

(2) Employ permanent or temporary personnel it deems necessary to carry out the purposes of sections 324.650 to 324.698 and designate their duties;

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 324.650 to 324.698 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

324.667. 1. There is hereby established in the office of the state treasurer a fund to be known as the "State Board of Naturopathic Medicine Fund". All fees of any kind and character authorized to be charged by the board shall be collected by the director of the division of professional registration and shall be transmitted to the department of revenue for deposit in the state treasury for credit to this fund, to be disbursed only in payment of expenses of maintaining the board and for the enforcement of the provisions of law concerning professions regulated by the board; and no other money shall be paid out of the state treasury for carrying out these provisions. Warrants shall be issued on the state treasurer for payment out of said fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the

board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

3. The board shall charge each person applying to and appearing before it for examination for certificate of licensure to practice as a naturopathic physician, an examination fee. Should the examination prove unsatisfactory and the board refuse to issue a license thereon, the applicant failing to pass the examination may return to any meeting and be examined upon payment of a reexamination fee.

324.668. 1. A person who holds a license or certificate pursuant to sections 324.650 to 324.698 shall display such document in a conspicuous place that is accessible to view by the public.

2. A person who practices, conducts affairs or is employed at more than one location and who maintains a continuing activity as authorized by the license or certificate shall display a duplicate of such document issued by the board at each location.

324.671. 1. All persons desiring to practice as a naturopathic medical doctor in this state shall be examined as to their fitness to engage in such practice by the board. All persons applying for examination shall file an application with the board at least thirty days before the date set for the examination upon applications furnished by the board.

2. The examination shall be sufficient to test the applicant's fitness to practice as a doctor of naturopathic medicine. The examination shall be conducted in such a manner as to conceal the identity of the applicant until all examinations have been scored. In all such examinations an average score of not less than seventy-five percent is required to pass.

3. The examination required for a license pursuant to sections 324.650 to 324.698 shall be written and shall meet the minimum standards of current national examinations for naturopathy.

324.674. Sections 324.650 to 324.698 do not apply to the following persons:

(1) Any naturopathic physician who is employed as a resident in a public hospital, provided such practice is limited to such hospital and is under the supervision of a licensed naturopathic physician;

(2) Any naturopathic physician who is licensed in a bordering state and who resides near a border of this state, provided such practice is limited in this state to the vicinity of such border and provided such naturopathic physician does not maintain

an office or place to meet patients or receive calls within this state;

(3) Any naturopathic physician who is licensed in another state or country and who is meeting a naturopathic physician licensed in this state, for purposes of consultation, provided such practice is limited to such consultation;

(4) Any naturopathic physician who is licensed in another state or country, who is visiting a naturopathic or other medical school or teaching hospital in this state to receive naturopathic or medical instruction for a period not to exceed six consecutive months or to conduct naturopathic or medical instruction, provided such practice is limited to such instruction and is under the supervision of a licensed naturopathic physician;

(5) Any naturopathic physician who is authorized by a foreign government to practice in relation to its diplomatic, consular or maritime staffs, provided such practice is limited to such staffs;

(6) Any commissioned medical officer who, as a licensed naturopathic physician, is serving in the United States armed forces or public health service or any naturopathic physician who is employed in the United States Veterans Administration, provided such practice is limited to such service or employment;

(7) Any intern who is employed by a hospital and who is a graduate of a naturopathic school in the United States or Canada, provided such practice is limited to such hospital and is under the supervision of a licensed naturopathic physician;

(8) Any naturopathic student who is performing a clinical clerkship or similar function in a hospital and who is matriculated in a naturopathic school which meets standards satisfactory to the department, provided such practice is limited to such clerkship or similar function in such hospital;

(9) A person engaged in the sale of vitamins, health foods, dietary supplements, herbs or other products of nature the sale of which is not otherwise prohibited under state or federal law;

(10) A person providing nutritional advice, giving advice concerning proper nutrition, or giving information as to the use and role of food and food ingredients, including dietary supplements, except that providing nutritional advice pursuant to the provisions of this section does not include the authority to practice medicine or surgery, to undertake the treatment or cure of a disease, pain, injury, deformity, or physical or mental condition, or to state that a product might cure a disease, pain, injury, deformity, or other condition;

(11) Any other person licensed in this state in any health care profession while the person is practicing within the scope of the license;

(12) A naturopathic physician licensed to practice naturopathic medicine in

another state, province of Canada, a territory of the United States, or the District of Columbia, if the state, territory, or the District of Columbia requires credentials equivalent to those in sections 324.650 to 324.698, during a period when the physician is incidentally called into this state for consultation with a naturopathic physician.

324.677. 1. Notwithstanding the provisions of sections 324.665 to 324.668, a person may be licensed as a naturopathic physician without meeting the requirements of section 324.665 if the applicant:

- (1) Is a resident of this state;**
- (2) Is at least twenty-one years of age;**
- (3) Provides proof acceptable to the board that the person has been actively engaged in naturopathic health care and has held the person out to the public as qualified to practice naturopathy for at least seven years before August 28, 2002, or has accumulated not less than three thousand eighty patient contact hours before August 28, 2002;**
- (4) Derives the majority of the person's income from the practice of naturopathy; and**
- (5) Applies for a license pursuant to this section before February 28, 2003.**

2. The board by rule may provide for limitations on the practice of a person licensed pursuant to subsection 1 of this section. The board may not require a person licensed pursuant to this section to be identified as a person whose practice is limited.

3. A person licensed pursuant to this section may:

- (1) Use the title "naturopathic physician" and any other title allowed pursuant to sections 324.650 to 324.698; and**
- (2) Practice naturopathy only within the scope of practice that reflects the limits of the person's training and experience.**

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

324.680. Any person who violates any provision of sections 324.650 to 324.698 is guilty of a class A misdemeanor.

324.683. The board shall not renew any certificate of registration unless the licensee provides satisfactory evidence that the licensee has complied with the board's

minimum requirements for continuing education. All persons once licensed to practice naturopathic medicine in this state shall, on or before the license renewal date, furnish to the board satisfactory evidence of completion of the requisite number of hours of postsecondary study, which shall be twenty-four hours during each twelve months of the registration period immediately preceding the filing of the registration renewal application. The postgraduate study required shall be from a board-approved continuing education program.

324.686. 1. Every person licensed pursuant to the provisions of this chapter shall renew his or her certificate of registration on or before the registration renewal date. The application shall be made under oath on a form furnished by the board. The application shall include, but not be limited to, disclosure of the following: the applicant's full name and the applicant's office and residence address and the date and number of his or her license; all final disciplinary actions taken against the applicant; and information concerning the applicant's current physical and mental fitness to practice as a naturopathic medical doctor.

2. A blank form for application for registration shall be mailed to each person licensed in this state at the person's last known office or residence address. The failure to receive it does not, however, relieve any person of the duty to register and pay the fee required by the chapter nor exempt him or her from the penalties provided by sections 324.650 to 324.695 for failure to register.

3. If a person licensed, certified, or registered by the board of naturopathic medicine does not renew such license, certification, or registration for two consecutive renewal periods, such license, certification, or registration shall be deemed void.

324.689. 1. Each applicant for registration pursuant to sections 324.650 to 324.698 shall accompany the application for registration with a registration fee to be paid to the director of revenue. If the application is filed and the fee paid after the registration renewal date, a delinquent fee shall be paid; but whenever in the opinion of the board the applicant's failure to register is caused by extenuating circumstances including illness of the applicant, as defined by rule and regulation, the delinquent fee may be waived by the board. Whenever any new license is granted to any person pursuant to the provisions of sections 324.650 to 324.698, the board shall, upon application therefor, issue to such licensee a certificate of registration covering a period from the date of the issuance of the license to the next renewal date without the payment of any registration fee.

2. The board shall set the amount of the fees which sections 324.650 to 324.698 authorizes and requires by rules and regulations promulgated pursuant to section

536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 324.650 to 324.698.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

324.692. 1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to sections 324.650 to 324.698 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license which is subject to probation, restriction or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by sections 324.650 to 324.698 or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or

alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 324.650 to 324.698;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 324.650 to 324.698, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to sections 324.650 to 324.698, or in obtaining permission to take any examination given or required pursuant to sections 324.650 to 324.698;

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of any profession licensed or regulated by sections 324.650 to 324.698 including, but not limited to, the following:

(a) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for visits to the naturopathic medical doctor's office which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;

(b) Attempting, directly or indirectly, by way of intimidation, coercion or deception, to obtain or retain a patient or discourage the use of a second opinion or consultation;

(c) Willfully and continually performing inappropriate or unnecessary treatment, diagnostic tests or medical or surgical services;

(d) Delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform such responsibilities;

(e) Misrepresenting that any disease, ailment or infirmity can be cured by a method, procedure, treatment, medicine or device;

(f) Performing or prescribing naturopathic services which have been declared by board rule to be of no naturopathic value;

(g) Final disciplinary action by the board or licensed hospital or medical staff of such hospital in this or any other state or territory, whether agreed to voluntarily

or not, and including, but not limited to, any removal, suspension, limitation, or restriction of the person's license or staff or hospital privileges, failure to renew such privileges or license for cause, or other final disciplinary action, if the action was in any way related to unprofessional conduct, professional incompetence, malpractice or any other violation of any provision of sections 324.650 to 324.698;

(h) Signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment without sufficient examination, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease;

(i) Exercising influence within a naturopathic medical doctor-patient relationship for purposes of engaging a patient in sexual activity;

(j) Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient;

(k) Failing to furnish details of a patient's medical records to other treating naturopathic medical doctors or hospitals upon proper request; or failing to comply with any other law relating to medical records;

(l) Failure of any applicant or licensee, other than the licensee subject to the investigation, to cooperate with the board during any investigation;

(m) Failure to comply with any subpoena or subpoena duces tecum from the board or an order of the board;

(n) Failure to timely pay license renewal fees specified in sections 324.650 to 324.698;

(o) Violating a probation agreement with this board or any other licensing agency;

(p) Failing to inform the board of the naturopathic medical doctor's current residence and business address;

(q) Advertising by an applicant or licensee which is false or misleading, or which violates any rule of the board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by any other naturopathic medical doctor. An applicant or licensee shall also be in violation of this provision if the applicant or licensee has a financial interest in any organization, corporation or association which issues or conducts such advertising;

(5) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public; or incompetency, gross

negligence or repeated negligence in the performance of the functions or duties of any profession licensed or regulated by sections 324.650 to 324.698. For the purposes of this subdivision, "repeated negligence" means the failure, on more than one occasion, to use that degree of skill and learning ordinarily used under the same or similar circumstances by the member of the applicant's or licensee's profession;

(6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 324.650 to 324.698, or of any lawful rule or regulation adopted pursuant to sections 324.650 to 324.698;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by sections 324.650 to 324.698 by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee or applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the practice of medicine while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the armed forces of the United States of America, insurance company, court, agency of the state or federal government, or employer;

(9) A person is finally adjudged incapacitated or disabled by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 324.650 to 324.698, who is not registered and currently eligible to practice pursuant to sections 324.650 to 324.698; or knowingly performing any act which in any way aids, assists, procures, advises, or encourages any person to practice medicine who is not registered and currently eligible to practice pursuant to this chapter. A naturopathic medical doctor who works in accordance with standing orders or protocols or in accordance with the provisions of section 334.104, RSMo, shall not be in violation of this subdivision;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by sections 324.650 to 324.698 or any rule promulgated pursuant to sections 324.650 to 324.698;

(13) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(14) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a false statement in any birth, death or other certificate or document executed in connection with the practice of the person's profession;

(15) Soliciting patronage in person or by agents or representatives, or by any other means or manner, under the person's own name or under the name of another person or concern, actual or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or necessity for or appropriateness of health care services for all patients, or the qualifications of an individual person or persons to diagnose, render, or perform health care services;

(16) Knowingly making or causing to be made a false statement or misrepresentation of a material fact, with intent to defraud, for payment pursuant to the provisions of chapter 208, RSMo, or chapter 630, RSMo, or for payment from Title XVIII or Title XIX of the federal Medicare program;

(17) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof; maintaining an unsanitary office or performing professional services under unsanitary conditions; or failure to report the existence of an unsanitary condition in the office of a naturopathic medical doctor or in any health care facility to the board, in writing, within thirty days after the discovery thereof;

(18) Any person licensed to practice as a naturopathic medical doctor, requiring, as a condition of the naturopathic medical doctor-patient relationship, that the patient receive prescribed drugs, devices or other professional services directly from facilities of that naturopathic medical doctor's office or other entities under that naturopathic medical doctor's ownership or control. A naturopathic medical doctor shall provide the patient with a prescription which may be taken to the facility selected by the patient and a naturopathic medical doctor may not knowingly fail to disclose to a patient on a form which is dated and signed by a patient or guardian acknowledging that the patient or guardian has read and understands that the naturopathic medical doctor has a pecuniary interest in a therapy or rehabilitation service providing prescribed treatment and that the prescribed treatment is available on a competitive basis. This subdivision shall not apply to a referral by one naturopathic medical doctor to another naturopathic medical doctor within a group of naturopathic medical doctors practicing together;

(19) A pattern of personal use or consumption of any controlled substance unless it is prescribed, dispensed or administered by another naturopathic medical doctor who is authorized by law to do so;

(20) Revocation, suspension, limitation or restriction of any kind whatsoever

of any controlled substance authority, whether agreed to voluntarily or not;

(21) Being unable to practice as a naturopathic medical doctor or with a specialty with reasonable skill and safety to patients by reasons of naturopathic medical incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition. The following shall apply to this subdivision:

(a) In enforcing this subdivision the board shall, after a hearing by the board, upon a finding of probable cause, require a naturopathic medical doctor to submit to a reexamination for the purpose of establishing his or her competency to practice as a naturopathic medical doctor or with a specialty conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the pattern and practice of such naturopathic medical doctor's professional conduct, or to submit to a mental or physical examination or combination thereof by at least three naturopathic medical doctors, one selected by the naturopathic medical doctor compelled to take the examination, one selected by the board, and one selected by the two naturopathic medical doctors so selected who are graduates of a professional school approved and accredited as reputable by the state association which has approved and accredited as reputable the professional school from which the licensee graduated;

(b) For the purpose of this subdivision, every naturopathic medical doctor licensed pursuant to this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining naturopathic medical doctor's testimony or examination reports on the ground that the examining naturopathic medical doctor's testimony or examination is privileged;

(c) In addition to ordering a physical or mental examination to determine competency, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to a naturopathic medical doctor or applicant without the naturopathic medical doctor's or applicant's consent;

(d) Written notice of the reexamination or the physical or mental examination shall be sent to the naturopathic medical doctor, by registered mail, addressed to the naturopathic medical doctor at the naturopathic medical doctor's last known address. Failure of a naturopathic medical doctor to designate an examining naturopathic medical doctor to the board or failure to submit to the examination when directed shall constitute an admission of the allegations against the naturopathic medical doctor, in which case the board may enter a final order without

the presentation of evidence, unless the failure was due to circumstances beyond the naturopathic medical doctor's control. A naturopathic medical doctor whose right to practice has been affected pursuant to this subdivision shall, at reasonable intervals, be afforded an opportunity to demonstrate that the naturopathic medical doctor can resume the competent practice as a naturopathic medical doctor with reasonable skill and safety to patients;

(e) In any proceeding pursuant to this subdivision neither the record of proceedings nor the orders entered by the board shall be used against a naturopathic medical doctor in any other proceeding. Proceedings pursuant to this subdivision shall be conducted by the board without the filing of a complaint with the administrative hearing commission;

(f) When the board finds any person unqualified because of any of the grounds set forth in this subdivision, it may enter an order imposing one or more of the disciplinary measures set forth in subsection 4 of this section.

3. Protocols and standing orders shall be in writing and signed and dated by a naturopathic medical doctor prior to their implementation.

4. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, warn, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years, or may suspend the person's license, certificate or permit for a period not to exceed three years, or restrict or limit the person's license, certificate or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or administer a public or private reprimand, or deny the person's application for a license, or permanently withhold issuance of a license or require the person to submit to the care, counseling or treatment of naturopathic medical doctors designated by the board at the expense of the individual to be examined, or require the person to attend such continuing educational courses and pass such examinations as the board may direct.

5. In any order of revocation, the board may provide that the person may not apply for reinstatement of the person's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.

6. Before restoring to good standing a license, certificate or permit issued pursuant to sections 324.650 to 324.698 which has been in a revoked, suspended or

inactive state for any cause for more than two years, the board may require the applicant to attend such continuing education courses and pass such examinations as the board may direct.

7. In any investigation, hearing or other proceeding to determine a licensee's or applicant's fitness to practice, any record relating to any patient of the licensee or applicant shall be discoverable by the board and admissible into evidence, regardless of any statutory or common law privilege which such licensee, applicant, record custodian or patient might otherwise invoke. In addition, no such licensee, applicant, or record custodian may withhold records or testimony bearing upon a licensee's or applicant's fitness to practice on the ground of privilege between such licensee, applicant or record custodian and a patient.

324.695. 1. Other provisions of section 620.010, RSMo, to the contrary notwithstanding, the board shall, at least quarterly, publish a list of the names and addresses of all persons who hold licenses pursuant to the provisions of sections 324.650 to 324.698, and shall publish a list of all persons whose licenses have been suspended, revoked, surrendered, restricted, denied or withheld. The board shall mail a copy of such lists to any person, upon request.

2. Other provisions of chapter 610, RSMo, to the contrary notwithstanding, in addition, the board shall prepare and make available to the public a report upon the disciplinary matters submitted to them where the board recommends disciplinary action except in those instances when persons possessing licenses voluntarily enter treatment and monitoring programs for purposes of rehabilitation and, in these instances, only this specific action shall not be reported with any other actions taken prior to, as part of, or following voluntary entrance into such treatment programs. The report shall set forth findings of fact and any final disciplinary actions of the board. Where the board does not recommend disciplinary action, a report stating that no action is recommended shall be prepared and forwarded to the complaining party.

324.698. 1. Upon receipt of information that the holder of any certificate of registration or authority, permit or license issued pursuant to sections 324.650 to 324.698 may present a clear and present danger to the public health and safety, the executive secretary or director shall direct that the information be brought to the board in the form of sworn testimony or affidavits during a meeting of the board.

2. The board may issue an order suspending and/or restricting the holder of a certificate of registration or authority, permit or license if it believes:

(1) The licensee's acts, conduct or condition may have violated subsection 2 of section 324.692; and

(2) A licensee is practicing, attempting or intending to practice in Missouri; and
(3) Either a licensee is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to the extent that the licensee's condition or actions significantly affect the licensee's ability to practice, or another state, territory, federal agency or country has issued an order suspending or restricting the holder of a license or other right to practice a profession regulated by sections 324.650 to 324.698, or the licensee has engaged in repeated acts of life-threatening negligence as defined in subsection 2 of section 324.692; and

(4) The acts, conduct or condition of the licensee constitute a clear and present danger to the public health and safety.

3. (1) The order of suspension or restriction:

(a) Shall be based on the sworn testimony or affidavits presented to the board;
(b) May be issued without notice and hearing to the licensee; and
(c) Shall include the facts which lead the board to conclude that the acts, conduct or condition of the licensee constitute a clear and present danger to the public health and safety;

(2) The board or the administrative hearing commission shall serve the licensee, in person or by certified mail, with a copy of the order of suspension or restriction and all sworn testimony or affidavits presented to the board, a copy of the complaint and the request for expedited hearing, and a notice of the place of and the date upon which the preliminary hearing will be held;

(3) The order of restriction shall be effective upon service of the documents required in subdivision (2) of this subsection;

(4) The order of suspension shall become effective upon the entry of the preliminary order of the administrative hearing commission;

(5) The licensee may seek a stay order from the circuit court of Cole County from the preliminary order of suspension, pending the issuance of a final order by the administrative hearing commission.

4. The board shall file a complaint in the administrative hearing commission with a request for expedited preliminary hearing and shall certify the order of suspension or restriction and all sworn testimony or affidavits presented to the board. Immediately upon receipt of a complaint filed pursuant to this section, the administrative hearing commission shall set the place and date of the expedited preliminary hearing which shall be conducted as soon as possible, but not later than five days after the date of service upon the licensee. The administrative hearing commission shall grant a licensee's request for a continuance of the preliminary hearing; however, the board's order shall remain in full force and effect until the

preliminary hearing, which shall be held not later than forty-five days after service of the documents required in subdivision (2) of subsection 3 of this section.

5. At the preliminary hearing, the administrative hearing commission shall receive into evidence all information certified by the board and shall only hear evidence on the issue of whether the board's order of suspension or restriction should be terminated or modified. Within one hour after the preliminary hearing, the administrative hearing commission shall issue its oral or written preliminary order, with or without findings of fact and conclusions of law, that either adopts, terminates or modifies the board's order. The administrative hearing commission shall reduce to writing any oral preliminary order within five business days, but the effective date of the order shall be the date orally issued.

6. The preliminary order of the administrative hearing commission shall become a final order and shall remain in effect for three years unless either party files a request for a full hearing on the merits of the complaint filed by the board within thirty days from the date of the issuance of the preliminary order of the administrative hearing commission.

7. Upon receipt of a request for full hearing, the administrative hearing commission shall set a date for hearing and notify the parties in writing of the time and place of the hearing. If a request for full hearing is timely filed, the preliminary order of the administrative hearing commission shall remain in effect until the administrative hearing commission enters an order terminating, modifying, or dismissing its preliminary order or until the board issues an order of discipline following its consideration of the decision of the administrative hearing commission pursuant to section 621.110, RSMo, and subsection 3 of section 324.692.

8. In cases where the board initiates summary suspension or restriction proceedings against a naturopathic medical doctor licensed pursuant to sections 324.650 to 324.698, and such petition is subsequently denied by the administrative hearing commission, in addition to any award made pursuant to sections 536.085 and 536.087, RSMo, the board, but not individual members of the board, shall pay actual damages incurred during any period of suspension or restriction.

9. Notwithstanding the provisions of this chapter or chapter 610, RSMo, or chapter 621, RSMo, to the contrary, the proceedings pursuant to this section shall be closed and no order shall be made public until it is final, for purposes of appeal.

10. The burden of proving the elements listed in subsection 2 of this section shall be upon the state board of naturopathic physicians.