

SECOND REGULAR SESSION

# SENATE BILL NO. 1262

91ST GENERAL ASSEMBLY

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INTRODUCED BY SENATOR KENNEY.

Read 1st time February 28, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4924S.011

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## AN ACT

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

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

Section A. Chapter 324, RSMo, is amended by adding thereto seventeen new sections, to be known as sections 324.650, 324.653, 324.656, 324.659, 324.662, 324.665, 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) "Accepted therapeutic purpose", treatment of a disease, injury, ailment or infirmity that is competent and generally recognized as safe and effective;**

**(2) "Approved postdoctoral training" or "postdoctoral training", a program in which the training has been approved as specialty training for 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, in naturopathic medicine by the board or approved or accredited by an educational or professional association recognized by the board or by another state's licensing agency recognized by the board;**

**(3) "Approved preceptorship program" or "preceptorship", a program in which the training has been approved as preceptorship training for physicians or for graduates of a school of naturopathic medicine by the board or was approved or accredited by an educational or professional association recognized by the board or by another state's licensing agency recognized by the board;**

**(4) "Approved school of naturopathic medicine" or "school of naturopathic medicine", a reputable school or college offering a course of study to a person licensed pursuant to chapter 331, RSMo, or sections 334.010 to 334.140, RSMo, which, on successful completion, awards the degree of doctor of naturopathic medicine and which course of study is any of the following:**

**(a) Certified, recognized or approved by another state's naturopathic licensing agency and the school is located in the jurisdiction of that licensing agency;**

**(b) Determined by the board to have an educational program that meets board standards as prescribed by board rules;**

**(5) "Board", the state board of naturopathic medicine;**

**(6) "Device", an appliance, apparatus or instrument administered or dispensed to a patient by a doctor of naturopathic medicine;**

**(7) "Dispense", the delivery or administration by a doctor of naturopathic medicine of a substance or a device to a patient and only for a condition being diagnosed or treated by such doctor; to include free samples packaged for individual use by licensed manufacturers or repackagers, and includes the prescribing, administering, packaging and labeling as related to naturopathic medicine and security necessary to prepare and safeguard the substance or the device for delivery to the treating doctor's own patient;**

**(8) "Doctor of naturopathic medicine", a person licensed to practice naturopathic medicine pursuant to sections 324.650 to 324.698;**

**(9) "Homeopathy", a system of medical treatment of certain diseases with small doses of substances which in a healthy person and in large doses would produce symptoms like those of the disease;**

**(10) "Medical assistant" or "naturopathic medical assistant", a person who is certified by the board as a medical assistant, who assists a doctor of naturopathic medicine and who may perform delegated procedures commensurate with the assistant's education and training under the supervision of a doctor of naturopathic medicine. Procedures delegated to a medical assistant do not include diagnosing, designing or modifying established treatment programs or those procedures prohibited by the board or by the provisions of sections 324.650 to 324.698;**

**(11) "Minerals", any inorganic substance occurring naturally in the earth as ore or rock, or any substance neither vegetable or animal;**

**(12) "Minor office procedures", includes, but is not limited to:**

**(a) The use of diagnostic procedures and instrumentation;**

**(b) The use of diagnostic imaging;**

**(c) The use of laboratory procedures;**

**(d) The use of operative or other methods of repair and care incidental to superficial lacerations, abrasions and superficial lesions, and the removal of foreign bodies located in superficial tissues;**

**(e) The use of antiseptics and anesthetics in connection with minor office procedures.**

**Minor office procedures does not include major surgical procedures, surgery of the body cavities, surgical procedures involving the eye or ear, any surgical procedure involving tendons, nerves, veins or arteries extending beyond superficial tissue and general or spinal anesthesia.**

**(13) "Modalities and methods", includes, but is not limited to:**

**(a) Physical medicine and modalities;**

**(b) Bio-energetic or meridian therapies;**

**(c) Parenteral orthomolecular therapy;**

**(d) Natural therapies and means intended to help stimulate and maintain the body's intrinsic self-healing processes; and**

**(e) Those methods and therapies taught in approved schools of naturopathic medicine;**

**(14) "Natural substance", arising from nature; of animal, vegetable or natural origin;**

**(15) "Naturopathic medical student", a person licensed pursuant to chapter 331, RSMo, or sections 334.010 to 334.140, RSMo, who is enrolled in a course of study at an approved school of naturopathic medicine;**

**(16) "Naturopathic medicine", an integrative system of health care practice as taught in approved schools of naturopathic medicine;**

**(17) "Nurse", a person licensed pursuant to chapter 335, RSMo;**

**(18) "Physician", a doctor of naturopathic medicine licensed pursuant to sections 324.650 to 324.698;**

**(19) "Practice of naturopathic medicine", a system of diagnosing and treating diseases, injuries, ailments, infirmities and other conditions of the human mind and body including, but not limited to, natural modalities and methods, the prescribing or dispensing of substances and minor office procedures as defined in this section;**

**(20) "Specialist", a physician who has successfully completed approved postdoctoral training, who is certified by a specialty board of examiners recognized by the board and who is certified by the board to practice the specialty pursuant to sections 324.650 to 324.698;**

**(21) "Substances", includes, but is not limited to:**

**(a) Minerals, vitamins, enzymes and other natural substances;**

- (b) Homeopathic preparations;**
- (c) Schedule III controlled substances, limited to aspirin and acetaminophen with codeine formulations;**
- (d) Schedule IV and V controlled substances as provided in chapter 195, RSMo;**
- and**
- (e) Legend drugs not otherwise classified as schedule controlled substances.**

**Substances may be prescribed for those conditions treated within the scope of naturopathic medical practice only;**

**(22) "Vitamins", any complex substance found in foods and essential to good health.**

**2. It shall be unlawful for any person who is not currently a certified or licensed naturopathic medical doctor within the meaning of the law to practice naturopathic medicine in any of its departments, to engage in the practice of naturopathic medicine, to cure or attempt to treat the sick and others afflicted with bodily or mental infirmities, 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 "physician", "practitioner of naturopathic medicine", "N.M.D.", "naturopathic medical 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 registration for the naturopathic medicine.**

**4. The terms "naturopathic physician", "naturopathic medical doctor", "N.M.D.", "doctor of naturopathic medicine", "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. Candidates for licensure as naturopathic medical doctors shall furnish satisfactory evidence of their good moral character and their preliminary qualifications as follows:**

**(1) Satisfactory evidence of having attended a reputable college or university at which they earned a degree from a professional course of education in either medicine, osteopathy, chiropractic or naturopathy; and**

**(2) Completion of a course of instruction from a school of naturopathic medicine that is approved by the board.**

**324.656. 1. There is hereby established a "State Board of Naturopathic Medicine" for the purpose of licensing and supervising all physicians. The board shall consist of six members, including one voting public member, to be appointed by the governor with the advise and consent of the senate. Five members of the board shall**

**be graduates of professional schools approved by the board or the liaison committee on naturopathic education and licensed as physicians pursuant to the laws of this state. Each 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 lawful and ethical practice of the profession of physician for at least five years immediately preceding his or her appointment. No more than four members shall be affiliated with the same political party. All members shall be appointed for a term of four years. 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, or 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 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.**

**4. 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.**

**5. 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, 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.**

**324.659. 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; provided that the licensing fee shall not exceed two hundred fifty dollars;**

**(4) Deposit all funds received pursuant to sections 324.650 to 324.698 in the board of registration for the healing arts fund established in section 334.050, RSMo;**

**(5) Adopt rules regarding naturopathic medical assistants who assist a doctor of naturopathic medicine, and determine the qualifications of naturopathic medical assistants who are not otherwise licensed by law. The board may also adopt rules for the voluntary certification of such naturopathic medical assistants;**

**(6) Adopt rules requiring a doctor of naturopathic medicine to be certified and registered by the board before dispensing a substance or device;**

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

**(8) Have the full and free exchange of information with the licensing and disciplinary boards of other states and countries.**

**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) Adopt rules relating to naturopathic medical specialties and determine the qualifications of doctors of naturopathic medicine who may represent or hold themselves out as being specialists;**

**(4) If reasonable cause exists to believe that an applicant's competency is in question, require an applicant for licensure to undergo any combination of physical, mental, blood or laboratory tests.**

**3. No rule or portion of a rule promulgated pursuant to the authority of sections 324.650 to 324.698 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.**

**324.662. 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.**

**324.665. 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 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 consist of the following parts:**

**(1) Part one shall encompass the basic medical science subjects of anatomy, basic pharmacology and toxicology, biochemistry, microbiology and immunology, physiology, pathology and naturopathic jurisprudence;**

**(2) Part two shall encompass the clinical medical science subjects of dermatology, ophthalmology and otolaryngology, geriatrics, infectious diseases, neurology and psychiatry, pediatrics, obstetrics and gynecology, orthopedics, physical medicine and rehabilitation;**

**(3) Part three shall encompass the clinical competency medical subject of**

emergency medicine, clinical pharmacology, internal medicine, laboratory diagnosis and diagnostic imaging, clinical nutrition, botanicals and diet therapy.

4. In lieu of the examination prescribed in subsection 3 of this section, the board may accept examinations conducted by a national board of examiners recognized by the board for those subjects encompassed pursuant to subdivisions (1) and (2) of subsection 3 of this section if the applicant for licensure successfully passed the examination and the national board submits an affidavit to the board that confirms the examination grade of the applicant.

5. In lieu of the examination prescribed in subsection 3 of this section, all physicians and surgeons licensed pursuant to chapter 334, RSMo, and chiropractors licensed pursuant to chapter 331, RSMo, who have been granted a doctor of naturopathic medicine degree from an approved naturopathic medical program in which the college granting the degree is approved by a state board, at the time the degree was granted, with equivalent quality and standards of care in the practice of naturopathic medicine shall be entitled to be licensed pursuant to sections 324.650 to 324.698 on the effective date of sections 324.650 to 324.698.

324.668. 1. A naturopathic medical student who wishes to engage in a clinical training program in naturopathic medicine shall submit an application for a certificate from the board.

2. A naturopathic medical student issued a certificate by the board to engage in an approved clinical training program shall be under the supervision of a physician licensed pursuant to sections 324.650 to 324.698 or pursuant to chapter 331, RSMo, or chapter 334, RSMo.

3. The board may by rule prescribe naturopathic medical treatment procedures that naturopathic medical students may perform under the supervision of a physician licensed pursuant to sections 324.650 to 324.698, if the board determines that such procedures:

(1) May be competently performed by the student; and  
(2) Do not exceed the procedures that the supervising physician has been licensed by this state to perform.

4. A naturopathic medical student may do clerical tasks without supervision if the tasks do not involve diagnosing or treating a patient's condition.

5. A person shall not use the title "naturopathic medical student" or a related title or abbreviation while engaged in a clinical training program unless that person holds a certificate issued by the board to engage in such clinical training program.

6. If a student of naturopathic medicine ceases to be enrolled in an approved school of naturopathic medicine, or if the student's supervising physician withdraws



from supervision of the naturopathic medical student, the certificate to engage in clinical training held by such student shall be automatically suspended.

**324.671. 1. A person licensed pursuant to chapter 331, RSMo, or sections 334.010 to 334.140, RSMo, who is a graduate of an approved school of naturopathic medicine with a degree of doctor of naturopathic medicine and who wishes to engage in an internship program or a preceptorship program shall submit an application for certification.**

**2. A person licensed pursuant to chapter 331, RSMo, or sections 334.010 to 334.140, RSMo, who is a graduate of an approved school of naturopathic medicine with a degree of naturopathic medicine may engage in an approved internship program or an approved preceptorship program under the supervision of a physician licensed pursuant to sections 324.650 to 324.698 or pursuant to chapter 331, RSMo, or chapter 334, RSMo.**

**3. The board may, by rule, prescribe naturopathic medical treatment procedures that a person who is a graduate of an approved school of naturopathic medicine may perform under the supervision of a physician licensed pursuant to sections 324.650 to 324.698 if the board determines that these procedures:**

- (1) May be competently performed by the graduate; and**
- (2) Do not exceed the procedures that the supervising physician has been licensed by this state to perform.**

**324.674. 1. A doctor of naturopathic medicine may dispense a substance or a device to a patient for a condition being diagnosed or treated by the doctor if:**

**(1) The doctor is certified by the board to dispense and such doctor's certificate has not been suspended or revoked by the board;**

**(2) The substance is dispensed and properly labeled with the following dispenser information:**

**(a) The dispensing doctor's name, address, telephone number and license number issued by the board;**

**(b) The date the substance is dispensed;**

**(c) The patient's name;**

**(d) The name and strength of the substance, directions for proper and appropriate use and any cautionary statements for the substance or the device;**

**(3) The dispensing doctor enters into the patient's medical record the name and strength of the substance or the device dispensed, the date the substance or the device is dispensed and the therapeutic reason;**

**(4) The dispensing doctor keeps all substances and devices in a secured cabinet or room, controls access to the cabinet or room by a written procedure and maintains**

an ongoing inventory of its contents.

2. Before dispensing a substance or device pursuant to this section, the treating doctor shall give his or her patient or the patient's legal guardian a written statement on which appears the following statement in bold type:

**"This prescription may be filled by your doctor of naturopathic medicine or by a pharmacy of your choice."**

3. A doctor of naturopathic medicine shall provide direct supervision of a nurse or attendant involved in the dispensing process. In this subsection, "direct supervision" means that a doctor of naturopathic medicine is present and makes the determination as to the necessary use or the advisability of the substance or device to be dispensed.

4. The provisions of this section shall be enforced by the board. The board may conduct periodic inspections of dispensing practices to assure compliance with the section and applicable rules.

5. Nothing in this section shall prevent a licensed practical or registered nurse employed by a physician of naturopathic medicine from assisting in the delivery of substances and devices in accordance with the provisions of this chapter.

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

**324.680.** 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 not be less than twenty-four hours or more than thirty-six hours during each twelve months of the registration period immediately preceding the filing of the registration renewal application. The postgraduate study required shall be such study presented by a college of naturopathic medicine approved by the board.

**324.683. 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 this chapter 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.**

**324.686. 1. Each applicant for registration pursuant to this chapter 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 this chapter, 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 this chapter 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 this chapter.**

**324.689. 1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to this chapter 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 this chapter 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 this chapter, chapter 331, RSMo, or chapter 334, RSMo;**

**(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 this chapter, chapter 331, RSMo, or chapter 334, RSMo, 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 this chapter, chapter 331, RSMo, or chapter 334, RSMo, or in obtaining permission to take any examination given or required pursuant to this chapter, chapter 331, RSMo, or chapter 334, RSMo;**

**(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 this chapter, chapter 331, RSMo, or chapter 334, RSMo, 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 medical services which have been declared by board rule to be of no medical 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 this chapter, chapter 331, RSMo, or chapter 334, RSMo;**

**(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, except as authorized in section 334.104, RSMo;**

**(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 this chapter;**

**(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 this chapter, chapter 331, RSMo, or chapter 334, RSMo. 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 this chapter, chapter 331, RSMo, or chapter 334, RSMo, or of any lawful rule or regulation adopted pursuant to this chapter, chapter 331, RSMo, or chapter 334, RSMo;**

**(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 this chapter 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 this chapter, chapter 331, RSMo, or chapter 334, RSMo, who is not registered and currently eligible to practice pursuant to this chapter; 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, chapter 331, RSMo, or chapter 334, RSMo. 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 this chapter or any rule promulgated pursuant to this chapter;

(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 medical or osteopathic 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 licentiate 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 this chapter 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 medical 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.

324.692. 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 this chapter, 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.**

**324.695. 1. Upon receipt of information that the holder of any certificate of registration or authority, permit or license issued pursuant to this chapter 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 324.689; 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 this chapter, or the licensee has engaged in repeated acts of life-threatening negligence as defined in subsection 2 of section 324.689; 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;**

**(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; and**

**(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 324.689.**

**8. In cases where the board initiates summary suspension or restriction proceedings against a naturopathic medical doctor licensed pursuant to this chapter, 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 registration for the healing arts.**

**324.698. Any officer, agent or employee of any professional school or college, whether organized as a corporation, association, partnership, common law trust, or individually owned and operated, who knowingly permits the issuance of any diploma or any certificate of graduation from any such school or college as aforesaid to anyone, or anyone who knowingly accepts or receives such certificate or diploma, unless the recipient or beneficiary thereof has actually attended in good faith at least eighty percent of the minimum curriculum prescribed in this chapter for such character of schools in this or some other state, and has received instruction in and has satisfactorily passed all the courses and subjects purported to be required by such school for completion of its course, and has actually been granted a degree by vote of the trustees of such college or school, shall be guilty of a class A misdemeanor.**