

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

337T0274

HOUSE HEALTH AND HUMAN SERVICES ENGROSSED NO. **HB 1171** - 1/26/2012

Introduced by: Representatives Munsterman, Brunner, Elliott, Hickey, Hunt, Jensen, Kopp, Liss, Magstadt, Miller, Nelson (Stace), Olson (Betty), Schaefer, and Sly and Senators Rhoden, Adelstein, Begalka, Frerichs, Fryslie, Kraus, Lederman, and Sutton

1 FOR AN ACT ENTITLED, An Act to establish a board to regulate certain emerging
2 complementary health professionals with no current state regulatory board.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. For the purposes of this Act, an emerging complementary health professional is
5 a person practicing, or seeking to practice, a nationally recognized health profession not
6 currently regulated in South Dakota.

7 Section 2. The Emerging Complementary Health Professionals Licensing Board is
8 established. The board may regulate newly emerging complementary health professions that are
9 not regulated by any other board. The board shall be composed of seven members appointed by
10 the Governor. The Governor shall appoint one person regulated by each of the following boards:
11 Board of Chiropractic Examiners, Board of Massage Therapy, Board of Medical and
12 Osteopathic Examiners, Board of Nursing, and Board of Pharmacy. The Governor shall also
13 appoint two representatives from the public, with consideration to consumers using the services,



1 or from the professions regulated by the board.

2 Section 3. Each appointment shall be for a term of three years. No member may serve more
3 than three consecutive full terms. However, appointment to an unexpired term is not considered
4 a full term for this purpose. Each member shall hold office until a successor is appointed and
5 qualified. Any vacancy on the board shall be filled by appointment by the Governor. The
6 Governor may stagger terms to enable the board to have different terms expire each year.

7 Section 4. The board shall annually elect one member to serve as chair, one member to serve
8 as vice chair, and one member to serve as secretary. The board shall be under the supervision
9 of the Department of Health. The board shall submit such records, information, and reports in
10 the form and at such times as required by the secretary of health. However, the board shall report
11 at least annually.

12 Section 5. The board shall hold at least two meetings each year at a time to be determined
13 by the board. The board members shall receive per diem set pursuant to § 4-7-10.4 and expenses
14 at the same rate as other state employees while actually engaged in their official duties.

15 Section 6. With approval by the Legislature, the board shall regulate a group of emerging
16 complementary health professionals if the board determines:

- 17 (1) The unregulated practice of the profession creates a direct, immediate danger to the
18 public health, safety, or welfare;
- 19 (2) The scope of practice is readily identified and easily distinguished from the scope of
20 practice of other professions;
- 21 (3) The professional group has a national certification program or some other means to
22 ensure a minimum quality of service; and
- 23 (4) The practice of the profession requires some specialized skill or training, and
24 nationally recognized standards of education and training exist.

1 Section 7. The board may issue a license to any applicant who is at least eighteen years of
2 age and who meets the educational, moral, and competency standards of the profession.

3 A license issued under this chapter is valid for a period of one year from the date it was
4 issued and automatically expires unless it is renewed. The board may refuse to grant a
5 license to any person based on failure to demonstrate the requirements of this section. An
6 applicant may appeal the denial of a license in compliance with chapter 1-26.

7 Section 8. Any applicant for a license under this chapter shall submit a non-refundable
8 application fee not to exceed one hundred dollars. Any person who has a license issued or
9 renewed under this chapter shall submit a license fee in an amount, not to exceed two hundred
10 dollars. Fees shall be set by the board in rules promulgated pursuant to chapter 1-26.

11 Section 9. Any person holding a valid license under this chapter may renew that license by
12 paying the required renewal fee and providing proof of compliance with the continuing
13 education requirements set by the board at least thirty days prior to the expiration of the current
14 license.

15 Section 10. The board may cancel, suspend, or revoke a license following a hearing in
16 compliance with chapter 1-26 upon satisfactory proof of incompetence, unprofessional conduct,
17 or a violation of any provision of this chapter. The board may waive the requirement of prior
18 notice and an informal meeting set forth in § 1-26-29 if the licensee presents an immediate
19 threat to the public or has engaged in willful misconduct. Any person may appeal the
20 cancellation, suspension, or revocation of a license in compliance with chapter 1-26.

21 Section 11. The board shall promulgate rules pursuant to chapter 1-26 based on the accepted
22 national standards in the following areas:

- 23 (1) Scope or practice of each regulated profession;
- 24 (2) Application procedure, examinations, licensure, and license fees;

- 1 (3) Professional conduct;
- 2 (4) Safety standards; and
- 3 (5) Education standards.

4 Section 12. The board shall maintain a list of recognized facilities or instructors who may
5 provide training or instruction required for licensure.

6 Section 13. The board may inspect the place of business of any person with a license issued
7 pursuant to this chapter during normal business hours, or upon written notice.

8 Section 14. All moneys coming into the custody of the board each calendar month shall be
9 paid by the board to the state treasurer on or before the tenth day of the next month. The state
10 treasurer shall credit the moneys to the Emerging Complementary Health Professionals
11 Licensing Board account of the general fund, which account is hereby created. The moneys in
12 the Emerging Complementary Health Professionals Licensing Board account are hereby
13 continuously appropriated to the board for the purpose of paying the expense of administering
14 and enforcing the provisions of this Act. However, the total expense incurred may not exceed
15 the total moneys collected by the board.