

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

823J0016

## HOUSE BILL NO. 1286

Introduced by: Representatives Begalka, Gassman, Lange, and McCoy and Senators Kloucek, Koskan, and Reedy

1 FOR AN ACT ENTITLED, An Act to regulate the practice of naturopathy.

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

3 Section 1. Terms used in this Act mean:

4 (1) "Department," the Department of Health;

5 (2) "Secretary," the secretary of health;

6 (3) "Naturopath," any person licensed under this Act;

7 (4) "Committee," the South Dakota Naturopathic Practice Advisory Committee;

8 (5) "Educational program," a program preparing persons for the practice of naturopathy;

9 (6) "Nutrition and food science," the prevention and treatment of disease or other human  
10 conditions through the use of foods, water, herbs, roots, bark, or natural food  
11 elements;

12 (7) "Manual manipulation" or "mechanotherapy," manipulation of a part or the whole of  
13 the body by hand or by mechanical means;

14 (8) "Physical modalities," use of physical, chemical, electrical, and other noninvasive  
15 modalities including heat, cold, air, light, water in any of its forms, sound, massage,



- 1 and therapeutic exercise;
- 2 (9) "Homeopathy," a system of medicine based on the use of infinitesimal doses of  
3 medicines capable of producing symptoms similar to those of the disease treated, as  
4 listed in the homeopathic pharmacopeia of the United States;
- 5 (10) "Medicines of mineral, animal, and botanical origin," medicines other than controlled  
6 substances derived from animal organs, tissues, oils, minerals, and plants  
7 administered orally and topically, excluding legend drugs with the following  
8 exceptions: vitamins, minerals, whole gland thyroid, and substances as exemplified  
9 in traditional botanical and herbal pharmacopeia and nondrug contraceptive devices  
10 excluding interuterine devices. The term includes intermuscular injections limited to  
11 vitamin B-12 preparations and combinations if a clinical or laboratory evaluation has  
12 indicated vitamin B-12 deficiency;
- 13 (11) "Hygiene and immunization," the use of such preventative techniques as personal  
14 hygiene, asepsis, public health, and immunizations, to the extent allowed by rule;
- 15 (12) "Minor office procedures," care incident thereto of superficial lacerations and  
16 abrasions, and the removal of foreign bodies located in superficial structures, not to  
17 include the eye; and the use of antiseptics and topical local anesthetics in connection  
18 therewith;
- 19 (13) "Common diagnostic procedures," the use of venipuncture to withdraw blood,  
20 commonly used diagnostic modalities consistent with naturopathic practice, health  
21 history taking, physical examination, radiography, examination of body orifices  
22 excluding endoscopy, and laboratory medicine which obtains samples of human  
23 tissue products, including superficial scrapings but excluding procedures which  
24 would require surgical incision;

1 (14) "Suggestion," techniques including counseling, biofeedback, and hypnosis;

2 (15) "Radiography," the ordering but not the interpretation of radiographic diagnostic  
3 studies and the taking and interpretation of standard radiographs.

4 Section 2. No person may practice naturopathy or represent himself or herself as a  
5 naturopath without first applying for and receiving a license from the secretary to practice  
6 naturopathy.

7 Section 3. Naturopathic medicine or naturopathy is the practice by naturopaths of the art and  
8 science of the diagnosis, prevention, and treatment of disorders of the body by stimulation or  
9 support, or both, of the natural processes of the human body. A naturopath is responsible and  
10 accountable to the consumer for the quality of naturopathic care rendered.

11 The practice of naturopathy includes manual manipulation or mechanotherapy, the  
12 prescription, administration, dispensing, and use, except for the treatment of malignancies or  
13 neoplastic disease, of nutrition and food science, physical modalities, homeopathy, certain  
14 medicines of mineral, animal, and botanical origin, hygiene and immunization, common  
15 diagnostic procedures, and suggestion. However, nothing in this Act prohibits consultation and  
16 treatment of a patient in concert with a practitioner licensed under chapter 36-4. No person  
17 licensed under this Act may employ the term, chiropractic, to describe any services provided by  
18 a naturopath under this Act.

19 Section 4. Nothing in this Act may be construed to prohibit or restrict:

20 (1) The practice of a profession by persons who are licensed, certified, or registered  
21 under other laws of this state who are performing services within their authorized  
22 scope of practice;

23 (2) The practice of naturopathic medicine by a person employed by the government of  
24 the United States while the person is engaged in the performance of duties prescribed

1 for him or her by the laws and regulations of the United States;

2 (3) The practice of naturopathic medicine by students enrolled in a school approved by  
3 the secretary. The performance of services shall be pursuant to a course of instruction  
4 or assignments from an instructor and under the supervision of the instructor. The  
5 instructor shall be a naturopath licensed pursuant to this Act; or

6 (4) The practice of oriental medicine or oriental herbology, or the rendering of other  
7 dietary or nutritional advice.

8 Section 5. The secretary shall:

9 (1) Set all license examination, renewal, and late renewal fees, not to exceed three  
10 hundred dollars, by rules promulgated pursuant to chapter 1-26;

11 (2) Establish forms and procedures necessary to administer this Act;

12 (3) Determine the minimum education and experience requirements for licensure by  
13 rules promulgated pursuant to chapter 1-26, including approval of educational  
14 programs;

15 (4) Prepare and administer or approve the preparation and administration of  
16 examinations for licensure;

17 (5) Issue a license to any applicant who has met the education, training, and examination  
18 requirements for licensure and deny a license to any applicant who does not meet the  
19 minimum qualifications for licensure. However, the denial of a license based on  
20 unprofessional conduct or impaired practice shall be governed by chapter 1-26;

21 (6) Hire clerical, administrative, and investigative staff as needed to implement and  
22 administer this Act and hire individuals, including those licensed under this Act, to  
23 serve as examiners or consultants as necessary to implement and administer this Act;

24 (7) Maintain the official department record of all applicants and licensees;

- 1       (8) Determine whether alternative methods of training are equivalent to formal  
2           education, and establish forms, procedures, and criteria for evaluation of an  
3           applicant's equivalent alternative training to determine the applicant's eligibility to  
4           take the examination;
- 5       (9) Establish by rule, promulgated pursuant to chapter 1-26, the procedures for an appeal  
6           of examination failure;
- 7       (10) Conduct a hearing on an appeal of a denial of a license based on the applicant's  
8           failure to meet the minimum qualifications for licensure. The hearing shall be  
9           conducted pursuant to chapter 1-26; and
- 10      (11) Promulgate rules, pursuant to chapter 1-26, implementing a continuing competency  
11           program.

12       Section 6. There is hereby created the South Dakota Naturopathic Advisory Committee  
13      consisting of five members appointed by the secretary who shall advise the secretary concerning  
14      the administration of this Act. Three members of the initial committee shall be persons who  
15      would qualify for licensing under this Act. Their successors shall be naturopaths who are  
16      licensed under this Act. Two members of the committee shall be persons who are unaffiliated  
17      with the profession. For the initial committee, one unaffiliated member and one naturopath shall  
18      serve four-year terms, one unaffiliated member and one naturopath shall serve three-year terms,  
19      and one naturopath shall serve a two-year term. The term of office for committee members after  
20      the initial committee is four years. Any committee member may be removed for just cause  
21      including a finding of fact of unprofessional conduct, impaired practice, or more than three  
22      unexcused absences. The secretary may appoint a new member to fill any vacancy on the  
23      committee for the remainder of the unexpired term. No committee member may serve more  
24      than two consecutive terms, whether full or partial.

1 Section 7. Committee members shall be compensated in accordance with § 3-9-2.

2 Section 8. The committee may elect annually a chair and vice-chair to direct the meetings  
3 of the committee. The committee shall meet at least once each year and may hold additional  
4 meetings as called by the secretary or the chair.

5 Section 9. The secretary, any member of the committee, and any person acting on the  
6 secretary's or a member's behalf, are immune from suit in any civil action based on any act  
7 performed in the course of the person's duties.

8 Section 10. The department shall issue a license to any applicant who meets the following  
9 requirements:

- 10 (1) Successful completion of an educational program approved by the secretary, the  
11 minimum standard of which shall be the successful completion of a doctorate degree  
12 program in naturopathy which includes a minimum of two hundred post-graduate  
13 hours in the study of mechanotherapy from an approved educational program, or  
14 successful completion of equivalent alternate training that meets the criteria  
15 established by the secretary;
- 16 (2) Successful completion of any equivalent experience requirement established by the  
17 secretary;
- 18 (3) Successful completion of an examination administered or approved by the secretary;
- 19 (4) Good moral character; and
- 20 (5) Not having engaged in unprofessional conduct, or being unable to practice with  
21 reasonable skill and safety as a result of a physical or mental impairment.

22 Section 11. The secretary shall establish, by rules promulgated pursuant to chapter 1-26, the  
23 standards for approval of educational programs and alternate training and may contract with  
24 individuals or organizations having expertise in the profession or in education, or both, to report

1 to the secretary the information necessary for the secretary to evaluate the educational programs.  
2 The standards for approval shall be based on the minimal competencies necessary for safe  
3 practice. The standards and procedures for approval shall apply equally to educational programs  
4 and equivalent alternate training within the United States and those in foreign jurisdictions. The  
5 secretary may establish a fee for educational program evaluation, not to exceed five hundred  
6 dollars. The fee shall be determined by the administrative costs for the educational program  
7 evaluation, including costs for site evaluation.

8 Section 12. The date and location of the examination shall be established by the secretary.  
9 Any applicant who has been found to meet the education and experience requirements for  
10 licensure shall be scheduled for the next examination following the filing of the application. The  
11 secretary shall establish, by rules promulgated pursuant to chapter 1-26, the examination  
12 application deadline. The examination shall contain subjects appropriate to the standards of  
13 competency and scope of practice. The secretary shall establish, by rules promulgated pursuant  
14 to chapter 1-26, the requirements for a reexamination if the applicant has failed the examination.  
15 The committee may recommend to the secretary an examination prepared or administered, or  
16 both, by a private testing agency or association of licensing boards.

17 Section 13. The secretary shall establish, by rules promulgated pursuant to chapter 1-26, the  
18 standards for licensure of applicants licensed in another jurisdiction. However, the standards for  
19 reciprocity of licensure may not be less than required for licensure in this state.