

An act relating to the provision of naturopathic medicine and natural health therapies; changing the title of ch. 462, F.S., from "Naturopathy" to "Naturopathic Medicine"; reserving certain titles exclusively for licensees under this chapter; amending s. 462.01, F.S. to define and distinguish between "naturopathic medicine," as regulated by this chapter, and "natural health therapies," which are exempt from such regulation; revising and providing definitions; requiring certain disclosures; creating s. 462.0215, F.S.; creating the Board of Naturopathic Medicine; providing membership and duties of the board; providing guidelines for probable cause panels and disciplinary decisions; providing applicability of ch. 456, F.S.; amending s. 462.023, F.S.; providing powers and duties of the board under ch. 462, F.S., including rulemaking authority; deleting obsolete language; amending s. 462.08, F.S.; conforming terminology; amending s. 462.11, F.S.; conforming and correcting terminology; amending s. 462.13, F.S.; providing additional powers and duties of the board; amending s. 462.14, F.S.; specifying authority of the department and the board with respect to disciplinary action and revising grounds for disciplinary action with respect to such authority; conforming terminology; amending s. 462.16, F.S.; specifying authority for setting the fee for the reissuance of license under certain circumstances; conforming terminology; amending s. 462.17, F.S.; providing penalties for falsely using certain titles and engaging in the unlicensed practice of naturopathic medicine; amending s. 462.18, F.S., relating to naturopathic educational requirements;

conforming terminology; amending s. 462.19, F.S.; increasing the maximum amount at which the inactive status fee may be set; creating s. 462.193, F.S.; providing requirements for licensure as a naturopathic physician; providing fees; providing grounds for denying or restricting licenses; providing for the applicability of certain rights to naturopathic physicians or who have certain qualifications; creating s. 462.195, F.S.; providing exemptions from the application of this chapter; amending s. 462.2001, F.S.; updating the saving clause; conforming terminology; providing that certain rights and privileges of active licensees are retained; amending ss. 20.43, 381.0031, 468.301, 476.044, 477.0135, 485.003, 486.161, 627.351, 893.02, and 921.0022, F.S.; conforming terminology;

recommended by naturopathic physicians; creating s. 456.43, F.S.; providing a popular name; providing legislative findings and intent; defining the term "natural health therapies"; clarifying that persons who are not health care practitioners licensed by this state may provide natural health therapies under certain circumstances; prohibiting certain acts; requiring certain disclosures; providing civil and criminal penalties; amending s. 456.065, F.S.; providing that the disciplinary provisions of the law prohibiting the unlicensed practice of a health care profession do not prohibit the provision of natural health therapies as provided under the act; providing effective dates.
Be It Enacted by the Legislature of the State of Florida:

Section 1. Legislative Intent:

(1) Consistent with federal and state of Florida legislation supporting complementary and alternative medicine (CAM), the legislature desires to restore professional licensure of naturopathic physicians, practitioners of CAM.

(a) Congressional action in 1998 established the National Center for Complementary and Alternative Medicine (NCCAM), a division of the National Institutes of Health, to provide research support to alternative and complimentary medicine. NCAAM identifies naturopathic medicine as a CAM practice as does the Institute of Medicine of the National Academies.

(b) In 2001, Chapter 2001-116, Florida Laws, gave patients the right to receive and licensed health care practitioners the right to provide complementary and alternative health care with informed consent.

(c) Despite the widespread and growing use of CAM by Floridians as evidenced by a comprehensive report by the Institute of Medicine of the National Academies in 2005, licensing of naturopathic physicians, which was initiated in

Florida in 1927, was suspended in 1959, and has not yet been reinstated. Currently four accredited naturopathic medical schools are operating in the United States, and in 2002, the State of Florida licensed a new naturopathic college, which has adopted the national standards of the Council on Naturopathic Medical Education, the accrediting body recognized by the U. S. Department of Education. While naturopathic physicians were previously extended a broad scope of practice including all prescription drugs and surgery rights similar to general practitioners of medicine, a more restricted scope of practice is intended, prohibiting prescription of controlled substances and surgery and allowing only minor office procedures.

(d) Consistent with the existing CAM legislation passed in Florida in 2001 providing citizens the right to choose from all health care options, by reestablishing licensing of naturopathic physicians, the Legislature intends to allow citizens access to a holistic, integrative system of primary health care focusing on wellness and prevention of disease, emphasizing the therapeutic use of food and nutrients to maintain health and treat illness, applying clinical, therapeutic, scientifically-based, biochemistry-oriented, nutritional medicine, including laboratory testing of nutrient levels for more accurate diagnosis and balancing of systems, recognizing the importance of the natural healing arts and natural processes, addressing both the physical and vitalistic aspects of the human body, providing counseling on lifestyle choices, striving to identify and resolve the underlying cause of a condition or disease and to employ the least invasive treatment methods, and responding to the need for effective treatment of chronic disease, which is 78% of the U.S. medical budget of \$1.9 trillion.

(2) The Legislature further recognizes and acknowledges that the health and welfare of this state's residents has been and will continue to be enhanced by the provision of natural health therapies inasmuch as they have not been demonstrated to pose a recognizable and imminent risk of significant and discernible harm to the public's health, safety, or welfare. In accordance with s. 11.62, F.S., Florida's "Sunrise Act," and article I, section 23 of Florida's Constitution, the legislature finds that no state licensure or regulation is appropriate or necessary for the delivery of natural health therapies as defined herein.

Section 2. Chapter 462, Florida Statutes, which is entitled "Naturopathy," is redesignated as "Naturopathic Medicine."

Section 3. Section 462.01, Florida Statutes, is amended to read:

462.01 Definitions.--As used in this chapter, the term:

(1) "Board" means the Board of Naturopathic Medicine.
(2) "Department" means the Department of Health.
(3) "Naturopathic physician", "physician of naturopathic medicine", "naturopathic medical doctor", its abbreviation "NMD", "naturopathic doctor" or doctor of naturopathic medicine (hereinafter collectively referred to as "naturopathic physician") mean a person licensed under this chapter to practice naturopathic medicine and who has the exclusive use of these titles.

(4) "Minor office procedures" means the methods for the repair and care incidental to superficial lacerations and abrasions, superficial lesions and the removal of foreign bodies located in the superficial tissues.

(5) "Natural health therapies" means the domain of natural health care, evaluations, recommendations, and the use of natural health modalities, substances, and education to support and stimulate a patient's intrinsic self-healing processes and to promote health. Natural health therapies may include the use of energy work, reiki, natural health products and therapies such as naturopathy, health foods, food extracts, vitamins, minerals, enzymes, digestive aids, herbs, botanical substances, flower essences, homeopathic preparations, magnets, culturally traditional healing practices, essential oils; ayurveda; biofeedback; breathing techniques; aromatherapy, air, water, phytotherapy, suggestotherapy, heliotherapy, hydrotherapy, heat, cold, sound, light, touch and exercise to support and stimulate a patient's intrinsic self-healing processes and to promote health.

(a) Natural health therapies do not include the following:

1. Performing surgery, minor office procedures or any other procedure that punctures the skin;
2. Performing a chiropractic adjustment of the articulations of joints or the spine of any person;
3. Diagnosing or treating the teeth or gums;
4. Prescribing or administering X-ray radiation to any person;
5. Prescribing or administering a legend drug, a legend medical device or a controlled substance to any person or recommending the discontinuance of a legend drug, a legend medical device or a controlled substance; or
6. Providing a medical disease diagnosis.
7. Stating, advertising or otherwise holding oneself out to any person as a health care practitioner licensed by the state.

Natural health therapies are used by naturopathic physicians as well as unlicensed persons who are not naturopathic physicians, such as homeopaths and reiki practitioners, in their own separate occupations.

(b) DISCLOSURE.--

(1) Any person providing natural health therapies who is not licensed pursuant to this chapter shall, prior to providing these therapies, disclose to the client in a plainly worded written statement:

a. The nature of the therapies to be provided; and
b. The degree, training, experience, credentials or other qualifications of the person regarding the therapies to be provided, followed by a statement:

"I AM NOT LICENSED BY THE STATE OF FLORIDA AS A HEALTH CARE PRACTITIONER. THE STATE HAS NOT ADOPTED ANY EDUCATIONAL AND TRAINING STANDARDS FOR PERSONS PROVIDING NATURAL HEALTH THERAPIES.

c. The practitioner's name, business address and telephone number.

(2) Any person not licensed pursuant to this chapter who provides natural health therapies shall:

a. Obtain a written acknowledgment from the client stating that he or she has been provided with the information described in this subsection and provide a copy of this written acknowledgment to the client. The written acknowledgment must be maintained for 2 years by the person providing these therapies.

b. State in any advertisement for natural health therapies that he or she is not licensed by this state as a health care practitioner.

(6) "Naturopathic medicine" means a system of primary health care to support and stimulate a patient's intrinsic

self-healing processes as taught in an approved naturopathic medical program and practiced by a licensed naturopathic physician to prevent, diagnose and treat human health conditions, injuries, and diseases that uses a combination of:

(a) The practice of biomechanical, material and vitalistic sciences, including but not limited to clinical nutritional medicine, medical manipulation and mechanotherapy; and

(b) medical disease diagnostics and treatments, including but not limited to physical exams, clinical laboratory testing, physiological function testing and exams, electrocardiograms, diagnostic imaging techniques, phlebotomy, nutritional infusions, and minor office procedures.

(c) It is recognized that some components of naturopathic medicine fall within natural health therapies, which do not require licensure under this chapter.

Nothing in this chapter shall be held or construed apply to or affect the practice of osteopathic medicine, chiropractic medicine, Christian Science, or any other treatment authorized and provided for by law.

(7) "Approved naturopathic medical program" means:

(a) A naturopathic medical education program in the United States that is accredited by, or has candidacy status with, the Council on Naturopathic Medical Education or an equivalent accrediting body for the naturopathic medical profession that is recognized by the United States Department of Education and the board. This program shall offer graduate-level didactic and supervised clinical training leading to the degree of Doctor of Naturopathy or Doctor of Naturopathic Medicine; or

(b) a degree-granting college or university that is reputable and in good standing in the judgment of the board and

that offers a full-time structured curriculum in basic sciences and supervised patient care comprising a doctoral naturopathic medical education. As a prerequisite to graduation, a student shall be enrolled for not less than four academic years within a period of not less than 35 months and shall complete a course of study of basic and clinical sciences.

Section 4. Section 462.0215, Florida Statutes, is created to read:

462.0215 Board of Naturopathic Medicine.--

(1) There is created within the department the Board of Naturopathic Medicine, composed of seven members appointed by the Governor and confirmed by the Senate.

(2) (a) Five members of the board must be:

1. Doctors of naturopathic medicine who are residents of this state, provided, however, that 18 months after the effective date of this bill all board members must be licensed pursuant to ch. 462. Not more than two of these five shall be graduates of the same college or university or of schools accredited by the same accrediting organization or body.

2. The remaining two members of the board must be residents of the state who are not and never have been licensed health care practitioners.

3. At least one member of the board must be 60 years of age or older.

(3) For the purpose of staggering terms, the Governor shall initially appoint to the board three members for terms of 4 years each, two members for terms of 3 years each, and two members for terms of 2 years each. As the terms of board members expire, the Governor shall appoint successors for terms of 4 years and such members shall serve until their successors are appointed.

(4) The board, in conjunction with the department, shall establish a disciplinary training program for members of the board. The program shall provide for initial and periodic training in the grounds for disciplinary action, the actions that may be taken by the board and the department, changes in relevant statutes and rules, and any relevant judicial and administrative decisions. A member of the board may not participate on a probable cause panel or in a disciplinary decision of the board unless she or he has completed the disciplinary training program.

(5) During the time members of the board are appointed to a probable cause panel, they shall attempt to complete their work on every case presented to them. If consideration of a case is begun but is not completed during the term of the board members on the panel, they may reconvene as a probable cause panel for the purpose of completing their deliberations on that case.

(6) All provisions of chapter 456 relating to activities of the board are applicable.

Section 5. Section 462.023, Florida Statutes, is amended to read:

462.023 Powers and duties of the board and the department.--The Board has authority to adopt rules pursuant to s. 120.536 (1) and 120.54 to implement provisions of this chapter conferring duties upon it regarding persons licensed under this chapter.

The department may adopt such rules as are necessary to carry out the purposes of this chapter, initiate disciplinary action as provided by this chapter, and shall establish fees as provided by this chapter based on their estimates of the revenue required to administer this chapter provided the fees do not exceed the fee amounts provided in this chapter.

Section 6. Section 462.08, Florida Statutes, is amended to read:

462.08 Renewal of license to practice naturopathic medicine.--Each licensee shall biennially renew her or his license to practice naturopathic medicine. The applicant must furnish to the board such evidence as it requires of the applicant's compliance with s. 462.18, relating to educational requirements. The biennial renewal fee, the amount of which shall be determined by the board but which may not exceed \$1,000, must be paid at the time the application for renewal of the license is filed.

Section 7. Section 462.11, Florida Statutes, is amended to read:

462.11 Naturopathic physicians to observe regulations.--Naturopathic physicians shall observe and be subject to all state, county, and municipal regulations in regard to the control of contagious and infectious diseases, the reporting of births and deaths, and to any and all other matters pertaining to the public health in the same manner as is required of other practitioners of the healing arts.

Section 8. Section 462.14, Florida Statutes, is amended to read:

462.14 Grounds for disciplinary action; action by the board and the department.--

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(a) Attempting to obtain, obtaining, or renewing a license to practice naturopathic medicine by bribery, by fraudulent misrepresentation, or through an error of the board or the department.

(b) Having a license to practice naturopathic medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of naturopathic medicine or to the ability to practice naturopathic medicine. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the board or the department.

(g) Aiding, assisting, procuring, or advising any unlicensed person to practice naturopathic medicine contrary to this chapter or to a rule of the board or the department.

(h) Failing to perform any statutory or legal obligation placed upon a licensed naturopathic physician.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed naturopathic physician.

(j) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to

providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent a naturopathic physician from receiving a fee for professional consultation services.

(k) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with her or his physician.

(l) Making deceptive, untrue, or fraudulent representations in the practice of naturopathic medicine or employing a trick or scheme in the practice of naturopathic medicine when such scheme or trick fails to conform to the generally prevailing standards of treatment in the medical community.

(m) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A "solicitation" is any communication which directly or implicitly requests an immediate oral response from the recipient.

(n) Failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, test results, X rays, and records of the prescribing, dispensing and administering of drugs.

(o) Exercising influence on the patient or client in such a manner as to exploit the patient or client for the financial gain of the licensee or of a third party, which shall include

but not be limited to, the promoting or selling of services, goods, appliances, or drugs and the promoting or advertising on any prescription form of a community pharmacy unless the form also states "This prescription may be filled at any pharmacy of your choice."

(p) Performing professional services which have not been duly authorized by the patient or client, or her or his legal representative, except as provided in s. 743.064, s. 766.103, or s. 768.13.

(q) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the naturopathic physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the naturopathic physician's professional practice, without regard to her or his intent.

(r) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the naturopathic physician to herself or himself, except one prescribed, dispensed, or administered to the naturopathic physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

(s) Being unable to practice naturopathic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel a naturopathic physician to

submit to a mental or physical examination by physicians designated by the department. The failure of a naturopathic physician to submit to such an examination when so directed shall constitute an admission of the allegations against her or him upon which a default and final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond the naturopathic physician's control. A naturopathic physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of naturopathic medicine with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the department may be used against a naturopathic physician in any other proceeding.

(t) Gross or repeated malpractice or the failure to practice naturopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar naturopathic physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph.

(u) Performing any procedure or prescribing any naturopathic medicine therapy which, by the prevailing standards of naturopathic medical practice in the naturopathic medical community, constitutes experimentation on a human subject, without first obtaining full, informed, and written consent.

(v) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(w) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(x) Violating a lawful order of the board or the department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(y) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(z) Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy.

(aa) Presigning blank prescription forms.

(bb) Prescribing by the naturopathic physician any controlled substance appearing on any schedule in chapter 893.

(cc) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(dd) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating

any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

(3) The board shall not reinstate the license of a naturopathic physician until such time as the board is satisfied that such person has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of naturopathic medicine.

(4) The board shall by rule establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum fines, periods of supervision or probation, or conditions of probation or reissuance of a license.

Section 9. Section 462.16, Florida Statutes, is amended to read:

462.16 Reissue of license.--Any person who practices naturopathic medicine after her or his license has been revoked shall be deemed to have practiced naturopathic medicine without a license; however, at any time after 6 months after the date of said conviction, the department may grant a license to the person affected, restoring to her or him all the rights and privileges of and pertaining to the practice of naturopathic medicine as defined and regulated by this chapter. The fee therefor shall be set by the board not to exceed \$250.

Section 10. Section 462.17, Florida Statutes, is amended to read:

462.17 Penalty for offenses relating to naturopathic medicine.--

(1) Each of the following acts constitutes a violation of this chapter and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083 or s. 775.084.

(a) Selling or fraudulently obtaining or furnishing any naturopathic medicine license or aiding or abetting in the same;

(b) Practicing naturopathic medicine during the time her or his license previously issued under chapter 462, Florida Statutes, is suspended or revoked;

(c) Practicing naturopathic medicine under the cover of any diploma, license, record, or registration illegally or fraudulently obtained or secured unlawfully or upon fraudulent representations.

(d) Advertising to practice naturopathic medicine under a name other than her or his own or under an assumed name.

(e) Falsely impersonating another practitioner under a like or different name.

(f) Practicing naturopathic medicine without a valid license to practice naturopathic medicine issued under this chapter unless otherwise exempted by law.

(2) Any person who shall:

Use the title, state, advertise, or otherwise hold himself or herself out as a "naturopathic physician", "physician of naturopathic medicine", "naturopathic medical doctor", its abbreviation "NMD", "naturopathic doctor" or "doctor of naturopathic medicine" as defined herein without first applying for and receiving a license commits a misdemeanor of the second degree, punishable as provided in s. 775.081 or s. 775.082. Persons who disclose as required by s.462.01 (5) (b), are not in violation of this provision.

(3) The requirements of ch. 386 and 501.22, F.S. and the penalties and remedies provided therein shall apply to persons providing natural health therapies or practicing naturopathic medicine.

Section 11. Section 462.195, Florida Statutes, is created to read:

462.195 Exemptions

(1) The provisions of this chapter are inapplicable to:

(a) any other health care practitioner regulated by the department in the Division of Medical Quality Assurance as defined in s. 456.001 (7), F.S., or under state law.

(b) any health care practice or person who is exempt from any practice act for any profession as defined in s. 456.001 (7), F.S., or under state law.

(c) Any person who is engaged in good faith in the practice of the religious tenets of any church or religious belief;

(d) Any person who is acting in good faith for religious reasons as a matter of conscience or on the basis of a personal belief when obtaining or providing information regarding health care and the use of any product.

(e) Any person who is administering a domestic or family remedy.

(2) The requirements for licensure of this chapter shall not apply to

(a) Any person who is not licensed pursuant to this chapter who provides natural health therapies, except that this exemption shall not extend to the requirements of s. 462.01(5).

This section shall not be interpreted to apply to, control, prevent, or restrict marketing, selling, recommending the use of or distributing products such as food, dietary supplements, or homeopathic remedies, and educating consumers about such products, or explaining the use of such products.

Section 12. Section 462.18, Florida Statutes, is amended to read:

462.18 Educational requirements.-

(1) At the time each licensee renews her or his license as otherwise provided in this chapter, each licensee, in addition to the payment of the regular renewal fee, shall furnish to the board satisfactory evidence that, in the year preceding each such application for renewal, the licensee has attended the 2-day educational program as promulgated and conducted by The Florida Association of Naturopathic Medicine or, as a substitute therefor, the equivalent of that program as approved by the board. The board shall require each licensee to receive at least 40 hours of continuing education every 2 years, including courses on the prevention of medical errors. The licensee must establish that the continuing education was consistent with the requirements of chapter 456. The department shall send a written notice to this effect to every person holding a valid license to practice naturopathic medicine within this state at least 30 days prior to May 1 in each biennial year, directed to the last known address of such licensee, and shall enclose with the notice proper blank forms for application for license renewal. All of the details and requirements of the educational program shall be adopted and prescribed by the board. In the event of national emergencies, or for sufficient reason, the board may excuse naturopathic physicians as a group or as individuals from taking this postgraduate course.

(2) The determination of whether a substitute educational program is necessary shall be solely within the discretion of the board.

Section 13. Subsection (3) of section 462.19, Florida Statutes, is amended to read:

462.19 Renewal of license; inactive status.-

(3) A licensee may request that her or his license be placed in an inactive status by making application to the department and paying a fee in an amount set by the department not to exceed \$100.

Section 14. Section 462.193, Florida Statutes, is created to read:

462.193 Licensure by examination; requirements; fees.—

(1) Any person desiring to be licensed as a naturopathic physician shall apply to the department on forms furnished by the department. The department shall license each applicant who the board certifies:

(a) Has completed the application form and remitted a non-refundable application fee set by the board not to exceed \$500.

(b) Is at least 21 years of age.

(c) Is of good moral character.

(d) Has not committed any act or offense in this or any other jurisdiction which would constitute the basis for disciplining a naturopathic physician pursuant to s. 462.14.

(e) Has been awarded a bachelor's degree from an institution accredited by an accrediting body recognized by the United States Department of Education and completed a program of study that included, at a minimum and as determined by rule of the board, courses in such fields as anatomy, biology, and chemistry.

(f) Meets one of the following naturopathic medical education and postgraduate training requirements:

1. Is a graduate of an approved naturopathic medical program;

2. Is a graduate of an approved school of naturopathic medicine which was licensed by the Florida Commission for Independent Education to grant the degree of Doctor of Naturopathic Medicine; or

3. Is a graduate of a international medical school recognized by the Educational Commission for Foreign Medical Graduates (ECFMG) to be examined in the basic and clinical medical sciences, or a graduate of an accredited United States allopathic, chiropractic, or osteopathic medical school, and has completed a two year course in naturopathic medicine from an approved naturopathic medical program, or the equivalent in education and training as determined by the Board.

(g) Has submitted to the department a set of fingerprints on a form and in accordance with s. 456.039(4)(c) and with procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for the criminal background check of the applicant.

(h) Has obtained a passing score on a competency-based national naturopathic licensing examination, including the examination on minor surgery, administered by the North American Board of Naturopathic Examiners, the National Board of Naturopathic Medical Examiners, or an equivalent or successor agency recognized by the board. For graduates of approved naturopathic schools as defined in s. 462.01(1)(b), F.S., eligibility for licensure may be granted upon presentation of evidence of successful passage of a board-approved state competency examination or a Canadian provincial examination. For graduates of international medical schools or allopathic, osteopathic, or chiropractic medical schools who have met the education and training requirements in s.412.193(1)(f)(3), 462.193 eligibility for licensure may be granted upon presentation of evidence of successful passage of the applicable medical examinations, parts one and two, with a minimum score of 70 per component.

(i) Has completed an approved internship or residency of at least 1 year, or two years of clinical ambulatory care practice.

(j) Is physically and mentally fit to practice as a naturopathic physician.

(k) Has not had her or his license to practice any profession refused, revoked, or suspended by any other state, district, or territory of the United States or another country for reasons that relate to her or his ability to skillfully and safely practice as a naturopathic physician in this state.

(1) Has not been found guilty of a felony.

(2) As prescribed by board rule, the board may require an applicant who does not pass the licensing examination after five attempts to complete additional remedial education or training. The board shall prescribe the additional requirements in a manner that permits the applicant to complete the requirements and be reexamined within 2 years after the date the applicant petitions the board to retake the examination a sixth or subsequent time. The board has the authority to limit the number of times that a person may take the examination.

(3) The department and the board shall ensure that applicants for licensure meet the criteria in subsection (1) through an investigative process. When the investigation is not completed within the time set out in s. 120.60(1) and the board or the department has reason to believe that the applicant does not meet the criteria, the secretary or the secretary's designee may issue a 90-day licensure delay, which must be in writing and sufficient to notify the applicant of the reason for the delay. This subsection controls over any conflicting provisions of s. 120.60(1).

(4) The board may not certify to the department for licensure any applicant who is under investigation in another jurisdiction for an offense that would constitute a violation of this chapter until the investigation has been completed. Upon comple-

tion of the investigation, s. 462.14 applies. Furthermore, the department may not issue an unrestricted license to any individual who has committed an act or offense in any jurisdiction which would constitute the basis for disciplining a naturopathic physician under s. 462.14. If the board finds that an individual has committed an act or offense in any jurisdiction which would constitute the basis for disciplining a naturopathic physician under s. 462.14, the board may enter an order imposing one or more of the sanctions set forth in ss. 462.14 and 456.072(2).

(5) Each applicant who meets the requirements of this chapter shall be licensed as a naturopathic physician, with rights as defined by law.

(6) Upon certification by the board, the department shall impose conditions, limitations, or restrictions on a license if the applicant is on probation in another jurisdiction for an act that would constitute a violation of this chapter.

(7) If the board determines that an applicant for licensure has failed to meet, to the board's satisfaction, any of the applicable requirements set forth in this section, it may enter an order that imposes one or more of the following sanctions:

(a) Refusal to certify to the department an application for licensure.

(b) Certification to the department of an application for licensure with restrictions on the scope of practice of the naturopathic physician.

(c) Certification to the department of an application for licensure with placement of the naturopathic physician on probation for a period of time and subject to such conditions as the board specifies, including, but not limited to, requiring the naturopathic physician to submit to treatment, attend continuing

education courses, submit to reexamination, or work under the supervision of another naturopathic physician.

462.194 License standards for other jurisdiction applicants.--The board shall establish by rule the standards for licensure of applicants licensed in another jurisdiction. However, the standards for endorsement of licensure shall not be less than those required for licensure in the state of Florida.

Section 15. Section 462.2001, Florida Statutes, is amended to read:

462.2001 Saving clause.--All licenses to practice naturopathic medicine issued pursuant to this chapter and valid on July 1, 2006, shall remain in full force and effect.

Section 16. Licensed naturopathic physicians who hold a license on the effective date of this act shall retain the same rights and privileges as they had before implementation of the amendments to chapter 462, Florida Statutes, by this act.

Section 17. s.20.43(3)(g)6., Florida Statutes, is amended to read:

20.43 Department of Health.--There is created a Department of Health.

(3) The following divisions of the Department of Health are established:

(g) Division of Medical Quality Assurance, which is responsible for the following boards and professions established within the division:

* * *

6. The Board of Naturopathic Medicine, created under chapter 462.

Section 18. Subsection (1) of section 381.0031, Florida Statutes, is amended to read:

381.0031 Report of diseases of public health significance to department.—

(1) Any practitioner licensed in this state to practice medicine, osteopathic medicine, chiropractic medicine, naturopathic medicine, or veterinary medicine; any hospital licensed under part I of chapter 395; or any laboratory licensed under chapter 483 that diagnoses or suspects the existence of a disease of public health significance shall immediately report the fact to the Department of Health.

This section does not affect s. 384.25.

Section 19. Subsection (10) of section 468.301, Florida Statutes, is amended to read:

468.301 Definitions.--As used in this part, the term:

(10) "Licensed practitioner" means a person who is licensed or otherwise authorized by law to practice medicine, podiatric medicine, chiropody, osteopathic medicine, naturopathic medicine, or chiropractic medicine in this state.

Section 20. Subsection (1) of section 476.044, Florida Statutes, is amended to read:

476.044 Exemptions.--This chapter does not apply to the following persons when practicing pursuant to their professional responsibilities and duties:

(1) Persons authorized under the laws of this state to practice medicine, surgery, osteopathic medicine, chiropractic medicine, naturopathic medicine, or podiatric medicine;

Section 21. Subsections (2) and (3) of section 485.003, Florida Statutes, are amended to read:

485.003 Definitions.--In construing this chapter, the words, phrases, or terms, unless the context otherwise indicates, shall have the following meanings:

(2) "Healing arts" shall mean the practice of medicine, surgery, psychiatry, dentistry, osteopathic medicine, chiropractic medicine, naturopathic medicine, podiatric medicine, chiropody, psychology, clinical social work, marriage and family therapy, mental health counseling, and optometry.

(3) "Practitioner of the healing arts" shall mean a person licensed under the laws of the state to practice medicine, surgery, psychiatry, dentistry, osteopathic medicine, chiropractic medicine, naturopathic medicine, podiatric medicine, chiropody, psychology, clinical social work, marriage and family therapy, mental health counseling, or optometry within the scope of his or her professional training and competence and within the purview of the statutes applicable to his or her respective profession, and who may refer a patient for treatment by a qualified person, who shall employ hypnotic techniques under the supervision, direction, prescription, and responsibility of such referring practitioner.

Section 22. Subsection (1) of section 486.161, Florida Statutes, is amended to read:

486.161 Exemptions.—

(1) No provision of this chapter shall be construed to prohibit any person licensed in this state from using any physical agent as a part of, or incidental to, the lawful practice of her or his profession under the statutes applicable to the profession of chiropractic physician, podiatric physician, doctor of medicine, massage therapist, nurse, osteopathic physician or surgeon, occupational therapist or naturopathic physician.

Section 23. Paragraph (h) of subsection (4) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

(h) As used in this subsection:

1. "Health care provider" means hospitals licensed under chapter 395; physicians licensed under chapter 458; osteopathic physicians licensed under chapter 459; podiatric physicians licensed under chapter 461; dentists licensed under chapter 466; chiropractic physicians licensed under chapter 460; doctors of naturopathic medicine, or naturopathic physicians licensed under chapter 462; nurses licensed under part I of chapter 464; midwives licensed under chapter 467; clinical laboratories registered under chapter 483; physician assistants licensed under chapter 458 or chapter 459; physical therapists and physical therapist assistants licensed under chapter 486; health maintenance organizations certificated under part I of chapter 641; ambulatory surgical centers licensed under chapter 395; other medical facilities as defined in subparagraph 2.; blood banks, plasma centers, industrial clinics, and renal dialysis facilities; or professional associations, partnerships, corporations, joint ventures, or other associations for professional activity by health care providers.

2. "Other medical facility" means a facility the primary purpose of which is to provide human medical diagnostic services or a facility providing nonsurgical human medical treatment, to which facility the patient is admitted and from which facility the patient is discharged within the same working day, and which facility is not part of a hospital. However, a facility existing for the primary purpose of performing terminations of pregnancy or an office maintained by a physician or dentist for the practice of medicine shall not be construed to be an "other medical facility."

3. "Health care facility" means any hospital licensed under chapter 395, health maintenance organization certificated under part I of chapter 641, ambulatory surgical center licensed under chapter 395, or other medical facility as defined in subparagraph 2.

Section 24. Subsection (19) of section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.--The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(19) "Practitioner" means a physician licensed pursuant to chapter 458, a dentist licensed pursuant to chapter 466, a veterinarian licensed pursuant to chapter 474, an osteopathic physician licensed pursuant to chapter 459, a naturopathic physician licensed pursuant to chapter 462, or a podiatric physician licensed pursuant to chapter 461, provided such practitioner holds a valid federal controlled substance registry number.

Section 25. Section 456.43, Florida Statutes, is created to read:

(1) Consistent with s. 11.62, F.S, article I, section 23 of Florida's Constitution. and the Gubernatorial Proclamation entitled "Complimentary or Alternative Health Care Therapies" dated April 24, 2003, this section is created and shall be known as "The Consumer Health Freedom Act."

(2) FINDINGS AND INTENT.--

(a) Based upon a comprehensive report by the National Institute of Health, a study published by the New England Journal of Medicine, and other research data, it is evident that hundreds of thousands of Floridians are presently receiving a substantial amount of health care

from providers of complementary or alternative health care services. These services include "natural health therapies," as defined by this section. Those studies further indicate that individuals from a wide variety of age, ethnic, socioeconomic, and other demographic categories utilize natural health therapies.

(b) Notwithstanding the widespread utilization of natural health therapies by residents of this state, the provision of such therapies may be in technical violation of the professional practice acts governing the licensed health care practitioners specified in s.456.001(4). As a result, providers of natural health therapies who are not licensed by this state as health care practitioners as defined in s. 456.001(4) could be subject to fines, penalties, and the restriction of his or her practice under this chapter, although the provision of these therapies does not pose a recognizable and imminent risk of significant and discernable harm to the public's health and safety.

(c) The legislature finds that state regulation through licensure of the provision of natural health therapies violates s.11.62, F.S, Florida's Sunrise Act, article I, section 23 of Florida's Constitution. and the Gubernatorial Proclamation entitled "Complimentary or Alternative Health Care Therapies" dated April 24, 2003.

Through the enactment of this section, the Legislature intends to allow and to protect public access to natural health therapies and its unregulated providers and to clarify its previously stated intent that the providers of such therapies shall not be regulated by the state through a requirement of licensure under s. 456.001(4), F.S.

(2) DEFINITION.--As used in this section, the term "natural health therapies" means the domain of natural health care, evaluations, recommendations and the use of natural health modalities, substances, and education to support and stimulate a patient's intrinsic self-healing processes and to promote health. Natural health therapies may include the use of energy work, reiki, natural health products and therapies such as naturopathy, health foods, food extracts, vitamins, minerals, enzymes, digestive aids, herbs, botanical substances, flower essences, homeopathic preparations, magnets, culturally traditional healing practices, essential oils; ayurveda; biofeedback; breathing techniques; aromatherapy, air, water, phytotherapy, suggestotherapy, heliotherapy, hydrotherapy, heat, cold, sound, light, touch and exercise to help stimulate and maintain the body's intrinsic self-healing process and to promote health. Natural health therapies may be provided by persons who are not licensed as health care practitioners as defined in s. 456.001(4), to the extent the provision of these therapies is not prohibited by sub-subsection (3) of this section.

(3) EXCEPTIONS.--

(a) This section does not apply to, control, or prevent any health care practice of a "health care practitioner" regulated either by the department in the Division of Medical Quality Assurance as provided in s. 456.001 (4), F.S. or under state law.

(b) This act does not apply to, control, or prevent any health care practice or person which is exempt from the practice act for any profession as defined in s. 456.001 (7) F.S., or under state law.

(4) PROHIBITED ACTS.--

(a) A person who provides natural health therapies does not violate s. 456.065 or any other health care professional practice act, unless the person:

1. Performs surgery, minor office procedures or any other procedure that punctures the skin;

2. Performs a chiropractic adjustment of the articulations of joints or the spine of any person;

3. Diagnoses or treats the teeth or gums;

4. Prescribes or administers X-ray radiation to any person;

5. Prescribes or administers a legend drug, a legend medical device or a controlled substance to any person or recommending the discontinuance of a legend drug, a legend medical device or a controlled substance; or

6. Provides a medical disease diagnosis;

7. Stating, advertising or otherwise holding oneself out to any person as a health care practitioner licensed by the state.

(5) DISCLOSURE.--

(a) Any person providing natural health therapies shall, prior to providing these therapies, disclose to the client in a plainly worded written statement:

1. The nature of the therapies to be provided; and

2. The degree, training, experience, credentials or other qualifications of the person regarding the therapies to be provided, followed by a statement:

"I AM NOT LICENSED BY THE STATE OF FLORIDA AS A HEALTH CARE PRACTITIONER. THE STATE HAS NOT ADOPTED ANY EDUCATIONAL AND TRAINING STANDARDS FOR PERSONS PROVIDING NATURAL HEALTH THERAPIES.

3. The practitioner's name, business address and telephone number.

(b) Any person providing natural health therapies shall:

1. Obtain a written acknowledgment from the client stating that he or she has been provided with the information described in this subsection and provide a copy of this written acknowledgment to the client. The written acknowledgment must be maintained for 2 years by the person providing these therapies.

2. State in any advertisement for natural health therapies that he or she is not licensed by this state as a health care practitioner.

(6) PENALTIES FOR VIOLATIONS.--

(a) A person who violates any provision of subsection (3) is subject to the penalties specified in s. 456.065(2), F.S., including applicable criminal penalties provided in the practice act of any profession as defined by s. 456.001(7), F.S.

(b) A person who violates any provision of subsection (5) is subject to the administrative and civil penalties specified in s. 456.065(2) (a)-(c), F.S.

(c) The requirements of ch. 386 and s. 501.22, F.S. and the penalties and remedies provided therein shall apply to persons providing natural health therapies.

Section 26. Subsection (6) of section 456.065, Florida Statutes, is created to read:

456.065 Unlicensed practice of a health care profession; intent; cease and desist notice; penalties; enforcement; citations; fees; allocation and disposition of moneys collected.--

(6) This section does not prohibit the provision of natural health therapies by a person who is not licensed pursuant to ch. 456, F.S., provided that they comply with s. 456.43, F.S.

Section 27. This act shall take effect July 1, 2006.