

IN THE SENATE

SENATE BILL NO. 1369

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO NATUROPATHIC PHYSICIANS; REPEALING CHAPTER 51, TITLE 54, IDAHO
2 CODE, RELATING TO NATUROPATHIC PHYSICIANS LICENSING ACT; AMENDING
3 TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 51, TITLE 54,
4 IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE PURPOSE
5 AND INTENT, TO DEFINE TERMS, TO CREATE THE COMMISSION OF NATUROPATHIC
6 MEDICINE, TO SPECIFY THE POWERS AND DUTIES OF THE COMMISSION OF
7 NATUROPATHIC MEDICINE, TO PROVIDE FOR LICENSURE REQUIREMENTS,
8 TO SPECIFY APPLICATION REQUIREMENTS, TO PROVIDE FOR AN APPROVED
9 NATUROPATHIC MEDICAL PROGRAM, TO SPECIFY QUALIFICATIONS FOR LICENSURE,
10 TO PROVIDE ALTERNATIVE QUALIFICATIONS FOR LICENSURE AND A DEADLINE
11 FOR SUCH APPLICATIONS, TO PROVIDE A TITLE AND SCOPE OF PRACTICE OF
12 LICENSED NATUROPATHIC PHYSICIANS, TO PROVIDE FOR HEARING COMMITTEES
13 AND TO PROVIDE THE COMMISSION OF NATUROPATHIC MEDICINE AUTHORITY
14 TO INVESTIGATE, HOLD HEARINGS AND ISSUE SUBPOENAS, TO PROVIDE FOR
15 DISCIPLINARY ACTION, TO PROVIDE FOR AN ADMINISTRATIVE PROCEDURE, TO
16 PROVIDE REQUIREMENTS RELATING TO NATUROPATHIC DOCTORS, TO CREATE THE
17 NATUROPATHIC MEDICAL FORMULARY COUNCIL, TO SPECIFY THE COMPOSITION OF
18 SUCH COUNCIL AND TO CLARIFY THE DUTIES AND LIMITATIONS OF SUCH COUNCIL,
19 TO PROVIDE THAT CERTAIN CONDUCT IS PROHIBITED, TO PROVIDE EXEMPTIONS,
20 TO PROVIDE FOR FEES, TO PROVIDE FOR ENFORCEMENT AND PENALTIES, TO
21 PROVIDE REQUIREMENTS FOR LICENSES ISSUED PURSUANT TO THE NATUROPATHIC
22 PHYSICIANS LICENSING ACT AND TO PROVIDE PREEMPTION; AMENDING SECTION
23 67-2601, IDAHO CODE, TO PROVIDE THAT THE COMMISSION OF NATUROPATHIC
24 MEDICINE SHALL BE WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES;
25 PROVIDING SEVERABILITY; AND PROVIDING A SUNSET DATE.
26

27 Be It Enacted by the Legislature of the State of Idaho:

28 SECTION 1. That Chapter 51, Title 54, Idaho Code, be, and the same is
29 hereby repealed.

30 SECTION 2. That Title 54, Idaho Code, be, and the same is hereby amended
31 by the addition thereto of a NEW CHAPTER, to be known and designated as
32 Chapter 51, Title 54, Idaho Code, and to read as follows:

33 CHAPTER 51

34 IDAHO NATUROPATHIC MEDICINE PRACTICE ACT

35 54-5101. SHORT TITLE. This chapter shall be cited as the "Idaho
36 Naturopathic Medicine Practice Act."

37 54-5102. LEGISLATIVE PURPOSE AND INTENT. The legislature finds and
38 declares that the practice of naturopathic medicine in the state of Idaho:

1 (1) Impacts public health, safety and welfare and that the regulation
2 and control of certain modalities in naturopathic medicine is in the public
3 interest;

4 (2) That such public interest requires the licensing of the scope of
5 practice of such certain modalities in naturopathic medicine and that this
6 chapter shall comprehensively provide for such licensing;

7 (3) That the public interest is served by licensed naturopathic
8 physicians who are residents of Idaho;

9 (4) That nothing in this chapter shall require the licensing of
10 naturopathic doctors as provided for in the Idaho supreme court decision of
11 State v. Smith; and

12 (5) That the practice of natural health care services as it is defined
13 in this chapter shall not be regulated or require licensing except as
14 provided by this chapter.

15 54-5103. DEFINITIONS. As used in this chapter the following terms have
16 the meanings as stated:

17 (1) "Commission" means the commission of naturopathic medicine created
18 pursuant to section 54-5104, Idaho Code.

19 (2) "Contact hour" means an instructional session of fifty (50)
20 consecutive minutes, excluding coffee breaks, registration, meals without a
21 speaker and social activities.

22 (3) "Council on naturopathic medical education" or "CNME" means the
23 agency currently recognized by the United States department of education to
24 accredit naturopathic medical programs.

25 (4) "Held out" means that a person represents, offers or extends
26 to the public that such person is practicing as a doctor of naturopathy,
27 naturopathic doctor or N.D., through advertisements, membership in the
28 Idaho association of naturopathic physicians, office signage, telephone
29 listings, or stationery and websites that include statements that a person
30 is practicing as a doctor of naturopathy, naturopathic doctor or N.D., among
31 others.

32 (5) "Licensed naturopathic physician" means a person authorized and
33 licensed to practice naturopathic medicine pursuant to the provisions of
34 this chapter.

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

38 (7) "Naturopathic medical formulary" means the list of prescription
39 medicines that licensed naturopathic physicians may use in the practice of
40 their profession.

41 (8) "Naturopathic medicine" means a distinct and comprehensive system
42 of primary health care consistent with naturopathic medical education,
43 principles and training practiced by licensed naturopathic physicians.
44 Naturopathic medicine includes, but is not restricted to, natural health
45 care services as defined herein.

46 (9) "Naturopathic physicians licensing examination" or "NPLEX" means
47 the national naturopathic licensing examination administered by the north
48 American board of naturopathic examiners.

1 (10) "Natural health care services" means the broad domain of health
2 care services and procedures, including diagnosis and treatment, where
3 treatment or advice regarding the human body and its functions is
4 administered by a person who:

5 (a) Uses only:

6 (i) Natural elements including, without limitation, air, heat,
7 water and light;

8 (ii) Class I or class II nonprescription, approved medical
9 devices as defined in section 513 of the federal food, drug and
10 cosmetic act; and

11 (iii) Vitamins, minerals, herbs, natural food products and their
12 extracts, nutritional supplements and homeopathic preparations
13 and remedies not otherwise prohibited by law.

14 (b) Does not perform surgery or use legend drugs or prescription drugs
15 in such practice.

16 (11) "North American board of naturopathic examiners" or "NABNE"
17 means the agency that has been recognized to administer a naturopathic
18 examination that represents federal standards of education and training for
19 naturopathic physicians.

20 (12) "Principal home" or "primary home" or "place of abode" means
21 the home or place in which a person's habitation is fixed and to which a
22 person, whenever he is absent, has the present intention of returning after
23 a departure or absence therefrom, regardless of the duration of absence.
24 In determining what is a principal or primary place of abode of a person the
25 following circumstances relating to such person may be taken into account:
26 business pursuits, employment, income sources, residence for income or
27 other tax pursuits, residence of parents, spouse, and children, if any,
28 leaseholds, situs of personal and real property, situs of residence for
29 which the exemption in section 63-602G, Idaho Code, is filed, and motor
30 vehicle registration.

31 (13) "Residence" means the principal or primary home or place of abode
32 of a person.

33 54-5104. COMMISSION OF NATUROPATHIC MEDICINE CREATED. (1) There is
34 hereby established in the department of self-governing agencies, bureau of
35 occupational licenses, a commission of naturopathic medicine.

36 (2) For the period July 1, 2010, until June 30, 2014, the commission
37 shall consist of one (1) person appointed by the governor. Such person shall
38 be denominated as the "commissioner." For the period July 1, 2014, until June
39 30, 2015, the commissioner shall be a nonvoting liaison to the commission.

40 (3) Effective July 1, 2014, the commission shall consist of three (3)
41 members appointed by the governor who shall be licensed pursuant to section
42 54-5108, Idaho Code, and shall have been practitioners of naturopathic
43 medicine within the state of Idaho for a minimum of two (2) years immediately
44 preceding their appointment. Such members shall practice as licensed
45 naturopathic physicians within the state of Idaho for the duration of their
46 appointment.

47 (4) One (1) member of the commission effective on July 1, 2014, shall
48 be appointed for a three (3) year term of office, one (1) member shall be
49 appointed for a four (4) year term of office and one (1) member shall be

1 appointed for a five (5) year term of office. Thereafter, the term of office
2 for each member shall be five (5) years.

3 (5) Effective July 1, 2014, the commission, within thirty (30) days
4 after its appointment, and at least annually thereafter, shall hold a
5 meeting and elect a chairman. The commission may hold additional meetings at
6 the call of the chair or at the written request of any two (2) members of the
7 commission.

8 (6) The commission may appoint such committees as it considers
9 necessary to carry out its duties.

10 (7) A majority of the commission shall constitute a quorum.

11 (8) Members of the commission shall serve at the pleasure of the
12 governor.

13 (9) In the event of death, resignation or removal of any member before
14 the expiration of the term to which such member is appointed, the vacancy
15 shall be filled for the unexpired portion of the term in the same manner as
16 the original appointment.

17 54-5105. COMMISSION -- POWERS AND DUTIES. The commission shall have
18 the authority and the responsibility to:

19 (1) Receive applications for licensure, determine the qualifications
20 of persons applying for licensure, issue licenses to applicants qualified
21 under this chapter and renew, suspend, revoke, reinstate, condition, limit
22 or take other disciplinary actions against licenses, provided however, that
23 the commission shall not issue licenses pursuant to this chapter until it has
24 promulgated rules that have been approved by the legislature;

25 (2) Establish and collect fees;

26 (3) Establish by rule the amount and type of continuing education to
27 be required for each licensed naturopathic physician who seeks renewal of
28 a license after December 31, 2012, provided that the annual minimum amount
29 shall be thirty (30) hours commensurate with naturopathic medicine, ten (10)
30 hours of which shall be in pharmacological education;

31 (4) Grant a special competency certificate for naturopathic childbirth
32 attendance to those licensees who apply for such and can document training
33 and experience equal to or greater than that required by the rules of the
34 Idaho board of nursing, pursuant to section 54-1404, Idaho Code. The
35 applicant shall hold hospital privileges and shall perform such procedures
36 only under the supervision of a physician licensed pursuant to chapter 18,
37 title 54, Idaho Code;

38 (5) Grant a special competency certificate of intravenous therapy to
39 those licensees who apply for such and can document appropriate training
40 from a commission-approved class;

41 (6) Promulgate and adopt rules, pursuant to chapter 52, title 67, Idaho
42 Code, as necessary to administer and implement this chapter;

43 (7) Authorize, by written agreement, the bureau of occupational
44 licenses to act as agent in its interest; and

45 (8) Provide such other services and perform such other functions as are
46 consistent with this chapter and necessary to fulfill its responsibilities.

47 54-5106. LICENSURE. (1) The commission shall grant a license to any
48 person who submits a completed application, pays the required fees and

1 demonstrates, to the satisfaction of the commission, that the applicant
2 meets the qualifications for licensure.

3 (2) All licenses issued under this chapter shall be for a term of one
4 (1) year and shall expire on the birthday of the licensee unless renewed in
5 the manner prescribed by rule. Rules governing procedures and conditions
6 for license renewal and reinstatement shall be in accordance with section
7 67-2614, Idaho Code.

8 54-5107. APPLICATIONS. Applications shall be on forms prescribed by
9 the commission. The applicant shall:

- 10 (1) Give a full and direct response to the requirements of the
11 application form; and
12 (2) Pay all required fees.

13 54-5107A. APPROVED NATUROPATHIC MEDICAL PROGRAM. An approved
14 naturopathic medical program is:

15 (1) A naturopathic medical education program in the United States
16 providing the degree of doctor of naturopathy or doctor of naturopathic
17 medicine that offers graduate-level full-time didactic and supervised
18 clinical training and is accredited, or has achieved candidacy status for
19 accreditation, by the council on naturopathic medical education (CNME) or an
20 equivalent federally recognized accrediting body for naturopathic medical
21 programs. Additionally, the program shall be an institution, or part of an
22 institution of higher education, that is either accredited or is a candidate
23 for accreditation by a regional accrediting agency recognized by the United
24 States department of education;

25 (2) A degree granting college or university that, prior to the
26 existence of the CNME, offered a full-time structured curriculum in basic
27 sciences and supervised patient care comprising a doctoral naturopathic
28 medical education as a prerequisite to graduation therefrom, having been not
29 less than one hundred thirty-two (132) weeks in duration and which required
30 completion within a period of not less than thirty-five (35) months, and if
31 still in existence has current programmatic accreditation by the CNME or
32 federally recognized equivalent accrediting agency; or

33 (3) A diploma granting, degree-equivalent college or university that,
34 if in Canada and prior to the accreditation by the CNME, had provincial
35 approval for participation in government funded student aid programs,
36 and that offered a full-time structured curriculum in basic sciences
37 and supervised patient care comprising a doctoral naturopathic medical
38 education; such course, as a prerequisite to graduation therefrom, having
39 been not less than one hundred thirty-two (132) weeks in duration and shall
40 require completion within a period of not less than thirty-five (35) months,
41 and if still in existence has current programmatic accreditation by the CNME
42 or federally recognized equivalent accrediting agency.

43 54-5108. QUALIFICATIONS FOR LICENSURE. (1) Eligibility. To be
44 eligible to be licensed as a naturopathic physician an applicant shall:

- 45 (a) Successfully complete an approved naturopathic medical program;
46 and

1 (b) Receive a passing score on the NPLEX or successor examination
2 recognized by NABNE.

3 (2) Optional examination. An applicant who has successfully completed
4 an approved naturopathic medical program prior to the passage of this act
5 and received a passing score on a commission-approved state examination or
6 Canadian provincial examination shall also be eligible for licensure.

7 (3) Character. Applicants shall:

8 (a) Possess a good, ethical and professional reputation;

9 (b) Be physically and mentally capable of safely practicing
10 naturopathic medicine with or without reasonable accommodation; and

11 (c) Never have had a license to practice naturopathic medicine or other
12 health care license, registration or certificate refused, revoked
13 or suspended by any state or country for reasons that relate to the
14 applicant's ability to skillfully and safely practice naturopathic
15 medicine or other health care profession unless that license,
16 registration or certification has been restored to good standing
17 by that state or country.

18 (4) All licensed naturopathic physicians shall have on file with the
19 commission a commission-approved disclosure form stating the degrees,
20 training, experience, credentials and the health care services they are
21 commission-approved to provide.

22 54-5108A. ALTERNATIVE QUALIFICATIONS FOR LICENSURE -- DEADLINE FOR
23 APPLICATION. (1) Notwithstanding the provisions of section 54-5108(1) and
24 (2), Idaho Code:

25 (a) Alternative one. An applicant shall be deemed to be eligible
26 for licensure if the applicant documents, to the satisfaction of the
27 commission, that the applicant:

28 (i) Has established a residence in Idaho on or before July 1,
29 2010;

30 (ii) Successfully completed a postdoctoral college curriculum or
31 program in naturopathy prior to September 1, 2009, or, for a period
32 of five (5) years prior to July 1, 2010, has held out to the public
33 as a naturopath in Idaho;

34 (iii) Is currently licensed in Idaho as a doctor of medicine,
35 doctor of osteopathy or doctor of chiropractic, or is a doctor of
36 chiropractic licensed in another state with a currently active
37 federal drug enforcement agency registration number;

38 (iv) Meets the additional educational requirements of subsection
39 (2) of this section.

40 (b) Alternative two. An applicant may also be deemed to be eligible
41 for licensure if the applicant documents, to the satisfaction of the
42 commission, that the applicant is a candidate for NPLEX examination and
43 meets the additional educational requirements of subsection (2) of this
44 section.

45 (2) Additional educational qualifications for licensure. To be
46 eligible for licensure under either paragraph (a) or (b) of subsection (1)
47 of this section, the applicant shall also document, to the satisfaction of
48 the commission, successful completion, prior to December 31, 2012, of the
49 following additional education:

1 (a) Classes in minor office procedures as offered by an accredited
2 institution recognized by the United States department of education or
3 the accreditation council for continuing medical education to offer
4 such classes, including classes offered by the national procedures
5 institute, or is certified by a surgical board recognized by the joint
6 commission for hospital accreditation. The courses shall include:

7 (i) A summary of superficial minor office procedure: including
8 cryosurgery, radiofrequency excision (modern electrosurgery)
9 and biopsy techniques as well as treatment of lipomas, cysts,
10 actinics, seborrheics, ingrown toenails, warts, skin tags and
11 abscesses; and

12 (ii) A summary of basic suturing: including anatomy of the skin,
13 principles of healing and basic wound care, as well as basic biopsy
14 and excisional techniques, suturing methods, undermining, skin
15 stapling and the application of adhesives; and

16 (b) A seventy-two (72) contact hour course of study in clinical
17 pharmacology offered by an accredited institution recognized by the
18 United States department of education to provide such courses, prior
19 to December 31, 2012, or has a federal drug enforcement administration
20 certificate allowing for prescription privileges within the scope
21 of practice authorized by this chapter. Proctored testing shall be
22 provided by the institution. The course of study shall, at minimum,
23 include: introduction to pharmacology/pharmacokinetics, drug errors,
24 prescription writing, antimicrobials, hormones, dermatological
25 drugs, topical and subcutaneous anesthetics, asthma medications,
26 cardiovascular drugs and antidepressants.

27 (3) Deadline for application. Individuals seeking licensure pursuant
28 to subsections (1) and (2) of this section shall apply for licensure and
29 provide the required documentation to the commission prior to December 31,
30 2012.

31 (4) Applicants applying for licensure pursuant to this section shall
32 comply with the requirements of section 54-5108(3) and (4), Idaho Code.

33 54-5109. TITLE AND SCOPE OF PRACTICE OF LICENSED NATUROPATHIC
34 PHYSICIANS. (1) Title. Individuals licensed pursuant to this chapter
35 shall be designated and may hold themselves out to others as "licensed
36 naturopathic physician" or "licensed N.M.D."

37 (2) Scope. Licensed naturopathic physicians are authorized to
38 practice naturopathic medicine as follows:

39 (a) Use, order and perform physical and laboratory examinations
40 for diagnostic purposes; provided that all such diagnostic and
41 imaging tests not consistent with naturopathic medical education and
42 training have been referred for performance and interpretation by an
43 appropriately licensed health care professional;

44 (b) Dispense, administer and prescribe prescription drugs and medical
45 devices as determined by the naturopathic medical formulary council and
46 authorized by the commission;

47 (c) Perform minor office procedures as authorized by the commission;
48 and

1 (d) Perform therapies for which the licensed naturopathic physician is
2 trained and educated and that have been authorized by the commission.

3 54-5110. INVESTIGATION -- HEARING -- SUBPOENA -- HEARING
4 COMMITTEES. (1) The commission shall be empowered to investigate, or cause
5 to be investigated, all complaints regarding any conduct prohibited by this
6 chapter.

7 (2) The commission may conduct hearings to assist with investigations
8 to determine whether grounds exist for suspension, revocation or denial
9 of a license or to fulfill its responsibilities under this chapter as the
10 commission determines necessary.

11 (3) The commission may subpoena witnesses, administer oaths in any
12 hearing or disciplinary proceeding and compel, by subpoena duces tecum, the
13 production of papers and records.

14 (4) At the request of a naturopathic physician licensed pursuant
15 to section 54-5108A, Idaho Code, to whom a complaint is directed, the
16 commission shall assign all such complaints to a hearing committee composed
17 of three (3) licensed naturopathic physicians licensed pursuant to section
18 54-5108A, Idaho Code. Such physician shall pay the costs of such committee
19 to conduct hearings that exceed the expense of the commission conducting
20 any such hearing. Such committees may conduct hearings to assist with
21 investigations, to determine whether grounds exist for suspension,
22 revocation or denial of a license or other discipline as the committee
23 determines necessary. The hearing committees may subpoena witnesses,
24 administer oaths in any hearing or disciplinary proceeding and compel,
25 by subpoena duces tecum, the production of papers and records. The
26 recommendations of a hearing committee to suspend, revoke or deny a license
27 or impose other discipline shall be submitted to the commission, which shall
28 have the authority to approve or deny such recommendation.

29 54-5111. DISCIPLINARY ACTION. (1) The commission may suspend, revoke,
30 refuse to issue or refuse to renew a license, or may impose such other
31 discipline as it deems appropriate, on any of the following grounds:

32 (a) The employment of fraud or deceit in obtaining a license under
33 this chapter or in connection with services rendered as a naturopathic
34 physician;

35 (b) A legal finding of mental incompetence;

36 (c) Aiding or abetting a person, not duly licensed under this chapter,
37 in claiming to be a licensed naturopathic physician or in practicing
38 naturopathic medicine;

39 (d) Any negligence, incompetence or misconduct in the performance of
40 licensed naturopathic medicine;

41 (e) Conviction of any crime involving moral turpitude or the entering
42 of a plea of guilty or the finding of guilt by a jury or court of a
43 commission of a felony or a crime involving moral turpitude;

44 (f) Practicing as a licensed naturopathic physician when physical or
45 mental abilities are impaired by the use of controlled substances or
46 other drugs, chemicals or alcohol;

47 (g) Failure of the individual practitioner to maintain his or her
48 professional premises in a clean and sanitary condition; or

1 (h) Any other good cause relevant to qualifications to practice as a
2 licensed naturopathic physician.

3 (2) The commission may not suspend, revoke or refuse to issue or
4 renew a license based solely on the finding that a licensee's practice is
5 unconventional in the absence of demonstrable harm to a patient and the
6 patient has signed a waiver to the effect that the treatment or device is
7 considered unconventional.

8 54-5112. ADMINISTRATIVE PROCEDURE. When the commission proposes
9 to refuse to issue or renew a license, or proposes to revoke, suspend or
10 otherwise discipline a licensee, opportunity for a hearing shall be provided
11 pursuant to the provisions of chapter 52, title 67, Idaho Code.

12 54-5113. NATUROPATHIC DOCTORS. (1) Nothing in this chapter shall
13 prohibit or restrict the right to use or employ the titles "doctor of
14 naturopathy," "naturopathic doctor" or the designation "N.D." by a person
15 who has:

16 (a) Received a doctor of naturopathy degree from a school, college or
17 institution that is licensed, or exempt from licensure as a religious
18 school, college or institution, by the appropriate state educational
19 licensing agency in which its principal operations or offices are
20 located;

21 (b) Completed a doctoral level course of study that includes coursework
22 and practical experience, which may include apprenticeship, of at
23 least eight hundred (800) hours, upon completion of which a doctor of
24 naturopathy degree is conferred;

25 (c) Practiced as a doctor of naturopathy for twenty (20) years prior to
26 the effective date of this chapter; or

27 (d) Practiced as a doctor of naturopathy for at least five (5) years and
28 received a doctor of naturopathy degree prior to the effective date of
29 this chapter.

30 (2) A person who does not meet the criteria set forth in this section
31 shall not use the titles and terms contained in subsection (1) of this
32 section.

33 (3) Any person providing natural health services who is not a licensed
34 naturopathic physician and who is advertising or charging a fee for those
35 services shall, prior to providing such services, require each client
36 receiving services to sign a declaration of informed consent stating that
37 such person is not a licensed naturopathic physician or a licensed "N.M.D.,"
38 and, as required in section 54-1804(j), Idaho Code, stating such person is
39 not an "M.D." or "D.O."

40 54-5114. NATUROPATHIC MEDICAL FORMULARY COUNCIL -- COMPOSITION
41 -- DUTIES -- LIMITATION. (1) Effective January 1, 2011, there is hereby
42 established a naturopathic medical formulary council which shall be
43 separate and distinct from the commission.

44 (2) The council shall be composed of five (5) members who shall serve
45 without honorarium or compensation. Two (2) members shall be naturopathic
46 physicians licensed pursuant to this chapter and be appointed by the
47 commission. Three (3) members shall be pharmacists licensed under chapter

1 17, title 54, Idaho Code, and be appointed by the commission from a list of
2 nominees provided by the Idaho state board of pharmacy.

3 (3) The initial council shall be appointed as follows: one (1) licensed
4 naturopathic physician appointed for a one (1) year term; one (1) pharmacist
5 appointed for a two (2) year term; one (1) licensed naturopathic physician
6 and two (2) pharmacists appointed for three (3) year terms. Thereafter, the
7 term of all members shall be three (3) years.

8 (4) A quorum shall consist of three (3) members, two (2) of whom shall be
9 pharmacists and such quorum shall be required for any vote taken.

10 (5) Licensed naturopathic physicians may prescribe and administer the
11 following from this initial formulary:

12 (a) Amino acids and amino acid combinations;

13 (b) Antimicrobials;

14 (c) Barrier contraceptives;

15 (d) All botanical extracts and their derivatives prescription and
16 nonprescription substances as exemplified in traditional botanical
17 and herbal pharmacopoeia, which are to be used at accepted therapeutic
18 dosages. Accepted therapeutic dosages means a dose that does not impair
19 organ function or destroy human life;

20 (e) Electrolytes and fluids replacement;

21 (f) Enzyme, digestive and proteolytic preparations;

22 (g) Homeopathic preparations, all prescription and nonprescription
23 remedies;

24 (h) All prescription and nonprescription minerals, trace metals and
25 their derivatives;

26 (i) Oxygen and related durable and nondurable medical goods and devices
27 in all their forms;

28 (j) Vaccines;

29 (k) Neutraceuticals and all prescription and nonprescription vitamin
30 preparations in all their forms;

31 (l) Topical medicines;

32 (m) Chelation agents; and

33 (n) Hormones.

34 (6) It shall be the duty of the council to review, modify and,
35 as appropriate, expand the formulary for use by licensed naturopathic
36 physicians, and immediately upon adoption or revision of the formulary, the
37 council shall transmit the approved formulary to the commission, which shall
38 promulgate rules adopting the formulary.

39 (a) The formulary may be reviewed annually by the council, or at any
40 time at the request of the commission.

41 (b) The formulary shall be commensurate with prescription medicines
42 and medical devices covered by approved naturopathic medical education
43 and training and existing naturopathic medical formularies, and
44 commission-approved continuing education.

45 (7) The formulary list may not go beyond the scope of prescription
46 medicines and medical devices covered by approved naturopathic medical
47 education and training.

48 (8) Nothing in this section shall allow a naturopathic physician to
49 dispense, administer or prescribe any prescription drug as defined in
50 section 54-1705(30), Idaho Code, or medical device unless such prescription

1 drug or medical device is specifically included in the naturopathic medical
2 formulary.

3 54-5115. PROHIBITIONS. A naturopathic doctor or licensed
4 naturopathic physician shall not:

5 (1) Prescribe, dispense or administer any controlled substance or
6 device identified under the uniform controlled substances act, chapter 27,
7 title 37, Idaho Code, or identified in the federal controlled substance act,
8 21 U.S.C. sections 801 through 971 (1988), as amended, except as authorized
9 by this chapter;

10 (2) Perform surgical procedures except those authorized by this
11 chapter as minor office procedures;

12 (3) Practice or claim to practice as a medical doctor, osteopath,
13 dentist, podiatrist, optometrist, psychologist, advanced practice
14 professional nurse, physician assistant, chiropractor, physical therapist,
15 acupuncturist or any other health care professional not authorized in this
16 chapter unless licensed by the state of Idaho to do so;

17 (4) Use general or spinal anesthetics;

18 (5) Administer ionizing radioactive substances for therapeutic
19 purposes;

20 (6) Perform surgical procedures using a laser device;

21 (7) Induce or perform an abortion;

22 (8) Perform surgical procedures involving the eye, ear, tendons,
23 nerves, veins or arteries extending beyond superficial tissue;

24 (9) Treat any lesion suspicious of malignancy or requiring surgical
25 removal. Lesions suspicious of malignancy or requiring surgical removal
26 shall be referred to an appropriately licensed health care professional.
27 Nothing in this chapter shall prohibit treatment of a person with suspicious
28 or malignant lesions in conjunction with a physician licensed pursuant to
29 chapter 18, title 54, Idaho Code.

30 54-5116. EXEMPTIONS. This chapter is not intended to and does not
31 prohibit, restrict or apply to:

32 (1) The practice of a profession by individuals who are licensed,
33 certified or registered under other laws of this state and are performing
34 services within the authorized scope of practice;

35 (2) The practice of naturopathic medicine by an individual employed by
36 the federal government while the individual is engaged in the performance of
37 duties prescribed by the laws and regulations of the United States;

38 (3) An individual rendering aid to a family member or in an emergency
39 when no fee or other consideration for the service is charged, received,
40 expected or contemplated;

41 (4) A person engaged in the recommendation of or sale of vitamins,
42 health foods, over-the-counter homeopathic products, dietary supplements,
43 herbs or other products of nature, the sale of which is not otherwise
44 prohibited under state or federal law;

45 (5) A person engaged in good faith for religious reasons as a matter of
46 conscience;

47 (6) The practice by a naturopathic physician duly licensed in another
48 state, territory or the District of Columbia when that naturopathic

1 physician is incidentally called into this state for consultation with a
2 licensed physician;

3 (7) The practice of naturopathic medicine by students enrolled in an
4 approved naturopathic medical program pursuant to section 54-5107A, Idaho
5 Code. Services shall be performed pursuant to a course of instruction or
6 assignments from an instructor and under the supervision and observation of
7 the instructor;

8 (8) Those who practice massage therapy or body work therapies; or

9 (9) The practice and providing of natural health care services in
10 compliance with sections 54-1804 and 54-5113, Idaho Code, by a person who
11 is not licensed, certified or registered in this state as a health care
12 professional or practitioner.

13 54-5117. FEES. (1) All fees received pursuant to the provisions of
14 this chapter shall be paid to the department of self-governing agencies,
15 bureau of occupational licenses, and deposited in the state treasury to the
16 credit of the occupational licenses fund. All costs and expenses incurred
17 pursuant to the provisions of this chapter shall be charged against and paid
18 from said fund. In no case may any salary, expense or other obligation of the
19 commission be charged against the general fund.

20 (2) For the period July 1, 2010, until December 31, 2012, the required
21 fees are:

22 (a) Application fee of two hundred fifty dollars (\$250);

23 (b) Licensure fee of one thousand dollars (\$1,000);

24 (c) Annual renewal fee of five hundred dollars (\$500).

25 (3) After January 1, 2013, fees shall be set by the commission pursuant
26 to rule and shall not exceed one thousand dollars (\$1,000).

27 (4) No refund, in whole or in part, shall be made of any fees.

28 (5) The commission may use a portion of such fees to retire the debt
29 created by the board of naturopathic medical examiners to the bureau of
30 occupational licenses.

31 54-5118. ENFORCEMENT -- PENALTIES. (1) Every person who knowingly
32 holds himself or herself out as a licensed naturopathic physician or who
33 practices naturopathic medicine in this state without a license is guilty of
34 a misdemeanor. A person who pleads guilty to or is found guilty of a second or
35 subsequent offense shall be guilty of a felony.

36 (2) It is a misdemeanor for any person to assume or use the title or
37 designation "licensed naturopathic physician" or "licensed N.M.D." or any
38 other title, designation, words, letters, abbreviations, sign, card or
39 device to indicate to the public that such person is licensed to practice
40 naturopathic medicine pursuant to this chapter unless such person is so
41 licensed. Any person who pleads guilty to or is found guilty of a second or
42 subsequent offense under this subsection shall be guilty of a felony.

43 (3) Nothing contained in this chapter shall regulate, restrict or
44 prohibit the practice of naturopathy or any naturopathic health care
45 treatment, therapy or modality, unregulated or permitted by law prior to
46 July 1, 2010, except to the extent that such specific treatment, therapy
47 or modality is enumerated in this chapter and requires a license under this
48 chapter.

1 (4) If the commission determines in good faith that a person is
2 holding himself out as a licensed naturopathic physician, or practicing
3 naturopathic medicine, in violation of the provisions of this chapter,
4 the commission may seek an injunction in state district court, provided
5 it has given thirty (30) days' prior written notice to cease and desist
6 against any person who does not comply with such notice and who holds himself
7 out as a licensed naturopathic physician or practices in violation of the
8 provisions of this chapter and may, in the event a permanent injunction is
9 entered against such person be entitled to all costs and fees incurred by the
10 commission in seeking the injunction.

11 54-5119. LICENSES ISSUED PURSUANT TO PRIOR CHAPTER. (1) Naturopathic
12 physicians licensed pursuant to the predecessor to this chapter shall be
13 licensed pursuant to this chapter if:

14 (a) Such naturopathic physician meets the qualifications for licensure
15 established in section 54-5108, Idaho Code, and applies for such
16 license pursuant to section 54-5106, Idaho Code; or

17 (b) In the event such naturopathic physician does not meet the
18 qualifications established in section 54-5108, Idaho Code, he or she
19 shall be licensed pursuant to this chapter but with those privileges
20 provided to licensed naturopathic physicians contained in section
21 54-5109, Idaho Code, as determined by the commission, provided that:

22 (i) Such physician applies for such license pursuant to section
23 54-5106, Idaho Code; and

24 (ii) Any person who qualifies to be licensed pursuant to the
25 provisions of section 54-5108A(1), Idaho Code, shall not be
26 licensed after December 31, 2012, if any such person fails to
27 complete the requirements of section 54-5108A(2), Idaho Code.

28 (2) Applications for licenses not acted upon pursuant to the
29 predecessor to this chapter on the effective date of this chapter shall
30 be null and void and of no legal effect. Fees accompanying such applications
31 are nonrefundable.

32 (3) A license issued pursuant to the predecessor to this chapter shall
33 remain in effect until July 1, 2011, provided that such licensee shall
34 submit a renewal fee of five hundred dollars (\$500) to the department of
35 self-governing agencies, bureau of occupational licenses, by August 1,
36 2010. Failure to submit a renewal fee as required by this subsection shall
37 render such license expired.

38 54-5120. PREEMPTION. This chapter vests exclusive jurisdiction in the
39 commission to license persons to practice naturopathic medicine as licensed
40 naturopathic physicians in the state of Idaho. Counties and cities are
41 expressly preempted from exercising such jurisdiction.

42 SECTION 3. That Section 67-2601, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 67-2601. DEPARTMENT CREATED -- ORGANIZATION -- DIRECTOR -- BUREAU OF
45 OCCUPATIONAL LICENSES CREATED. (1) There is hereby created the department of
46 self-governing agencies. The department shall, for the purposes of section

1 20, article IV of the constitution of the state of Idaho, be an executive
2 department of the state government.

3 (2) The department shall consist of the following:

4 (a) Agricultural commodity commissions: Idaho apple commission, as
5 provided by chapter 36, title 22, Idaho Code; Idaho bean commission,
6 as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as
7 provided by chapter 29, title 25, Idaho Code; Idaho cherry commission,
8 as provided by chapter 37, title 22, Idaho Code; Idaho dairy products
9 commission, as provided by chapter 31, title 25, Idaho Code; Idaho pea
10 and lentil commission, as provided by chapter 35, title 22, Idaho Code;
11 Idaho potato commission, as provided by chapter 12, title 22, Idaho
12 Code; the Idaho wheat commission, as provided by chapter 33, title
13 22, Idaho Code; and the Idaho aquaculture commission, as provided by
14 chapter 44, title 22, Idaho Code.

15 (b) Professional and occupational licensing boards: Idaho state board
16 of certified public accountancy, as provided by chapter 2, title 54,
17 Idaho Code; board of acupuncture, as provided by chapter 47, title 54,
18 Idaho Code; board of architectural examiners, as provided by chapter
19 3, title 54, Idaho Code; office of the state athletic director, as
20 provided by chapter 4, title 54, Idaho Code; board of barber examiners,
21 as provided by chapter 5, title 54, Idaho Code; board of commissioners
22 of the Idaho state bar, as provided by chapter 4, title 3, Idaho Code;
23 board of chiropractic physicians, as provided by chapter 7, title
24 54, Idaho Code; Idaho board of cosmetology, as provided by chapter 8,
25 title 54, Idaho Code; Idaho counselor licensing board, as provided by
26 chapter 34, title 54, Idaho Code; state board of dentistry, as provided
27 by chapter 9, title 54, Idaho Code; state board of dentistry, as
28 provided by chapter 33, title 54, Idaho Code; state board of engineering
29 examiners, as provided by chapter 12, title 54, Idaho Code; state board
30 for registration of professional geologists, as provided by chapter 28,
31 title 54, Idaho Code; speech and hearing services licensure board, as
32 provided by chapter 29, title 54, Idaho Code; Idaho physical therapy
33 licensure board, as provided by chapter 22, title 54, Idaho Code; Idaho
34 state board of landscape architects, as provided by chapter 30, title
35 54, Idaho Code; liquefied petroleum gas safety board, as provided by
36 chapter 53, title 54, Idaho Code; state board of medicine, as provided
37 by chapter 18, title 54, Idaho Code; state board of morticians, as
38 provided by chapter 11, title 54, Idaho Code; ~~board~~ commission of
39 naturopathic ~~medical examiners~~ medicine, as provided by chapter 51,
40 title 54, Idaho Code; board of nurses, as provided by chapter 14, title
41 54, Idaho Code; board of examiners of nursing home administrators, as
42 provided by chapter 16, title 54, Idaho Code; state board of optometry,
43 as provided by chapter 15, title 54, Idaho Code; Idaho outfitters and
44 guides board, as provided by chapter 21, title 36, Idaho Code; board
45 of pharmacy, as provided by chapter 17, title 54, Idaho Code; state
46 board of podiatry, as provided by chapter 6, title 54, Idaho Code; Idaho
47 state board of psychologist examiners, as provided by chapter 23, title
48 54, Idaho Code; Idaho real estate commission, as provided by chapter
49 20, title 54, Idaho Code; real estate appraiser board, as provided by
50 chapter 41, title 54, Idaho Code; board of social work examiners, as

1 provided by chapter 32, title 54, Idaho Code; the board of veterinary
2 medicine, as provided by chapter 21, title 54, Idaho Code; the board
3 of examiners of residential care facility administrators, as provided
4 by chapter 42, title 54, Idaho Code; the certified shorthand reporters
5 board, as provided by chapter 31, title 54, Idaho Code; the driving
6 businesses licensure board, as provided by chapter 54, title 54,
7 Idaho Code; the board of drinking water and wastewater professionals,
8 as provided by chapter 24, title 54, Idaho Code; and the board of
9 midwifery, as provided by chapter 54~~5~~, title 54, Idaho Code.

10 (c) The board of examiners, pursuant to section 67-2001, Idaho Code.

11 (d) The division of building safety: building code board, chapter 41,
12 title 39, Idaho Code; manufactured housing board, chapter 21, title
13 44, Idaho Code; electrical board, chapter 10, title 54, Idaho Code;
14 public works contractors license board, chapter 19, title 54, Idaho
15 Code; plumbing board, chapter 26, title 54, Idaho Code; public works
16 construction management, chapter 45, title 54, Idaho Code; the heating,
17 ventilation and air conditioning board, chapter 50, title 54, Idaho
18 Code; and modular building advisory board, chapter 43, title 39, Idaho
19 Code.

20 (e) The division of veterans services to be headed by a division
21 administrator who shall be a nonclassified employee exempt from the
22 provisions of chapter 53, title 67, Idaho Code. The administrator of
23 the division shall administer the provisions of chapter 2, title 65,
24 Idaho Code, and chapter 9, title 66, Idaho Code, with the advice of the
25 veterans affairs commission established under chapter 2, title 65,
26 Idaho Code, and shall perform such additional duties as are imposed upon
27 him by law.

28 (f) The board of library commissioners, pursuant to section 33-2502,
29 Idaho Code.

30 (~~f~~g) The Idaho state historical society, pursuant to section 67-4123,
31 Idaho Code.

32 (3) The bureau of occupational licenses is hereby created within the
33 department of self-governing agencies.

34 SECTION 4. SEVERABILITY. The provisions of this act are hereby declared
35 to be severable and if any provision of this act or the application of such
36 provision to any person or circumstance is declared invalid for any reason,
37 such declaration shall not affect the validity of the remaining portions of
38 this act.

39 SECTION 5. The Commission of Naturopathic Medicine shall report the
40 status of the commission and the practice of naturopathic medicine in Idaho
41 to the First Regular Session of the Sixty-third Legislature in 2015. The
42 provisions of Chapter 51, Title 54, Idaho Code, shall be null, void and of no
43 force and effect on and after July 1, 2015.