

ALTERNATIVE HEALTH CARE BOARD
LAWS
AS OF THE 2019 LEGISLATIVE SESSION

TITLE 37, CHAPTER 26
NATUROPATHIC PHYSICIANS

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CHAPTER 26

NATUROPATHIC PHYSICIANS

Chapter Compiler's Comments

1991 Statement of Intent: The statement of intent attached to Ch. 306, L. 1991, provided: "A statement of intent is required for this bill because [sections 7 and 10] [37-26-304 and 37-26-201] grant to the board of naturopathic physicians [now alternative health care board] rulemaking authority to implement the provisions of this bill. It is the intent of the legislature that the board, at a minimum, adopt rules:

- (1) specifying the scope of practice of naturopathic medicine;
- (2) establishing license application and examination procedures, fees, and criteria for minimal educational and clinical requirements;
- (3) developing procedures for the issuance, renewal, suspension, revocation, and reciprocity of licenses and procedures for certificates of specialty practice; and
- (4) establishing investigatory procedures for processing complaints."

Severability: Section 20, Ch. 306, L. 1991, was a severability clause.

Coordination Instruction: Section 3(2), Ch. 524, L. 1991, provided: "If Senate Bill No. 66 is passed and approved and if it contains a section of law creating the board of naturopathic physicians and a section of law defining the term "board" as the board of naturopathic physicians, then the section of law in Senate Bill No. 66 creating the board of naturopathic physicians is void and the section of law in Senate Bill No. 66 defining the board must provide that the term "board" means the alternative health care board as established in [section 1 of this act] [2-15-1840 (renumbered 2-15-1730)]. Any reference to the term "board" in Senate Bill No. 66 must then be construed to mean the alternative health care board established in [section 1 of this act] [2-15-1840 (renumbered 2-15-1730)], and any reference in Senate Bill No. 66 to the bill section creating the board of naturopathic physicians must be construed as a reference to [section 1 of this act] [2-15-1840 (renumbered 2-15-1730)]." Senate Bill No. 66 was approved April 1, 1991, as Ch. 306, L. 1991. Chapter 524, L. 1991, rendered sec. 9, Ch. 306, void, and the definition of Board in 37-26-103 was revised to mean the Alternative Health Care Board.

Chapter Cross-References

- Contested case procedure, Title 2, ch. 4, part 6.
- Licensing to follow contested case procedure, 2-4-631.
- Duty of Department to investigate unprofessional conduct, 37-1-101.
- Reporting disciplinary actions against licensees, 37-1-105.
- Duties of Director in investigation of unethical conduct, 37-1-121.
- Duty of Board to adopt and enforce licensing and certification rules and rules on conduct, 37-1-131.
- Licensing boards to establish fees commensurate with costs, 37-1-134.
- Licensing investigation and review — record access, 37-1-135.
- Disciplinary authority of boards — injunctions, 37-1-136.
- Grounds for disciplinary action as grounds for license denial — conditions to new licenses, 37-1-137.
- Licensure of criminal offenders, Title 37, ch. 1, part 2.
- Nondiscrimination in licensing, 49-3-204.

Chapter Administrative Rules

Title 24, chapter 111, subchapter 5, ARM Licensing and scope of practice — naturopathic physicians.

Chapter Law Review Articles

- Licensing Alternative Approaches to Medicine: The Naturopathic Doctors' Act of 2003, Clark, 35 McGeorge L. Rev. 387 (2004).
- Legal Issues Facing Naturopathic Medicine, Turbert, 47 Med. Trial Tech. Q. 359 (2000).

Part 1 General

37-26-101. Short title. This chapter may be cited as the "Naturopathic Health Care Practice Act".
History: En. Sec. 1, Ch. 306, L. 1991.

Compiler's Comments

Effective Date: Section 22(2), Ch. 306, L. 1991, provided: "[Sections 1 through 8 and 12 through 21] [37-26-101 through 37-26-103, 37-26-301 through 37-26-304, 37-26-401 through 37-26-405, 37-26-408 through 37-26-410, and 37-26-414] [37-26-404 and 37-26-408 through 37-26-410 now repealed] are effective October 1, 1991."

37-26-102. Legislative finding — purpose. (1) The legislature finds that a significant number of Montanans choose naturopathic medicine for their health care needs and declares that naturopathic medicine is a distinct health care profession that affects the public health, safety, and welfare and contributes to public freedom of choice in health care.

(2) The purpose of this chapter is to provide standards for the licensing and regulation of naturopathic physicians in order to protect the public health, safety, and welfare; to ensure that naturopathic health care by qualified naturopathic physicians is available to the people of Montana; and to provide a means of identifying qualified naturopathic physicians.

History: En. Sec. 2, Ch. 306, L. 1991.

Compiler's Comments

Effective Date: Section 22(2), Ch. 306, L. 1991, provided: "[Sections 1 through 8 and 12 through 21] [37-26-101 through 37-26-103, 37-26-301 through 37-26-304, 37-26-401 through 37-26-405, 37-26-408 through 37-26-410, and 37-26-414] [37-26-404 and 37-26-408 through 37-26-410 now repealed] are effective October 1, 1991."

37-26-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Approved naturopathic medical college" means a college and program granting the degree of doctor of naturopathy or naturopathic medicine that:

(a) is accredited by the council on naturopathic medical education or another accrediting agency recognized by the United States department of education;

(b) has the status of candidate for accreditation with the accrediting agency; or

(c) has been approved by the board after an investigation that determines that the college or program meets education standards equivalent to those established by the accrediting agency and complies with the board's rules, which must require as a minimum a 4-year, full-time resident program of academic and clinical study.

(2) "Board" means the alternative health care board established in 2-15-1730.

(3) "Department" means the department of labor and industry provided for in 2-15-1701.

(4) "Homeopathic preparations" means substances and drugs prepared according to the official Homeopathic Pharmacopoeia of the United States, which is the standard homeopathic text recognized by the United States food and drug administration.

(5) (a) "Minor surgery" means the use of:

(i) operative, electrical, or other methods for the surgical repair and care incidental to superficial lacerations and abrasions, superficial lesions, and the removal of foreign bodies located in the superficial tissues; and

(ii) antiseptics and local anesthetics in connection with the methods.

(b) Minor surgery does not include general or spinal anesthetics, major surgery, surgery of the body cavities, or specialized surgeries, such as plastic surgery, surgery involving the eyes, or surgery involving tendons, ligaments, nerves, or blood vessels.

(6) (a) "Naturopathic childbirth attendance" means the specialty practice of natural childbirth by naturopathic physicians that includes the use of natural therapeutic substances, ophthalmic antibiotics, oxytocin (pitocin), and minor surgery, as set by board rules.

(b) The term does not include a forceps delivery, general or spinal anesthesia, or a cesarean section.

(7) "Naturopathic medicine", "naturopathic health care", or "naturopathy" means a system of primary health care practiced by naturopathic physicians for the prevention, diagnosis, and treatment of human health conditions, injury, and disease. Its purpose is to promote or restore health by the support and stimulation of the individual's inherent self-healing processes. This is accomplished through education of the patient by a naturopathic physician and through the use of natural therapies and therapeutic substances.

(8) "Naturopathic physical applications" means the therapeutic use by naturopathic physicians of the actions or devices of electrical muscle stimulation, galvanic, diathermy, ultrasound, ultraviolet light, constitutional hydrotherapy, and naturopathic manipulative therapy.

(9) "Naturopathic physician" means a person authorized and licensed to practice naturopathic health care under this chapter.

(10) "Topical drugs" means topical analgesics, anesthetics, antiseptics, scabicides, antifungals, and antibacterials.

History: En. Sec. 3, Ch. 306, L. 1991; amd. sec. 3(2), Ch. 524, L. 1991; amd. Sec. 132, Ch. 483, L. 2001.

Compiler's Comments

2001 Amendment: Chapter 483 in definition of department substituted reference to department of labor and industry for reference to department of commerce and substituted "2-15-1701" for "2-15-1801". Amendment effective July 1, 2001.

Coordination Instruction: Section 3(2), Ch. 524, L. 1991, provided: "If Senate Bill No. 66 is passed and approved and if it contains a section of law creating the board of naturopathic physicians and a section of law defining the term "board" as the board of naturopathic physicians, then the section of law in Senate Bill No. 66 creating the board of naturopathic physicians is void and the section of law in Senate Bill No. 66 defining the board must provide that the term "board" means the alternative health care board as established in [section 1 of this act] [2-15-1840 (renumbered 2-15-1730)]. Any reference to the term "board" in Senate Bill No. 66 must then be construed to mean the alternative health care board established in [section 1 of this act] [2-15-1840 (renumbered 2-15-1730)], and any reference in Senate Bill No. 66 to the bill section creating the board of naturopathic physicians must be construed as a reference to [section 1 of this act] [2-15-1840 (renumbered 2-15-1730)]." Senate Bill No. 66 was approved April 1, 1991, as Ch. 306, L. 1991. Chapter 524, L. 1991, rendered sec. 9, Ch. 306, void, and the definition of Board in 37-26-103 was revised to mean the Alternative Health Care Board.

Effective Date: Section 22(2), Ch. 306, L. 1991, provided: "[Sections 1 through 8 and 12 through 21] [37-26-101 through 37-26-103, 37-26-301 through 37-26-304, 37-26-401 through 37-26-405, 37-26-408 through 37-26-410, and 37-26-414] [37-26-404 and 37-26-408 through 37-26-410 now repealed] are effective October 1, 1991."

Part 2

Alternative Health Care Board

37-26-201. Powers and duties of board. The board shall:

- (1) adopt rules necessary or proper to administer and enforce this chapter;
- (2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301, that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are consistent with the education provided by approved naturopathic medical colleges;
- (3) adopt rules that endorse equivalent licensure examinations of another state or territory of the United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;

- (4) adopt rules that set nonrefundable fees for application, and licensure;
 - (5) approve naturopathic medical colleges as defined in 37-26-103;
 - (6) issue certificates of specialty practice;
 - (7) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited scope of practice of naturopathic medicine, which may exclude the use of minor surgery allowed under 37-26-301; and
 - (8) adopt rules that contain the natural substance formulary list created by the alternative health care formulary committee provided for in 37-26-301.
- History:** En. Sec. 10, Ch. 306, L. 1991; amd. Sec. 3, Ch. 314, L. 1993; amd. Sec. 82, Ch. 429, L. 1995; amd. Sec. 23, Ch. 481, L. 1997; amd. Sec. 34, Ch. 271, L. 2003; amd. Sec. 75, Ch. 467, L. 2005; amd. Sec. 19, Ch. 502, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 502 deleted former (9) that read: "(9) adopt rules to implement the provisions in 37-1-138"; and made minor changes in style. Amendment effective October 1, 2007.

Saving Clause: Section 52, Ch. 502, L. 2007, was a saving clause.

2005 Amendment: Chapter 467 deleted former (3) that read: "(3) adopt rules prescribing the time, place, content, and passing requirements of the licensure examination, which may be composed of part or all of the national naturopathic physicians licensing examination"; in (4) after "fees" deleted "commensurate with costs", after "application" deleted "examination", and after "licensure" deleted "and other administrative services"; and made minor changes in style. Amendment effective July 1, 2005.

2003 Amendment: Chapter 271 inserted (10) requiring the board to adopt rules to implement the provisions in 37-1-138; and made minor changes in style. Amendment effective April 9, 2003.

Retroactive Applicability: Section 63, Ch. 271, L. 2003, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to occurrences after December 31, 2002."

1997 Amendment: Chapter 481 at end of (8), after "surgery", deleted "or the legend drugs"; inserted (9) requiring Board to adopt rules containing natural substance formulary list; and made minor changes in style.

1997 Statement of Intent: The statement of intent attached to Ch. 481, L. 1997, provided: "A statement of intent is required for this bill because it delegates rulemaking to the identified licensing boards of the department of commerce [now department of labor and industry] to adopt rules to implement the provisions of 37-11-201 and 37-11-303, which allow on-demand computerized testing for physical therapist and physical therapist assistant applicants; 37-26-201 and 37-26-301, which allow the creation of a formulary by an alternative health care formulary committee to identify the substances that may be prescribed by a licensed naturopathic physician; the provisions that reconcile Title 37, chapter 54, with the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and the related requirements of financial institution regulatory agencies; and [sections 40 and 41], [50-76-111 and 50-76-112], 50-76-103, and 50-76-104, which govern the licensure of crane and hoist operators.

A statement of intent is also required for this bill because it directs the board of barbers to adopt rules pertaining to instructor and license applicants' qualifications, examination, and registration, to adopt rules pertaining to barber schools' curriculum and qualifications, to adopt rules pertaining to supervision of barber students, and to adopt rules pertaining to the inspection and conduct of persons and barbershops subject to the provisions of Title 37, chapter 30."

Severability: Section 49, Ch. 481, L. 1997, was a severability clause.

1995 Amendment: Chapter 429 deleted (7) through (9) that read: "(7) adopt rules for the investigation of complaints against naturopathic physicians, for hearings on complaints, and to impose disciplinary action against naturopathic physicians found to be in violation of this chapter;

(8) investigate individuals falsely claiming to be naturopathic physicians and act in cooperation with county attorneys to enforce the provisions of this chapter;

(9) adopt rules that establish, approve, and routinely review a continuing education curriculum and accreditation for naturopathic physicians that is required for license renewal"; deleted (11) that required Board to issue temporary licenses as provided in 37-26-403; and made minor changes in style.

Severability: Section 131, Ch. 429, L. 1995, was a severability clause.

Saving Clause: Section 132, Ch. 429, L. 1995, was a saving clause.

Applicability: Section 133, Ch. 429, L. 1995, provided: "[This act] applies to licenses applied for, complaints submitted, and proceedings begun after [the effective date of this section]." Effective October 1, 1995.

1993 Amendment: Chapter 314 in (5), before "fees", inserted "nonrefundable". Amendment effective April 12, 1993.

Effective Date: Section 22(1), Ch. 306, L. 1991, provided: "[Sections 9, 10, 11, and this section] [37-26-201 and 37-26-202] are effective on passage and approval." [Section 9] was voided by sec. 3(2), Ch. 524, L. 1991. Approved April 1, 1991.

Administrative Rules

ARM 24.111.402 Management of infectious waste.

37-26-202. Board meetings. (1) The board shall meet at least once annually.

(2) Special meetings may be called by any two board members or the presiding officer.

History: En. Sec. 11, Ch. 306, L. 1991; amd. Sec. 4, Ch. 314, L. 1993; amd. Sec. 29, Ch. 492, L. 2001.

Compiler's Comments

2001 Amendment: Chapter 492 deleted former (3) that read: "(3) A majority of the board constitutes a quorum for the transaction of business." Amendment effective October 1, 2001.

1993 Amendment: Chapter 314 in (3) substituted "A majority of the board constitutes a quorum for the transaction of business" for "All members must be present in order to conduct board business"; and made minor changes in style. Amendment effective April 12, 1993.

Effective Date: Section 22(1), Ch. 306, L. 1991, provided: "[Sections 9, 10, 11, and this section] [37-26-201 and 37-26-202] are effective on passage and approval." [Section 9] was voided by sec. 3(2), Ch. 524, L. 1991. Approved April 1, 1991.

Part 3 Scope of Practice

37-26-301. Practice of naturopathic health care — alternative health care formulary committee.

(1) Naturopathic physicians may practice naturopathic medicine as a limited practice of the healing arts as exempted in 37-3-103(1)(m), with the following restrictions. A naturopathic physician may not:

(a) prescribe, dispense, or administer any legend drug, as defined in 50-31-301, except for whole gland thyroid; homeopathic preparations; the natural therapeutic substances, drugs, and therapies described in subsection (2); and oxytocin (pitocin), provided that the naturopathic physician may administer but may not prescribe or dispense oxytocin (pitocin);

(b) administer ionizing radioactive substances for therapeutic purposes;

(c) perform surgical procedures except those minor surgery procedures authorized by this chapter; or

(d) claim to practice any licensed health care profession or system of treatment other than naturopathic medicine unless holding a separate license in that profession.

(2) Naturopathic physicians may prescribe and administer for preventive and therapeutic purposes the following natural therapeutic substances, drugs, and therapies, as well as drugs on the natural substance formulary list provided for in subsection (3):

(a) food, food extracts, vitamins, minerals, enzymes, whole gland thyroid, botanical medicines, homeopathic preparations, and oxytocin (pitocin);

(b) topical drugs, health care counseling, nutritional counseling and dietary therapy, naturopathic physical applications, therapeutic devices, and nonprescription drugs; and

(c) barrier devices for contraception, naturopathic childbirth attendance, and minor surgery.

(3) A five-member alternative health care formulary committee appointed by the board shall establish a natural substance formulary list. The committee consists of a licensed pharmacist plus four members of the board, two of whom must be licensed naturopathic physicians, one who must be a licensed medical doctor, and one who must be a public member. The list may not go beyond the scope of substances covered by approved naturopathic college curricula or continuing education and must be reviewed annually by the committee. Changes to the list that are recommended by the committee and accepted by the board must be published as administrative rules.

(4) Naturopathic physicians may perform or order for diagnostic purposes a physical or orificial examination, ultrasound, phlebotomy, clinical laboratory test or examination, physiological function test, and any other noninvasive diagnostic procedure commonly used by physicians in general practice and as authorized by 37-26-201(2).

(5) Except as provided by this subsection, it is unlawful for a naturopath to engage, directly or indirectly, in the dispensing of any drugs that a naturopath is authorized to prescribe by subsection (2). If the place where a naturopath maintains an office for the practice of naturopathy is more than 10 miles from a place of business that sells and dispenses the drugs a naturopath may prescribe under subsection (2), then, to the extent the drugs are not available within 10 miles of the naturopath's office, the naturopath may sell the drugs that are unavailable.

History: En. Sec. 4, Ch. 306, L. 1991; amd. Sec. 5, Ch. 314, L. 1993; amd. Sec. 24, Ch. 481, L. 1997; amd. Sec. 26, Ch. 224, L. 2003.

Compiler's Comments

2003 Amendment: Chapter 224 near middle of first sentence in (1) substituted "37-3-103(1)(m)" for "37-3-103(1)(n)". Amendment effective July 1, 2003.

Severability: Section 34, Ch. 224, L. 2003, was a severability clause.

Saving Clause: Section 35, Ch. 224, L. 2003, was a saving clause.

1997 Amendment: Chapter 481 at end of (2) inserted "as well as drugs on the natural substance formulary list provided for in subsection (3)"; inserted (3) regarding alternative health care formulary committee and criteria for establishing formulary list; and made minor changes in style.

1997 Statement of Intent: The statement of intent attached to Ch. 452, L. 1997, provided: "A statement of intent is required for this bill because it delegates rulemaking to the identified licensing boards of the department of commerce [now department of labor and industry] to adopt rules to implement the provisions of 37-11-201 and 37-11-303, which allow on-demand computerized testing for physical therapist and physical therapist assistant applicants; 37-26-201 and 37-26-301, which allow the creation of a formulary by an alternative health care formulary committee to identify the substances that may be prescribed by a licensed naturopathic physician; the provisions that reconcile Title 37, chapter 54, with the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and the related requirements of financial institution regulatory agencies; and [sections 40 and 41] [50-76-111 and 50-76-112], 50-76-103, and 50-76-104, which govern the licensure of crane and hoist operators.

A statement of intent is also required for this bill because it directs the board of barbers to adopt rules pertaining to instructor and license applicants' qualifications, examination, and registration, to adopt rules pertaining to barber schools' curriculum and qualifications, to adopt rules pertaining to supervision of barber students, and to adopt rules pertaining to the inspection and conduct of persons and barbershops subject to the provisions of Title 37, chapter 30."

Severability: Section 49, Ch. 481, L. 1997, was a severability clause.

1993 Amendment: Chapter 314 in (1)(a), after "preparations", inserted "the natural therapeutic substances, drugs, and therapies described in subsection (2)"; and made minor changes in style. Amendment effective April 12, 1993.

Effective Date: Section 22(2), Ch. 306, L. 1991, provided: "[Sections 1 through 8 and 12 through 21] [37-26-101 through 37-26-103, 37-26-301 through 37-26-304, 37-26-401 through 37-26-405, 37-26-408 through 37-26-410, and 37-26-414] [37-26-404 and 37-26-408 through 37-26-410 now repealed] are effective October 1, 1991."

Administrative Rules

ARM 24.111.501 Minimum naturopathic medical education standards.

ARM 24.111.511 Naturopathic physician natural substance formulary list.

ARM 24.111.512 Naturopathic scope of practice.

Case Notes

Medical Malpractice — Evidence of Prohibited Sale and Marketing of Medication Inadmissible — Relevance Outweighed by Prejudice: The plaintiff sued the defendant, a naturopath, who had applied a black salve to her that disfigured her face. The defendant sought to exclude evidence at trial that federal law prohibited the sale, market, or manufacture of the salve because, he argued, it was overly prejudicial. The District Court agreed and disallowed the evidence. After a jury awarded the plaintiff some damages, she appealed, arguing that the District Court had abused its discretion by disallowing the evidence. The Supreme Court affirmed, holding that the naturopath had not himself sold, marketed, or manufactured the

salve and that the relevance of the evidence did not outweigh its prejudicial value. *McColl v. Lang*, 2016 MT 255, 385 Mont. 150, 381 P.3d 574.

37-26-302. Exemptions. (1) This chapter recognizes that many of the therapies used by naturopathic physicians, such as the use of nutritional supplements, herbs, foods, homeopathic preparations, and such physical forces as heat, cold, water, touch, and light, are not the exclusive privilege of naturopathic physicians, and their use, practice, prescription, or administration by persons not licensed to practice naturopathic medicine is not prohibited by this chapter.

(2) This chapter does not restrict or apply to the scope of practice of any other professions licensed, certified, or registered under the laws of this state.

History: En. Sec. 6, Ch. 306, L. 1991.

Compiler's Comments

Effective Date: Section 22(2), Ch. 306, L. 1991, provided: "[Sections 1 through 8 and 12 through 21] [37-26-101 through 37-26-103, 37-26-301 through 37-26-304, 37-26-401 through 37-26-405, 37-26-408 through 37-26-410, and 37-26-414] [37-26-404 and 37-26-408 through 37-26-410 now repealed] are effective October 1, 1991."

37-26-303. Public health duties of naturopathic physicians. Naturopathic physicians have the same authority and responsibility as other licensed physicians with regard to public health laws, reportable diseases and conditions, communicable disease control and prevention, recording of vital statistics, health and physical examinations, and local boards of health, except that the authority and responsibility are limited to activities consistent with the scope of practice described in this chapter.

History: En. Sec. 8, Ch. 306, L. 1991.

Compiler's Comments

Effective Date: Section 22(2), Ch. 306, L. 1991, provided: "[Sections 1 through 8 and 12 through 21] [37-26-101 through 37-26-103, 37-26-301 through 37-26-304, 37-26-401 through 37-26-405, 37-26-408 through 37-26-410, and 37-26-414] [37-26-404 and 37-26-408 through 37-26-410 now repealed] are effective October 1, 1991."

37-26-304. Naturopathic childbirth attendance — certification for specialty practice — requirements. (1) A naturopathic physician may not practice naturopathic childbirth attendance without first obtaining from the board a certificate of specialty practice. The board shall adopt rules setting forth the requirements to be met in order to certify naturopathic physicians for the specialty practice of naturopathic childbirth attendance.

(2) In order to be certified for the specialty practice of naturopathic childbirth attendance, a naturopathic physician shall:

(a) pass either a national standardized supplemental examination in naturopathic childbirth attendance provided by the national naturopathic profession licensing organization or another specialty examination approved by the board;

(b) complete a minimum of 100 hours in any one or in any combination of the following upon approval by the board:

(i) course work in naturopathic childbirth attendance;

(ii) an internship in naturopathic childbirth attendance; or

(iii) a preceptorship in naturopathic childbirth attendance; and

(c) have assisted in a minimum of 50 supervised births, including prenatal and postnatal care, under the direct supervision of a licensed naturopathic, medical, or osteopathic physician with specialty training in obstetrics or natural childbirth attendance. The 50 supervised births required under this subsection (c) must include 25 births that document the naturopathic physician as the primary birth attendant.

History: En. Sec. 7, Ch. 306, L. 1991.

Compiler's Comments

Effective Date: Section 22(2), Ch. 306, L. 1991, provided: "[Sections 1 through 8 and 12 through 21] [37-26-101 through 37-26-103, 37-26-301 through 37-26-304, 37-26-401 through 37-26-405,

37-26-408 through 37-26-410, and 37-26-414] [37-26-404 and 37-26-408 through 37-26-410 now repealed] are effective October 1, 1991."

Administrative Rules

ARM 24.111.510 Certification for specialty practice of naturopathic childbirth attendance.

Part 4 Licensing

37-26-401. License required — titles restricted — enjoining unlawful practice. (1) Except as provided in 37-26-302, a person may not practice naturopathy without a valid and current license issued by the board as provided in this chapter.

(2) (a) A naturopathic physician licensed under this chapter may use the prefix "Dr." or "doctor" as a title.

(b) Only a naturopathic physician licensed under this chapter may use any of the following titles or terms:

(i) "doctor of naturopathy", "doctor of naturopathic medicine", "naturopath", "naturopathic physician", and the abbreviation "N.D." when used to imply any of these titles; or

(ii) "naturopathic medicine", "naturopathic health care", "naturopathic", and "naturopathy".

(c) The titles and terms in subsection (2)(b) identify naturopathic physicians and are restricted to describing and identifying licensed practitioners and their practice. A person who uses these titles and terms to represent the person or the person's practice to the public without being licensed pursuant to this chapter is in violation of this chapter.

(3) A violation of this chapter may be enjoined by the district court on petition by the board.

History: En. Sec. 5, Ch. 306, L. 1991; amd. Sec. 1394, Ch. 56, L. 2009.

Compiler's Comments

2009 Amendment: Chapter 56 made section gender neutral; and made minor changes in style. Amendment effective October 1, 2009.

Effective Date: Section 22(2), Ch. 306, L. 1991, provided: "[Sections 1 through 8 and 12 through 21] [37-26-101 through 37-26-103, 37-26-301 through 37-26-304, 37-26-401 through 37-26-405, 37-26-408 through 37-26-410, and 37-26-414] [37-26-404 and 37-26-408 through 37-26-410 now repealed] are effective October 1, 1991."

37-26-402. Qualifications for licensure. A person is qualified to be licensed to practice naturopathic medicine in Montana if the person:

(1) is of good moral character as determined by the board;

(2) is a graduate of an approved naturopathic medical college; and

(3) has passed an examination prescribed or endorsed by the board for the licensure of naturopathic physicians.

History: En. Sec. 12, Ch. 306, L. 1991; amd. Sec. 1395, Ch. 56, L. 2009.

Compiler's Comments

2009 Amendment: Chapter 56 made section gender neutral. Amendment effective October 1, 2009.

Effective Date: Section 22(2), Ch. 306, L. 1991, provided: "[Sections 1 through 8 and 12 through 21] [37-26-101 through 37-26-103, 37-26-301 through 37-26-304, 37-26-401 through 37-26-405, 37-26-408 through 37-26-410, and 37-26-414] [37-26-404 and 37-26-408 through 37-26-410 now repealed] are effective October 1, 1991."

Administrative Rules

ARM 24.111.501 Minimum naturopathic medical education standards.

ARM 24.111.2102 Naturopathic physician continuing education requirements.

37-26-403. Application for licensure. (1) A person who desires a license to practice naturopathic medicine in Montana shall apply to the department.

(2) The application must be accompanied by the license fees, the application fees, and the documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by 37-26-402. The burden of proof is on the applicant, but the department may make an independent investigation to determine whether the applicant possesses the necessary qualifications and whether the applicant has committed unprofessional conduct that would be a basis for licensure denial.

(3) At the board's request, the applicant shall provide necessary authorizations for the release of records and information pertinent to the department's investigation.

History: En. Sec. 13, Ch. 306, L. 1991; amd. Sec. 83, Ch. 429, L. 1995; amd. Sec. 76, Ch. 467, L. 2005; amd. Sec. 20, Ch. 502, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 502 deleted former (2) that read: "(2) A person who applies for licensure but who has not passed a licensure examination prescribed or endorsed by the board shall apply to the board for authorization to take the prescribed licensure examination. If the board finds that all other qualifications for licensure except that of examination have been met, the board shall authorize the applicant to take the licensure examination"; and made minor changes in style. Amendment effective October 1, 2007.

Saving Clause: Section 52, Ch. 502, L. 2007, was a saving clause.

2005 Amendment: Chapter 467 in (1) at end of first sentence after "department" deleted "in the manner and form prescribed by the board"; in (2) deleted former second sentence that read: "The application for examination must be accompanied by the examination fee"; and made minor changes in style. Amendment effective July 1, 2005.

1995 Amendment: Chapter 429 in third sentence in (1) substituted "department" for "board" and in fourth sentence substituted "department's" for "board's"; and deleted (3) that read: "(3) A person who has actively engaged in the practice of naturopathic medicine in Montana prior to April 1, 1991, and who is a graduate of an approved naturopathic medical college may continue to practice naturopathic medicine until the board reviews his qualifications if he applies to and receives from the department a temporary license by October 1, 1991. The department shall issue a temporary license to a qualified applicant. The board shall, within 6 months of October 1, 1991, review the qualifications of each temporary licensee and either authorize the department to issue a license to a person qualified under 37-26-402 or 37-26-404 or extend the temporary license for a term of no more than 1 year to allow the practitioner to pass the prescribed examination. A person who is not a graduate of an approved naturopathic medical college may not be granted a temporary license."

Severability: Section 131, Ch. 429, L. 1995, was a severability clause.

Saving Clause: Section 132, Ch. 429, L. 1995, was a saving clause.

Applicability: Section 133, Ch. 429, L. 1995, provided: "[This act] applies to licenses applied for, complaints submitted, and proceedings begun after [the effective date of this section]." Effective October 1, 1995.

Effective Date: Section 22(2), Ch. 306, L. 1991, provided: "[Sections 1 through 8 and 12 through 21] [37-26-101 through 37-26-103, 37-26-301 through 37-26-304, 37-26-401 through 37-26-405, 37-26-408 through 37-26-410, and 37-26-414] [37-26-404 and 37-26-408 through 37-26-410 now repealed] are effective October 1, 1991."

Administrative Rules

ARM 24.111.502 Licensing by examination.

ARM 24.111.503 Licensing of applicants by endorsement.

37-26-404. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 14, Ch. 306, L. 1991; amd. Sec. 6, Ch. 314, L. 1993.

37-26-405. Issuance of license. If the board determines that an applicant possesses the qualifications required by 37-26-402, the department shall issue a license to the applicant to practice naturopathic medicine.

History: En. Sec. 15, Ch. 306, L. 1991.

Compiler's Comments

Effective Date: Section 22(2), Ch. 306, L. 1991, provided: "[Sections 1 through 8 and 12 through 21] [37-26-101 through 37-26-103, 37-26-301 through 37-26-304, 37-26-401 through 37-26-405, 37-26-408 through 37-26-410, and 37-26-414] [37-26-404 and 37-26-408 through 37-26-410 now repealed] are effective October 1, 1991."

37-26-406 and 37-26-407 reserved.

37-26-408. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 16, Ch. 306, L. 1991.

37-26-409. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 17, Ch. 306, L. 1991.

37-26-410. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 18, Ch. 306, L. 1991.

37-26-411 through 37-26-413 reserved.

37-26-414. Enforcement — penalty. (1) A county attorney shall prosecute a person charged with violation of any of the provisions of this chapter.

(2) A person who violates any of the provisions of this chapter is guilty of a misdemeanor and, upon conviction, is punishable by a fine not exceeding \$500 or by imprisonment in the county jail for a term not to exceed 6 months, or both.

History: En. Sec. 19, Ch. 306, L. 1991.

Compiler's Comments

Effective Date: Section 22(2), Ch. 306, L. 1991, provided: "[Sections 1 through 8 and 12 through 21] [37-26-101 through 37-26-103, 37-26-301 through 37-26-304, 37-26-401 through 37-26-405, 37-26-408 through 37-26-410, and 37-26-414] [37-26-404 and 37-26-408 through 37-26-410 now repealed] are effective October 1, 1991."