HOUSE DOCKET, NO. 2761 FILED ON: 1/21/2011

# HOUSE . . . . . No. 2367

## The Commonwealth of Massachusetts

PRESENTED BY:

***Jay R. Kaufman***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act establishing a board of registration in naturopathy.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Jay R. Kaufman* | *15th Middlesex* |
| *Jason M. Lewis* | *31st Middlesex* |
| *James B. Eldridge* | ☐ *[District]* ☐ |
| *Kevin G. Honan* | *17th Suffolk* |
| *James Arciero* | *2nd Middlesex* |
| *Kathi-Anne Reinstein* | *16th Suffolk* |
| *John D. Keenan* | *7th Essex* |
| *Stephen Kulik* | *1st Franklin* |
| *Joyce A. Spiliotis* | *12th Essex* |
| *Frank I. Smizik* | *15th Norfolk* |
| *Christine E. Canavan* | *10th Plymouth* |
| *Sarah K. Peake* | *4th Barnstable* |
| *Anthony W. Petruccelli* | ☐ *[District]* ☐ |
| *Ellen Story* | *3rd Hampshire* |

*Bruce E. Tarr*

*[District]*

HOUSE DOCKET, NO. 2761 FILED ON: 1/21/2011

# HOUSE . . . . . No. 2367

By Mr. Kaufman of Lexington, a petition (accompanied by bill, House, No. 2367) of Jay Kaufman and others relative to establishing a board of registration in naturopathy and further regulating naturopathic health care. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *3476* OF 2009-2010.]

## The Commonwealth of Massachusetts

An Act establishing a board of registration in naturopathy.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Chapter 13 of the General Laws is hereby amended by adding the following section:

Section 101. (a) There shall be within the division of professional licensure a board of registration in naturopathy which shall consist of the chairman of the board of registration in medicine or his designee, the commissioner of public health or his designee and 7 persons to be appointed by the governor, 5 of whom shall be naturopathic doctors who have attended and graduated from an approved naturopathic college that is accredited, or is a candidate for accreditation, by the Council of Naturopathic Medical Educators or its successor, who have at least 5 years of experience in the practice of naturopathic health care and who shall be licensed under section 239 or 241 of chapter 112; 1 of whom shall be a physician licensed to practice medicine under section 2 of chapter 112 with experience working with naturopathic doctors and 1 of whom shall be a clinical pharmacologist. The appointed members shall serve for terms of 3 years. Upon the expiration of a term of office, a member shall continue to serve until a successor has been appointed and qualified. No member shall serve for more than 2 consecutive terms, but a person who is chosen to fill a vacancy in an unexpired term of a prior board member may serve for 2 consecutive terms in addition to the remainder of that unexpired term. A member may be removed by the governor for neglect of duty, misconduct or malfeasance or misfeasance in the

18 office after a written notice of the charges against him and sufficient opportunity to be heard
19 thereon.

20 (b) The board shall annually elect from its membership a chair and a secretary who shall
21 serve until their successors have been elected and qualified. The board shall meet at least 4 times
22 annually and may hold additional meetings at the call of the chair or upon the request of 4
23 members. A quorum for the conduct of official business shall be a majority of those appointed.
24 Board members shall serve without compensation, but shall be reimbursed for actual and
25 reasonable expenses incurred in the performance of their duties. The members shall be public
26 employees for the purposes of chapter 258 for all acts or omissions within the scope of their
27 duties as board members.

28 SECTION 2. Chapter 112 of the General Laws is hereby amended by adding the
29 following 10 sections:

30 Section 236. For the purposes of this section and sections 237 to 245, inclusive, the
31 following terms shall have the following meanings unless the context clearly requires otherwise:

32 "Approved naturopathic medical college", a naturopathic medical education program in
33 the United States providing the degree of Doctor of Naturopathy or Doctor of Naturopathic
34 Medicine. Such program shall offer graduate-level full-time didactic and supervised clinical
35 training and shall be accredited, or has achieved candidacy status for accreditation by the
36 Council on Naturopathic Medical Education (CNME) or an equivalent federally recognized
37 accrediting body for naturopathic medical programs also recognized by the Board. Additionally,
38 the program shall be an institution, or part of an institution of higher education that is either
39 accredited or is a candidate for accreditation by a regional or national institutional accrediting
40 agency recognized by the United States Secretary of Education

41 "Board", the board of registration in naturopathy established in section 101 of chapter 13.

42 "Homeopathic preparations", medicines prepared according to the Homeopathic
43 Pharmacopoeia of the United States.

44 "Naturopathic doctor", a person who is licensed by the board to practice naturopathic
45 health care pursuant to this chapter.

46 "Naturopathic health care", a system of health care practices for the prevention,
47 diagnosis, evaluation and treatment of illnesses, injuries and conditions of the human body
48 through the use of education, nutrition, natural medicines and therapies and other modalities
49 which are designed to support, stimulate or supplement the human body's own natural self-
50 healing processes.

51 “Naturopathic manipulative therapy”, the manually-administered mechanical treatment of
52 body structures or tissues in accordance with naturopathic principles for the purpose of restoring
53 the normal physiological function of the human body.

54 “Naturopathic physical medicine”, the therapeutic use of the physical agents of air, water,
55 heat, cold, sound, light and electromagnetic non-ionizing radiation and the physical modalities of
56 electrotherapy, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic manipulative
57 therapy and therapeutic exercise.

58 “Person”, an individual; provided, however, that “person” shall not include a partnership,
59 corporation, association or business organization of any kind.

60 Section 237. (a) The practice of naturopathic health care shall include, but not be limited
61 to:

62 (1) the prevention and treatment of human illness, injury or disease through education,
63 dietary or nutritional advice and the promotion of healthy ways of living;

64 (2) the use of physical examinations and the ordering of clinical, laboratory and
65 radiological diagnostic procedures from licensed clinics or laboratories for the purpose of
66 diagnosing and evaluating injuries, illnesses and conditions in the human body;

67 (3)dispensing, administering, ordering and prescribing to prevent or treat illnesses,
68 injuries and conditions of the human body: natural medicines of mineral, animal or botanical
69 origin, including food products or extracts, vitamins, minerals, enzymes, digestive aids; natural
70 hormones; plant substances; homeopathic preparations; natural antibiotics, topical medicines and
71 nonprescription drugs; therapeutic devices and barrier contraceptives; and

72 (4) the use of manual mechanical manipulation of body structures or tissues, in
73 accordance with naturopathic principles; the use of naturopathic physical medicine for the
74 purpose of maintaining or restoring normal physiological functioning of the human body.

75 (b) The practice of naturopathic health care shall not include:

76 (1) performing surgery or abortions or the administration of therapeutic ionizing
77 radiation, radioactive substances or general or spinal anesthesia;

78 (2) prescribing , dispensing or administering a drug classified as a controlled substance
79 under chapter 94C;

80 (3) the practice of acupuncture and Traditional Chinese Medicine; or

81 (4) the practice of emergency medicine, except as a person rendering gratuitous services
82 in an emergency or for the care of minor injuries.

83 (c) Nothing in sections 236 to 244, inclusive, shall prohibit or restrict:

84 (1) a person who is licensed, certified or registered to practice a profession or occupation
85 under any other law from engaging in activities which are within the lawful scope of practice for
86 the profession or occupation for which he is licensed;

87 (2) the practice of naturopathic health care by a person employed by the government of
88 the United States if that person engages in such practice in the performance of his duties as such
89 an employee;

90 (3) the practice of naturopathic health care by students enrolled in an approved
91 naturopathic medical college; provided, however, that the performance of all such services shall
92 be pursuant to a course of instruction or assignments from and under the supervision of an
93 instructor who is licensed as a naturopathic doctor pursuant to this chapter or a licensed
94 professional in the field in which he or she is providing instruction;

95 (4) Any person from treating himself or a member of his immediate family based on
96 religious or health beliefs;

97 (5) Any person who sells vitamins and herbs from providing information about his
98 products; or

99 (6) a person or practitioner who is not licensed as a naturopathic doctor pursuant to this
100 chapter from recommending ayurvedic medicine, herbal remedies, nutritional advice,
101 homeopathy or any other therapy that is within the scope of practice of naturopathic health care;
102 provided, however, that such person or practitioner shall not represent himself or hold himself
103 out to the public as practicing naturopathic health care in the commonwealth or otherwise use
104 any name, title or other designation which indicates or implies that he is licensed to practice
105 naturopathic health care.

106 (d) Licensed naturopathic doctors shall have the same authority and responsibilities as
107 licensed physicians regarding public health laws, reportable diseases and conditions,
108 communicable disease control and prevention, recording of vital statistics, health and physical
109 examinations and local boards of health, except that the authority of licensed naturopathic
110 doctors regarding such matters shall be limited to the scope of practice authorized by this
111 chapter.

112 Section 238 (a) The board shall have the following powers and duties:

113 (1) to adopt rules and regulation governing the licensing of naturopathic doctors and the
114 practice of naturopathic health care to promote the public health, welfare and safety of the
115 citizens of the commonwealth including, but not limited to:

116 ( i ) regulations governing the activities of naturopathic medical assistants;

117 (ii) requirements for specialty practice by licensed naturopathic doctors; and

118 (iii) continuing education requirements for the renewal of licenses including, but

119 not limited to, the number of hours required, the subjects required and board approval of

120 continuing education programs or lectures;

121 (2) to receive, review and approve or disapprove applications for licensing and to issue
122 licenses;

123 (3) to establish administrative procedures for processing applications and renewals;

124 (4) to establish a code of ethics for naturopathic doctors;

125 (5) to establish and maintain records of its actions and proceedings in accordance with the
126 public records laws;

127 (6) to perform such other functions and duties as may be necessary to carry out the
128 provisions of this chapter.

129 (b) The board shall have the right to investigate all complaints relating to the proper
130 practice of naturopathy, including any violations of this chapter or any rule or regulation of the
131 board. Such complaints may be brought by any person or the board.

132 (c) The board shall be under the supervision of the division of professional licensure and
133 it shall have the powers and duties provided in sections 61 to 65E , inclusive . For the purposes
134 of this section and sections 61 to 65E, inclusive, conduct which places into question the holder's
135 competence to practice naturopathy shall include, but not be limited to:

136 (1) the commission of fraud or misrepresentation in obtaining a license;

137 (2) criminal conduct which the board determines to be of such a nature as to render the
138 person unfit to practice naturopathy, as evidenced by criminal proceedings resulting in a
139 conviction, a guilty plea, a plea of nolo contendere or an admission of sufficient facts;

140 (3) violation of a rule or regulation of the board;

141 (4) failure to cooperate with the board or its agents in the conduct of an inspection or
142 investigation;

143 (5) failure to fulfill any continuing education requirements set out by the board;

144 (6) aiding or abetting an unlicensed person to practice naturopathy; or

145 (7) negligence in the course of professional practice.

146 (d) The board may issue an order to a licensee directing him to cease and desist from
147 unethical or unprofessional conduct if the board finds, after notice and the opportunity for a
148 hearing, that the licensee has engaged in such conduct.

149 (e) Nothing in this section shall limit the board's authority to impose, by agreement,
150 sanctions that are considered reasonable and appropriate by the board. Any person aggrieved by
151 any disciplinary action taken by the board pursuant to this section or for violation of any other
152 law or rule or regulations may, pursuant to section 64, file a petition for judicial review.

153 Section 239. (a) An application for original licensure as a naturopathic doctor shall be
154 made on forms approved by the board. Such application shall be sworn and shall be accompanied
155 by payment of the fee prescribed by the secretary of administration pursuant to section 3B of
156 chapter 7. The board shall issue a license as a naturopathic doctor to an applicant upon receipt of
157 satisfactory proof that the applicant:

158 (1) is at least 18 years old and of good moral character; and

159 (2) possesses a baccalaureate degree from an accredited educational institution or its
160 equivalent, as determined by the board;

161 (3) has graduated from and holds a doctor of naturopathic medicine or doctor of
162 naturopathy degree from:

163 (a) an approved naturopathic medical college as defined in section 236; or

164 (b) a degree granting college or university that, prior to the existence of the CNME,
165 offered a full-time structured curriculum in basic sciences and supervised patient care comprising
166 a doctoral naturopathic medical education; such course, as a prerequisite to graduation there
167 from, having been not less than 132 weeks in duration and which required completion within a
168 period of not less than 35 months; such college of naturopathic medicine shall have been
169 reputable and in good standing in the judgment of the Board; and if still in existence has current
170 programmatic accreditation by the CNME or federally recognized equivalent accrediting agency;
171 or

172 ( c ) a diploma granting, degree-equivalent college or university, that if in Canada and
173 prior to accreditation by the CNME, had provincial approval for participation in government
174 funded student aid programs, and that offered a full-time structured curriculum in basic sciences
175 and supervised patient care comprising a doctoral naturopathic medical education; such course,
176 as a prerequisite to graduation there from, having been not less than 132 weeks in duration and
177 shall require completion within a period of not less than 35 months; such college of liberal arts
178 and naturopathic medicine having been reputable and in good standing in the judgment of the
179 Board; and if still in existence has current programmatic accreditation by the CNME or federally

180 recognized equivalent accrediting agency. Additionally, this college or university currently has
181 provincial approval for participation in government funded student aid programs; or:

182 ( d ) a diploma granting, degree-equivalent college or university in Canada that offers
183 graduate-level full-time didactic and supervised clinical training and shall be accredited, or has
184 achieved candidacy status for accreditation by the Council on Naturopathic Medical Education or
185 an equivalent federally recognized accrediting body for naturopathic medical programs also
186 recognized by the Board. Additionally, this college or university has provincial approval for
187 participation in government funded student aid programs.

188 (4) (a) successfully passed a competency-based national naturopathic licensing
189 examination administered by the North American Board of Naturopathic Examiners, or
190 successor agency that has been nationally recognized to administer a naturopathic examination
191 that represents federal standards of education and training; or

192 (b) if graduating from an institution outlined in Section 239, (b), 3, b, c, or d, has
193 successfully passed a state or provincial (Canadian) competency-based licensing examination
194 that was substantially similar to the licensing examination outlined in Section 239 (4) (a).

195 (5) has not had a license to practice naturopathic medicine or other health care license
196 registration or certificate refused, revoked or suspended by any other jurisdiction for reasons that
197 relate to the applicant's ability to skillfully and safely practice naturopathic medicine unless that
198 license, registration or certification has been restored to good standing by that jurisdiction.

199 Section 240. The board, in consultation with the division of professional licensure, shall
200 determine the renewal cycle and renewal period for naturopathic licenses. A naturopathic doctor
201 licensed under this chapter shall apply to the board for renewal of his license on or before the
202 expiration date, as determined by the board, unless earlier revoked, suspended or canceled as a
203 result of a disciplinary proceeding instituted pursuant to section 243. As a condition for renewal
204 under this section, the board may require a naturopathic doctor to furnish the board with
205 satisfactory proof that he has successfully completed the required number of hours of continuing
206 education for naturopathic doctors in courses or programs approved by the board has complied
207 with such other requirements or equivalent requirements as approved by the board. Upon
208 satisfactory compliance with the licensing requirements for naturopathic doctors and successful
209 completion of the continuing education requirements, the board shall issue a renewal license.
210 The board may provide for the late renewal of a license that has lapsed and may require payment
211 of a late fee.

212 Section 241. Each licensed naturopathic doctor shall advise the board, in writing, of the
213 address of his principal place of business and all other addresses at which he is currently engaged
214 in practice. The naturopathic doctor shall immediately provide written notice to the board of any
215 change in the address of any place of business at which he practices. He shall also advise the
216 board, in writing, of his current residential address and of any change thereof.

217 Section 242. (a) No person shall represent himself or hold himself out to the public as a
218 licensed naturopathic doctor in the commonwealth unless he is licensed pursuant to this chapter.
219 A person who is not licensed pursuant to this act shall not use any of the following titles:
220 naturopathic physician, naturopathic practitioner, natural doctor , naturopathic doctor, doctor of
221 naturopathy, doctor of natural medicine, doctor of naturopathic medicine, NMD, N.D,
222 naturopath or any other term that indicates or implies that the person is licensed to practice any
223 form of naturopathic health care in the commonwealth. The board of registration in naturopathy
224 may modify the list of titles.

225 (b) Nothing in this section shall prevent a person who is licensed under this statute from
226 disclosing that he is a member of the American Association of Naturopathic Physicians.

227 (c) A person acting or purporting to act as a naturopathic doctor without first obtaining a
228 license under this chapter shall be punished by a fine of not more than $5,000 or by
229 imprisonment for not more than 1 year, or both. Upon conviction of a second or subsequent
230 offense, such person shall be punished by a fine of not more than $10,000 or by imprisonment
231 for not more than 2 years, or both(d) (d) A person who receives money or an equivalent thing of
232 value as a fee, commission, compensation or profit by or as the consequence of a violation of
233 sections 237 to 243, inclusive, shall, in addition to any other penalty, be liable for a fine of not
234 less than the sum of the money so received and not more than 3 times the sum so received, as
235 determined by the board.

236 (e) No action shall be commenced and no recovery shall be had by any person for
237 compensation for any act performed or service rendered by him as a licensed naturopathic
238 practitioner unless such person held a current valid license under this chapter at the time of
239 performance of such act or service.

240 Section 243. All licensing and application fees and civil administrative penalties collected
241 pursuant to sections 236 to 244, inclusive, shall be deposited into the trust fund established in
242 section 35V of chapter 10.

243 Section 244. Nothing in sections 236 to 244 of this chapter shall be construed as
244 requiring reimbursement by insurance policies purchased under chapter 32A, an insurer licensed
245 or otherwise authorized to transact accident and health insurance under chapter 175; a nonprofit
246 hospital service corporation organized under chapter 176A; a non-profit medical service
247 corporation organized under chapter 176B; or a health maintenance organization organized under
248 chapter 176G.

249 SECTION 3. A license to practice as a naturopathic doctor may be issued without
250 examination to an applicant who meets the requirements of subsections (1 ,2,3 and 5), of section
251 239 of chapter 112 of the General Laws if he submits satisfactory proof to the board that he is or
252 has been actively engaged in the practice of naturopathic health care for compensation in the
253 Commonwealth for at least 5 of the last 10 years immediately preceding the effective date of this

254 act. Applications for licensure under this section shall be filed with the board not later than 18
255 months after the effective date of this act.

256 SECTION 4. The terms of the initial appointed members of the board of registration in
257 naturopathy pursuant to section 101 of chapter 13 of the General Laws shall be as follows: 2
258 shall serve for a term of 1 year; 2 shall serve for terms of 2 years and the remaining 3 shall serve
259 for terms of 3 years. The 5 members required to be naturopathic doctors shall be persons with 5
260 years of experience in the practice of naturopathic health care who would be eligible for
261 licensure in the commonwealth if said section 101 of said chapter 13 were in effect prior to the
262 effective date of this act and must have attended and graduated from an approved naturopathic
263 college that is accredited, or is a candidate for accreditation, by the Council of Naturopathic
264 Medical Educators or its successor.

265 SECTION 5. The punishment provisions of section 243 of chapter 112 of the General
266 Laws shall take effect not later than 6 months after the board of registration in naturopathy first
267 issues licenses pursuant to said chapter 112. 0.

268 SECTION 6. This act shall take effect in 180 days.