

(S.B. 783)
(Conference)

(No. 208)

(Approved December 30, 1997)

AN ACT

To regulate the practice of Naturopathic Medicine in Puerto Rico; create the Board of Examiners of Doctors in Naturopathic Medicine; define its functions, powers and duties; establish the requirements to practice the profession of Naturopathic Medicine; and establish penalties.

STATEMENT OF MOTIVES

The practice of Naturopathic Medicine arose from ancient traditions and became a profession as of the turn of this century. In 1902, several states of the United States had regulated the latter. Due to the scientific advances and technological developments of the 1940's and 1950's, the development of Naturopathic Medicine was set back by the use of pharmacological medications.

From its beginning, Naturopathic Medicine has comprised the health care system practiced by a Doctor in Naturopathy for the prevention, diagnosis, and treatment of human health conditions through the use of natural medicine, therapy and patient education, in order to maintain and stimulate the intrinsic self-healing system of every individual.

Modern trends in health care and the prevention of illness have given new impetus to the use of services related to Naturopathy. Since health is a matter of the highest priority, the Government of Puerto Rico recognizes that its public policy is to ensure that all citizens obtain services of excellence. The People of Puerto Rico have clamored for health-related services for which no parameters that offer guarantees of quality and safety have been established. One of these claims is for the services provided by Doctors of Naturopathy. To fit the practice of Naturopathic Medicine within the framework of the government's public policy, it is necessary to establish a system of laws which provides for the services to be rendered under the most appropriate safety and quality standards.

Act No. 239 of September 19, 1996, recognized that within the practice of Naturopathy there is a difference between the practice of Naturopaths and that of Doctors in Naturopathy. The purpose of this legislation is to establish the juridical-legal parameters needed for the practice of Naturopathic Medicine.

One of the juridical aims is that of establishing the definitions proper to Naturopathic Medicine. The Doctor in Naturopathy is defined as the health professional who is duly authorized to practice Naturopathic Medicine in Puerto Rico after having complied with the provisions of this Act. In turn, the Puerto Rico Board of Examiners of Doctors in Naturopathy, attached to the Department of Health, as well as its duties and powers for the uniform regulation of this profession, are hereby established. Finally, this Act provides the requirements needed to practice Naturopathic Medicine in Puerto Rico once a Doctor's degree has been obtained from an institution accredited by the "Council of Naturopathic Medical Education" (CNME).

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Title.-

This Act shall be known as the "Act to Regulate the Practice of Naturopathic Medicine in Puerto Rico."

Section 2.- Definitions.-

For the purposes of this Act, the following terms shall have the meaning indicated below:

- (a) "Board" means the Puerto Rico Board of Examiners of Doctors in Naturopathy.
- (b) "License" means any document duly issued by the Board, in which it is certified that the person in whose name the license has been issued is authorized to practice Naturopathic Medicine in Puerto Rico according to the provisions of this Act.
- (c) "Doctor in Naturopathy" means the person who is duly authorized to practice Naturopathic Medicine in Puerto Rico, and who meets the requirements of this Act.
- d) "Naturopathic Medicine" means the care system practiced by a Doctor in Naturopathy for the prevention, diagnosis and treatment of human health conditions through the use of natural medicine, therapy and patient education in order to maintain and stimulate the intrinsic self-healing system of every individual.
- (e) "Naturopathy" means the natural probiotic practice, separate from medicine, which sees the human body as a whole and promotes integral nutrition and a life style as the main

factors in the prevention of disease, whose healing can be achieved by triggering the regenerative and recuperative powers of the body, without the use of drugs or other controlled substances used in medicine, and without surgical or invasive procedures, where only substances of a natural origin are used. Naturopathy involves a practice to complement health and is not a substitute for medicine.

Section 3.- Creation of the Board.-

The Puerto Rico Board of Examiners of Doctors in Naturopathy, attached to the Department of Health, is hereby created.

Section 4.- Members of the Board.-

The Board shall be constituted by five (5) members appointed by the Governor, with the advice and consent of the Senate. The members of the Board shall be persons of recognized moral integrity, good repute, who have not been convicted of any felony, or a misdemeanor implying moral turpitude, over twenty-one (21) years of age, and residents of Puerto Rico for at least one (1) year prior to their appointment. Three (3) of the members of the Board shall be duly licensed Doctors in Naturopathy, of recognized professional competence, who have practiced Naturopathic Medicine for a term of not less than three (3) years. Of the remaining members one (1) shall be a Physician licensed to practice his/her profession in Puerto Rico and the other shall be a representative of the public interest.

Section 5.- Term of the Appointments of the Members of the Board.-

The Members of the Board shall hold office for a term of four (4) years or until their successors have been appointed and qualify, except for the first members appointed to the Board, who shall hold office: two (2) for one (1) year, two (2) for two (2) years, and one (1) for three (3) years, in the order they were designated by the Governor. No person may be a member of the Board for more than two (2) consecutive terms.

Section 6.- Vacancies and Removal of Board Members.-

Vacancies shall be filled through appointments extended for the remainder of the term of the member who causes the vacancy. The Governor may remove any member of the Board for immoral conduct, inefficiency, negligence in the performance of his/her duties, lack of professional ethics, conviction of a felony or conviction of a misdemeanor which implies moral turpitude, whose license to practice his/her profession has been suspended, revoked or canceled,

or for any other just cause, after charges are brought, notice of a hearing is served and a hearing is held.

Section 7.- Quorum, Bylaws, and Meetings of the Board.

Three (3) members of the Board shall constitute quorum. The agreements of the Board shall be approved by the majority vote of those present. The Board shall adopt bylaws for its operations and shall hold at least one (1) meeting each trimester of the calendar year for the consideration and resolution of its affairs. It may also hold any other meetings that are needed for the prompt achievement of its duties and affairs. The Board shall elect a Chairperson from among its members, who shall preside during his/her term of office and who shall be a Doctor in Naturopathy.

Section 8.- Per diems.-

The members of the Board, including those who are public officials or employees, shall be entitled to per diems for each day or fraction thereof for each meeting they attend, equal to the minimum per diems established for the members of the Legislature, except for the Chairperson of the Board who shall receive per diems equal to one hundred and thirty-three percent (133%) of the per diems received by the other members of the Board.

Section 9.- Powers and Duties of the Board.-

The Board shall issue a license for the practice of Naturopathic Medicine in Puerto Rico to every person who meets the requirements provided in this Act.

In addition to any other powers and duties, the Board shall have the following:

(a) Issue, renew or deny the license to practice Naturopathic Medicine according to the provisions of this Act.

(b) Suspend, revoke or deny the renewal of the license to practice Naturopathic Medicine after a hearing is held, when the existence of violations of the legal precepts established in this Act or its Regulations have been determined.

(c) Administer the revalidation examination offered by the Naturopathic Physician Licensing Examination (NPLEX), or its equivalent. The Board shall provide, through a resolution to that effect, the frequency with which said examinations shall be administered. The Board shall determine the date and place of said examination, but there should always be a minimum period of sixty (60) days between examinations. The Board shall have the discretion to offer a greater number of examinations, if deemed necessary. The date of the examinations

shall be published through a prominent announcement in two (2) newspapers of general circulation, on two (2) occasions, at least thirty (30) days before they are held.

(d) Keep an updated professional registry of all the licenses it issues, stating the complete name and personal data of the person to whom the license has been issued, as well as the status of said licenses.

(e) Keep a book of the minutes of all its proceedings.

(f) Adopt an official seal which shall be stamped on all licenses issued by the Board and on all its official documents.

(g) Hold public or administrative hearings, resolve controversies in matters under its jurisdiction, issue orders according to its resolutions and agreements, take statements or oaths, issue summons requiring the presence of witnesses and the production of data, documents, or reports the Board deems necessary to issue, deny, suspend, or revoke a license. The Board, through the Secretary of Justice, may appear before any Part of the Court of First Instance of Puerto Rico to ask the Court to order compliance with any of its orders or summons under penalty of contempt.

(h) Contract administrative, professional or consulting personnel as deemed necessary.

(i) Impose sanctions on the Doctors in Naturopathy who do not comply with the requirement of obtaining professional malpractice insurance as provided in Section 10 of this Act.

(j) Impose sanctions when it deems that they are proper in those cases in which payments have been made for the adjudication, or judicial or extrajudicial transactions of claims for professional malpractice committed by a Doctor in Naturopathy.

(k) Present to the Secretary of Health an annual report of its work, specifying the number of licenses issued, denied, suspended or revoked.

(l) Promote the continuing education of Doctors in Naturopathy on the ethical, legal and professional principles that govern their professional conduct. The Board shall establish, by Regulations, the continuing education activities that shall be accepted for the renewal of the license.

(m) Prepare and publish a handbook containing all information regarding the examinations it offers. A copy of said handbook shall be given to every person who requests it and pays the amount of ten (10) dollars by certified check or postal money order drawn to the

order of the Secretary of the Treasury. The Board may revise the cost of acquiring this handbook from time to time, based on the cost to prepare and publish it, but the amount to be charged shall never exceed the real cost of said expenses.

(n) Adopt, not later than one hundred and twenty (120) days following the date the Board was constituted, the Regulations for the application of this Act, which shall establish, without it being understood as a limitation, the requirements and procedures to request the issue or renewal of licenses, as well as the procedures to hold public or administrative hearings. Said Regulations shall take effect after complying with the procedure for their approval as established in Act No. 170 of August 12, 1988, as amended, known as the "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico".

(o) Adopt a Code of Ethics that shall govern the practice of Naturopathic Medicine, not later than six (6) months after the constitution of the Board.

Section 10.- Requirements to Obtain a Doctor in Naturopathy License in Puerto Rico.-

Any person who aspires to practice the profession of Doctor in Naturopathy in Puerto Rico shall meet the following requirements:

(a) File a duly sworn application before the Board, on the form provided by the Board to such effects;

(b) Present a negative criminal record certificate issued by the Puerto Rico Police and by the competent authorities in the jurisdictions where the applicant has resided;

(c) Be over eighteen (18) years of age;

(d) Have obtained a doctor's degree in Naturopathic Medicine from an institution accredited by the Council of Naturopathic Medical Education (CNME), or by the Council on Higher Education of Puerto Rico, or from any other accrediting institution recognized by the Council on Higher Education, whose course of studies is accepted and registered by the Board;

(e) Take and pass the revalidation examination given by the Naturopathic Physician Licensing Examination (NPLEX), or its equivalent;

(f) Have resided in Puerto Rico for a term of not less than one (1) year prior to the application for a license;

(g) The fees imposed by this Act by certified check or postal money order to the order of the Secretary of the Treasury;

(h) Present evidence that a professional malpractice insurance policy has been obtained and/or maintained in effect with a limit of one hundred thousand (100,000) dollars per incident and an aggregate of three hundred thousand (300,000) dollars per year. This policy must be issued by an insurer duly authorized to contract business in Puerto Rico;

The Board shall issue the Doctor in Naturopathy license to the persons who comply with all the requirements established in this Act. The license shall be displayed in a public place in the place of business of the Doctor in Naturopathy.

Section 11.- Renewal of Licenses.-

The Doctor in Naturopathy license shall expire after three (3) years of being issued. Every applicant for renewal who has filed his/her application together with the corresponding complementary documents included or requested before thirty (30) days from the expiration of his/her license, shall automatically have the license extended until the Board considers his/her application. The license renewal application shall be filed before the Board. Said application shall be submitted in writing, shall be duly sworn before a Notary, and shall include the following:

- (a) The name of the applicant and the address of his/her main office;
- (b) A negative criminal record certificate issued by the Puerto Rico Police and by the competent authorities in the jurisdictions where the applicant has resided;
- (c) A certified check or postal money order with the fees imposed by this Act, drawn to the order of the Secretary of the Treasury;
- (d) A certificate of approval of thirty-six (36) continuing education credits;
- (e) If the application for renewal is filed after ninety (90) days have passed from its date of expiration, the applicant shall submit a sworn statement stating the he/she has not practiced as a Doctor of Naturopathy during said period, as defined in this Act. If he/she has practiced as such, the license shall not be granted until one (1) year has elapsed from the date of the application, without impairing any liability that may be imposed pursuant to the provisions of this Act. After one (1) year has passed from the expiration of the license without it being renewed, the Doctor in Naturopathy shall be notified by certified mail with receipt requested, and, after thirty (30) days have elapsed from the receipt of the notice, without the Doctor in Naturopathy having initiated the renewal efforts, the latter shall be canceled and the Doctor in Naturopathy in question shall again have to meet all of the requirements established in this Act.

(f) Evidence that the professional malpractice policy has been obtained and maintained as provided in subsection (h) of Section 10 of this Act.

Section 12.- Denial, Denial of Renewal, Suspension or Revocation of License.-

The Board may deny, deny the renewal, suspend or revoke a license motu proprio or by request of a party, after the interested party has been given due notice of the charges, an administrative hearing is held and he/she has been given the opportunity to be heard. pursuant to the provisions of Act No. 170 of August 12, 1988, as amended, known as the "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico", to every Doctor in Naturopathy who:

- (a) Does not meet the requirements to obtain a license as established in this Act.
- (b) Has practiced the profession of Doctor in Naturopathy illegally in Puerto Rico.
- (c) Has obtained, or tried to obtain a license to practice any profession that is regulated by law, through deceit or fraud.
- (d) Has incurred manifest incompetence in the practice of the profession in prejudice of a third party.
- (e) Is addicted to narcotic drugs or is a habitual drunkard; provided, that the license may be granted as soon as the person shows he/she is qualified, if he/she meets all the other requirements established in this Act.
- (f) Has been convicted of a felony, or a misdemeanor which implies moral turpitude under the Laws of Puerto Rico or of any state of the United States or any other jurisdiction in which due process of law has been complied with. The Board may revoke or suspend, temporarily or permanently, any license issued under the provisions of this Act, after a forum with due competence has determined that the party in question has performed any action barred by any pertinent statute, rule, or regulation.
- (g) Has offered false testimony in behalf of an applicant to the examination before the Board or any Board of Examiners, or in any investigation of complaints filed before said bodies for violations of the provisions of the laws or regulations in effect.
- (h) Has incurred any conduct barred by this Act, or been sanctioned by any Board of Examiners for acts substantially similar to those that could be subject to disciplinary sanctions by the Board.

(i) Has been declared incapable by a competent Court; provided, that the license may be granted as soon as a competent Court declares said person is capable anew, if he/she meets the other requirements established in this Act.

(j) Has been convicted of illegally practicing any profession regulated by law in Puerto Rico or any other jurisdiction.

(k) Has had his/her license to practice in any of the health branches revoked.

(l) Has altered, forged or submitted false or incorrect information in any document or material with the malicious intent of deceiving the members of the Board or of any Board of Examiners, in the performance of their functions.

Section 13.- Registry of Professionals

Every Doctor in Naturopathy shall complete the Application for Registration provided by the Office of Regulation and Certification of Health Professionals, as provided in Act No. 11 of June 23, 1976, as amended, known as the "Puerto Rico Health Services Integral Reform Act", and include with the application a certified check or a postal or bank money order in the amount stipulated by Regulations, drawn to the order of the Secretary of the Treasury.

For the purposes of said Act, only the administrative provisions shall apply to this Board, it being understood that the Board shall be autonomous in all other aspects.

Section 14.- Fees.-

The Board may charge the following fees:

(a) \$200.00 for each revalidation examination.

(b) \$250.00 for each original license issued.

(c) \$20.00 for a duplicate of a lost or misplaced license.

(d) \$250.00 for the triennial renewal of the Doctor in Naturopathy license.

The fees provided herein shall not be reimbursed and may be altered by a resolution of the Board. The applicant shall deliver to an official of the Board a certified check or postal money order drawn to the order of the Secretary of the Treasury in the amount of the fee to be paid. The money collected on account of these fees shall be used to finance the operating expenses of the Board.

Section 15.- Activities or Practices that Doctors in Naturopathy are Allowed as Regulated by the Board.-

Those persons licensed to practice as Doctors in Naturopathy may:

(a) Recommend or prescribe natural products that do not require a medical prescription. These products may not be distributed or sold in their own office.

(b) Make evaluations or diagnoses, and provide treatments and therapies proper to Naturopathic medicine.

(c) Practice the following therapeutic methods:

1. "Aromatherapy"- therapy based on the use of aromatic and medicinal plants.
2. "Batherapy (thermal water vapor, hydrotherapy)" - includes a variety of baths with therapeutic purposes conducted with water. It also refers to air, sun, and other baths.
3. "Chromotherapy" - refers to the therapeutic use of color.
4. "Digipressure or Acupressure" - a technique which uses digital pressure on points in the meridians that are to be stimulated.
5. "Phytotherapy"- (medicinal plants, syrups, poultices, compresses)" - is defined as botanical medicine.
6. "Homeopathy" - refers to the treatment system based on the use of highly diluted and dynamized natural substances.
7. "Kinesics (energy of touch)" - a technique to achieve muscular balance for therapeutic purposes. It does not use any type of substance or artifact since only the body's source of energy is used.
8. "Lavages and Douches" - refers to the use of enemas or colonics and vaginal douches with therapeutic purposes to restore the homeostasis of the system, and/or remove toxins. These shall not be administered by the Doctor in Naturopathy, nor in his/her office. The same shall be administered by the person him/herself.
9. "Therapeutic massage" - refers to the use of massage for therapeutic purposes.
10. "Musical Therapy" - refers to the use of music for therapeutic purposes.
11. "Reflexology" - refers to therapy that is similar to "digipressure or acupressure", limited to the area of the feet or hands, which establishes that any organ of the body can be stimulated from that zone.
12. "Biomagnetics" - refers to the use of magnets for the treatment of illnesses.

The therapeutic methods or practices of therapeutic massage and musical therapy, are not intended to be limited to, or be used exclusively by Doctors in Naturopathy.

(d) Refer to the following tests for the diagnosis of physical conditions: X-Rays, electrocardiograms, ultrasound, phlebotomy, clinical laboratory tests, physiological function, and other diagnostic procedures commonly used by physicians, which will provide more ample clinical information and contribute to an accurate diagnosis.

Section 16.- Use of Title.-

Any person who holds a license issued by the Board of Examiners of Doctors in Naturopathy is authorized to use the title of "Doctor in Naturopathy", or the initials "ND", after his/her name in any document, announcement, and notice related to his/her profession.

Section 17.- Penalties.-

Any person who engages in the practice of the profession of Doctor in Naturopathy in Puerto Rico without the corresponding license, shall incur a misdemeanor, and upon conviction, shall be punished with a fine of not less than one hundred (100) dollars, nor more than five hundred (500) dollars, or imprisonment for a term of not less than one (1) month, nor more than six (6) months, or both penalties, at the discretion of the court. In case the offense is repeated, it shall bring about a fine of not less than five hundred (500) dollars nor greater than five thousand (5,000) dollars or imprisonment for a term of not less than six (6) months, nor more than three (3) years, or both penalties, at the discretion of the court.

Section 18.- Funds.-

The sum of thirty thousand (30,000) dollars is hereby appropriated to the Department of Health to defray the operating expenses of the Board and the expenses needed to implement this Act during the fiscal year in which the Board is constituted. This appropriation shall be recurrent in subsequent years and shall be consigned in the Operating Expense Budget of the Department of Health.

Section 19.- Severability Clause.-

If any part, section, paragraph, or subsection of this Act were found to be unconstitutional by a Court with jurisdiction, said finding shall not affect nor invalidate the remainder of this Act, and the effect of the finding of unconstitutionality shall be limited to the part, section, paragraph or subsection of this Act that has been found unconstitutional.

Section 20.- This Act shall take effect January 1, 1998.

February 4, 1998

José A. Figueroa-Lugo, Director of the Office of Legislative Services of the Legislature of Puerto Rico, hereby certifies to the Secretary of State that he has duly compared the English and Spanish texts of Act No. 208 (S.B. 783) (Conference) of the 2nd Session of the 13th Legislature of Puerto Rico, entitled:

AN ACT to regulate the practice of Naturopathic Medicine in Puerto Rico; create the Board of Examiners of Doctors in Naturopathic Medicine; define its functions, powers and duties; establish the requirements to practice the profession of Naturopathic Medicine; and establish penalties,

and finds the same are complete, true and correct versions of each other.

José A. Figueroa-Lugo