

## CHAPTER 462

## NATUROPATHY

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**462.01 Definitions.**—As used in this chapter:

(1) "Natureopathy" and "Naturopathy" shall be construed as synonymous terms and mean the use and practice of psychological, mechanical, and material health sciences to aid in purifying, cleansing, and normalizing human tissues for the preservation or restoration of health, according to the fundamental principles of anatomy, physiology, and applied psychology, as may be required. Naturopathic practice employs, among other agencies, phytotherapy, dietetics, psychotherapy, suggestotherapy, hydrotherapy, zone therapy, biochemistry, external applications, electrotherapy, mechanotherapy, mechanical and electrical appliances, hygiene, first aid, sanitation, and heliotherapy; provided, however, that nothing in this chapter shall be held or construed to authorize any naturopathic physician licensed hereunder to practice materia medica or surgery or chiropractic, nor shall the provisions of this law in any manner apply to or affect the practice of osteopathy, chiropractic, Christian Science, or any other treatment authorized and provided for by law for the cure or prevention of disease and ailments.

(2) "Department" means the Department of Business and Professional Regulation.

**History.**—s. 1, ch. 12286, 1927; CGL 3469; s. 1, ch. 21707, 1943; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 3, ch. 78-139; s. 2, ch. 81-318; ss. 1, 12, 13, ch. 85-303; s. 4, ch. 91-429; s. 118, ch. 94-218.

**462.023 Powers and duties of the department.**—

The department may adopt such rules as are necessary to carry out the purposes of this chapter, initiate disciplinary action as provided by this chapter, and shall establish fees based on its estimates of the revenue required to administer this chapter but shall not exceed the fee amounts provided in this chapter. The department shall not adopt any rules which would cause any person who was not licensed in accordance with this chapter on July 1, 1959, and had not been a resident of the state for 2 years prior to such date, to become licensed.

**History.**—ss. 2, 13, ch. 85-303; s. 4, ch. 91-429.

**462.08 Renewal of license to practice naturopathy.**

Each licenseholder shall biennially renew his license to practice naturopathy. The applicant must furnish to the department such evidence as it requires of the appli-

cant's compliance with s. 462.18, relating to educational requirements. The biennial renewal fee, the amount of which shall be determined by the department but which may not exceed \$1,000, must be paid at the time the application for renewal of the license is filed.

**History.**—s. 9, ch. 12286, 1927; CGL 3477; s. 3, ch. 21707, 1943; s. 1, ch. 63-374; s. 1, ch. 73-352; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 1, 3, ch. 78-139; ss. 13, 15, 18, 25, 30, 34, 62, ch. 80-406; s. 2, ch. 81-318; s. 24, ch. 83-329; ss. 3, 12, 13, ch. 85-303; s. 33, ch. 89-162; s. 4, ch. 91-429; s. 171, ch. 94-119.

**462.09 Disposition of fees.**—All fees received under this chapter shall be deposited into the Professional Regulation Trust Fund. The Legislature shall appropriate funds from this trust fund sufficient to carry out the provisions of this chapter. The department shall prepare and submit a proposed budget in accordance with law.

**History.**—s. 10, ch. 12286, 1927; CGL 3478; s. 96, ch. 26869, 1951; s. 12, ch. 28215, 1953; s. 7, ch. 61-514; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 3, ch. 78-139; s. 2, ch. 81-318; ss. 4, 12, 13, ch. 85-303; s. 4, ch. 91-429.

**462.11 Naturopaths to observe regulations.**—Doctors of naturopathy shall observe and be subject to all state, county, and municipal regulations in regard to the control of contagious and infectious diseases, the reporting of births and deaths, and to any and all other matters pertaining to the public health in the same manner as is required of other practitioners of the healing art.

**History.**—s. 12, ch. 12286, 1927; CGL 3480; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 3, ch. 78-139; s. 2, ch. 81-318; ss. 12, 13, ch. 85-303; s. 4, ch. 91-429.

**462.13 Additional powers and duties of the department.**—

The department may administer oaths, summon witnesses, and take testimony in all matters relating to its duties pursuant to this chapter. Every unrevoked license shall be presumptive evidence in all courts and places that the person therein named is legally licensed to practice naturopathy. The department shall aid the prosecuting attorneys of the state in the enforcement of this chapter.

**History.**—s. 15, ch. 12286, 1927; CGL 3483; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 3, ch. 78-139; ss. 13, 15, 19, 25, 30, 34, 62, ch. 80-406; s. 2, ch. 81-318; ss. 5, 12, 13, ch. 85-303; s. 55, ch. 87-225; s. 4, ch. 91-429.

**462.14 Grounds for disciplinary action; action by the department.**—

(1) The following acts constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

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

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

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

(d) False, deceptive, or misleading advertising.

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

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

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

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

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

(j) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent a naturopathic physician from receiving a fee for professional consultation services.

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

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

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

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

(o) Exercising influence on the patient or client in such a manner as to exploit the patient or client for the financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances, or drugs and the promoting or advertising on any prescription form of a community pharmacy unless the form also states "This prescription may be filled at any pharmacy of your choice."

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

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

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

(s) Being unable to practice naturopathic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel a naturopathic physician to submit to a mental or physical examination by physicians designated by the department. The failure of a naturopathic physician to submit to such an examination when so directed shall constitute an admission of the allegations against him upon which a default and final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond his control. A naturopathic physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of naturopathic medicine with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the department may be used against a naturopathic physician in any other proceeding.

(t) Gross or repeated malpractice or the failure to practice naturopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The department shall give great weight to the provisions of 2s. 766.102 when enforcing this paragraph.

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

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

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

(x) Violating any provision of this chapter, any rule of the department, or a lawful order of the department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

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

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

(aa) Presigning blank prescription forms.

(bb) Prescribing by the naturopathic physician for office use any medicinal drug appearing on Schedule II in chapter 893.

(cc) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is an amphetamine or sympathomimetic amine drug, or a compound designated pursuant to chapter 893 as a Schedule II controlled substance to or for any person except for:

1. The treatment of narcolepsy; hyperkinesia; behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction.

2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities.

3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the department before such investigation is begun.

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

(2) When the department finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

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

(b) Revocation or suspension of a license.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed \$1,000 for each count or separate offense.

(e) Issuance of a reprimand.

(f) Placement of the naturopathic physician on probation for a period of time and subject to such conditions as the department may specify, including, but not limited to, requiring the naturopathic physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another naturopathic physician.

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

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

**History.**—s. 16, ch. 12286, 1927; CGL 3484; s. 3, ch. 76-168; s. 166, ch. 77-104; s. 1, ch. 77-457; ss. 2, 3, ch. 78-139; s. 4, ch. 80-354; s. 2, ch. 81-318; s. 25, ch. 83-329; s. 4, ch. 85-6; ss. 6, 12, 13, ch. 85-303; s. 4, ch. 91-429.

**1Note.**—Substituted by the editors for a reference to s. 768.46 was transferred to s. 766.103 by the reviser incident to compiling the 1988 Supplement to the Florida Statutes 1987.

**2Note.**—Substituted by the editors for a reference to s. 768.45. Section 768.45 was transferred to s. 766.102 by the reviser incident to compiling the 1988 Supplement to the Florida Statutes 1987.

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

**History.**—s. 18, ch. 12286, 1927; CGL 3486; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 3, ch. 78-139; s. 2, ch. 81-318; ss. 8, 12, 13, ch. 85-303; s. 4, ch. 91-429.

**462.17 Penalty for offenses relating to naturopathy.**—Any person who shall:

(1) Sell, fraudulently obtain, or furnish any naturopathic diploma, license, record, or registration or aid or abet in the same;

(2) Practice naturopathy under the cover of any diploma, license, record, or registration illegally or fraudulently obtained or secured or issued unlawfully or upon fraudulent representations;

(3) Advertise to practice naturopathy under a name other than his own or under an assumed name;

(4) Falsely impersonate another practitioner of a like or different name;

(5) Practice or advertise to practice naturopathy or use in connection with his name any designation tending to imply or to designate him as a practitioner of naturopathy without then being lawfully licensed and authorized to practice naturopathy in this state; or

(6) Practice naturopathy during the time his license is suspended or revoked

shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**History.**—s. 19, ch. 12286, 1927; CGL 7726; s. 396, ch. 71-136; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 3, ch. 78-139; s. 2, ch. 81-318; ss. 12, 13, ch. 85-303; s. 4, ch. 91-429.

**462.18 Educational requirements.**—

(1) At the time each licensee shall renew his license as otherwise provided in this chapter, each licensee, beginning with the license renewal due May 1, 1944, in addition to the payment of the regular renewal fee, shall furnish to the department satisfactory evidence that, in

the year preceding each such application for renewal, he has attended the 2-day educational program as promulgated and conducted by the Florida Naturopathic Physicians Association, Inc., or, as a substitute therefor, the equivalent of that program as approved by the department. The department shall send a written notice to this effect to every person holding a valid license to practice naturopathy within this state at least 30 days prior to May 1 in each biennial year, directed to the last known address of such licensee, and shall enclose with the notice proper blank forms for application for annual license renewal. All of the details and requirements of the aforesaid educational program shall be adopted and prescribed by the department. In the event of national emergencies, or for sufficient reason, the department shall have the power to excuse the naturopathic physicians as a group or as individuals from taking this post-graduate course.

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

**History.**—s. 4, ch. 21707, 1943; s. 1, ch. 63-414; s. 2, ch. 73-352; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 3, ch. 78-139; ss. 13, 15, 21, 25, 30, 34, 62, ch. 80-406; s. 2, ch. 81-318; ss. 9, 12, 13, ch. 85-303; s. 4, ch. 91-429.

**462.19 Renewal of license; inactive status.—**

(1) The department shall renew a license upon receipt of the renewal application and fee.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses.

(3) A licensee may request that his license be placed in an inactive status by making application to the department and paying a fee in an amount set by the department not to exceed \$50.

**History.**—s. 5, ch. 21707, 1943; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 3, ch. 78-139; ss. 13, 15, 22, 25, 30, 34, 62, ch. 80-406; s. 2, ch. 81-318; ss. 10, 12, 13, ch. 85-303; s. 4, ch. 91-429; s. 172, ch. 94-119.

**462.2001 Saving clause.**—All licenses to practice naturopathy issued pursuant to this chapter and valid on October 1, 1985, shall remain in full force and effect.

**History.**—s. 11, ch. 85-303.