

SENATE BILL NO. 66

INTRODUCED BY HALLIGAN, HARDING, RYE, SVRCEK,
YELLOWTAIL, PAVLOVICH, KADAS, BRADLEY

IN THE SENATE

JANUARY 11, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON PUBLIC HEALTH, WELFARE, & SAFETY.

 FIRST READING.

JANUARY 24, 1991 COMMITTEE RECOMMEND BILL
 DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 25, 1991 PRINTING REPORT.

JANUARY 26, 1991 SECOND READING, DO PASS.

JANUARY 28, 1991 ENGROSSING REPORT.

 THIRD READING, PASSED.
 AYES, 36; NOES, 11.

 TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 28, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON HUMAN SERVICES & AGING.

JANUARY 29, 1991 FIRST READING.

FEBRUARY 11, 1991 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN AS AMENDED. REPORT
 ADOPTED.

FEBRUARY 13, 1991 SECOND READING, CONCURRED IN AS
 AMENDED.

FEBRUARY 14, 1991 THIRD READING, CONCURRED IN.
 AYES, 70; NOES, 29.

 RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

FEBRUARY 16, 1991 SECOND READING, AMENDMENTS NOT
 CONCURRED IN.

MARCH 6, 1991 ON MOTION, CONFERENCE COMMITTEE

REQUESTED AND APPOINTED.

IN THE HOUSE

MARCH 7, 1991

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

MARCH 12, 1991

CONFERENCE COMMITTEE REPORTED.

IN THE HOUSE

MARCH 12, 1991

CONFERENCE COMMITTEE REPORTED.

MARCH 16, 1991

SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE SENATE

MARCH 16, 1991

SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE HOUSE

MARCH 18, 1991

THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE SENATE

MARCH 18, 1991

THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

MARCH 19, 1991

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

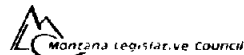
REPORTED CORRECTLY ENROLLED.

1 Senate BILL No. 66
 2 INTRODUCED BY Hollya Paul
 3 Alye Harding Kedes Yellowtail Frank Bradley
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
 5 LICENSURE OF NATUROPATHIC PHYSICIANS; ESTABLISHING A BOARD
 6 OF NATUROPATHIC PHYSICIANS; PROVIDING FOR EXEMPTIONS;
 7 PROVIDING FOR SPECIALTY PRACTICE CERTIFICATION; PROVIDING
 8 CRIMINAL PENALTIES AND CIVIL REMEDIES; GRANTING THE BOARD
 9 RULEMAKING AUTHORITY; AND PROVIDING EFFECTIVE DATES."

11 STATEMENT OF INTENT

12 A statement of intent is required for this bill because
13 [sections 7 and 10] grant to the board of naturopathic
14 physicians rulemaking authority to implement the provisions
15 of this bill. It is the intent of the legislature that the
16 board, at a minimum, adopt rules:

- 17 (1) specifying the scope of practice of naturopathic
18 medicine;
- 19 (2) establishing license application and examination
20 procedures, fees, and criteria for minimal educational and
21 clinical requirements;
- 22 (3) developing procedures for the issuance, renewal,
23 suspension, revocation, and reciprocity of licenses and
24 procedures for certificates of specialty practice; and
- 25 (4) establishing investigatory procedures for



1 processing complaints.
 2
 3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 4 NEW SECTION. Section 1. Short title. [Sections 1
 5 through 8 and 10 through 19] may be cited as the
 6 "Naturopathic Health Care Practice Act".

7 NEW SECTION. Section 2. Legislative finding --
 8 purpose. (1) The legislature finds that a significant number
 9 of Montanans choose naturopathic medicine for their health
 10 care needs and declares that naturopathic medicine is a
 11 distinct health care profession that affects the public
 12 health, safety, and welfare and contributes to public
 13 freedom of choice in health care.

14 (2) The purpose of [sections 1 through 8 and 10 through
 15 19] is to provide standards for the licensing and regulation
 16 of naturopathic physicians in order to protect the public
 17 health, safety, and welfare; to ensure that naturopathic
 18 health care by qualified naturopathic physicians is
 19 available to the people of Montana; and to provide a means
 20 of identifying qualified naturopathic physicians.

21 NEW SECTION. Section 3. Definitions. As used in
 22 [sections 1 through 8 and 10 through 19], the following
 23 definitions apply:

- 24 (1) "Approved naturopathic medical college" means a
 25 college or program granting the degree of doctor of

1 naturopathy or naturopathic medicine that:

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

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

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

13 (2) "Board" means the board of naturopathic physicians
14 established in [section 9].

15 (3) "Department" means the department of commerce
16 provided for in 2-15-1801.

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

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

23 (i) operative, electrical, or other methods for the
24 surgical repair and care incidental to superficial
25 lacerations and abrasions, superficial lesions, and the

1 removal of foreign bodies located in the superficial
2 tissues; and

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

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

10 (6) "Natural antibiotics" means antimicrobial,
11 antifungal, and antiprotozoal agents that are naturally
12 occurring substances or manufactured substances that are
13 substantially identical, as determined by board rules, to
14 naturally occurring substances.

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

25 (8) "Naturopathic childbirth attendance" means the

1 specialty practice of natural childbirth by naturopathic
2 physicians that includes the use of natural therapeutic
3 substances, ophthalmic antibiotics, emergency medicines, and
4 minor surgery, as set by board rules. The term does not
5 include a forceps delivery, general or spinal anesthesia, or
6 a caesarean section.

7 (9) "Naturopathic physical applications" means the
8 therapeutic use by naturopathic physicians of:

9 (a) the physical agents of air, water, heat, cold,
10 sound, light, gravity, and electromagnetic nonionizing
11 radiation; and

12 (b) the actions or devices of electrotherapy,
13 diathermy, ultrasound, ultraviolet light, hydrotherapy,
14 naturopathic manipulative therapy, and therapeutic exercise.

15 (10) "Naturopathic physician" means a person authorized
16 and licensed to practice naturopathic health care under
17 sections 1 through 8 and 10 through 19.

18 (11) "Topical drugs" means topical analgesics,
19 anesthetics, antiseptics, scabicides, antifungals, and
20 antibacterials.

21 NEW SECTION. **Section 4.** Practice of naturopathic
22 health care. (1) Naturopathic physicians may practice
23 naturopathic medicine as a limited practice of the healing
24 arts as exempted in 37-3-103(1)(n), with the following
25 restrictions. A naturopathic physician may not:

1 (a) prescribe, dispense, or administer any legend drug
2 as defined in 50-31-301 except those natural therapeutic
3 substances and drugs authorized by subsection (2) or
4 [section 10(2)];

5 (b) administer ionizing radioactive substances for
6 therapeutic purposes;

7 (c) perform surgical procedures except those minor
8 surgery procedures authorized by [sections 1 through 8 and
9 10 through 19]; or

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

14 (2) Naturopathic physicians may prescribe, dispense in
15 accordance with 37-2-104, and administer for preventive and
16 therapeutic purposes the following natural therapeutic
17 substances, drugs, and therapies:

18 (a) food, food extracts, vitamins, minerals, enzymes,
19 whole gland thyroid, botanical medicines, homeopathic
20 preparations, and natural antibiotics;

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

25 (c) barrier devices for contraception, naturopathic

1 childbirth attendance, and minor surgery.

2 (3) Naturopathic physicians may perform or order for
3 diagnostic purposes a physical or orificial examination,
4 x-ray, electrocardiogram, ultrasound, phlebotomy, clinical
5 laboratory test or examination, physiological function test,
6 and any other noninvasive diagnostic procedure commonly used
7 by physicians in general practice and as authorized by
8 [section 10(2)].

9 NEW SECTION. Section 5. License intent -- titles
10 restricted -- license required -- enjoining unlawful
11 practice. (1) The intent of [sections 1 through 8 and 10
12 through 19] is to prohibit any person not licensed by
13 [sections 1 through 8 and 10 through 19] from the use of the
14 restricted terms that identify naturopathic physicians and
15 their practice. The intent is not to prohibit a person from
16 any practice of natural health care that may be considered
17 part of the scope of practice of naturopathic medicine.

18 (2) (a) A naturopathic physician may use the prefix
19 "Dr." or "doctor" as a title.

20 (b) Only a naturopathic physician may use any or all of
21 the following titles or terms:

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

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

3 (c) The titles and terms in subsection (2)(b) identify
4 naturopathic physicians and are restricted to describing and
5 identifying licensed practitioners and their practice. A
6 person who uses these titles and terms to represent himself
7 or his practice to the public without being licensed
8 pursuant to [sections 1 through 8 and 10 through 19] is in
9 violation of [sections 1 through 8 and 10 through 19].

10 (3) A violation of [sections 1 through 8 and 10 through
11 19] may be enjoined by the district court on petition by the
12 board.

13 NEW SECTION. Section 6. Exemptions. (1) [Sections 1
14 through 8 and 10 through 19] recognize that many of the
15 therapies used by naturopathic physicians, such as the use
16 of nutritional supplements, herbs, foods, homeopathic
17 preparations, and such physical forces as heat, cold, water,
18 touch, and light, are not the exclusive privilege of
19 naturopathic physicians, and their use by individuals is not
20 prohibited by [sections 1 through 8 and 10 through 19].

21 (2) [Sections 1 through 8 and 10 through 19] do not
22 restrict or apply to the scope of practice of any other
23 professions licensed, certified, or registered under the
24 laws of this state.

25 NEW SECTION. Section 7. Naturopathic childbirth

1 attendance -- certification for specialty practice --
 2 requirements. (1) A naturopathic physician may not practice
 3 naturopathic childbirth attendance without first obtaining
 4 from the board a certificate of specialty practice. The
 5 board shall adopt rules setting forth the requirements to be
 6 met in order to certify naturopathic physicians for the
 7 specialty practice of naturopathic childbirth attendance.

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

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

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

18 (i) course work in naturopathic childbirth attendance;
 19 (ii) an internship in naturopathic childbirth
 20 attendance; or

21 (iii) a preceptorship in naturopathic childbirth
 22 attendance; and

23 (c) have assisted in a minimum of 40 supervised births,
 24 including prenatal and postnatal care, under the direct
 25 supervision of a licensed naturopathic, medical, or

1 osteopathic physician with specialty training in obstetrics
 2 or natural childbirth attendance.

3 NEW SECTION. **Section 8.** Public health duties of
 4 naturopathic physicians. Naturopathic physicians have the
 5 same authority and responsibility as other licensed
 6 physicians with regard to public health laws, reportable
 7 diseases and conditions, communicable disease control and
 8 prevention, recording of vital statistics, health and
 9 physical examinations, and local boards of health, except
 10 that the authority and responsibility is limited to
 11 activities consistent with the scope of practice described
 12 in [sections 1 through 8 and 10 through 19].

13 NEW SECTION. **Section 9.** Board of naturopathic
 14 physicians. (1) There is a board of naturopathic physicians.

15 (2) The board consists of three members appointed by
 16 the governor.

17 (3) The members are:

18 (a) one member of the public; and

19 (b) two naturopathic physicians who have been residents
 20 of Montana for 3 years prior to being appointed. These
 21 members must be licensed under [sections 1 through 8 and 10
 22 through 19], except during the initial transition period of
 23 1 year after [the effective date of sections 9, 10, 11, and
 24 22].

25 (4) The board is attached to the department of commerce

1 for administrative purposes only as prescribed in 2-15-121.

2 (5) The board is designated as a quasi-judicial board
3 for purposes of 2-15-124, except that a member of the board
4 need not be an attorney licensed to practice law in this
5 state.

6 NEW SECTION. **Section 10.** Powers and duties of board.

7 The board shall:

8 (1) adopt rules necessary or proper to administer and
9 enforce [sections 1 through 8 and 10 through 19];

10 (2) adopt rules that specify the scope of practice of
11 naturopathic medicine stated in [section 4], that are
12 consistent with the definition of naturopathic medicine
13 provided in [section 3], and that are consistent with the
14 education provided by approved naturopathic medical
15 colleges;

16 (3) adopt rules prescribing the time, place, content
17 and passing requirements of the licensure examination, which
18 may be composed of part or all of the national naturopathic
19 physicians licensing examination;

20 (4) adopt rules that endorse equivalent licensure
21 examinations of another state or territory of the United
22 States, the District of Columbia, or a foreign country and
23 that may include licensure by reciprocity;

24 (5) adopt rules that set fees, commensurate with costs,
25 for application, examination, licensure and other

1 administrative services;

2 (6) approve naturopathic medical colleges as defined in
3 [section 3];

4 (7) adopt rules for the investigation of complaints
5 against naturopathic physicians, for hearings on complaints,
6 and to impose disciplinary action against naturopathic
7 physicians found to be in violation of [sections 1 through 8
8 and 10 through 19];

9 (8) investigate individuals falsely claiming to be
10 naturopathic physicians and act in cooperation with county
11 attorneys to enforce the provisions of [sections 1 through 8
12 and 10 through 19];

13 (9) adopt rules that establish, approve, and routinely
14 review a continuing education curriculum and accreditation
15 for naturopathic physicians that is required for license
16 renewal;

17 (10) issue certificates of specialty practice;

18 (11) issue temporary licenses as provided for in
19 [section 13]; and

20 (12) adopt rules that, in the discretion of the board,
21 appropriately restrict licenses to a limited scope of
22 practice of naturopathic medicine, which may exclude the use
23 of minor surgery, natural antibiotics, or the legend drugs
24 allowed under [section 4].

25 NEW SECTION. **Section 11.** Board meetings. (1) The board

1 shall meet at least once annually.

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

4 (3) All members must be present in order to conduct
5 board business.

6 NEW SECTION. Section 12. Qualifications for licensure.

7 A person is qualified to be licensed to practice
8 naturopathic medicine in Montana if he:

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

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

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

15 NEW SECTION. Section 13. Application for licensure --

16 examination -- temporary license. (1) A person who desires a
17 license to practice naturopathic medicine in Montana shall
18 apply to the department in the manner and form prescribed by
19 the board. The application must be accompanied by the
20 license fees, the application fees, and the documents,
21 affidavits, and certificates necessary to establish that the
22 applicant possesses the qualifications prescribed by
23 [section 12]. The burden of proof is on the applicant, but
24 the board may make an independent investigation to determine
25 whether the applicant possesses the necessary qualifications

1 and whether the applicant has committed unprofessional
2 conduct that would be basis for licensure denial. At the
3 board's request, the applicant shall provide necessary
4 authorizations for the release of records and information
5 pertinent to the board's investigation.

6 (2) A person who applies for licensure but who has not
7 passed a licensure examination prescribed or endorsed by the
8 board shall apply to the board for authorization to take the
9 prescribed licensure examination. The application for
10 examination must be accompanied by the examination fee. If
11 the board finds that all other qualifications for licensure
12 except that of examination have been met, the board shall
13 authorize the applicant to take the licensure examination.

14 (3) A person who has actively engaged in the practice
15 of naturopathic medicine in Montana prior to [the effective
16 date of sections 9, 10, 11, and 22] and who is a graduate of
17 an approved naturopathic medical college may continue to
18 practice naturopathic medicine until the board reviews his
19 qualifications if he applies to and receives from the
20 department a temporary license by October 1, 1991. The
21 department shall issue a temporary license to a qualified
22 applicant. The board shall, within 6 months of October 1,
23 1991, review the qualifications of each temporary licensee
24 and either authorize the department to issue a license to a
25 person qualified under [section 12 or 14] or extend the

1 temporary license for a term of no more than 1 year to allow
 2 the practitioner to pass the prescribed examination. A
 3 person who is not a graduate of an approved naturopathic
 4 medical college may not be granted a temporary license.

5 NEW SECTION. **Section 14.** Licensure by endorsement. (1)

6 The board may authorize the department to issue to an
 7 applicant a license by endorsement if the applicant produces
 8 evidence satisfactory to the board of:

9 (a) a valid license or certificate issued to the
 10 applicant on the basis of an examination by an examining
 11 board under the laws of another state or territory of the
 12 United States, the District of Columbia, or a foreign
 13 country, whose licensing standards at the time the license
 14 or certificate was issued were, in the judgment and
 15 according to the rules of the board, acceptable for
 16 endorsement for granting a license to practice naturopathic
 17 medicine; or

18 (b) (i) an inactive license or other certificate of
 19 examination issued to or for the applicant by a naturopathic
 20 examining board under the laws of another state or territory
 21 of the United States, the District of Columbia, or a foreign
 22 country, whose examination standards at the time the license
 23 was granted or the examination was passed were acceptable
 24 for endorsement in the judgment and according to the rules
 25 of the board;

1 (ii) the fact that he has not been disciplined or had
 2 his inactive license suspended or revoked for malpractice;

3 (iii) the fact that he has been actively engaged in the
 4 practice of naturopathic medicine for at least 1 year in a
 5 state or territory of the United States, the District of
 6 Columbia, or a foreign country, that does not license
 7 naturopathic physicians;

8 (iv) the fact that he is a graduate of an approved
 9 naturopathic medical college; and

10 (v) his good moral character.

11 NEW SECTION. **Section 15.** Issuance of license. If the
 12 board determines that an applicant possesses the
 13 qualifications required by [section 12], the department
 14 shall issue a license to the applicant to practice
 15 naturopathic medicine.

16 NEW SECTION. **Section 16.** Denial, suspension, or
 17 revocation of license -- grounds. The board may refuse to
 18 issue a license or may suspend or revoke a license issued
 19 pursuant to [sections 1 through 8 and 10 through 19] or take
 20 disciplinary action against licensees for one or more of the
 21 following causes:

22 (1) conviction, as shown by a certified copy of the
 23 record of the court, of a felony or a violation of any state
 24 or federal law regulating the possession, distribution, or
 25 use of any controlled substance, subject to Title 37,

1 chapter 1, part 2;
 2 (2) being adjudicated incompetent or seriously mentally
 3 ill;
 4 (3) sustaining a physical or mental disability that
 5 renders further naturopathic practice dangerous to the
 6 public;
 7 (4) habitual intemperance with alcohol or habitual
 8 addiction to the use of a controlled substance to such an
 9 extent as to incapacitate the person from the proper
 10 performance of professional duties;
 11 (5) malpractice;
 12 (6) engaging in dishonorable, unethical, or
 13 unprofessional conduct, as defined by the rules of the
 14 board, that may deceive, defraud, or harm the public;
 15 (7) obtaining or attempting to obtain by fraudulent
 16 misrepresentation a license to practice naturopathy;
 17 (8) advertising by means of knowingly false,
 18 misleading, or deceptive statements;
 19 (9) advertising, practicing, or attempting to practice
 20 under a name other than the person's own;
 21 (10) using any false, fraudulent, or forged statement or
 22 document or engaging in any fraudulent, deceitful,
 23 dishonest, or immoral practice, as defined by the rules of
 24 the board, in connection with the licensing requirements of
 25 [sections 1 through 8 and 10 through 19];

1 (11) violation of a provision of [sections 1 through 8
 2 and 10 through 19] or the rules adopted by the board.
 3 NEW SECTION. Section 17. Denial, suspension, or
 4 revocation of license -- procedure. (1) Upon receipt of a
 5 complaint alleging violation of [sections 1 through 8 and 10
 6 through 19] or the rules of the board, the board shall
 7 investigate the complaint and, according to its findings and
 8 the board's rules, shall either dismiss the complaint or
 9 take appropriate action to enforce [sections 1 through 8 and
 10 10 through 19].
 11 (2) (a) The board shall meet or hold a hearing as
 12 necessary at the time and place set pursuant to board rules.
 13 The board may continue the hearing from time to time as it
 14 determines necessary.
 15 (b) At the hearing, the board must receive evidence
 16 upon the subject under consideration and shall accord the
 17 person against whom the complaint is filed a full and fair
 18 opportunity to be heard in his defense.
 19 (3) After consideration, the board shall adopt a
 20 resolution finding that the licensee has either violated or
 21 not violated the provisions of [sections 1 through 8 and 10
 22 through 19] or the rules of the board.
 23 (4) If the board finds that a violation has not
 24 occurred, the board shall dismiss the complaint. If the
 25 board finds that a violation has occurred, it shall:

- 1 (a) revoke his license;
 2 (b) suspend his right to practice naturopathy for a
 3 period not to exceed 1 year;
 4 (c) suspend its judgment of revocation upon terms and
 5 conditions it determines;
 6 (d) place him on probation; or
 7 (e) take other disciplinary action as provided by board
 8 rules.

9 NEW SECTION. Section 18. Reinstatement of license
 10 after period of suspension -- revocation. (1) Upon the
 11 expiration of the term of the suspension, the board may
 12 reinstate a license if the suspended licensee furnishes the
 13 board with satisfactory evidence that he is then of good
 14 moral character and conduct; is restored to good health, if
 15 applicable; and has not practiced naturopathy in the state
 16 during the term of suspension.

17 (2) If the board is not satisfied that the licensee is
 18 then of good moral character and conduct or restored to good
 19 health or if the evidence shows that he has practiced
 20 naturopathy in this state during the term of suspension, the
 21 board may, after notice and hearing, revoke the license.

22 NEW SECTION. Section 19. Enforcement -- penalty. (1) A
 23 county attorney shall prosecute a person charged with
 24 violation of any of the provisions of [sections 1 through 8
 25 and 10 through 19].

1 (2) A person who violates any of the provisions of
 2 [sections 1 through 8 and 10 through 19] is guilty of a
 3 misdemeanor and, upon conviction, is punishable by a fine
 4 not exceeding \$500 or by imprisonment in the county jail for
 5 a term not to exceed 6 months, or both.

6 NEW SECTION. Section 20. Severability. If a part of
 7 [this act] is invalid, all valid parts that are severable
 8 from the invalid part remain in effect. If a part of [this
 9 act] is invalid in one or more of its applications, the part
 10 remains in effect in all valid applications that are
 11 severable from the invalid applications.

12 NEW SECTION. Section 21. Codification instruction. (1)
 13 [Section 9] is intended to be codified as an integral part
 14 of Title 2, chapter 15, part 18, and the provisions of Title
 15 2, chapter 15, part 18, apply to [section 9].

16 (2) [Sections 1 through 8 and 10 through 19] are
 17 intended to be codified as an integral part of Title 37.

18 NEW SECTION. Section 22. Effective dates. (1)
 19 [Sections 9, 10, 11, and this section] are effective on
 20 passage and approval.

21 (2) [Sections 1 through 8 and 12 through 21] are
 22 effective October 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0066, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for the licensure of naturopathic physicians; establishing a Board of Naturopathic Physicians; providing for exemptions; providing for specialty practice certification; providing criminal penalties and civil remedies; granting the board rulemaking authority; and providing effective dates.

ASSUMPTIONS:

1. In FY92, the Board of Naturopathic Physicians will process 14 applications at \$300 each; will conduct 3 examinations at \$350 each and will license the 14 applicants at \$350 each for total revenue of \$10,150. In FY93, 3 applications will be processed at \$300 each; 3 examinations will be given at \$350 each; 2 licenses will be issued at \$350 each and 14 license renewals issued at \$350 each for a total of \$7,550.
2. The board will meet four times in FY92 to initiate the program and two times in FY93. Conducting the business of each meeting will take one day.
3. Expenses of the board include per diem, travel, supplies, communication, postage, printing and administrative overhead fees. The department estimates travel expenses will be approximately \$293.50 per meeting.
4. Administrative overhead expenses must be credited to the POL Bureau of the Department of Commerce.

FISCAL IMPACT:

Bd of Naturopathic Physicians

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	0.00	0.00	0.00	0.00	0.00	0.00
Personal Services	0	600	600	0	600	600
Operating Costs	0	5,472	5,472	0	4,087	4,087
Total	0	6,072	6,072	0	4,687	4,687
<u>Revenue:</u>						
License Fees (02)	0	10,150	10,150	0	7,550	7,550
<u>Account Balance:</u>	0	4,078	4,078	0	2,863	2,863


 ROD SUNDSTED, BUDGET DIRECTOR
 Office of Budget and Program Planning
 DATE 1-16-91


 MIKE HALLIGAN, PRIMARY SPONSOR
 DATE 1-16-91

Fiscal Note for SB0066, as introduced

SB 66

APPROVED BY COMMITTEE
ON PUBLIC HEALTH, WELFARE
& SAFETY

SENATE BILL NO. 66

INTRODUCED BY HALLIGAN, HARDING, RYE, SVRCEK,
YELLOWTAIL, PAVLOVICH, KADAS, BRADLEY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
LICENSURE OF NATUROPATHIC PHYSICIANS; ESTABLISHING A BOARD
OF NATUROPATHIC PHYSICIANS; PROVIDING FOR EXEMPTIONS;
PROVIDING FOR SPECIALTY PRACTICE CERTIFICATION; PROVIDING
CRIMINAL PENALTIES AND CIVIL REMEDIES; GRANTING THE BOARD
RULEMAKING AUTHORITY; AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

A statement of intent is required for this bill because
[sections 7 and 10] grant to the board of naturopathic
physicians 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.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 8 and 10 through 19] may be cited as the "Naturopathic Health Care Practice Act".

NEW SECTION. Section 2. 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 [sections 1 through 8 and 10 through 19] 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.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 8 and 10 through 19], the following definitions apply:

- (1) "Approved naturopathic medical college" means a

SECOND READING



1 college or AND program granting the degree of doctor of
2 naturopathy or naturopathic medicine that:

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

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

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

14 (2) "Board" means the board of naturopathic physicians
15 established in [section 9].

16 (3) "Department" means the department of commerce
17 provided for in 2-15-1801.

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

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

24 (i) operative, electrical, or other methods for the
25 surgical repair and care incidental to superficial

1 lacerations and abrasions, superficial lesions, and the
2 removal of foreign bodies located in the superficial
3 tissues; and

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

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

11 (6) "Natural antibiotics" means antimicrobial,
12 antifungal, and antiprotozoal agents that are naturally
13 occurring substances or manufactured substances that are
14 substantially identical, as determined by board rules, to
15 naturally occurring substances.

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

1 (8) "Naturopathic childbirth attendance" means the
 2 specialty practice of natural childbirth by naturopathic
 3 physicians that includes the use of natural therapeutic
 4 substances, ophthalmic antibiotics, emergency medicines, and
 5 minor surgery, as set by board rules. The term does not
 6 include a forceps delivery, general or spinal anesthesia, or
 7 a caesarean section.

8 (9) "Naturopathic physical applications" means the
 9 therapeutic use by naturopathic physicians of:

10 ~~{a}--the--physical--agents--of--air,--water,--heat,--cold,--~~
 11 ~~sound,--light,--gravity,--and--electromagnetic--nonionizing~~
 12 ~~radiation,--and~~

13 {b} the actions or devices of electrotherapy ELECTRICAL
 14 MUSCLE STIMULATION, GALVANIC, diathermy, ultrasound,
 15 ultraviolet light, CONSTITUTIONAL hydrotherapy, AND
 16 naturopathic manipulative therapy, ~~and-therapeutic-exercise.~~

17 (10) "Naturopathic physician" means a person authorized
 18 and licensed to practice naturopathic health care under
 19 sections 1 through 8 and 10 through 19.

20 (11) "Topical drugs" means topical analgesics,
 21 anesthetics, antiseptics, scabicides, antifungals, and
 22 antibacterials.

23 NEW SECTION. Section 4. Practice of naturopathic
 24 health care. (1) Naturopathic physicians may practice
 25 naturopathic medicine as a limited practice of the healing

1 arts as exempted in 37-3-103(1)(n), with the following
 2 restrictions. A naturopathic physician may not:

3 (a) prescribe, dispense, or administer any legend drug
 4 as defined in 50-31-301 except those natural therapeutic
 5 substances and drugs authorized by subsection (2) or
 6 [section 10(2)];

7 (b) administer ionizing radioactive substances for
 8 therapeutic purposes;

9 (c) perform surgical procedures except those minor
 10 surgery procedures authorized by [sections 1 through 8 and
 11 10 through 19]; or

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

16 (2) Naturopathic physicians may prescribe, dispense in
 17 accordance with 37-2-104, and administer for preventive and
 18 therapeutic purposes the following natural therapeutic
 19 substances, drugs, and therapies:

20 (a) food, food extracts, vitamins, minerals, enzymes,
 21 whole gland thyroid, botanical medicines, AND homeopathic
 22 preparations, ~~and-natural-antibiotics;~~

23 (b) immunizations, topical drugs, health care
 24 counseling, nutritional counseling and dietary therapy,
 25 naturopathic physical applications, therapeutic devices, and

1 nonprescription drugs; and

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

4 (3) Naturopathic physicians may perform or order for
5 diagnostic purposes a physical or orificial examination,
6 x-ray, electrocardiogram, ultrasound, phlebotomy, clinical
7 laboratory test or examination, physiological function test,
8 and any other noninvasive diagnostic procedure commonly used
9 by physicians in general practice and as authorized by
10 [section 10(2)].

11 NEW SECTION. Section 5. License intent REQUIRED --
12 titles restricted ---license-required -- enjoining unla ful
13 practice. ~~{1}--The--intent--of--{sections-1-through-8-and-10~~
14 ~~through-19}-is--to--prohibit--any--person--not--licensed--by~~
15 ~~{sections-1-through-8-and-10-through-19}-from-the-use-of-the~~
16 ~~restricted--terms--that-identify-naturopathic-physicians-and~~
17 ~~their-practice--The-intent-is-not-to-prohibit-a-person--from~~
18 ~~any--practice--of-natural-health-care-that-may-be-considered~~
19 ~~part-of-the-scope-of-practice-of-naturopathic-medicine: (1)~~
20 EXCEPT AS PROVIDED IN [SECTION 6], A PERSON MAY NOT PRACTICE
21 NATUROPATHY WITHOUT A VALID AND CURRENT LICENSE ISSUED BY
22 THE BOARD AS PROVIDED IN [SECTIONS 1 THROUGH 8 AND 10
23 THROUGH 19].

24 (2) (a) A naturopathic physician LICENSED UNDER
25 [SECTIONS 1 THROUGH 8 AND 10 THROUGH 19] may use the prefix

1 "Dr." or "doctor" as a title.

2 (b) Only a naturopathic physician LICENSED UNDER
3 [SECTIONS 1 THROUGH 8 AND 10 THROUGH 19] may use any or all
4 of the following titles or terms:

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

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

11 (c) The titles and terms in subsection (2)(b) identify
12 naturopathic physicians and are restricted to describing and
13 identifying licensed practitioners and their practice. A
14 person who uses these titles and terms to represent himself
15 or his practice to the public without being licensed
16 pursuant to [sections 1 through 8 and 10 through 19] is in
17 violation of [sections 1 through 8 and 10 through 19].

18 (3) A violation of [sections 1 through 8 and 10 through
19 19] may be enjoined by the district court on petition by the
20 board.

21 NEW SECTION. **Section 6. Exemptions.** (1) [Sections 1
22 through 8 and 10 through 19] recognize that many of the
23 therapies used by naturopathic physicians, such as the use
24 of nutritional supplements, herbs, foods, homeopathic
25 preparations, and such physical forces as heat, cold, water,

1 touch, and light, are not the exclusive privilege of
2 naturopathic physicians, and their use, PRACTICE,
3 PRESCRIPTION, OR ADMINISTRATION by ~~individuals~~ PERSONS NOT
4 LICENSED TO PRACTICE NATUROPATHIC MEDICINE is not prohibited
5 by [sections 1 through 8 and 10 through 19].

6 (2) [Sections 1 through 8 and 10 through 19] do not
7 restrict or apply to the scope of practice of any other
8 professions licensed, certified, or registered under the
9 laws of this state.

10 NEW SECTION. Section 7. Naturopathic childbirth
11 attendance -- certification for specialty practice --
12 requirements. (1) A naturopathic physician may not practice
13 naturopathic childbirth attendance without first obtaining
14 from the board a certificate of specialty practice. The
15 board shall adopt rules setting forth the requirements to be
16 met in order to certify naturopathic physicians for the
17 specialty practice of naturopathic childbirth attendance.

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

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

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

3 (i) course work in naturopathic childbirth attendance;
4 (ii) an internship in naturopathic childbirth
5 attendance; or

6 (iii) a preceptorship in naturopathic childbirth
7 attendance; and

8 (c) have assisted in a minimum of ~~40~~ 50 supervised
9 births, including prenatal and postnatal care, under the
10 direct supervision of a licensed naturopathic, medical, or
11 osteopathic physician with specialty training in obstetrics
12 or natural childbirth attendance. THE 50 SUPERVISED BIRTHS
13 REQUIRED UNDER THIS SUBSECTION (C) MUST INCLUDE 25 BIRTHS
14 THAT DOCUMENT THE NATUROPATHIC PHYSICIAN AS THE PRIMARY
15 BIRTH ATTENDANT.

16 NEW SECTION. Section 8. Public health duties of
17 naturopathic physicians. Naturopathic physicians have the
18 same authority and responsibility as other licensed
19 physicians with regard to public health laws, reportable
20 diseases and conditions, communicable disease control and
21 prevention, recording of vital statistics, health and
22 physical examinations, and local boards of health, except
23 that the authority and responsibility is limited to
24 activities consistent with the scope of practice described
25 in [sections 1 through 8 and 10 through 19].

1 NEW SECTION. Section 9. Board of naturopathic
2 physicians. (1) There is a board of naturopathic physicians.

3 (2) The board consists of three members appointed by
4 the governor.

5 (3) The members are:

6 (a) one member of the public; and

7 (b) two naturopathic physicians who have been residents
8 of Montana for 3 years prior to being appointed. These
9 members must be licensed under [sections 1 through 8 and 10
10 through 19], except during the initial transition period of
11 1 year after [the effective date of sections 9, 10, 11, and
12 22].

13 (4) The board is attached to the department of commerce
14 for administrative purposes only as prescribed in 2-15-121.

15 (5) The board is designated as a quasi-judicial board
16 for purposes of 2-15-124, except that a member of the board
17 need not be an attorney licensed to practice law in this
18 state.

19 NEW SECTION. Section 10. Powers and duties of board.

20 The board shall:

21 (1) adopt rules necessary or proper to administer and
22 enforce [sections 1 through 8 and 10 through 19];

23 (2) adopt rules that specify the scope of practice of
24 naturopathic medicine stated in [section 4], that are
25 consistent with the definition of naturopathic medicine

1 provided in [section 3], and that are consistent with the
2 education provided by approved naturopathic medical
3 colleges;

4 (3) adopt rules prescribing the time, place, content
5 and passing requirements of the licensure examination, which
6 may be composed of part or all of the national naturopathic
7 physicians licensing examination;

8 (4) adopt rules that endorse equivalent licensure
9 examinations of another state or territory of the United
10 States, the District of Columbia, or a foreign country and
11 that may include licensure by reciprocity;

12 (5) adopt rules that set fees, commensurate with costs,
13 for application, examination, licensure and other
14 administrative services;

15 (6) approve naturopathic medical colleges as defined in
16 [section 3];

17 (7) adopt rules for the investigation of complaints
18 against naturopathic physicians, for hearings on complaints,
19 and to impose disciplinary action against naturopathic
20 physicians found to be in violation of [sections 1 through 8
21 and 10 through 19];

22 (8) investigate individuals falsely claiming to be
23 naturopathic physicians and act in cooperation with county
24 attorneys to enforce the provisions of [sections 1 through 8
25 and 10 through 19];

1 (9) adopt rules that establish, approve, and routinely
2 review a continuing education curriculum and accreditation
3 for naturopathic physicians that is required for license
4 renewal;

5 (10) issue certificates of specialty practice;

6 (11) issue temporary licenses as provided for in
7 [section 13]; and

8 (12) adopt rules that, in the discretion of the board,
9 appropriately restrict licenses to a limited scope of
10 practice of naturopathic medicine, which may exclude the use
11 of minor surgery, natural antibiotics, or the legend drugs
12 allowed under [section 4].

13 NEW SECTION. Section 11. Board meetings. (1) The board
14 shall meet at least once annually.

15 (2) Special meetings may be called by any two board
16 members or the chairman.

17 (3) All members must be present in order to conduct
18 board business.

19 NEW SECTION. Section 12. Qualifications for licensure.

20 A person is qualified to be licensed to practice
21 naturopathic medicine in Montana if he:

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

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

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

3 NEW SECTION. Section 13. Application for licensure --
4 examination -- temporary license. (1) A person who desires a
5 license to practice naturopathic medicine in Montana shall
6 apply to the department in the manner and form prescribed by
7 the board. The application must be accompanied by the
8 license fees, the application fees, and the documents,
9 affidavits, and certificates necessary to establish that the
10 applicant possesses the qualifications prescribed by
11 [section 12]. The burden of proof is on the applicant, but
12 the board may make an independent investigation to determine
13 whether the applicant possesses the necessary qualifications
14 and whether the applicant has committed unprofessional
15 conduct that would be basis for licensure denial. At the
16 board's request, the applicant shall provide necessary
17 authorizations for the release of records and information
18 pertinent to the board's investigation.

19 (2) A person who applies for licensure but who has not
20 passed a licensure examination prescribed or endorsed by the
21 board shall apply to the board for authorization to take the
22 prescribed licensure examination. The application for
23 examination must be accompanied by the examination fee. If
24 the board finds that all other qualifications for licensure
25 except that of examination have been met, the board shall

1 authorize the applicant to take the licensure examination.

2 (3) A person who has actively engaged in the practice
3 of naturopathic medicine in Montana prior to [the effective
4 date of sections 9, 10, 11, and 22] and who is a graduate of
5 an approved naturopathic medical college may continue to
6 practice naturopathic medicine until the board reviews his
7 qualifications if he applies to and receives from the
8 department a temporary license by October 1, 1991. The
9 department shall issue a temporary license to a qualified
10 applicant. The board shall, within 6 months of October 1,
11 1991, review the qualifications of each temporary licensee
12 and either authorize the department to issue a license to a
13 person qualified under [section 12 or 14] or extend the
14 temporary license for a term of no more than 1 year to allow
15 the practitioner to pass the prescribed examination. A
16 person who is not a graduate of an approved naturopathic
17 medical college may not be granted a temporary license.

18 NEW SECTION. Section 14. Licensure by endorsement. (1)
19 The board may authorize the department to issue to an
20 applicant a license by endorsement if the applicant produces
21 evidence satisfactory to the board of:

22 (a) a valid license or certificate issued to the
23 applicant on the basis of an examination by an examining
24 board under the laws of another state or territory of the
25 United States, the District of Columbia, or a foreign

1 country, whose licensing standards at the time the license
2 or certificate was issued were, in the judgment and
3 according to the rules of the board, acceptable for
4 endorsement for granting a license to practice naturopathic
5 medicine; or

6 (b) (i) an inactive license or other certificate of
7 examination issued to or for the applicant by a naturopathic
8 examining board under the laws of another state or territory
9 of the United States, the District of Columbia, or a foreign
10 country, whose examination standards at the time the license
11 was granted or the examination was passed were acceptable
12 for endorsement in the judgment and according to the rules
13 of the board;

14 (ii) the fact that he has not been disciplined or had
15 his inactive license suspended or revoked for malpractice;

16 (iii) the fact that he has been actively engaged in the
17 practice of naturopathic medicine for at least 1 year in a
18 state or territory of the United States, the District of
19 Columbia, or a foreign country, that does not license
20 naturopathic physicians;

21 (iv) the fact that he is a graduate of an approved
22 naturopathic medical college; and

23 (v) his good moral character.

24 NEW SECTION. Section 15. Issuance of license. If the
25 board determines that an applicant possesses the

1 qualifications required by [section 12], the department
2 shall issue a license to the applicant to practice
3 naturopathic medicine.

4 NEW SECTION. Section 16. Denial, suspension, or
5 revocation of license -- grounds. The board may refuse to
6 issue a license or may suspend or revoke a license issued
7 pursuant to [sections 1 through 8 and 10 through 19] or take
8 disciplinary action against licensees for one or more of the
9 following causes:

10 (1) conviction, as shown by a certified copy of the
11 record of the court, of a felony or a violation of any state
12 or federal law regulating the possession, distribution, or
13 use of any controlled substance, subject to Title 37,
14 chapter 1, part 2;

15 (2) being adjudicated incompetent or seriously mentally
16 ill;

17 (3) sustaining a physical or mental disability that
18 renders further naturopathic practice dangerous to the
19 public;

20 (4) habitual intemperance with alcohol or habitual
21 addiction to the use of a controlled substance to such an
22 extent as to incapacitate the person from the proper
23 performance of professional duties;

24 (5) malpractice;

25 (6) engaging in dishonorable, unethical, or

1 unprofessional conduct, as defined by the rules of the
2 board, that may deceive, defraud, or harm the public;

3 (7) obtaining or attempting to obtain by fraudulent
4 misrepresentation a license to practice naturopathy;

5 (8) advertising by means of knowingly false,
6 misleading, or deceptive statements;

7 (9) advertising, practicing, or attempting to practice
8 under a name other than the person's own;

9 (10) using any false, fraudulent, or forged statement or
10 document or engaging in any fraudulent, deceitful,
11 dishonest, or immoral practice, as defined by the rules of
12 the board, in connection with the licensing requirements of
13 [sections 1 through 8 and 10 through 19];

14 (11) violation of a provision of [sections 1 through 8
15 and 10 through 19] or the rules adopted by the board.

16 NEW SECTION. Section 17. Denial, suspension, or
17 revocation of license -- procedure. (1) Upon receipt of a
18 complaint alleging violation of [sections 1 through 8 and 10
19 through 19] or the rules of the board, the board shall
20 investigate the complaint and, according to its findings and
21 the board's rules, shall either dismiss the complaint or
22 take appropriate action to enforce [sections 1 through 8 and
23 10 through 19].

24 (2) (a) The board shall meet or hold a hearing as
25 necessary at the time and place set pursuant to board rules.

1 The board may continue the hearing from time to time as it
2 determines necessary.

3 (b) At the hearing, the board must receive evidence
4 upon the subject under consideration and shall accord the
5 person against whom the complaint is filed a full and fair
6 opportunity to be heard in his defense.

7 (3) After consideration, the board shall adopt a
8 resolution finding that the licensee has either violated or
9 not violated the provisions of [sections 1 through 8 and 10
10 through 19] or the rules of the board.

11 (4) If the board finds that a violation has not
12 occurred, the board shall dismiss the complaint. If the
13 board finds that a violation has occurred, it shall:

14 (a) revoke his license;

15 (b) suspend his right to practice naturopathy for a
16 period not to exceed 1 year;

17 (c) suspend its judgment of revocation upon terms and
18 conditions it determines;

19 (d) place him on probation; or

20 (e) take other disciplinary action as provided by board
21 rules.

22 NEW SECTION. Section 18. Reinstatement of license
23 after period of suspension -- revocation. (1) Upon the
24 expiration of the term of the suspension, the board may
25 reinstate a license if the suspended licensee furnishes the

1 board with satisfactory evidence that he is then of good
2 moral character and conduct; is restored to good health, if
3 applicable; and has not practiced naturopathy in the state
4 during the term of suspension.

5 (2) If the board is not satisfied that the licensee is
6 then of good moral character and conduct or restored to good
7 health or if the evidence shows that he has practiced
8 naturopathy in this state during the term of suspension, the
9 board may, after notice and hearing, revoke the license.

10 NEW SECTION. Section 19. Enforcement -- penalty. (1) A
11 county attorney shall prosecute a person charged with
12 violation of any of the provisions of [sections 1 through 8
13 and 10 through 19].

14 (2) A person who violates any of the provisions of
15 [sections 1 through 8 and 10 through 19] is guilty of a
16 misdemeanor and, upon conviction, is punishable by a fine
17 not exceeding \$500 or by imprisonment in the county jail for
18 a term not to exceed 6 months, or both.

19 NEW SECTION. Section 20. Severability. If a part of
20 [this act] is invalid, all valid parts that are severable
21 from the invalid part remain in effect. If a part of [this
22 act] is invalid in one or more of its applications, the part
23 remains in effect in all valid applications that are
24 severable from the invalid applications.

25 NEW SECTION. Section 21. Codification instruction. (1)

1 [Section 9] is intended to be codified as an integral part
2 of Title 2, chapter 15, part 18, and the provisions of Title
3 2, chapter 15, part 18, apply to [section 9].

4 (2) [Sections 1 through 8 and 10 through 19] are
5 intended to be codified as an integral part of Title 37.

6 NEW SECTION. **Section 22.** Effective dates. (1)

7 [Sections 9, 10, 11, and this section] are effective on
8 passage and approval.

9 (2) [Sections 1 through 8 and 12 through 21] are
10 effective October 1, 1991.

-End-

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(4) establishing investigatory procedures for processing complaints.

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NEW SECTION. Section 2. 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 [sections 1 through 8 and 10 through 19] 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.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 8 and 10 through 19], the following definitions apply:

- (1) "Approved naturopathic medical college" means a

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2 naturopathy or naturopathic medicine that:

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

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

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

14 (2) "Board" means the board of naturopathic physicians
15 established in [section 9].

16 (3) "Department" means the department of commerce
17 provided for in 2-15-1801.

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

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

24 (i) operative, electrical, or other methods for the
25 surgical repair and care incidental to superficial

1 lacerations and abrasions, superficial lesions, and the
2 removal of foreign bodies located in the superficial
3 tissues; and

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

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

11 (6) "Natural antibiotics" means antimicrobial,
12 antifungal, and antiprotozoal agents that are naturally
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15 naturally occurring substances.

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17 care", or "naturopathy" means a system of primary health
18 care practiced by naturopathic physicians for the
19 prevention, diagnosis, and treatment of human health
20 conditions, injury, and disease. Its purpose is to promote
21 or restore health by the support and stimulation of the
22 individual's inherent self-healing processes. This is
23 accomplished through education of the patient by a
24 naturopathic physician and through the use of natural
25 therapies and therapeutic substances.

1 (8) "Naturopathic childbirth attendance" means the
2 specialty practice of natural childbirth by naturopathic
3 physicians that includes the use of natural therapeutic
4 substances, ophthalmic antibiotics, emergency medicines, and
5 minor surgery, as set by board rules. The term does not
6 include a forceps delivery, general or spinal anesthesia, or
7 a caesarean section.

8 (9) "Naturopathic physical applications" means the
9 therapeutic use by naturopathic physicians of:

10 (a) ~~the physical agents of air, water, heat, cold,~~
11 ~~sound, light, gravity, and electromagnetic nonionizing~~
12 ~~radiation; and~~

13 (b) the actions or devices of electrotherapy ELECTRICAL
14 MUSCLE STIMULATION, GALVANIC, diathermy, ultrasound,
15 ultraviolet light, CONSTITUTIONAL hydrotherapy, AND
16 naturopathic manipulative therapy, ~~and therapeutic exercise.~~

17 (10) "Naturopathic physician" means a person authorized
18 and licensed to practice naturopathic health care under
19 sections 1 through 8 and 10 through 19.

20 (11) "Topical drugs" means topical analgesics,
21 anesthetics, antiseptics, scabicides, antifungals, and
22 antibacterials.

23 NEW SECTION. Section 4. Practice of naturopathic
24 health care. (1) Naturopathic physicians may practice
25 naturopathic medicine as a limited practice of the healing

1 arts as exempted in 37-3-103(1)(n), with the following
2 restrictions. A naturopathic physician may not:

3 (a) prescribe, dispense, or administer any legend drug
4 as defined in 50-31-301 except those natural therapeutic
5 substances and drugs authorized by subsection (2) or
6 [section 10(2)];

7 (b) administer ionizing radioactive substances for
8 therapeutic purposes;

9 (c) perform surgical procedures except those minor
10 surgery procedures authorized by [sections 1 through 8 and
11 10 through 19]; or

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

16 (2) Naturopathic physicians may prescribe, dispense in
17 accordance with 37-2-104, and administer for preventive and
18 therapeutic purposes the following natural therapeutic
19 substances, drugs, and therapies:

20 (a) food, food extracts, vitamins, minerals, enzymes,
21 whole gland thyroid, botanical medicines, AND homeopathic
22 preparations, ~~and natural antibiotics;~~

23 (b) immunizations, topical drugs, health care
24 counseling, nutritional counseling and dietary therapy,
25 naturopathic physical applications, therapeutic devices, and

1 nonprescription drugs; and

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

4 (3) Naturopathic physicians may perform or order for
5 diagnostic purposes a physical or orificial examination,
6 x-ray, electrocardiogram, ultrasound, phlebotomy, clinical
7 laboratory test or examination, physiological function test,
8 and any other noninvasive diagnostic procedure commonly used
9 by physicians in general practice and as authorized by
10 [section 10(2)].

11 NEW SECTION. Section 5. License intent REQUIRED --
12 titles restricted ---license-required -- enjoining unla ful
13 practice. {i}--The--intent--of--{sections-1-through-8-and-10
14 through-19}-is--to--prohibit--any--person--not--licensed--by
15 {sections-1-through-8-and-10-through-19}-from-the-use-of-the
16 restricted--terms--that-identify-naturopathic-physicians-and
17 their-practice--The-intent-is-not-to-prohibit-a-person--from
18 any--practice--of-natural-health-care-that-may-be-considered
19 part-of-the-scope-of-practice-of-naturopathic-medicine: (1)
20 EXCEPT AS PROVIDED IN [SECTION 6], A PERSON MAY NOT PRACTICE
21 NATUROPATHY WITHOUT A VALID AND CURRENT LICENSE ISSUED BY
22 THE BOARD AS PROVIDED IN [SECTIONS 1 THROUGH 8 AND 10
23 THROUGH 19].

24 (2) (a) A naturopathic physician LICENSED UNDER
25 [SECTIONS 1 THROUGH 8 AND 10 THROUGH 19] may use the prefix

1 "Dr." or "doctor" as a title.

2 (b) Only a naturopathic physician LICENSED UNDER
3 [SECTIONS 1 THROUGH 8 AND 10 THROUGH 19] may use any or all
4 of the following titles or terms:

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

8 or

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

11 (c) The titles and terms in subsection (2)(b) identify
12 naturopathic physicians and are restricted to describing and
13 identifying licensed practitioners and their practice. A
14 person who uses these titles and terms to represent himself
15 or his practice to the public without being licensed
16 pursuant to [sections 1 through 8 and 10 through 19] is in
17 violation of [sections 1 through 8 and 10 through 19].

18 (3) A violation of [sections 1 through 8 and 10 through
19 19] may be enjoined by the district court on petition by the
20 board.

21 NEW SECTION. Section 6. Exemptions. (1) [Sections 1
22 through 8 and 10 through 19] recognize that many of the
23 therapies used by naturopathic physicians, such as the use
24 of nutritional supplements, herbs, foods, homeopathic
25 preparations, and such physical forces as heat, cold, water,

1 touch, and light, are not the exclusive privilege of
 2 naturopathic physicians, and their use, PRACTICE,
 3 PRESCRIPTION, OR ADMINISTRATION by individuals PERSONS NOT
 4 LICENSED TO PRACTICE NATUROPATHIC MEDICINE is not prohibited
 5 by [sections 1 through 8 and 10 through 19].

6 (2) [Sections 1 through 8 and 10 through 19] do not
 7 restrict or apply to the scope of practice of any other
 8 professions licensed, certified, or registered under the
 9 laws of this state.

10 NEW SECTION. Section 7. Naturopathic childbirth
 11 attendance -- certification for specialty practice --
 12 requirements. (1) A naturopathic physician may not practice
 13 naturopathic childbirth attendance without first obtaining
 14 from the board a certificate of specialty practice. The
 15 board shall adopt rules setting forth the requirements to be
 16 met in order to certify naturopathic physicians for the
 17 specialty practice of naturopathic childbirth attendance.

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

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

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

3 (i) course work in naturopathic childbirth attendance;
 4 (ii) an internship in naturopathic childbirth
 5 attendance; or

6 (iii) a preceptorship in naturopathic childbirth
 7 attendance; and

8 (c) have assisted in a minimum of ~~40~~ 50 supervised
 9 births, including prenatal and postnatal care, under the
 10 direct supervision of a licensed naturopathic, medical, or
 11 osteopathic physician with specialty training in obstetrics
 12 or natural childbirth attendance. THE 50 SUPERVISED BIRTHS
 13 REQUIRED UNDER THIS SUBSECTION (C) MUST INCLUDE 25 BIRTHS
 14 THAT DOCUMENT THE NATUROPATHIC PHYSICIAN AS THE PRIMARY
 15 BIRTH ATTENDANT.

16 NEW SECTION. Section 8. Public health duties of
 17 naturopathic physicians. Naturopathic physicians have the
 18 same authority and responsibility as other licensed
 19 physicians with regard to public health laws, reportable
 20 diseases and conditions, communicable disease control and
 21 prevention, recording of vital statistics, health and
 22 physical examinations, and local boards of health, except
 23 that the authority and responsibility is limited to
 24 activities consistent with the scope of practice described
 25 in [sections 1 through 8 and 10 through 19].

1 NEW SECTION. Section 9. Board of naturopathic

2 physicians. (1) There is a board of naturopathic physicians.

3 (2) The board consists of three members appointed by
4 the governor.

5 (3) The members are:

6 (a) one member of the public; and

7 (b) two naturopathic physicians who have been residents
8 of Montana for 3 years prior to being appointed. These
9 members must be licensed under [sections 1 through 8 and 10
10 through 19], except during the initial transition period of
11 1 year after [the effective date of sections 9, 10, 11, and
12 22].

13 (4) The board is attached to the department of commerce
14 for administrative purposes only as prescribed in 2-15-121.

15 (5) The board is designated as a quasi-judicial board
16 for purposes of 2-15-124, except that a member of the board
17 need not be an attorney licensed to practice law in this
18 state.

19 NEW SECTION. Section 10. Powers and duties of board.

20 The board shall:

21 (1) adopt rules necessary or proper to administer and
22 enforce [sections 1 through 8 and 10 through 19];

23 (2) adopt rules that specify the scope of practice of
24 naturopathic medicine stated in [section 4], that are
25 consistent with the definition of naturopathic medicine

1 provided in [section 3], and that are consistent with the
2 education provided by approved naturopathic medical
3 colleges;

4 (3) adopt rules prescribing the time, place, content
5 and passing requirements of the licensure examination, which
6 may be composed of part or all of the national naturopathic
7 physicians licensing examination;

8 (4) adopt rules that endorse equivalent licensure
9 examinations of another state or territory of the United
10 States, the District of Columbia, or a foreign country and
11 that may include licensure by reciprocity;

12 (5) adopt rules that set fees, commensurate with costs,
13 for application, examination, licensure and other
14 administrative services;

15 (6) approve naturopathic medical colleges as defined in
16 [section 3];

17 (7) adopt rules for the investigation of complaints
18 against naturopathic physicians, for hearings on complaints,
19 and to impose disciplinary action against naturopathic
20 physicians found to be in violation of [sections 1 through 8
21 and 10 through 19];

22 (8) investigate individuals falsely claiming to be
23 naturopathic physicians and act in cooperation with county
24 attorneys to enforce the provisions of [sections 1 through 8
25 and 10 through 19];

1 (9) adopt rules that establish, approve, and routinely
2 review a continuing education curriculum and accreditation
3 for naturopathic physicians that is required for license
4 renewal;

5 (10) issue certificates of specialty practice;

6 (11) issue temporary licenses as provided for in
7 [section 13]; and

8 (12) adopt rules that, in the discretion of the board,
9 appropriately restrict licenses to a limited scope of
10 practice of naturopathic medicine, which may exclude the use
11 of minor surgery, natural antibiotics, or the legend drugs
12 allowed under [section 4].

13 NEW SECTION. Section 11. Board meetings. (1) The board
14 shall meet at least once annually.

15 (2) Special meetings may be called by any two board
16 members or the chairman.

17 (3) All members must be present in order to conduct
18 board business.

19 NEW SECTION. Section 12. Qualifications for licensure.

20 A person is qualified to be licensed to practice
21 naturopathic medicine in Montana if he:

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

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

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

3 NEW SECTION. Section 13. Application for licensure --
4 examination -- temporary license. (1) A person who desires a
5 license to practice naturopathic medicine in Montana shall
6 apply to the department in the manner and form prescribed by
7 the board. The application must be accompanied by the
8 license fees, the application fees, and the documents,
9 affidavits, and certificates necessary to establish that the
10 applicant possesses the qualifications prescribed by
11 [section 12]. The burden of proof is on the applicant, but
12 the board may make an independent investigation to determine
13 whether the applicant possesses the necessary qualifications
14 and whether the applicant has committed unprofessional
15 conduct that would be basis for licensure denial. At the
16 board's request, the applicant shall provide necessary
17 authorizations for the release of records and information
18 pertinent to the board's investigation.

19 (2) A person who applies for licensure but who has not
20 passed a licensure examination prescribed or endorsed by the
21 board shall apply to the board for authorization to take the
22 prescribed licensure examination. The application for
23 examination must be accompanied by the examination fee. If
24 the board finds that all other qualifications for licensure
25 except that of examination have been met, the board shall

1 authorize the applicant to take the licensure examination.

2 (3) A person who has actively engaged in the practice
3 of naturopathic medicine in Montana prior to [the effective
4 date of sections 9, 10, 11, and 22] and who is a graduate of
5 an approved naturopathic medical college may continue to
6 practice naturopathic medicine until the board reviews his
7 qualifications if he applies to and receives from the
8 department a temporary license by October 1, 1991. The
9 department shall issue a temporary license to a qualified
10 applicant. The board shall, within 6 months of October 1,
11 1991, review the qualifications of each temporary licensee
12 and either authorize the department to issue a license to a
13 person qualified under [section 12 or 14] or extend the
14 temporary license for a term of no more than 1 year to allow
15 the practitioner to pass the prescribed examination. A
16 person who is not a graduate of an approved naturopathic
17 medical college may not be granted a temporary license.

18 NEW SECTION. Section 14. Licensure by endorsement. (1)
19 The board may authorize the department to issue to an
20 applicant a license by endorsement if the applicant produces
21 evidence satisfactory to the board of:

22 (a) a valid license or certificate issued to the
23 applicant on the basis of an examination by an examining
24 board under the laws of another state or territory of the
25 United States, the District of Columbia, or a foreign

1 country, whose licensing standards at the time the license
2 or certificate was issued were, in the judgment and
3 according to the rules of the board, acceptable for
4 endorsement for granting a license to practice naturopathic
5 medicine; or

6 (b) (i) an inactive license or other certificate of
7 examination issued to or for the applicant by a naturopathic
8 examining board under the laws of another state or territory
9 of the United States, the District of Columbia, or a foreign
10 country, whose examination standards at the time the license
11 was granted or the examination was passed were acceptable
12 for endorsement in the judgment and according to the rules
13 of the board;

14 (ii) the fact that he has not been disciplined or had
15 his inactive license suspended or revoked for malpractice;

16 (iii) the fact that he has been actively engaged in the
17 practice of naturopathic medicine for at least 1 year in a
18 state or territory of the United States, the District of
19 Columbia, or a foreign country, that does not license
20 naturopathic physicians;

21 (iv) the fact that he is a graduate of an approved
22 naturopathic medical college; and

23 (v) his good moral character.

24 NEW SECTION. Section 15. Issuance of license. If the
25 board determines that an applicant possesses the

1 qualifications required by [section 12], the department
 2 shall issue a license to the applicant to practice
 3 naturopathic medicine.

4 NEW SECTION. Section 16. Denial, suspension, or
 5 revocation of license -- grounds. The board may refuse to
 6 issue a license or may suspend or revoke a license issued
 7 pursuant to [sections 1 through 8 and 10 through 19] or take
 8 disciplinary action against licensees for one or more of the
 9 following causes:

10 (1) conviction, as shown by a certified copy of the
 11 record of the court, of a felony or a violation of any state
 12 or federal law regulating the possession, distribution, or
 13 use of any controlled substance, subject to Title 37,
 14 chapter 1, part 2;

15 (2) being adjudicated incompetent or seriously mentally
 16 ill;

17 (3) sustaining a physical or mental disability that
 18 renders further naturopathic practice dangerous to the
 19 public;

20 (4) habitual intemperance with alcohol or habitual
 21 addiction to the use of a controlled substance to such an
 22 extent as to incapacitate the person from the proper
 23 performance of professional duties;

24 (5) malpractice;

25 (6) engaging in dishonorable, unethical, or

1 unprofessional conduct, as defined by the rules of the
 2 board, that may deceive, defraud, or harm the public;

3 (7) obtaining or attempting to obtain by fraudulent
 4 misrepresentation a license to practice naturopathy;

5 (8) advertising by means of knowingly false,
 6 misleading, or deceptive statements;

7 (9) advertising, practicing, or attempting to practice
 8 under a name other than the person's own;

9 (10) using any false, fraudulent, or forged statement or
 10 document or engaging in any fraudulent, deceitful,
 11 dishonest, or immoral practice, as defined by the rules of
 12 the board, in connection with the licensing requirements of
 13 [sections 1 through 8 and 10 through 19];

14 (11) violation of a provision of [sections 1 through 8
 15 and 10 through 19] or the rules adopted by the board.

16 NEW SECTION. Section 17. Denial, suspension, or
 17 revocation of license -- procedure. (1) Upon receipt of a
 18 complaint alleging violation of [sections 1 through 8 and 10
 19 through 19] or the rules of the board, the board shall
 20 investigate the complaint and, according to its findings and
 21 the board's rules, shall either dismiss the complaint or
 22 take appropriate action to enforce [sections 1 through 8 and
 23 10 through 19].

24 (2) (a) The board shall meet or hold a hearing as
 25 necessary at the time and place set pursuant to board rules.

1 The board may continue the hearing from time to time as it
2 determines necessary.

3 (b) At the hearing, the board must receive evidence
4 upon the subject under consideration and shall accord the
5 person against whom the complaint is filed a full and fair
6 opportunity to be heard in his defense.

7 (3) After consideration, the board shall adopt a
8 resolution finding that the licensee has either violated or
9 not violated the provisions of [sections 1 through 8 and 10
10 through 19] or the rules of the board.

11 (4) If the board finds that a violation has not
12 occurred, the board shall dismiss the complaint. If the
13 board finds that a violation has occurred, it shall:

14 (a) revoke his license;

15 (b) suspend his right to practice naturopathy for a
16 period not to exceed 1 year;

17 (c) suspend its judgment of revocation upon terms and
18 conditions it determines;

19 (d) place him on probation; or

20 (e) take other disciplinary action as provided by board
21 rules.

22 NEW SECTION. Section 18. Reinstatement of license
23 after period of suspension -- revocation. (1) Upon the
24 expiration of the term of the suspension, the board may
25 reinstate a license if the suspended licensee furnishes the

1 board with satisfactory evidence that he is then of good
2 moral character and conduct; is restored to good health, if
3 applicable; and has not practiced naturopathy in the state
4 during the term of suspension.

5 (2) If the board is not satisfied that the licensee is
6 then of good moral character and conduct or restored to good
7 health or if the evidence shows that he has practiced
8 naturopathy in this state during the term of suspension, the
9 board may, after notice and hearing, revoke the license.

10 NEW SECTION. Section 19. Enforcement -- penalty. (1) A
11 county attorney shall prosecute a person charged with
12 violation of any of the provisions of [sections 1 through 8
13 and 10 through 19].

14 (2) A person who violates any of the provisions of
15 [sections 1 through 8 and 10 through 19] is guilty of a
16 misdemeanor and, upon conviction, is punishable by a fine
17 not exceeding \$500 or by imprisonment in the county jail for
18 a term not to exceed 6 months, or both.

19 NEW SECTION. Section 20. Severability. If a part of
20 [this act] is invalid, all valid parts that are severable
21 from the invalid part remain in effect. If a part of [this
22 act] is invalid in one or more of its applications, the part
23 remains in effect in all valid applications that are
24 severable from the invalid applications.

25 NEW SECTION. Section 21. Codification instruction. (1)

1 [Section 9] is intended to be codified as an integral part
2 of Title 2, chapter 15, part 18, and the provisions of Title
3 2, chapter 15, part 18, apply to [section 9].

4 (2) [Sections 1 through 8 and 10 through 19] are
5 intended to be codified as an integral part of Title 37.

6 NEW SECTION. Section 22. Effective dates. (1)
7 [Sections 9, 10, 11, and this section] are effective on
8 passage and approval.

9 (2) [Sections 1 through 8 and 12 through 21] are
10 effective October 1, 1991.

-End-

HOUSE STANDING COMMITTEE REPORT

February 11, 1991
Page 2 of 2

February 11, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Human Services and Aging report that Senate Bill 66 (third reading copy -- blue) be concurred in as amended .

Signed: Angela Russell
Angela Russell, Chairman

And, that such amendments read:

1. Page 4, line 9.
Strike: "major"

2. Page 4, line 11.
Following: line 10
Strike: subsection (6) in its entirety
renumber: subsequent subsections

3. Page 5, line 4.
Strike: "emergency medicines"
Insert: "oxytocin (pitocin)"

4. Page 6, lines 4 through 6.
Following: "except"
Strike: remainder of line 4, and lines 5 and 6 in their entirety
Insert: "for whole gland thyroid, homeopathic preparations, and oxytocin (pitocin)"

5. Page 6, line 11.
Strike: "or"

6. Page 6.
Following: line 11
Insert: "(d) perform specific adjustments or manipulations of the spinal column, as defined in 37-12-101; or"
Renumber: subsequent subsections

7. Page 6, line 16.
Following: "prescribe"
Strike: the remainder of line 16 , and line 17 through "37-2-104"

8. Page 6, line 21.
Strike: "AND"

9. Page 6, line 22.
Following: "antibiotics"
Insert: ", and oxytocin (pitocin)"

10. Page 6, line 23.
Strike: "immunizations,"

11. Page 7.
Following: line 10
Insert: "(4) Except as hereinafter 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) of this section. If the place where a naturopath maintains an office for the practice of naturopathy is more than 10 miles from a place of business which sells and dispenses the drugs a naturopath may prescribe under subsection (2) of this section, then, to the extent such drugs are not available within 10 miles of the naturopath's office, the naturopath may sell such drugs that are unavailable."

12. Page 13, line 11.
Following: "surgery,"
Strike: "natural antibiotics,"

Conference Committee
on Senate Bill No. 66
Report No. 1, March 8, 1991

Page 1 of 1

Mr. President and Mr. Speaker:

We, your Conference Committee on Senate Bill No. 66, met and considered on March 8, 1991:

1. House Committee on Human Services and Aging Amendments to the third reading copy, dated February 11, 1991; and
2. House Committee of the Whole Amendments to the third reading copy, dated February 13, 1991.

We recommend that Senate Bill No. 66 (reference copy - salmon as amended) be amended as follows:

1. Page 6, line 7.


Following: "(PITOCIN)"

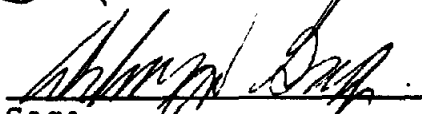
Insert: ", provided that naturopathic physicians may administer and, may not prescribe or dispense, oxytocin (pitocin)"

And that this Conference Committee report be adopted.


For the Senate:



Chair, Halligan


Rea

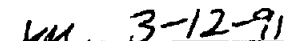

Gage

For the House:


Chair, Bradley


Becker


R. Johnson

 3-12-91
And. Coord.

SB 3-12-91 7:55
Sec. of Senate

ADOPT

REJECT

CCR #1
5B66

1 SENATE BILL NO. 66
 2 INTRODUCED BY HALLIGAN, HARDING, RYE, SVRCEK,
 3 YELLOWTAIL, PAVLOVICH, KADAS, BRADLEY
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
 6 LICENSURE OF NATUROPATHIC PHYSICIANS; ESTABLISHING A BOARD
 7 OF NATUROPATHIC PHYSICIANS; PROVIDING FOR EXEMPTIONS;
 8 PROVIDING FOR SPECIALTY PRACTICE CERTIFICATION; PROVIDING
 9 CRIMINAL PENALTIES AND CIVIL REMEDIES; GRANTING THE BOARD
 10 RULEMAKING AUTHORITY; AND PROVIDING EFFECTIVE DATES."

11
 12 STATEMENT OF INTENT
 13 A statement of intent is required for this bill because
 14 [sections 7 and 10] grant to the board of naturopathic
 15 physicians rulemaking authority to implement the provisions
 16 of this bill. It is the intent of the legislature that the
 17 board, at a minimum, adopt rules:
 18 (1) specifying the scope of practice of naturopathic
 19 medicine;
 20 (2) establishing license application and examination
 21 procedures, fees, and criteria for minimal educational and
 22 clinical requirements;
 23 (3) developing procedures for the issuance, renewal,
 24 suspension, revocation, and reciprocity of licenses and
 25 procedures for certificates of specialty practice; and

1 (4) establishing investigatory procedures for
 2 processing complaints.

3
 4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

5 NEW SECTION. **Section 1.** Short title. [Sections 1
 6 through 8 and 10 through 19] may be cited as the
 7 "Naturopathic Health Care Practice Act".

8 NEW SECTION. **Section 2.** Legislative finding --
 9 **purpose.** (1) The legislature finds that a significant number
 10 of Montanans choose naturopathic medicine for their health
 11 care needs and declares that naturopathic medicine is a
 12 distinct health care profession that affects the public
 13 health, safety, and welfare and contributes to public
 14 freedom of choice in health care.

15 (2) The purpose of [sections 1 through 8 and 10 through
 16 19] is to provide standards for the licensing and regulation
 17 of naturopathic physicians in order to protect the public
 18 health, safety, and welfare; to ensure that naturopathic
 19 health care by qualified naturopathic physicians is
 20 available to the people of Montana; and to provide a means
 21 of identifying qualified naturopathic physicians.

22 NEW SECTION. **Section 3.** Definitions. As used in
 23 [sections 1 through 8 and 10 through 19], the following
 24 definitions apply:

25 (1) "Approved naturopathic medical college" means a



1 college or AND program granting the degree of doctor of
2 naturopathy or naturopathic medicine that:

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

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

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

14 (2) "Board" means the board of naturopathic physicians
15 established in [section 9].

16 (3) "Department" means the department of commerce
17 provided for in 2-15-1801.

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

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

24 (i) operative, electrical, or other methods for the
25 surgical repair and care incidental to superficial

1 lacerations and abrasions, superficial lesions, and the
2 removal of foreign bodies located in the superficial
3 tissues; and

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

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

11 ~~(6) "Natural antibiotics" means antimicrobial~~
12 ~~antifungal, and antiprotozoal agents that are naturally~~
13 ~~occurring substances or manufactured substances that are~~
14 ~~substantially identical as determined by board rules, to~~
15 ~~naturally occurring substances.~~

16 ~~(7)~~(6) "Naturopathic medicine", "naturopathic health
17 care", or "naturopathy" means a system of primary health
18 care practiced by naturopathic physicians for the
19 prevention, diagnosis, and treatment of human health
20 conditions, injury, and disease. Its purpose is to promote
21 or restore health by the support and stimulation of the
22 individual's inherent self-healing processes. This is
23 accomplished through education of the patient by a
24 naturopathic physician and through the use of natural
25 therapies and therapeutic substances.

1 †0†(7) "Naturopathic childbirth attendance" means the
2 specialty practice of natural childbirth by naturopathic
3 physicians that includes the use of natural therapeutic
4 substances, ophthalmic antibiotics, emergency--medicines
5 OXYTOCIN (PITOCIN), and minor surgery, as set by board
6 rules. The term does not include a forceps delivery, general
7 or spinal anesthesia, or a caesarean section.

8 †9†(8) "Naturopathic physical applications" means the
9 therapeutic use by naturopathic physicians of:

10 †a†--the-physical-agents--of--air,--water,--heat,--cold,
11 sound,--light,--gravity,--and--electromagnetic--nonionizing
12 radiation;--and

13 †b† the actions or devices of electrotherapy ELECTRICAL
14 MUSCLE STIMULATION, GALVANIC, diathermy, ultrasound,
15 ultraviolet light, CONSTITUTIONAL hydrotherapy, AND
16 naturopathic manipulative therapy,--and--therapeutic-exercise.

17 †10†(9) "Naturopathic physician" means a person
18 authorized and licensed to practice naturopathic health care
19 under sections 1 through 8 and 10 through 19.

20 †11†(10) "Topical drugs" means topical analgesics,
21 anesthetics, antiseptics, scabicides, antifungals, and
22 antibacterials.

23 **NEW SECTION. Section 4. Practice of naturopathic**
24 **health care.** (1) Naturopathic physicians may practice
25 naturopathic medicine as a limited practice of the healing

1 arts as exempted in 37-3-103(1)(n), with the following
2 restrictions. A naturopathic physician may not:

3 (a) prescribe, dispense, or administer any legend drug
4 as defined in 50-31-301 except ~~those natural therapeutic~~
5 ~~substances--and--drugs--authorized--by--subsection--(2)--or~~
6 ~~{section--10(2)}~~; FOR WHOLE GLAND THYROID, HOMEOPATHIC
7 PREPARATIONS, AND OXYTOCIN (PITOCIN);

8 (b) administer ionizing radioactive substances for
9 therapeutic purposes;

10 (c) perform surgical procedures except those minor
11 surgery procedures authorized by {sections 1 through 8 and
12 10 through 19}; or OR

13 †B†--PERFORM SPECIFIC ADJUSTMENTS--OR--MANIPULATIONS--OF
14 THE SPINAL COLUMN, AS PROVIDED IN 37-12-101, OR

15 †d††E†(D) claim to practice any licensed health care
16 profession or system of treatment other than naturopathic
17 medicine unless holding a separate license in that
18 profession.

19 (2) Naturopathic physicians may prescribe,--dispense--in
20 accordance--with-37-2-104, and administer for preventive and
21 therapeutic purposes the following natural therapeutic
22 substances, drugs, and therapies:

23 (a) food, food extracts, vitamins, minerals, enzymes,
24 whole gland thyroid, botanical medicines, AND homeopathic
25 preparations,--and--natural--antibiotics, AND OXYTOCIN

1 (PITOCIN);

2 (b) ~~immunizations~~; topical drugs, health care
3 counseling, nutritional counseling and dietary therapy,
4 naturopathic physical applications, therapeutic devices, and
5 nonprescription drugs; and

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

8 (3) Naturopathic physicians may perform or order for
9 diagnostic purposes a physical or orificial examination,
10 ~~x-ray, electrocardiogram~~, ultrasound, phlebotomy, clinical
11 laboratory test or examination, physiological function test,
12 and any other noninvasive diagnostic procedure commonly used
13 by physicians in general practice and as authorized by
14 [section 10(2)].

15 (4) EXCEPT AS PROVIDED BY THIS SUBSECTION, IT IS
16 UNLAWFUL FOR A NATUROPATH TO ENGAGE, DIRECTLY OR INDIRECTLY,
17 IN THE DISPENSING OF ANY DRUGS THAT A NATUROPATH IS
18 AUTHORIZED TO PRESCRIBE BY SUBSECTION (2). IF THE PLACE
19 WHERE A NATUROPATH MAINTAINS AN OFFICE FOR THE PRACTICE OF
20 NATUROPATHY IS MORE THAN 10 MILES FROM A PLACE OF BUSINESS
21 THAT SELLS AND DISPENSES THE DRUGS A NATUROPATH MAY
22 PRESCRIBE UNDER SUBSECTION (2), THEN, TO THE EXTENT SUCH
23 DRUGS ARE NOT AVAILABLE WITHIN 10 MILES OF THE NATUROPATH'S
24 OFFICE, THE NATUROPATH MAY SELL SUCH DRUGS THAT ARE
25 UNAVAILABLE.

1 NEW SECTION. Section 5. License intent REQUIRED --
2 titles restricted ---license-required -- enjoining unlawful
3 practice. (i)---The---intent---of---{sections-1-through-8-and-10
4 through-19}---is---to---prohibit---any---person---not---licensed---by
5 {sections-1-through-8-and-10-through-19}---from---the---new---of---the
6 restricted---terms---that-identify-naturopathic-physicians-and
7 their-practice.---The-intent-is-not-to-prohibit-a-person---from
8 any---practice---of-natural-health-care-that-may-be-considered
9 part-of-the-scope-of-practice-of-naturopathic-medicine. (1)
10 EXCEPT AS PROVIDED IN [SECTION 6], A PERSON MAY NOT PRACTICE
11 NATUROPATHY WITHOUT A VALID AND CURRENT LICENSE ISSUED BY
12 THE BOARD AS PROVIDED IN [SECTIONS 1 THROUGH 8 AND 10
13 THROUGH 19].

14 (2) (a) A naturopathic physician LICENSED UNDER
15 [SECTIONS 1 THROUGH 8 AND 10 THROUGH 19] may use the prefix
16 "Dr." or "doctor" as a title.

17 (b) Only a naturopathic physician LICENSED UNDER
18 [SECTIONS 1 THROUGH 8 AND 10 THROUGH 19] may use any or all
19 of the following titles or terms:

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

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

1 (c) The titles and terms in subsection (2)(b) identify
 2 naturopathic physicians and are restricted to describing and
 3 identifying licensed practitioners and their practice. A
 4 person who uses these titles and terms to represent himself
 5 or his practice to the public without being licensed
 6 pursuant to [sections 1 through 8 and 10 through 19] is in
 7 violation of [sections 1 through 8 and 10 through 19].

8 (3) A violation of [sections 1 through 8 and 10 through
 9 19] may be enjoined by the district court on petition by the
 10 board.

11 NEW SECTION. Section 6. Exemptions. (1) [Sections 1
 12 through 8 and 10 through 19] recognize that many of the
 13 therapies used by naturopathic physicians, such as the use
 14 of nutritional supplements, herbs, foods, homeopathic
 15 preparations, and such physical forces as heat, cold, water,
 16 touch, and light, are not the exclusive privilege of
 17 naturopathic physicians, and their use, PRACTICE,
 18 PRESCRIPTION, OR ADMINISTRATION by individuals PERSONS NOT
 19 LICENSED TO PRACTICE NATUROPATHIC MEDICINE is not prohibited
 20 by [sections 1 through 8 and 10 through 19].

21 (2) [Sections 1 through 8 and 10 through 19] do not
 22 restrict or apply to the scope of practice of any other
 23 professions licensed, certified, or registered under the
 24 laws of this state.

25 NEW SECTION. Section 7. Naturopathic childbirth

1 attendance -- certification for specialty practice --
 2 requirements. (1) A naturopathic physician may not practice
 3 naturopathic childbirth attendance without first obtaining
 4 from the board a certificate of specialty practice. The
 5 board shall adopt rules setting forth the requirements to be
 6 met in order to certify naturopathic physicians for the
 7 specialty practice of naturopathic childbirth attendance.

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

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

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

18 (i) course work in naturopathic childbirth attendance;

19 (ii) an internship in naturopathic childbirth
 20 attendance; or

21 (iii) a preceptorship in naturopathic childbirth
 22 attendance; and

23 (c) have assisted in a minimum of ~~40~~ 50 supervised
 24 births, including prenatal and postnatal care, under the
 25 direct supervision of a licensed naturopathic, medical, or

1 osteopathic physician with specialty training in obstetrics
 2 or natural childbirth attendance. THE 50 SUPERVISED BIRTHS
 3 REQUIRED UNDER THIS SUBSECTION (C) MUST INCLUDE 25 BIRTHS
 4 THAT DOCUMENT THE NATUROPATHIC PHYSICIAN AS THE PRIMARY
 5 BIRTH ATTENDANT.

6 NEW SECTION. Section 8. Public health duties of
 7 naturopathic physicians. Naturopathic physicians have the
 8 same authority and responsibility as other licensed
 9 physicians with regard to public health laws, reportable
 10 diseases and conditions, communicable disease control and
 11 prevention, recording of vital statistics, health and
 12 physical examinations, and local boards of health, except
 13 that the authority and responsibility is limited to
 14 activities consistent with the scope of practice described
 15 in [sections 1 through 8 and 10 through 19].

16 NEW SECTION. Section 9. Board of naturopathic
 17 physicians. (1) There is a board of naturopathic physicians.
 18 (2) The board consists of three members appointed by
 19 the governor.
 20 (3) The members are:
 21 (a) one member of the public; and
 22 (b) two naturopathic physicians who have been residents
 23 of Montana for 3 years prior to being appointed. These
 24 members must be licensed under [sections 1 through 8 and 10
 25 through 19], except during the initial transition period of

1 1 year after [the effective date of sections 9, 10, 11, and
 2 22].

3 (4) The board is attached to the department of commerce
 4 for administrative purposes only as prescribed in 2-15-121.

5 (5) The board is designated as a quasi-judicial board
 6 for purposes of 2-15-124, except that a member of the board
 7 need not be an attorney licensed to practice law in this
 8 state.

9 NEW SECTION. Section 10. Powers and duties of board.
 10 The board shall:

11 (1) adopt rules necessary or proper to administer and
 12 enforce [sections 1 through 8 and 10 through 19];

13 (2) adopt rules that specify the scope of practice of
 14 naturopathic medicine stated in [section 4], that are
 15 consistent with the definition of naturopathic medicine
 16 provided in [section 3], and that are consistent with the
 17 education provided by approved naturopathic medical
 18 colleges;

19 (3) adopt rules prescribing the time, place, content
 20 and passing requirements of the licensure examination, which
 21 may be composed of part or all of the national naturopathic
 22 physicians licensing examination;

23 (4) adopt rules that endorse equivalent licensure
 24 examinations of another state or territory of the United
 25 States, the District of Columbia, or a foreign country and

1 that may include licensure by reciprocity;

2 (5) adopt rules that set fees, commensurate with costs,
3 for application, examination, licensure and other
4 administrative services;

5 (6) approve naturopathic medical colleges as defined in
6 [section 3];

7 (7) adopt rules for the investigation of complaints
8 against naturopathic physicians, for hearings on complaints,
9 and to impose disciplinary action against naturopathic
10 physicians found to be in violation of [sections 1 through 8
11 and 10 through 19];

12 (8) investigate individuals falsely claiming to be
13 naturopathic physicians and act in cooperation with county
14 attorneys to enforce the provisions of [sections 1 through 8
15 and 10 through 19];

16 (9) adopt rules that establish, approve, and routinely
17 review a continuing education curriculum and accreditation
18 for naturopathic physicians that is required for license
19 renewal;

20 (10) issue certificates of specialty practice;

21 (11) issue temporary licenses as provided for in
22 [section 13]; and

23 (12) adopt rules that, in the discretion of the board,
24 appropriately restrict licenses to a limited scope of
25 practice of naturopathic medicine, which may exclude the use

1 of minor surgery, ~~natural antibiotics~~, or the legend drugs
2 allowed under [section 4].

3 NEW SECTION. Section 11. Board meetings. (1) The board
4 shall meet at least once annually.

5 (2) Special meetings may be called by any two board
6 members or the chairman.

7 (3) All members must be present in order to conduct
8 board business.

9 NEW SECTION. Section 12. Qualifications for licensure.
10 A person is qualified to be licensed to practice
11 naturopathic medicine in Montana if he:

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

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

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

18 NEW SECTION. Section 13. Application for licensure --
19 examination -- temporary license. (1) A person who desires a
20 license to practice naturopathic medicine in Montana shall
21 apply to the department in the manner and form prescribed by
22 the board. The application must be accompanied by the
23 license fees, the application fees, and the documents,
24 affidavits, and certificates necessary to establish that the
25 applicant possesses the qualifications prescribed by

1 [section 12]. The burden of proof is on the applicant, but
 2 the board may make an independent investigation to determine
 3 whether the applicant possesses the necessary qualifications
 4 and whether the applicant has committed unprofessional
 5 conduct that would be basis for licensure denial. At the
 6 board's request, the applicant shall provide necessary
 7 authorizations for the release of records and information
 8 pertinent to the board's investigation.

9 (2) A person who applies for licensure but who has not
 10 passed a licensure examination prescribed or endorsed by the
 11 board shall apply to the board for authorization to take the
 12 prescribed licensure examination. The application for
 13 examination must be accompanied by the examination fee. If
 14 the board finds that all other qualifications for licensure
 15 except that of examination have been met, the board shall
 16 authorize the applicant to take the licensure examination.

17 (3) A person who has actively engaged in the practice
 18 of naturopathic medicine in Montana prior to [the effective
 19 date of sections 9, 10, 11, and 22] and who is a graduate of
 20 an approved naturopathic medical college may continue to
 21 practice naturopathic medicine until the board reviews his
 22 qualifications if he applies to and receives from the
 23 department a temporary license by October 1, 1991. The
 24 department shall issue a temporary license to a qualified
 25 applicant. The board shall, within 6 months of October 1,

1 1991, review the qualifications of each temporary licensee
 2 and either authorize the department to issue a license to a
 3 person qualified under [section 12 or 14] or extend the
 4 temporary license for a term of no more than 1 year to allow
 5 the practitioner to pass the prescribed examination. A
 6 person who is not a graduate of an approved naturopathic
 7 medical college may not be granted a temporary license.

8 NEW SECTION. **Section 14. Licensure by endorsement.** (1)
 9 The board may authorize the department to issue to an
 10 applicant a license by endorsement if the applicant produces
 11 evidence satisfactory to the board of:

12 (a) a valid license or certificate issued to the
 13 applicant on the basis of an examination by an examining
 14 board under the laws of another state or territory of the
 15 United States, the District of Columbia, or a foreign
 16 country, whose licensing standards at the time the license
 17 or certificate was issued were, in the judgment and
 18 according to the rules of the board, acceptable for
 19 endorsement for granting a license to practice naturopathic
 20 medicine; or

21 (b) (i) an inactive license or other certificate of
 22 examination issued to or for the applicant by a naturopathic
 23 examining board under the laws of another state or territory
 24 of the United States, the District of Columbia, or a foreign
 25 country, whose examination standards at the time the license

1 was granted or the examination was passed were acceptable
 2 for endorsement in the judgment and according to the rules
 3 of the board;

4 (ii) the fact that he has not been disciplined or had
 5 his inactive license suspended or revoked for malpractice;

6 (iii) the fact that he has been actively engaged in the
 7 practice of naturopathic medicine for at least 1 year in a
 8 state or territory of the United States, the District of
 9 Columbia, or a foreign country, that does not license
 10 naturopathic physicians;

11 (iv) the fact that he is a graduate of an approved
 12 naturopathic medical college; and

13 (v) his good moral character.

14 NEW SECTION. Section 15. Issuance of license. If the
 15 board determines that an applicant possesses the
 16 qualifications required by [section 12], the department
 17 shall issue a license to the applicant to practice
 18 naturopathic medicine.

19 NEW SECTION. Section 16. Denial, suspension, or
 20 revocation of license -- grounds. The board may refuse to
 21 issue a license or may suspend or revoke a license issued
 22 pursuant to [sections 1 through 8 and 10 through 19] or take
 23 disciplinary action against licensees for one or more of the
 24 following causes:

25 (1) conviction, as shown by a certified copy of the

1 record of the court, of a felony or a violation of any state
 2 or federal law regulating the possession, distribution, or
 3 use of any controlled substance, subject to Title 37,
 4 chapter 1, part 2;

5 (2) being adjudicated incompetent or seriously mentally
 6 ill;

7 (3) sustaining a physical or mental disability that
 8 renders further naturopathic practice dangerous to the
 9 public;

10 (4) habitual intemperance with alcohol or habitual
 11 addiction to the use of a controlled substance to such an
 12 extent as to incapacitate the person from the proper
 13 performance of professional duties;

14 (5) malpractice;

15 (6) engaging in dishonorable, unethical, or
 16 unprofessional conduct, as defined by the rules of the
 17 board, that may deceive, defraud, or harm the public;

18 (7) obtaining or attempting to obtain by fraudulent
 19 misrepresentation a license to practice naturopathy;

20 (8) advertising by means of knowingly false,
 21 misleading, or deceptive statements;

22 (9) advertising, practicing, or attempting to practice
 23 under a name other than the person's own;

24 (10) using any false, fraudulent, or forged statement or
 25 document or engaging in any fraudulent, deceitful,

1 dishonest, or immoral practice, as defined by the rules of
2 the board, in connection with the licensing requirements of
3 [sections 1 through 8 and 10 through 19];

4 (11) violation of a provision of [sections 1 through 8
5 and 10 through 19] or the rules adopted by the board.

6 NEW SECTION. Section 17. Denial, suspension, or
7 revocation of license -- procedure. (1) Upon receipt of a
8 complaint alleging violation of [sections 1 through 8 and 10
9 through 19] or the rules of the board, the board shall
10 investigate the complaint and, according to its findings and
11 the board's rules, shall either dismiss the complaint or
12 take appropriate action to enforce [sections 1 through 8 and
13 10 through 19].

14 (2) (a) The board shall meet or hold a hearing as
15 necessary at the time and place set pursuant to board rules.
16 The board may continue the hearing from time to time as it
17 determines necessary.

18 (b) At the hearing, the board must receive evidence
19 upon the subject under consideration and shall accord the
20 person against whom the complaint is filed a full and fair
21 opportunity to be heard in his defense.

22 (3) After consideration, the board shall adopt a
23 resolution finding that the licensee has either violated or
24 not violated the provisions of [sections 1 through 8 and 10
25 through 19] or the rules of the board.

1 (4) If the board finds that a violation has not
2 occurred, the board shall dismiss the complaint. If the
3 board finds that a violation has occurred, it shall:

4 (a) revoke his license;

5 (b) suspend his right to practice naturopathy for a
6 period not to exceed 1 year;

7 (c) suspend its judgment of revocation upon terms and
8 conditions it determines;

9 (d) place him on probation; or

10 (e) take other disciplinary action as provided by board
11 rules.

12 NEW SECTION. Section 18. Reinstatement of license
13 after period of suspension -- revocation. (1) Upon the
14 expiration of the term of the suspension, the board may
15 reinstate a license if the suspended licensee furnishes the
16 board with satisfactory evidence that he is then of good
17 moral character and conduct; is restored to good health, if
18 applicable; and has not practiced naturopathy in the state
19 during the term of suspension.

20 (2) If the board is not satisfied that the licensee is
21 then of good moral character and conduct or restored to good
22 health or if the evidence shows that he has practiced
23 naturopathy in this state during the term of suspension, the
24 board may, after notice and hearing, revoke the license.

25 NEW SECTION. Section 19. Enforcement -- penalty. (1) A

1 county attorney shall prosecute a person charged with
2 violation of any of the provisions of [sections 1 through 8
3 and 10 through 19].

4 (2) A person who violates any of the provisions of
5 [sections 1 through 8 and 10 through 19] is guilty of a
6 misdemeanor and, upon conviction, is punishable by a fine
7 not exceeding \$500 or by imprisonment in the county jail for
8 a term not to exceed 6 months, or both.

9 NEW SECTION. Section 20. Severability. If a part of
10 [this act] is invalid, all valid parts that are severable
11 from the invalid part remain in effect. If a part of [this
12 act] is invalid in one or more of its applications, the part
13 remains in effect in all valid applications that are
14 severable from the invalid applications.

15 NEW SECTION. Section 21. Codification instruction. (1)
16 [Section 9] is intended to be codified as an integral part
17 of Title 2, chapter 15, part 18, and the provisions of Title
18 2, chapter 15, part 18, apply to [section 9].

19 (2) [Sections 1 through 8 and 10 through 19] are
20 intended to be codified as an integral part of Title 37.

21 NEW SECTION. Section 22. Effective dates. (1)
22 [Sections 9, 10, 11, and this section] are effective on
23 passage and approval.

24 (2) [Sections 1 through 8 and 12 through 21] are
25 effective October 1, 1991.

-End-

SENATE BILL NO. 66

INTRODUCED BY HALLIGAN, HARDING, RYE, SVRCEK,
YELLOWTAIL, PAVLOVICH, KADAS, BRADLEY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE LICENSURE OF NATUROPATHIC PHYSICIANS; ESTABLISHING A BOARD OF NATUROPATHIC PHYSICIANS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR SPECIALTY PRACTICE CERTIFICATION; PROVIDING CRIMINAL PENALTIES AND CIVIL REMEDIES; GRANTING THE BOARD RULEMAKING AUTHORITY; AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

A statement of intent is required for this bill because [sections 7 and 10] grant to the board of naturopathic physicians 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.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 8 and 10 through 19] may be cited as the "Naturopathic Health Care Practice Act".

NEW SECTION. Section 2. 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 [sections 1 through 8 and 10 through 19] 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.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 8 and 10 through 19], the following definitions apply:

(1) "Approved naturopathic medical college" means a



1 college ~~or~~ AND program granting the degree of doctor of
2 naturopathy or naturopathic medicine that:

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

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

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

14 (2) "Board" means the board of naturopathic physicians
15 established in [section 9].

16 (3) "Department" means the department of commerce
17 provided for in 2-15-1801.

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

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

24 (i) operative, electrical, or other methods for the
25 surgical repair and care incidental to superficial

1 lacerations and abrasions, superficial lesions, and the
2 removal of foreign bodies located in the superficial
3 tissues; and

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

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

11 ~~(6) "Natural antibiotics" means antimicrobial,
12 antifungal, and antiprotozoal agents that are naturally
13 occurring substances or manufactured substances that are
14 substantially identical, as determined by board rules, to
15 naturally occurring substances.~~

16 ~~(7)~~ (6) "Naturopathic medicine", "naturopathic health
17 care", or "naturopathy" means a system of primary health
18 care practiced by naturopathic physicians for the
19 prevention, diagnosis, and treatment of human health
20 conditions, injury, and disease. Its purpose is to promote
21 or restore health by the support and stimulation of the
22 individual's inherent self-healing processes. This is
23 accomplished through education of the patient by a
24 naturopathic physician and through the use of natural
25 therapies and therapeutic substances.

1 ~~(6)~~(7) "Naturopathic childbirth attendance" means the
2 specialty practice of natural childbirth by naturopathic
3 physicians that includes the use of natural therapeutic
4 substances, ophthalmic antibiotics, ~~emergency--medicines~~
5 OXYTOCIN (PITOCIN), and minor surgery, as set by board
6 rules. The term does not include a forceps delivery, general
7 or spinal anesthesia, or a caesarean section.

8 ~~(9)~~(8) "Naturopathic physical applications" means the
9 therapeutic use by naturopathic physicians of:

10 ~~(a)--the-physical-agents--of--air,--water,--heat,--cold,~~
11 ~~sound,--light,--gravity,--and--electromagnetic--nonionizing~~
12 ~~radiation;--and~~

13 ~~(b)~~ the actions or devices of electrotherapy ELECTRICAL
14 MUSCLE STIMULATION, GALVANIC, diathermy, ultrasound,
15 ultraviolet light, CONSTITUTIONAL hydrotherapy, AND
16 naturopathic manipulative therapy, ~~and-therapeutic-exercise.~~

17 ~~(10)~~(9) "Naturopathic physician" means a person
18 authorized and licensed to practice naturopathic health care
19 under sections 1 through 8 and 10 through 19.

20 ~~(11)~~(10) "Topical drugs" means topical analgesics,
21 anesthetics, antiseptics, scabicides, antifungals, and
22 antibacterials.

23 NEW SECTION. Section 4. Practice of naturopathic
24 health care. (1) Naturopathic physicians may practice
25 naturopathic medicine as a limited practice of the healing

1 arts as exempted in 37-3-103(1)(n), with the following
2 restrictions. A naturopathic physician may not:

3 (a) prescribe, dispense, or administer any legend drug
4 as defined in 50-31-301 ~~except those-natural-therapeutic~~
5 ~~substances--and--drugs--authorized--by--subsection--(2)--or~~
6 ~~(section--(10)(2))~~ FOR WHOLE GLAND THYROID, HOMEOPATHIC
7 PREPARATIONS, AND OXYTOCIN (PITOCIN), PROVIDED THAT THE
8 NATUROPATHIC PHYSICIAN MAY ADMINISTER BUT MAY NOT PRESCRIBE
9 OR DISPENSE OXYTOCIN (PITOCIN);

10 (b) administer ionizing radioactive substances for
11 therapeutic purposes;

12 (c) perform surgical procedures except those minor
13 surgery procedures authorized by [sections 1 through 8 and
14 10 through 19]; ~~or~~ OR

15 ~~(d)--PERFORM-SPECIFIC-ADJUSTMENTS--OR--MANIPULATIONS--OF~~
16 ~~THE-SPINAL-COLUMN,--AS-PROVIDED-IN-37-12-101,--OR~~

17 ~~(d)~~(B)(D) claim to practice any licensed health care
18 profession or system of treatment other than naturopathic
19 medicine unless holding a separate license in that
20 profession.

21 (2) Naturopathic physicians may ~~prescribe, dispense--in~~
22 ~~accordance--with-37-2-104,~~ and administer for preventive and
23 therapeutic purposes the following natural therapeutic
24 substances, drugs, and therapies:

25 (a) food, food extracts, vitamins, minerals, enzymes,

1 whole gland thyroid, botanical medicines, AND homeopathic
2 preparations, ~~and natural antibiotics,~~ AND OXYTOCIN
3 (PITOCIN);

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

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

10 (3) Naturopathic physicians may perform or order for
11 diagnostic purposes a physical or orificial examination,
12 ~~x-ray, electrocardiogram,~~ ultrasound, phlebotomy, clinical
13 laboratory test or examination, physiological function test,
14 and any other noninvasive diagnostic procedure commonly used
15 by physicians in general practice and as authorized by
16 [section 10(2)].

17 (4) EXCEPT AS PROVIDED BY THIS SUBSECTION, IT IS
18 UNLAWFUL FOR A NATUROPATH TO ENGAGE, DIRECTLY OR INDIRECTLY,
19 IN THE DISPENSING OF ANY DRUGS THAT A NATUROPATH IS
20 AUTHORIZED TO PRESCRIBE BY SUBSECTION (2). IF THE PLACE
21 WHERE A NATUROPATH MAINTAINS AN OFFICE FOR THE PRACTICE OF
22 NATUROPATHY IS MORE THAN 10 MILES FROM A PLACE OF BUSINESS
23 THAT SELLS AND DISPENSES THE DRUGS A NATUROPATH MAY
24 PRESCRIBE UNDER SUBSECTION (2), THEN, TO THE EXTENT SUCH
25 DRUGS ARE NOT AVAILABLE WITHIN 10 MILES OF THE NATUROPATH'S

1 OFFICE, THE NATUROPATH MAY SELL SUCH DRUGS THAT ARE
2 UNAVAILABLE.

3 NEW SECTION. Section 5. License intent REQUIRED --
4 titles restricted ---license-required -- enjoining unlawful
5 practice. (1)-The-intent-of-(sections-1--through--8--and--10
6 through--19)--is--to--prohibit--any--person--not--licensed--by
7 (sections-1-through-8-and-10-through-19)--from--the--use--of--the
8 restricted-terms-that-identify-naturopathic--physicians--and
9 their--practice.-The-intent-is-not-to-prohibit-a-person-from
10 any-practice-of-natural-health-care-that-may--be--considered
11 part--of--the--scope--of--practice--of--naturopathic-medicine. (1)
12 EXCEPT AS PROVIDED IN [SECTION 6], A PERSON MAY NOT PRACTICE
13 NATUROPATHY WITHOUT A VALID AND CURRENT LICENSE ISSUED BY
14 THE BOARD AS PROVIDED IN [SECTIONS 1 THROUGH 8 AND 10
15 THROUGH 19].

16 (2) (a) A naturopathic physician LICENSED UNDER
17 [SECTIONS 1 THROUGH 8 AND 10 THROUGH 19] may use the prefix
18 "Dr." or "doctor" as a title.

19 (b) Only a naturopathic physician LICENSED UNDER
20 [SECTIONS 1 THROUGH 8 AND 10 THROUGH 19] may use any or all
21 of the following titles or terms:

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

25 or

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

3 (c) The titles and terms in subsection (2)(b) identify
4 naturopathic physicians and are restricted to describing and
5 identifying licensed practitioners and their practice. A
6 person who uses these titles and terms to represent himself
7 or his practice to the public without being licensed
8 pursuant to [sections 1 through 8 and 10 through 19] is in
9 violation of [sections 1 through 8 and 10 through 19].

10 (3) A violation of [sections 1 through 8 and 10 through
11 19] may be enjoined by the district court on petition by the
12 board.

13 NEW SECTION. Section 6. Exemptions. (1) [Sections 1
14 through 8 and 10 through 19] recognize that many of the
15 therapies used by naturopathic physicians, such as the use
16 of nutritional supplements, herbs, foods, homeopathic
17 preparations, and such physical forces as heat, cold, water,
18 touch, and light, are not the exclusive privilege of
19 naturopathic physicians, and their use, PRACTICE,
20 PRESCRIPTION, OR ADMINISTRATION by ~~individuals~~ PERSONS NOT
21 LICENSED TO PRACTICE NATUROPATHIC MEDICINE is not prohibited
22 by [sections 1 through 8 and 10 through 19].

23 (2) [Sections 1 through 8 and 10 through 19] do not
24 restrict or apply to the scope of practice of any other
25 professions licensed, certified, or registered under the

1 laws of this state.

2 NEW SECTION. Section 7. Naturopathic childbirth
3 attendance -- certification for specialty practice --
4 requirements. (1) A naturopathic physician may not practice
5 naturopathic childbirth attendance without first obtaining
6 from the board a certificate of specialty practice. The
7 board shall adopt rules setting forth the requirements to be
8 met in order to certify naturopathic physicians for the
9 specialty practice of naturopathic childbirth attendance.

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

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

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

20 (i) course work in naturopathic childbirth attendance;
21 (ii) an internship in naturopathic childbirth
22 attendance; or
23 (iii) a preceptorship in naturopathic childbirth
24 attendance; and

25 (c) have assisted in a minimum of ~~40~~ 50 supervised

1 births, including prenatal and postnatal care, under the
 2 direct supervision of a licensed naturopathic, medical, or
 3 osteopathic physician with specialty training in obstetrics
 4 or natural childbirth attendance. THE 50 SUPERVISED BIRTHS
 5 REQUIRED UNDER THIS SUBSECTION (C) MUST INCLUDE 25 BIRTHS
 6 THAT DOCUMENT THE NATUROPATHIC PHYSICIAN AS THE PRIMARY
 7 BIRTH ATTENDANT.

8 NEW SECTION. Section 8. Public health duties of
 9 naturopathic physicians. Naturopathic physicians have the
 10 same authority and responsibility as other licensed
 11 physicians with regard to public health laws, reportable
 12 diseases and conditions, communicable disease control and
 13 prevention, recording of vital statistics, health and
 14 physical examinations, and local boards of health, except
 15 that the authority and responsibility is limited to
 16 activities consistent with the scope of practice described
 17 in [sections 1 through 8 and 10 through 19].

18 NEW SECTION. Section 9. Board of naturopathic
 19 physicians. (1) There is a board of naturopathic physicians.
 20 (2) The board consists of three members appointed by
 21 the governor.
 22 (3) The members are:
 23 (a) one member of the public; and
 24 (b) two naturopathic physicians who have been residents
 25 of Montana for 3 years prior to being appointed. These

1 members must be licensed under [sections 1 through 8 and 10
 2 through 19], except during the initial transition period of
 3 1 year after [the effective date of sections 9, 10, 11, and
 4 22].

5 (4) The board is attached to the department of commerce
 6 for administrative purposes only as prescribed in 2-15-121.

7 (5) The board is designated as a quasi-judicial board
 8 for purposes of 2-15-124, except that a member of the board
 9 need not be an attorney licensed to practice law in this
 10 state.

11 NEW SECTION. Section 10. Powers and duties of board.
 12 The board shall:

13 (1) adopt rules necessary or proper to administer and
 14 enforce [sections 1 through 8 and 10 through 19];

15 (2) adopt rules that specify the scope of practice of
 16 naturopathic medicine stated in [section 4], that are
 17 consistent with the definition of naturopathic medicine
 18 provided in [section 3], and that are consistent with the
 19 education provided by approved naturopathic medical
 20 colleges;

21 (3) adopt rules prescribing the time, place, content
 22 and passing requirements of the licensure examination, which
 23 may be composed of part or all of the national naturopathic
 24 physicians licensing examination;

25 (4) adopt rules that endorse equivalent licensure

1 examinations of another state or territory of the United
2 States, the District of Columbia, or a foreign country and
3 that may include licensure by reciprocity;

4 (5) adopt rules that set fees, commensurate with costs,
5 for application, examination, licensure and other
6 administrative services;

7 (6) approve naturopathic medical colleges as defined in
8 [section 3];

9 (7) adopt rules for the investigation of complaints
10 against naturopathic physicians, for hearings on complaints,
11 and to impose disciplinary action against naturopathic
12 physicians found to be in violation of [sections 1 through 8
13 and 10 through 19];

14 (8) investigate individuals falsely claiming to be
15 naturopathic physicians and act in cooperation with county
16 attorneys to enforce the provisions of [sections 1 through 8
17 and 10 through 19];

18 (9) adopt rules that establish, approve, and routinely
19 review a continuing education curriculum and accreditation
20 for naturopathic physicians that is required for license
21 renewal;

22 (10) issue certificates of specialty practice;

23 (11) issue temporary licenses as provided for in
24 [section 13]; and

25 (12) adopt rules that, in the discretion of the board,

1 appropriately restrict licenses to a limited scope of
2 practice of naturopathic medicine, which may exclude the use
3 of minor surgery, ~~natural antibiotics~~, or the legend drugs
4 allowed under [section 4].

5 NEW SECTION. Section 11. Board meetings. (1) The board
6 shall meet at least once annually.

7 (2) Special meetings may be called by any two board
8 members or the chairman.

9 (3) All members must be present in order to conduct
10 board business.

11 NEW SECTION. Section 12. Qualifications for licensure.
12 A person is qualified to be licensed to practice
13 naturopathic medicine in Montana if he:

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

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

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

20 NEW SECTION. Section 13. Application for licensure --
21 examination -- temporary license. (1) A person who desires a
22 license to practice naturopathic medicine in Montana shall
23 apply to the department in the manner and form prescribed by
24 the board. The application must be accompanied by the
25 license fees, the application fees, and the documents,

1 affidavits, and certificates necessary to establish that the
 2 applicant possesses the qualifications prescribed by
 3 [section 12]. The burden of proof is on the applicant, but
 4 the board may make an independent investigation to determine
 5 whether the applicant possesses the necessary qualifications
 6 and whether the applicant has committed unprofessional
 7 conduct that would be basis for licensure denial. At the
 8 board's request, the applicant shall provide necessary
 9 authorizations for the release of records and information
 10 pertinent to the board's investigation.

11 (2) A person who applies for licensure but who has not
 12 passed a licensure examination prescribed or endorsed by the
 13 board shall apply to the board for authorization to take the
 14 prescribed licensure examination. The application for
 15 examination must be accompanied by the examination fee. If
 16 the board finds that all other qualifications for licensure
 17 except that of examination have been met, the board shall
 18 authorize the applicant to take the licensure examination.

19 (3) A person who has actively engaged in the practice
 20 of naturopathic medicine in Montana prior to [the effective
 21 date of sections 9, 10, 11, and 22] and who is a graduate of
 22 an approved naturopathic medical college may continue to
 23 practice naturopathic medicine until the board reviews his
 24 qualifications if he applies to and receives from the
 25 department a temporary license by October 1, 1991. The

1 department shall issue a temporary license to a qualified
 2 applicant. The board shall, within 6 months of October 1,
 3 1991, review the qualifications of each temporary licensee
 4 and either authorize the department to issue a license to a
 5 person qualified under [section 12 or 14] or extend the
 6 temporary license for a term of no more than 1 year to allow
 7 the practitioner to pass the prescribed examination. A
 8 person who is not a graduate of an approved naturopathic
 9 medical college may not be granted a temporary license.

10 **NEW SECTION. Section 14. Licensure by endorsement.** (1)

11 The board may authorize the department to issue to an
 12 applicant a license by endorsement if the applicant produces
 13 evidence satisfactory to the board of:

14 (a) a valid license or certificate issued to the
 15 applicant on the basis of an examination by an examining
 16 board under the laws of another state or territory of the
 17 United States, the District of Columbia, or a foreign
 18 country, whose licensing standards at the time the license
 19 or certificate was issued were, in the judgment and
 20 according to the rules of the board, acceptable for
 21 endorsement for granting a license to practice naturopathic
 22 medicine; or

23 (b) (i) an inactive license or other certificate of
 24 examination issued to or for the applicant by a naturopathic
 25 examining board under the laws of another state or territory

1 of the United States, the District of Columbia, or a foreign
 2 country, whose examination standards at the time the license
 3 was granted or the examination was passed were acceptable
 4 for endorsement in the judgment and according to the rules
 5 of the board;

6 (ii) the fact that he has not been disciplined or had
 7 his inactive license suspended or revoked for malpractice;

8 (iii) the fact that he has been actively engaged in the
 9 practice of naturopathic medicine for at least 1 year in a
 10 state or territory of the United States, the District of
 11 Columbia, or a foreign country, that does not license
 12 naturopathic physicians;

13 (iv) the fact that he is a graduate of an approved
 14 naturopathic medical college; and

15 (v) his good moral character.

16 NEW SECTION. Section 15. Issuance of license. If the
 17 board determines that an applicant possesses the
 18 qualifications required by [section 12], the department
 19 shall issue a license to the applicant to practice
 20 naturopathic medicine.

21 NEW SECTION. Section 16. Denial, suspension, or
 22 revocation of license -- grounds. The board may refuse to
 23 issue a license or may suspend or revoke a license issued
 24 pursuant to [sections 1 through 8 and 10 through 19] or take
 25 disciplinary action against licensees for one or more of the

1 following causes:

2 (1) conviction, as shown by a certified copy of the
 3 record of the court, of a felony or a violation of any state
 4 or federal law regulating the possession, distribution, or
 5 use of any controlled substance, subject to Title 37,
 6 chapter 1, part 2;

7 (2) being adjudicated incompetent or seriously mentally
 8 ill;

9 (3) sustaining a physical or mental disability that
 10 renders further naturopathic practice dangerous to the
 11 public;

12 (4) habitual intemperance with alcohol or habitual
 13 addiction to the use of a controlled substance to such an
 14 extent as to incapacitate the person from the proper
 15 performance of professional duties;

16 (5) malpractice;

17 (6) engaging in dishonorable, unethical, or
 18 unprofessional conduct, as defined by the rules of the
 19 board, that may deceive, defraud, or harm the public;

20 (7) obtaining or attempting to obtain by fraudulent
 21 misrepresentation a license to practice naturopathy;

22 (8) advertising by means of knowingly false,
 23 misleading, or deceptive statements;

24 (9) advertising, practicing, or attempting to practice
 25 under a name other than the person's own;

1 (10) using any false, fraudulent, or forged statement or
 2 document or engaging in any fraudulent, deceitful,
 3 dishonest, or immoral practice, as defined by the rules of
 4 the board, in connection with the licensing requirements of
 5 [sections 1 through 8 and 10 through 19];

6 (11) violation of a provision of [sections 1 through 8
 7 and 10 through 19] or the rules adopted by the board.

8 **NEW SECTION. Section 17. Denial, suspension, or**
 9 **revocation of license -- procedure.** (1) Upon receipt of a
 10 complaint alleging violation of [sections 1 through 8 and 10
 11 through 19] or the rules of the board, the board shall
 12 investigate the complaint and, according to its findings and
 13 the board's rules, shall either dismiss the complaint or
 14 take appropriate action to enforce [sections 1 through 8 and
 15 10 through 19].

16 (2) (a) The board shall meet or hold a hearing as
 17 necessary at the time and place set pursuant to board rules.
 18 The board may continue the hearing from time to time as it
 19 determines necessary.

20 (b) At the hearing, the board must receive evidence
 21 upon the subject under consideration and shall accord the
 22 person against whom the complaint is filed a full and fair
 23 opportunity to be heard in his defense.

24 (3) After consideration, the board shall adopt a
 25 resolution finding that the licensee has either violated or

1 not violated the provisions of [sections 1 through 8 and 10
 2 through 19] or the rules of the board.

3 (4) If the board finds that a violation has not
 4 occurred, the board shall dismiss the complaint. If the
 5 board finds that a violation has occurred, it shall:

6 (a) revoke his license;

7 (b) suspend his right to practice naturopathy for a
 8 period not to exceed 1 year;

9 (c) suspend its judgment of revocation upon terms and
 10 conditions it determines;

11 (d) place him on probation; or

12 (e) take other disciplinary action as provided by board
 13 rules.

14 **NEW SECTION. Section 18. Reinstatement of license**
 15 **after period of suspension -- revocation.** (1) Upon the
 16 expiration of the term of the suspension, the board may
 17 reinstate a license if the suspended licensee furnishes the
 18 board with satisfactory evidence that he is then of good
 19 moral character and conduct; is restored to good health, if
 20 applicable; and has not practiced naturopathy in the state
 21 during the term of suspension.

22 (2) If the board is not satisfied that the licensee is
 23 then of good moral character and conduct or restored to good
 24 health or if the evidence shows that he has practiced
 25 naturopathy in this state during the term of suspension, the

1 board may, after notice and hearing, revoke the license.

2 NEW SECTION. Section 19. Enforcement -- penalty. (1) A
3 county attorney shall prosecute a person charged with
4 violation of any of the provisions of [sections 1 through 8
5 and 10 through 19].

6 (2) A person who violates any of the provisions of
7 [sections 1 through 8 and 10 through 19] is guilty of a
8 misdemeanor and, upon conviction, is punishable by a fine
9 not exceeding \$500 or by imprisonment in the county jail for
10 a term not to exceed 6 months, or both.

11 NEW SECTION. Section 20. Severability. If a part of
12 [this act] is invalid, all valid parts that are severable
13 from the invalid part remain in effect. If a part of [this
14 act] is invalid in one or more of its applications, the part
15 remains in effect in all valid applications that are
16 severable from the invalid applications.

17 NEW SECTION. Section 21. Codification instruction. (1)
18 [Section 9] is intended to be codified as an integral part
19 of Title 2, chapter 15, part 18, and the provisions of Title
20 2, chapter 15, part 18, apply to [section 9].

21 (2) [Sections 1 through 8 and 10 through 19] are
22 intended to be codified as an integral part of Title 37.

23 NEW SECTION. Section 22. Effective dates. (1)
24 [Sections 9, 10, 11, and this section] are effective on
25 passage and approval.

1 (2) [Sections 1 through 8 and 12 through 21] are
2 effective October 1, 1991.

-End-