

HOUSE BILL NO. 435

1/23 Introduced
1/23 Referred to Business & Labor
1/24 Rereferred to Human Services & Aging
1/24 Fiscal Note Requested
1/29 Fiscal Note Received
2/11 Hearing
2/18 Committee Report-Bill Pass As Amended
2/18 Statement of Intent Attached
2/21 2nd Reading Do Not Pass
2/21 Bill Killed

HOUSE BILL NO. 435

INTRODUCED BY J. Brown Matayo
C. Williams J. Hammond

A BILL FOR AN ACT ENTITLED: "THE NATUROPATHIC HEALTH CARE PRACTICE ACT; PROVIDING FOR THE REGULATION OF NATUROPATHIC HEALTH CARE; ESTABLISHING A BOARD OF NATUROPATHIC DOCTORS FOR THE LICENSURE AND REGULATION OF NATUROPATHIC DOCTORS; PROVIDING FOR THE ADMINISTRATION OF THE ACT, INCLUDING PROVISIONS FOR SETTING FEES BY THE BOARD; ESTABLISHING PENALTIES FOR VIOLATIONS; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Board of naturopathic doctors. (1) There is a board of naturopathic doctors.

(2) The board consists of three members appointed by the governor with the consent of the senate for staggered terms of 5 years. Two members must be naturopathic doctors and one member must be a lay person interested in naturopathic health care. The term of a board member ends on his resignation or on his absence from the state for a period of 6 months. A board member may, upon notice and hearing, be removed by the governor for neglect of duty or upon conviction of violating any provisions of [sections 2 through 22]. The governor shall fill a vacancy on the board within 60 days of the date of the vacancy.

(3) Except for the members of the first board appointed after October 1, 1985, each naturopathic doctor board member must be a Montana-licensed naturopathic doctor and each member must have been a resident of Montana for 3 years.

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

(5) There may be no monetary liability on the part of nor may any cause of action arise against the members of the board, secretary-treasurer, or permanent or temporary personnel of the board for any act done or proceeding undertaken or performed in good faith and in furtherance of the purposes of [sections 2 through 22].

Section 2. Short title. [Sections 2 through 22] may be cited as the "Naturopathic Health Care Practice Act".

Section 3. Purpose. (1) It is declared as a matter of legislative policy that naturopathy within the state of Montana is recognized as a distinct health care profession, the practice of which affects the public health, safety, and welfare and provides for the public's freedom of choice in health care. It is therefore considered necessary to provide laws regulating the practice of naturopathic health care to the end that the public will be protected against unauthorized and unqualified practice of naturopathy and

1 from unprofessional conduct by persons licensed to practice
2 naturopathy.

3 (2) The purpose of licensing naturopathic doctors is
4 to certify in the interest of public health, safety, and
5 welfare that licensed naturopathic doctors have fulfilled
6 specified educational and professional standards and have
7 agreed to abide by practices consistent with such standards.

8 Section 4. Definitions. Unless the context requires
9 otherwise, in [sections 2 through 22] the following
10 definitions apply:

11 (1) "Board" means the board of naturopathic doctors
12 established in [section 1].

13 (2) "College of naturopathy" means:

14 (a) a school conforming to the minimal educational
15 standards for naturopathic colleges established by the
16 American council on naturopathic medical education or its
17 successor organizations; or

18 (b) a school approved by the board as equivalent to a
19 school referred to in subsection (2)(a) and which requires
20 for graduation a period of actual attendance of 4 academic
21 years of at least 9 months each and having adequate courses
22 in all subjects necessary to the practice of naturopathy as
23 listed in [section 11].

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

1 (4) "Naturopathic doctor" means a natural person
2 licensed by the board to practice naturopathy as provided in
3 [sections 2 through 22].

4 (5) "Naturopathy" or "naturopathic health care" means
5 the art, science, and philosophy of natural healing as a
6 distinct professional system for the prevention, diagnosis,
7 and treatment of human disease. It has for its objective the
8 maintenance or restoration of a state of health in human
9 beings by the use of nature's agents, processes, and
10 products administered in health-yielding forms.

11 Section 5. Exemptions. (1) [Sections 2 through 22]
12 recognizes that many of the therapies used by naturopathic
13 doctors, such as the use of nutritional supplements, herbs,
14 foods, and other physical agents such as heat, cold, water,
15 touch, and light, are universal natural healing arts and
16 that their use constitutes a fundamental right of the
17 people, and as such their personal use by individuals is not
18 prohibited by [sections 2 through 22].

19 (2) Naturopathic health care is not the practice of
20 medicine, osteopathy, or chiropractic. Nothing in [sections
21 2 through 22] restricts any licensed medical, osteopathic,
22 or chiropractic physician in the practice of his profession.

23 (3) [Sections 2 through 22] does not prohibit or
24 require a license with respect to any of the professions or
25 exemptions listed in 37-3-103.

1 Section 6. License required -- practice of naturopathy
 2 -- rights and limitations -- violations. (1) No person may
 3 represent himself to the public as a naturopathic doctor or
 4 engage in the practice of naturopathic health care in this
 5 state unless the person is licensed under the provisions of
 6 [sections 2 through 22].

7 (2) A naturopathic doctor licensed under [sections 2
 8 through 22] has the right to practice naturopathic health
 9 care in accordance with the method, thought, and practice of
 10 naturopathic doctors as taught by approved colleges of
 11 naturopathy.

12 (3) A licensee may use the prefix "Dr." or "doctor" as
 13 a title. He may use any or all of the following terms:
 14 "doctor of naturopathy", "doctor of naturopathic medicine",
 15 or their abbreviation, "N.D.", "naturopath", or
 16 "naturopathic physician". These words and abbreviations
 17 distinguish the naturopathic profession from other health
 18 care professions. However, none of these terms or any
 19 combination of them may be so used as to convey the idea
 20 that the naturopathic doctor is licensed to practice
 21 medicine.

22 (4) Except as provided for by [sections 2 through 22],
 23 a naturopathic doctor may not:

24 (a) prescribe for or administer to any person any
 25 federally controlled substance;

1 (b) perform surgery other than as provided for in
 2 subsection (8); or

3 (c) use ionizing radiation as a treatment.

4 (5) Violation of subsection (4) by a naturopathic
 5 doctor is a violation of:

6 (a) Title 37, chapter 3, and is punishable as provided
 7 in 37-3-325; and

8 (b) [sections 2 through 22] and is punishable as
 9 provided in [section 22].

10 (6) A naturopathic doctor may diagnose diseases of
 11 human beings by the use of all physical, laboratory, and
 12 clinical diagnostic techniques in which he has received
 13 training from an approved college of naturopathy, including
 14 the use of venipuncture to obtain samples for blood analysis
 15 and the use of diagnostic x-ray in accordance with
 16 guidelines promulgated or approved by state or federal
 17 health regulatory agencies.

18 (7) A naturopathic doctor may prescribe, dispense, and
 19 use nature's agents, forces, processes, and products as
 20 taught by approved colleges of naturopathy.

21 (8) The practices of minor surgery and natural
 22 childbirth attendance by naturopathic doctors are separate
 23 specialties of naturopathic health care requiring
 24 specialization certification by the board. Specialization
 25 certification is separate and in addition to the license to

1 practice as a naturopathic doctor. The board shall establish
 2 qualifications and administer separate examinations to
 3 certify that a naturopathic doctor may engage in the
 4 specialty practices of minor surgery and natural childbirth
 5 attendance. A naturopathic doctor without board
 6 certification in these specialty practices may not engage in
 7 the practices of minor surgery or natural childbirth
 8 attendance. A violation of this subsection by a
 9 naturopathic doctor is a violation of:

10 (a) Title 37, chapter 3, and is punishable as provided
 11 in 37-3-325; and

12 (b) [sections 2 through 22] and is punishable as
 13 provided in [section 22].

14 Section 7. Duties of naturopathic doctors. (1) A
 15 naturopathic doctor is authorized to sign birth, death, and
 16 health certificates.

17 (2) A naturopathic doctor is subject to all state,
 18 county, and municipal laws and rules on public health
 19 related to the diagnosis and reporting of contagious and
 20 infectious diseases to the proper health authorities in the
 21 respective counties.

22 Section 8. Insurance equity. Health insurance
 23 companies and health service corporations may not
 24 discriminate against services provided by a naturopathic
 25 doctor nor may they refuse valid claims submitted by persons

1 for services rendered by a naturopathic doctor.

2 Section 9. Board officers -- meetings -- compensation
 3 -- examinations. (1) The board shall, at the first meeting
 4 each year, elect from among its members a president,
 5 vice-president, and secretary-treasurer. The board shall
 6 hold meetings at least annually, at times and at places set
 7 by the board. The president of the board may call special
 8 meetings that he considers advisable or necessary. A
 9 majority of the members of the board constitutes a quorum,
 10 and a majority vote of a quorum present at any meeting
 11 governs all actions taken by the board.

12 (2) No member of the board may receive compensation,
 13 except as provided in 37-1-133, connected with attending
 14 meetings and performing functions of the board.

15 (3) The board shall schedule a time and designate a
 16 place for license examinations. License examinations must be
 17 scheduled at least twice a year. The time for a license
 18 examination must be scheduled at least 90 days prior to the
 19 date of the examination. If no applications for examination
 20 are received by the secretary-treasurer by 10 days prior to
 21 the examination date, the board may cancel the examination.

22 Section 10. Powers and duties. (1) The board shall
 23 maintain reasonable and continuing supervision and
 24 surveillance over all licensees under [sections 2 through
 25 22] to ensure that such licensees maintain standards of

1 conduct and exercise the privileges granted by [sections 2
2 through 22] in the greatest public interest and to carry out
3 the purposes and provisions of [sections 2 through 22].

4 (2) The board may:

5 (a) adopt rules necessary or proper to administer and
6 enforce [sections 2 through 22]. The rules must be fair,
7 impartial, and nondiscriminatory.

8 (b) hold hearings and take evidence in matters
9 relating to the exercise and performance of the powers and
10 duties vested in the board;

11 (c) aid county attorneys in the enforcement of
12 [sections 2 through 22] and the prosecution of persons,
13 firms, associations, or corporations charged with violations
14 of [sections 2 through 22];

15 (d) if necessary, appoint qualified personnel to
16 administer any part or all of any examination provided for
17 in [sections 2 through 22]; and

18 (e) under the provisions of [sections 2 through 22],
19 revoke or suspend for cause the license of any naturopathic
20 doctor practicing in this state.

21 (3) The board shall:

22 (a) collect all fees provided for in [sections 2
23 through 22] and make dispositions of them as provided for in
24 [section 16];

25 (b) maintain a record of its acts and proceedings,

1 including the issuance, refusal, renewal, suspension, or
2 revocation of licenses;

3 (c) maintain a registry of all naturopathic doctors
4 licensed under [sections 2 through 22]. The registry must
5 indicate the name of the licensee, his current professional
6 office address and phone number, the date of issuance and
7 the number of his license, and whether the license is in
8 good standing.

9 (d) keep all applications for licensure for 10 years;

10 (e) maintain a permanent record of the results of all
11 examinations it gives;

12 (f) retain the examination papers of all applicants as
13 required by [section 12];

14 (g) adopt and use a seal in which appear the words
15 "the Montana board of naturopathic doctors" and "official
16 seal". All board acts, rules, orders, certificates, and
17 licenses must be authenticated by the imprint of the seal,
18 together with the signatures of the president or
19 vice-president and the secretary-treasurer of the board.

20 (h) establish, approve, and routinely review a
21 continuing education curriculum and accreditation process
22 for naturopathic doctors in Montana as required for license
23 renewal in [section 15(1)]; and

24 (i) issue a license to practice naturopathy in this
25 state to each successful candidate under the provisions of

1 [sections 11 through 16].

2 Section 11. Application for examination -- fee --
3 qualifications. (1) Each person desiring to practice
4 naturopathic health care in this state shall apply for
5 examination with the secretary-treasurer of the board, upon
6 the forms and in the manner prescribed by the board, at
7 least 10 days before the date scheduled by the board for the
8 commencement of an examination. An examination fee in an
9 amount set by the board under the provisions of 37-1-134
10 must accompany the application.

11 (2) A person making application shall furnish evidence
12 to the board, by notarized statements accompanying the
13 application for examination, that the applicant is:

14 (a) 18 years of age or older;

15 (b) a citizen of the United States or has filed a
16 properly executed declaration of intention to become a
17 citizen of the United States; and

18 (c) of good moral character, as declared by the
19 affidavits of two reputable citizens of the state.

20 (3) To be eligible for examination for a license to
21 practice naturopathy, an applicant must submit with his
22 application evidence, in the form of copies of transcripts
23 or diplomas, that the following educational requirements
24 have been satisfactorily completed:

25 (a) a high school education, as shown by a copy of a

1 diploma or its scholastic equivalent;

2 (b) satisfactory completion of at least 2 years' study
3 of liberal arts or sciences, or both, in a college or
4 university that is approved by the board, which may adopt
5 accreditation standards established by the Northwest
6 association of schools and colleges or an equivalent
7 regional accreditation association, and that meets the
8 preregistration requirements for acceptance to a
9 naturopathic college; and

10 (c) graduation from an approved college of
11 naturopathy.

12 (4) The studies required of the applicant for a
13 license to practice naturopathy in this state shall include:
14 anatomy; histology; embryology; physiology; biochemistry;
15 pathology; microbiology; public health and hygiene;
16 toxicology; obstetrics and gynecology; physical, laboratory,
17 and clinical diagnosis and procedures; hydrotherapy,
18 physiotherapy, and biomechanics; first aid; herbology;
19 homeopathy; nutrition; and other subjects particular to the
20 theory, practice, and philosophy of naturopathy. The study
21 of such subjects must total not less than 4,000 lecture,
22 recitation, or clinical hours.

23 Section 12. Examination -- scope -- retention and
24 inspection of examination papers. (1) Any applicant meeting
25 the requirements of [section 11] must be admitted to an

1 assembled examination to be conducted by the board at the
 2 time and place designated as provided in [section 9(3)]. The
 3 examination must be in writing, practical in character, and
 4 consist of two parts to be administered on 2 consecutive
 5 days:

6 (a) Part I (basic biological sciences) must include
 7 questions on anatomy, pathology, general microbiology,
 8 biochemistry, and physiology.

9 (b) Part II (clinical naturopathic practice) must
 10 include questions on gynecology and obstetrics; nutrition;
 11 public health; laboratory, physical, and clinical diagnosis;
 12 botanical and homeopathic materia medica; physiotherapy; and
 13 general naturopathic practice.

14 (2) The secretary-treasurer of the board shall retain
 15 examination papers for 2 years. While retained, the
 16 examination papers may be inspected only by board members,
 17 the applicant, a person appointed by the applicant, or by a
 18 court of competent jurisdiction in a proceeding in which a
 19 question of the content of the examination papers is
 20 involved.

21 Section 13. Issuance of certificate of license --
 22 reexamination. (1) An applicant who correctly answers 75% of
 23 the questions on each of the subjects of the examination and
 24 pays a license fee in an amount to be set by the board under
 25 37-1-134 is entitled to be registered as a licensed

1 naturopathic doctor in the board directory. The board shall
 2 issue to each successful applicant a certificate of license
 3 in the form prescribed by the board and bearing the board's
 4 official seal.

5 (2) If an applicant fails to pass an examination, he
 6 may, within 1 year from date of failure to pass, take
 7 subsequent examinations as scheduled by the board. The
 8 applicant need not retake an examination on subjects that he
 9 passed in previous examinations. The applicant shall notify
 10 the board, within 10 days prior to an examination, of his
 11 intention to retake an examination. The board may require a
 12 reexamination fee in an amount to be set under 37-1-134.

13 Section 14. License reciprocity. (1) Persons currently
 14 licensed to practice naturopathy under the laws of any other
 15 state having naturopathic educational requirements
 16 equivalent to those prescribed in [section 11] and who are
 17 in good professional standing in that state may, subject to
 18 the rules of the board, be issued a license to practice in
 19 this state without examination upon application to the board
 20 and payment of a fee in an amount to be set by the board
 21 under 37-1-134.

22 (2) The board may examine the applicant's
 23 qualifications and deny reciprocity if the board's
 24 investigation determines the applicant is not qualified to
 25 be licensed as a naturopathic doctor in Montana. Upon denial

1 of application for reciprocity, a portion of the fee may be
2 retained by the board for the expense of investigation.

3 Section 15. Annual renewal and fee. (1) A license to
4 practice naturopathy is valid for 1 year. The board shall
5 renew licenses on payment of a renewal fee in an amount to
6 be set by the board as provided in 37-1-134 and on receipt
7 by the board of satisfactory evidence that the licensee, in
8 the year preceding, attended and successfully completed a
9 continuing education program approved by the board. The
10 renewal request, evidence of continuing education, and fee
11 must be received by the board no later than the expiration
12 date of the license.

13 (2) The board may exempt a person from the continuing
14 education requirements on application for exemption if the
15 person is unable to comply with the requirements because of
16 a physical or mental condition or for other unusual or
17 extenuating circumstances. No person may be exempted from
18 the continuing education requirements for 2 consecutive
19 years.

20 (3) At least 30 days prior to the date a license will
21 expire, the secretary-treasurer of the board shall notify
22 the licensee by letter, addressed to the licensee at his
23 address as listed in the records of the board, that his
24 license will expire unless application for renewal,
25 accompanied by the annual renewal fee and evidence that

1 continuing education requirements were fulfilled, is
2 received by the board prior to the date of expiration.

3 (4) If the board does not receive the items required
4 in subsection (3) by the date of license expiration, the
5 secretary-treasurer shall, within 7 days of the date of
6 expiration, notify the licensee that his license has expired
7 and that the license will be canceled and revoked in the
8 records of the board unless a request for renewal and
9 reinstatement, accompanied by the renewal fee and an
10 additional late fee as prescribed by the board under
11 37-1-134, is received by the secretary-treasurer of the
12 board not later than 45 days after the letter is sent.

13 (5) The secretary-treasurer of the board shall cancel
14 all licenses that have not been renewed or reinstated within
15 the 45-day period provided in subsection (4). The
16 secretary-treasurer of the board shall notify each person
17 whose license is so canceled.

18 (6) A person who allows his license to be canceled by
19 failure to apply for renewal or reinstatement may have it
20 reinstated for good cause shown to the board and upon
21 payment of all annual renewal fees then accrued plus an
22 additional late fee for each year following the cancellation
23 of the license.

24 (7) A naturopathic doctor licensed to practice
25 naturopathy in this state who is in the military service of

1 the United States is not required to pay the annual renewal
2 fee or make application for renewal until December 31 of the
3 calendar year in which he returns to the state from military
4 service.

5 (8) A naturopathic doctor who is 70 years of age or
6 older is, upon application, exempted from the renewal
7 requirements of subsection (1).

8 Section 16. Deposit of fees. (1) All fees collected
9 under [sections 2 through 22] must be deposited in the state
10 special revenue fund for the use of the board in
11 administering [sections 2 through 22], subject to 37-1-101.

12 (2) The board shall keep an accurate account of funds
13 received and vouchers issued by the board.

14 Section 17. Denial, suspension, or revocation of
15 license -- grounds. The board may refuse to issue or may
16 suspend or revoke a license issued pursuant to [sections 2
17 through 22] or discipline licensees as provided in 37-1-136
18 for one or more of the following causes:

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

24 (2) being adjudicated incompetent or seriously
25 mentally ill;

1 (3) sustaining a physical or mental disability that
2 renders further naturopathic practice dangerous to the
3 public;

4 (4) habitual intemperance with alcohol or habitual
5 addiction to the use of a controlled substance to such an
6 extent as to incapacitate the person from the proper
7 performance of his professional duties;

8 (5) gross malpractice, repeated malpractice, or any
9 malpractice resulting in the death of a patient;

10 (6) engaging in any dishonorable, unethical, or
11 unprofessional conduct that may deceive, defraud, or harm
12 the public;

13 (7) obtaining or attempting to obtain a license to
14 practice in the profession of naturopathy by fraudulent
15 misrepresentation;

16 (8) advertising by means of knowingly false,
17 misleading, or deceptive statements;

18 (9) advertising, practicing, or attempting to practice
19 under a name other than his own;

20 (10) using any false, fraudulent, or forged statement
21 or document or engaging in any fraudulent, deceitful,
22 dishonest, or immoral practice in connection with the
23 licensing requirements of [sections 2 through 22]; or

24 (11) violation of a provision of [sections 2 through
25 22].

1 Section 18. Denial, suspension, or revocation of
 2 license -- procedure. (1) Any person, including any member
 3 of the board, may file a sworn complaint with the
 4 secretary-treasurer of the board against any person having a
 5 license to practice naturopathic health care in this state
 6 charging him with the commission of any of the offenses set
 7 forth in [section 17]. The complaint must set forth a
 8 specification of the charges. Upon receipt of a complaint,
 9 the board shall, as soon as practicable, set a date and
 10 place for hearing on the complaint. The hearing date may be
 11 no earlier than 35 days from the date of the meeting setting
 12 the hearing date. The secretary-treasurer shall, within 5
 13 days after a hearing date is set, mail a copy of the
 14 complaint to the accused person at his last address of
 15 record with the board. Accompanying the complaint, the
 16 secretary-treasurer of the board shall provide written
 17 notice of the time and place of the hearing on the complaint
 18 and notice that the accused person may be present in person
 19 and may be represented by counsel if he so desires, may
 20 offer evidence, and may be heard in his defense.

21 (2) The board shall hold a hearing at the time and
 22 place set under subsection (1). The board may continue the
 23 hearing from time to time as it determines necessary. At the
 24 hearing the board shall receive evidence upon the subject
 25 under consideration and shall accord the person against whom

1 charges are preferred a full and fair opportunity to be
 2 heard in his defense. The board shall after consideration
 3 adopt a resolution finding the accused guilty or not guilty
 4 of the matters charged. If the board finds that no
 5 circumstances referred to in [section 17] exist with
 6 reference to the accused, the board shall dismiss the
 7 charges or complaint. If the board finds that one or more of
 8 the circumstances referred to in [section 17] exist in
 9 reference to the accused, the board shall:

10 (a) revoke his license;

11 (b) suspend his right to practice naturopathy for a
 12 period not exceeding 1 year;

13 (c) suspend its judgment of revocation upon the terms
 14 and conditions to be determined by the board;

15 (d) place him on probation; or

16 (e) take such other disciplinary action as the board
 17 in its discretion considers proper.

18 (3) The secretary-treasurer of the board, in all cases
 19 of revocation, suspension, or probation, shall record the
 20 facts of the action and any subsequent action of the board
 21 with respect thereto.

22 Section 19. Reinstatement or revocation of license
 23 after period of suspension. Upon the expiration of the term
 24 of suspension, the board may reinstate a license if the
 25 suspended licensee furnishes the board with satisfactory

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

9 Section 20. Application of Montana Administrative
 10 Procedure Act. (1) The contested case procedures of the
 11 Montana Administrative Procedure Act apply to the notice and
 12 hearing required by [sections 18 and 19], except that
 13 neither common law nor statutory rules of evidence need
 14 apply, but the board may make rules designed to exclude
 15 repetitive, redundant, or irrelevant testimony.

16 (2) Any person aggrieved by the final decision of the
 17 board may obtain judicial review of that decision. The
 18 judicial review procedure is the same as that for contested
 19 cases under the Montana Administrative Procedure Act.

20 Section 21. Enjoining unlawful practice. The practice
 21 of naturopathy in violation of [sections 2 through 22] may
 22 be enjoined by the district court on petition by the board.
 23 In any such proceeding, it is not necessary to show that any
 24 person is individually injured by the actions complained of.
 25 If the respondent is found to have so practiced, the court

1 shall enjoin him from practicing until he has been
 2 licensed. Procedure in such cases must be the same as in any
 3 other injunction suit. The remedy by injunction is in
 4 addition to criminal prosecution and punishment.

5 Section 22. Enforcement and penalty. (1) A county
 6 attorney must prosecute all persons charged with violation
 7 of any of the provisions of [sections 2 through 22];
 8 however, the board may retain its own attorney to prosecute
 9 or assist in prosecuting any person so charged and may
 10 compensate the attorney for such services.

11 (2) A person who violates any of the provisions of
 12 [sections 2 through 22] is guilty of a misdemeanor and is
 13 punishable, upon conviction, by a fine not exceeding \$500 or
 14 by imprisonment in the county jail not exceeding 30 days, or
 15 both such fine and imprisonment.

16 Section 23. Licensure exception -- practitioners on
 17 October 1, 1985. (1) Notwithstanding the provisions of
 18 [sections 1 through 22], a person engaged in the practice of
 19 naturopathy, as defined in [section 4], in this state on
 20 October 1, 1985, is eligible for licensure if the person:

21 (a) has practiced naturopathy, as defined in [section
 22 4], in the state for at least 12 months prior to October 1,
 23 1985;

24 (b) is a graduate of a college of naturopathy, as
 25 defined in [section 4], or has graduated prior to 1970 from

1 a naturopathic college determined by the board to have
2 adequate standards and good reputation; and

3 (c) is willing and able to abide by the provisions of
4 [sections 2 through 22].

5 (2) A person eligible to be licensed under the
6 provisions of this section shall apply to the board, as
7 defined in [section 4], in writing for licensure by October
8 1, 1985. Such an applicant shall submit evidence of his
9 qualifications to the board for investigation, with a fee
10 for application and license in an amount to be set by the
11 board under 37-1-134. If licensure is denied, a portion of
12 the fee may be retained by the board for the expense of
13 investigation. The board shall register persons approved for
14 licensure under this section in the directory of licensed
15 naturopathic doctors and shall issue them certificates of
16 license.

17 Section 24. Transition for initial board appointments.
18 The first board members appointed after July 1, 1985, shall
19 be appointed to terms of 5, 3, and 2 years to stagger board
20 members' terms.

21 Section 25. Severability. If a part of this act is
22 invalid, all valid parts that are severable from the invalid
23 part remain in effect. If a part of this act is invalid in
24 one or more of its applications, the part remains in effect
25 in all valid applications that are severable from the

1 invalid applications.

2 Section 26. Codification instruction. (1) Section 1 is
3 intended to be codified as an integral part of Title 2,
4 chapter 15, part 18.

5 (2) Sections 2 through 22 are intended to be codified
6 as an integral part of Title 37.

7 Section 27. Effective date. This act is effective July
8 1, 1985.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN204-85

Form BD-15

In compliance with a written request received January 25 19 85, there is hereby submitted a Fiscal Note for H.B. 435 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Provides for regulaton of natuorpathic health care, establishing a board of naturopathic doctors and provides for licensing, administration of the act, setting fees, establishing penalties for violations and providing an effective date.

ASSUMPTIONS:

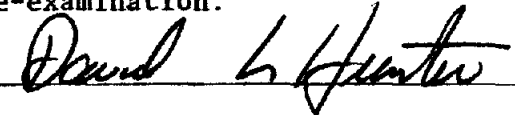
1. Assume 12 applicants initially.
2. Assume 9 meeting days a year = \$1500 per year in travel.
3. Assume fees commensurate with costs.
4. .25 FTE in FY 86, .10 FTE in FY 87 (Grade 11, step 2) and 18.5% benefits.
5. 10 pages rules and notices in FY 86, 6 pages in FY 87 at \$14.00 a page.
6. Printing costs of new license forms at \$500 in FY 86, \$200 in FY 87.
7. Legal Fees at \$39.50 per hour.
8. General Fund appropriation will be requested for first year start-up costs.
9. Indirect costs to department 10.3% of personal services = \$547 - FY 86, \$250 - FY 87.

FISCAL IMPACT:

		<u>Current Law</u>	<u>Proposed Law</u>	<u>Biennium</u>
Expenditures:	FY86	-0-	\$ 9,083	\$ 14,705
	FY87	-0-	5,622	
Revenue	FY86	-0-	-0-	
	FY87	-0-	\$ 5,700	\$ 5,700
Net General Fund Cost			\$ 9,083	

TECHNICAL DEFECTS:

1. Does not provide for department duties.
2. Does not provide for setting fees for re-examination or provisions for re-examination.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Jan 29, 1985

FN4:E/1

HB 435

49th Legislature

HB 0435/si
RE-REFERRED AND
APPROVED BY COMM. ON
HUMAN SERVICES AND AGING

1 STATEMENT OF INTENT

2 HOUSE BILL 435

3 House Human Services and Aging Committee

4
5 A statement of intent is required for this bill because
6 it delegates rulemaking authority to the board of
7 naturopathic doctors. It is the intent of the legislature
8 that the board be guided by the provisions of Title 37,
9 chapter 1, in adopting licensing fees and disciplinary
10 rules. The board should use the standards of the American
11 council on naturopathic medical education in approving
12 college programs. The board should take into account the
13 availability of programs and the need for public protection
14 in establishing standards for continuing education.

1 HOUSE BILL NO. 435

2 INTRODUCED BY J. BROWN, MONTAYNE, KADAS,

3 HANSEN, CHRISTIAENS, J. HAMMOND

4
5 A BILL FOR AN ACT ENTITLED: "THE NATUROPATHIC HEALTH CARE
6 PRACTICE ACT; PROVIDING FOR THE REGULATION OF NATUROPATHIC
7 HEALTH CARE; ESTABLISHING A BOARD OF NATUROPATHIC DOCTORS
8 FOR THE LICENSURE AND REGULATION OF NATUROPATHIC DOCTORS;
9 PROVIDING FOR THE ADMINISTRATION OF THE ACT, INCLUDING
10 PROVISIONS FOR SETTING FEES BY THE BOARD; ESTABLISHING
11 PENALTIES FOR VIOLATIONS; AND PROVIDING AN EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:14 Section 1. Board of naturopathic doctors. (1) There is
15 a board of naturopathic doctors.

16 (2) The board consists of three members appointed by
17 the governor with the consent of the senate for staggered
18 terms of 5 years. Two members must be naturopathic doctors
19 and one member must be a lay person interested in
20 naturopathic health care. The term of a board member ends on
21 his resignation or on his absence from the state for a
22 period of 6 months. A board member may, upon notice and
23 hearing, be removed by the governor for neglect of duty or
24 upon conviction of violating any provisions of [sections 2
25 through 22 21]. The governor shall fill a vacancy on the

1 board within 60 days of the date of the vacancy.

2 (3) Except for the members of the first board
3 appointed after October 1, 1985, each naturopathic doctor
4 board member must be a Montana-licensed naturopathic doctor
5 and each member must have been a resident of Montana for 3
6 years.

7 (4) The board is allocated to the department of
8 commerce for administrative purposes only as prescribed in
9 2-15-121.

10 (5) There may be no monetary liability on the part of
11 nor may any cause of action arise against the members of the
12 board, ~~secretary-treasurer,~~ or permanent or temporary
13 personnel of the board for any act done or proceeding
14 undertaken or performed in good faith and in furtherance of
15 the purposes of [sections 2 through 22 21].

16 Section 2. Short title. [Sections 2 through 22 21] may
17 be cited as the "Naturopathic Health Care Practice Act".

18 Section 3. Purpose. (1) It is declared as a matter of
19 legislative policy that naturopathy within the state of
20 Montana is recognized as a distinct health care profession,
21 the practice of which affects the public health, safety, and
22 welfare and provides for the public's freedom of choice in
23 health care. It is therefore considered necessary to provide
24 laws regulating the practice of naturopathic health care to
25 the end that the public will be protected against

1 unauthorized and unqualified practice of naturopathy and
2 from unprofessional conduct by persons licensed to practice
3 naturopathy.

4 (2) The purpose of licensing naturopathic doctors is
5 to certify in the interest of public health, safety, and
6 welfare that licensed naturopathic doctors have fulfilled
7 specified educational and professional standards and have
8 agreed to abide by practices consistent with such standards.

9 Section 4. Definitions. Unless the context requires
10 otherwise, in [sections 2 through ~~22~~ 21] the following
11 definitions apply:

12 (1) "Board" means the board of naturopathic doctors
13 established in [section 1].

14 (2) "College of naturopathy" means:

15 (a) a school conforming to the minimal educational
16 standards for naturopathic colleges established by the
17 American council on naturopathic medical education or its
18 successor organizations; or

19 (b) a school approved by the board as equivalent to a
20 school referred to in subsection (2)(a) and which requires
21 for graduation a period of actual attendance of 4 academic
22 years of at least 9 months each and having adequate courses
23 in all subjects necessary to the practice of naturopathy as
24 listed in [section ~~11~~ 10].

25 (3) "Department" means the department of commerce

1 provided for in 2-15-1801.

2 (4) "Naturopathic doctor" means a natural person
3 licensed by the board to practice naturopathy as provided in
4 [sections 2 through ~~22~~ 21].

5 (5) "Naturopathy" or "naturopathic health care" means
6 the art, science, and philosophy of natural healing as a
7 distinct professional system for the prevention, diagnosis,
8 and treatment of human disease. It has for its objective the
9 maintenance or restoration of a state of health in human
10 beings by the use of nature's agents, processes, and
11 products administered in health-yielding forms.

12 Section 5. Exemptions. (1) [Sections 2 through ~~22~~ 21]
13 recognizes that many of the therapies used by naturopathic
14 doctors, such as the use of nutritional supplements, herbs,
15 foods, and other physical agents such as heat, cold, water,
16 touch, and light, are universal natural healing arts and
17 that their use constitutes a fundamental right of the
18 people, and as such their personal use by individuals is not
19 prohibited by [sections 2 through ~~22~~ 21].

20 (2) Naturopathic health care is not the practice of
21 medicine, osteopathy, or chiropractic. Nothing in [sections
22 2 through ~~22~~ 21] restricts any licensed medical,
23 osteopathic, or chiropractic physician in the practice of
24 his profession.

25 (3) [Sections 2 through ~~22~~ 21] does not prohibit or

1 require a license with respect to any of the professions or
2 exemptions listed in 37-3-103.

3 Section 6. License required -- practice of naturopathy
4 -- rights and limitations -- violations. (1) No person may
5 represent himself to the public as a naturopathic doctor or
6 engage in the practice of naturopathic health care in this
7 state unless the person is licensed under the provisions of
8 [sections 2 through 22 21].

9 (2) A naturopathic doctor licensed under [sections 2
10 through 22 21] has the right to practice naturopathic health
11 care in accordance with the method, thought, and practice of
12 naturopathic doctors as taught by approved colleges of
13 naturopathy.

14 (3) A licensee may use the prefix "Dr." or "doctor" as
15 a title. He may use any or all of the following terms:
16 "doctor of naturopathy", "doctor of naturopathic medicine",
17 or their abbreviation, "N.D.", "naturopath", or
18 "naturopathic physician". These words and abbreviations
19 distinguish the naturopathic profession from other health
20 care professions. However, none of these terms or any
21 combination of them may be so used as to convey the idea
22 that the naturopathic doctor is licensed to practice
23 medicine.

24 (4) Except as provided for by [sections 2 through 22
25 21], a naturopathic doctor may not:

1 (a) prescribe for or administer to any person any
2 federally controlled substance;

3 (b) perform surgery other than as provided for in
4 subsection (8); or

5 (c) use ionizing radiation as a treatment.

6 (5) Violation of subsection (4) by a naturopathic
7 doctor is a violation of:

8 (a) Title 37, chapter 3, and is punishable as provided
9 in 37-3-325; and

10 (b) [sections 2 through 22 21] and is punishable as
11 provided in [section 22 21].

12 (6) A naturopathic doctor may diagnose diseases of
13 human beings by the use of all physical, laboratory, and
14 clinical diagnostic techniques in which he has received
15 training from an approved college of naturopathy, including
16 the use of venipuncture to obtain samples for blood analysis
17 and the use of diagnostic x-ray in accordance with
18 guidelines promulgated or approved by state or federal
19 health regulatory agencies.

20 (7) A naturopathic doctor may prescribe, dispense, and
21 use nature's agents, forces, processes, and products as
22 taught by approved colleges of naturopathy.

23 (8) The practices of minor surgery and natural
24 childbirth attendance by naturopathic doctors are separate
25 specialties of naturopathic health care requiring

1 specialization certification by the board. Specialization
 2 certification is separate and in addition to the license to
 3 practice as a naturopathic doctor. The board shall establish
 4 qualifications and administer separate examinations to
 5 certify that a naturopathic doctor may engage in the
 6 specialty practices of minor surgery and natural childbirth
 7 attendance. A naturopathic doctor without board
 8 certification in these specialty practices may not engage in
 9 the practices of minor surgery or natural childbirth
 10 attendance. A violation of this subsection by a
 11 naturopathic doctor is a violation of:

12 (a) Title 37, chapter 3, and is punishable as provided
 13 in 37-3-325; and

14 (b) [sections 2 through ~~22~~ 21] and is punishable as
 15 provided in [section ~~22~~ 21].

16 Section 7. Duties of naturopathic doctors. (1) A
 17 naturopathic doctor is authorized to sign birth, death, and
 18 health certificates.

19 (2) A naturopathic doctor is subject to all state,
 20 county, and municipal laws and rules on public health
 21 related to the diagnosis and reporting of contagious and
 22 infectious diseases to the proper health authorities in the
 23 respective counties.

24 ~~Section 8. Insurance equity. Health insurance~~
 25 ~~companies and health service corporations may not~~

1 ~~discriminate against services provided by a naturopathic~~
 2 ~~doctor nor may they refuse valid claims submitted by persons~~
 3 ~~for services rendered by a naturopathic doctor.~~

4 Section 8. Board officers -- meetings -- compensation
 5 -- examinations. (1) The board shall, at the first meeting
 6 each year, elect from among its members a president,
 7 vice-president, and secretary-treasurer. The board shall
 8 hold meetings at least annually, at times and at places set
 9 by the board. The president of the board may call special
 10 meetings that he considers advisable or necessary. A
 11 majority of the members of the board constitutes a quorum,
 12 and a majority vote of a quorum present at any meeting
 13 governs all actions taken by the board.

14 (2) No member of the board may receive compensation,
 15 except as provided in 37-1-133, connected with attending
 16 meetings and performing functions of the board.

17 (3) The board shall schedule a time and designate a
 18 place for license examinations. License examinations must be
 19 scheduled at least twice a year. The time for a license
 20 examination must be scheduled at least 90 days prior to the
 21 date of the examination. If no applications for examination
 22 are received by the ~~secretary-treasurer~~ DEPARTMENT by 10
 23 days prior to the examination date, the board may cancel the
 24 examination.

25 Section 9. Powers and duties. (1) The board shall

1 maintain reasonable and continuing supervision and
 2 surveillance over all licensees under [sections 2 through 22
 3 21] to ensure that such licensees maintain standards of
 4 conduct and exercise the privileges granted by [sections 2
 5 through 22 21] in the greatest public interest and to carry
 6 out the purposes and provisions of [sections 2 through 22
 7 21].

8 (2) The board may:

9 (a) adopt rules necessary or proper to administer and
 10 enforce [sections 2 through 22 21]. The rules must be fair,
 11 impartial, and nondiscriminatory. THE BOARD SHALL BY RULE
 12 SET FEES FOR ISSUING DUPLICATE LICENSES, COPYING DOCUMENTS,
 13 AND OTHER MATTERS THE BOARD CONSIDERS NECESSARY.

14 (b) hold hearings and take evidence in matters
 15 relating to the exercise and performance of the powers and
 16 duties vested in the board;

17 (c) aid county attorneys in the enforcement of
 18 [sections 2 through 22 21] and the prosecution of persons,
 19 firms, associations, or corporations charged with violations
 20 of [sections 2 through 22 21];

21 (d) if necessary, appoint qualified personnel to
 22 administer any part or all of any examination provided for
 23 in [sections 2 through 22 21]; and

24 (e) under the provisions of [sections 2 through 22
 25 21], revoke or suspend for cause the license of any

1 naturopathic doctor practicing in this state.

2 (3) The board shall:

3 (a) collect all fees provided for in [sections 2
 4 through 22 21] and make dispositions of them as provided for
 5 in [section 16 15];

6 (b) maintain a record of its acts and proceedings,
 7 including the issuance, refusal, renewal, suspension, or
 8 revocation of licenses;

9 (c) maintain a registry of all naturopathic doctors
 10 licensed under [sections 2 through 22 21]. The registry must
 11 indicate the name of the licensee, his current professional
 12 office address and phone number, the date of issuance and
 13 the number of his license, and whether the license is in
 14 good standing.

15 (d) keep all applications for licensure for 10 years;

16 (e) maintain a permanent record of the results of all
 17 examinations it gives;

18 (f) retain the examination papers of all applicants as
 19 required by [section 12 11];

20 (g) adopt and use a seal in which appear the words
 21 "the Montana board of naturopathic doctors" and "official
 22 seal". All board acts, rules, orders, certificates, and
 23 licenses must be authenticated by the imprint of the seal,
 24 together with the signatures of the president or
 25 vice-president and the secretary-treasurer of the board.

1 (h) establish, approve, and routinely review a
2 continuing education curriculum and accreditation process
3 for naturopathic doctors in Montana as required for license
4 renewal in [section ~~15~~ 14(1)]; and

5 (i) issue a license to practice naturopathy in this
6 state to each successful candidate under the provisions of
7 [sections ~~11~~ 10 through ~~16~~ 15].

8 Section 10. Application for examination -- fee --
9 qualifications. (1) Each person desiring to practice
10 naturopathic health care in this state shall apply for
11 examination with the ~~secretary-treasurer--of--the--board~~
12 DEPARTMENT, upon the forms and in the manner prescribed by
13 the board, at least 10 days before the date scheduled by the
14 board for the commencement of an examination. An examination
15 fee in an amount set by the board under the provisions of
16 37-1-134 must accompany the application.

17 (2) A person making application shall furnish evidence
18 to the board, by notarized statements accompanying the
19 application for examination, that the applicant is:

20 (a) 18 years of age or older;

21 (b) a citizen of the United States or has filed a
22 properly executed declaration of intention to become a
23 citizen of the United States; and

24 (c) of good moral character, as declared by the
25 affidavits of two reputable citizens of the state.

1 (3) To be eligible for examination for a license to
2 practice naturopathy, an applicant must submit with his
3 application evidence, in the form of copies of transcripts
4 or diplomas, that the following educational requirements
5 have been satisfactorily completed:

6 (a) a high school education, as shown by a copy of a
7 diploma or its scholastic equivalent;

8 (b) satisfactory completion of at least 2 years' study
9 of liberal arts or sciences, or both, in a college or
10 university that is approved by the board, which may adopt
11 accreditation standards established by the Northwest
12 association of schools and colleges or an equivalent
13 regional accreditation association, and that meets the
14 preregistration requirements for acceptance to a
15 naturopathic college; and

16 (c) graduation from an approved college of
17 naturopathy.

18 (4) The studies required of the applicant for a
19 license to practice naturopathy in this state shall include:
20 anatomy; histology; embryology; physiology; biochemistry;
21 pathology; microbiology; public health and hygiene;
22 toxicology; obstetrics and gynecology; physical, laboratory,
23 and clinical diagnosis and procedures; hydrotherapy,
24 physiotherapy, and biomechanics; first aid; herbology;
25 homeopathy; nutrition; and other subjects particular to the

1 theory, practice, and philosophy of naturopathy. The study
2 of such subjects must total not less than 4,000 lecture,
3 recitation, or clinical hours.

4 Section 11. Examination -- scope -- retention and
5 inspection of examination papers. (1) Any applicant meeting
6 the requirements of [section ~~11~~ 10] must be admitted to an
7 assembled examination to be conducted by the board at the
8 time and place designated as provided in [section 9 g(3)].
9 The examination must be in writing, practical in character,
10 and consist of two parts to be administered on 2 consecutive
11 days:

12 (a) Part I (basic biological sciences) must include
13 questions on anatomy, pathology, general microbiology,
14 biochemistry, and physiology.

15 (b) Part II (clinical naturopathic practice) must
16 include questions on gynecology and obstetrics; nutrition;
17 public health; laboratory, physical, and clinical diagnosis;
18 botanical and homeopathic materia medica; physiotherapy; and
19 general naturopathic practice.

20 (2) The ~~secretary-treasurer--of--the-board~~ DEPARTMENT
21 shall retain examination papers for 2 years. While retained,
22 the examination papers may be inspected only by board
23 members, the applicant, a person appointed by the applicant,
24 or by a court of competent jurisdiction in a proceeding in
25 which a question of the content of the examination papers is

1 involved.

2 Section 12. Issuance of certificate of license --
3 reexamination. (1) An applicant who correctly answers 75% of
4 the questions on each of the subjects of the examination and
5 pays a license fee in an amount to be set by the board under
6 37-1-134 is entitled to be registered as a licensed
7 naturopathic doctor in the board directory. The board shall
8 issue to each successful applicant a certificate of license
9 in the form prescribed by the board and bearing the board's
10 official seal.

11 (2) If an applicant fails to pass an examination, he
12 may, within 1 year from date of failure to pass, take
13 subsequent examinations as scheduled by the board. The
14 applicant need not retake an examination on subjects that he
15 passed in previous examinations. The applicant shall notify
16 the board, within 10 days prior to an examination, of his
17 intention to retake an examination. The board may require a
18 reexamination fee in an amount to be set under 37-1-134.

19 Section 13. License reciprocity. (1) Persons currently
20 licensed to practice naturopathy under the laws of any other
21 state having naturopathic educational requirements
22 equivalent to those prescribed in [section ~~11~~ 10] and who
23 are in good professional standing in that state may, subject
24 to the rules of the board, be issued a license to practice
25 in this state without examination upon application to the

1 board and payment of a fee in an amount to be set by the
2 board under 37-1-134.

3 (2) The board may examine the applicant's
4 qualifications and deny reciprocity if the board's
5 investigation determines the applicant is not qualified to
6 be licensed as a naturopathic doctor in Montana. Upon denial
7 of application for reciprocity, a portion of the fee may be
8 retained by the board for the expense of investigation.

9 Section 14. Annual renewal and fee. (1) A license to
10 practice naturopathy is valid for 1 year. The board shall
11 renew licenses on payment of a renewal fee in an amount to
12 be set by the board as provided in 37-1-134 and on receipt
13 by the board of satisfactory evidence that the licensee, in
14 the year preceding, attended and successfully completed a
15 continuing education program approved by the board. The
16 renewal request, evidence of continuing education, and fee
17 must be received by the board no later than the expiration
18 date of the license.

19 (2) The board may exempt a person from the continuing
20 education requirements on application for exemption if the
21 person is unable to comply with the requirements because of
22 a physical or mental condition or for other unusual or
23 extenuating circumstances. No person may be exempted from
24 the continuing education requirements for 2 consecutive
25 years.

1 (3) At least 30 days prior to the date a license will
2 expire, the ~~secretary-treasurer--of--the--board~~ DEPARTMENT
3 shall notify the licensee by letter, addressed to the
4 licensee at his address as listed in the records of the
5 board, that his license will expire unless application for
6 renewal, accompanied by the annual renewal fee and evidence
7 that continuing education requirements were fulfilled, is
8 received by the board prior to the date of expiration.

9 (4) If the board does not receive the items required
10 in subsection (3) by the date of license expiration, the
11 ~~secretary-treasurer~~ DEPARTMENT shall, within 7 days of the
12 date of expiration, notify the licensee that his license has
13 expired and that the license will be canceled and revoked in
14 the records of the board unless a request for renewal and
15 reinstatement, accompanied by the renewal fee and an
16 additional late fee as prescribed by the board under
17 37-1-134, is received by the ~~secretary-treasurer--of--the~~
18 board DEPARTMENT not later than 45 days after the letter is
19 sent.

20 (5) The ~~secretary-treasurer-of--the--board~~ DEPARTMENT
21 shall cancel all licenses that have not been renewed or
22 reinstated within the 45-day period provided in subsection
23 (4). The ~~secretary-treasurer-of-the-board~~ DEPARTMENT shall
24 notify each person whose license is so canceled.

25 (6) A person who allows his license to be canceled by

1 failure to apply for renewal or reinstatement may have it
2 reinstated for good cause shown to the board and upon
3 payment of all annual renewal fees then accrued plus an
4 additional late fee for each year following the cancellation
5 of the license.

6 (7) A naturopathic doctor licensed to practice
7 naturopathy in this state who is in the military service of
8 the United States is not required to pay the annual renewal
9 fee or make application for renewal until December 31 of the
10 calendar year in which he returns to the state from military
11 service.

12 (8) A naturopathic doctor who is 70 years of age or
13 older is, upon application, exempted from the renewal
14 requirements of subsection (1).

15 Section 15. Deposit of fees. (1) All fees collected
16 under [sections 2 through ~~22~~ 21] must be deposited in the
17 state special revenue fund for the use of the board in
18 administering [sections 2 through ~~22~~ 21], subject to
19 37-1-101.

20 (2) The board DEPARTMENT shall keep an accurate
21 account of funds received and vouchers issued by the board.

22 Section 16. Denial, suspension, or revocation of
23 license -- grounds. The board may refuse to issue or may
24 suspend or revoke a license issued pursuant to [sections 2
25 through ~~22~~ 21] or discipline licensees as provided in

1 37-1-136 for one or more of the following causes:

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

7 (2) being adjudicated incompetent or seriously
8 mentally 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 his professional duties;

16 (5) gross malpractice, repeated malpractice, or any
17 malpractice resulting in the death of a patient;

18 (6) engaging in any dishonorable, unethical, or
19 unprofessional conduct that may deceive, defraud, or harm
20 the public;

21 (7) obtaining or attempting to obtain a license to
22 practice in the profession of naturopathy by fraudulent
23 misrepresentation;

24 (8) advertising by means of knowingly false,
25 misleading, or deceptive statements;

1 (9) advertising, practicing, or attempting to practice
2 under a name other than his own;

3 (10) using any false, fraudulent, or forged statement
4 or document or engaging in any fraudulent, deceitful,
5 dishonest, or immoral practice in connection with the
6 licensing requirements of [sections 2 through 22 21]; or

7 (11) violation of a provision of [sections 2 through 22
8 21].

9 Section 17. Denial, suspension, or revocation of
10 license -- procedure. (1) Any person, including any member
11 of the board, may file a sworn complaint with the
12 ~~secretary-treasurer-of-the-board~~ DEPARTMENT against any
13 person having a license to practice naturopathic health care
14 in this state charging him with the commission of any of the
15 offenses set forth in [section 17 16]. The complaint must
16 set forth a specification of the charges. Upon receipt of a
17 complaint, the board shall, as soon as practicable, set a
18 date and place for hearing on the complaint. The hearing
19 date may be no earlier than 35 days from the date of the
20 meeting setting the hearing date. The ~~secretary-treasurer~~
21 DEPARTMENT shall, within 5 days after a hearing date is set,
22 mail a copy of the complaint to the accused person at his
23 last address of record with the board. Accompanying the
24 complaint, the ~~secretary-treasurer-of-the-board~~ DEPARTMENT
25 shall provide written notice of the time and place of the

1 hearing on the complaint and notice that the accused person
2 may be present in person and may be represented by counsel
3 if he so desires, may offer evidence, and may be heard in
4 his defense.

5 (2) The board shall hold a hearing at the time and
6 place set under subsection (1). The board may continue the
7 hearing from time to time as it determines necessary. At the
8 hearing the board shall receive evidence upon the subject
9 under consideration and shall accord the person against whom
10 charges are preferred a full and fair opportunity to be
11 heard in his defense. The board shall after consideration
12 adopt a resolution finding the accused guilty or not guilty
13 of the matters charged. If the board finds that no
14 circumstances referred to in [section 17 16] exist with
15 reference to the accused, the board shall dismiss the
16 charges or complaint. If the board finds that one or more of
17 the circumstances referred to in [section 17 16] exist in
18 reference to the accused, the board shall:

- 19 (a) revoke his license;
20 (b) suspend his right to practice naturopathy for a
21 period not exceeding 1 year;
22 (c) suspend its judgment of revocation upon the terms
23 and conditions to be determined by the board;
24 (d) place him on probation; or
25 (e) take such other disciplinary action as the board

1 in its discretion considers proper.

2 (3) The ~~secretary-treasurer--of-the-board~~ DEPARTMENT,
3 in all cases of revocation, suspension, or probation, shall
4 record the facts of the action and any subsequent action of
5 the board with respect thereto.

6 Section 18. Reinstatement or revocation of license
7 after period of suspension. Upon the expiration of the term
8 of suspension, the board may reinstate a license if the
9 suspended licensee furnishes the board with satisfactory
10 evidence that he is then of good moral character and
11 conduct; is restored to good health, if applicable; and has
12 not practiced naturopathy in the state during the term of
13 suspension. If the board is not satisfied that the licensee
14 is then of good moral character and conduct or restored to
15 good health or if the evidence shows that he has practiced
16 naturopathy in this state during the term of suspension, the
17 board may, after notice and hearing, revoke the license.

18 Section 19. Application of Montana Administrative
19 Procedure Act. (1) The contested case procedures of the
20 Montana Administrative Procedure Act apply to the notice and
21 hearing required by [sections ~~18~~ 17 and ~~19~~ 18], except that
22 neither common law nor statutory rules of evidence need
23 apply, but the board may make rules designed to exclude
24 repetitive, redundant, or irrelevant testimony.

25 (2) Any person aggrieved by the final decision of the

1 board may obtain judicial review of that decision. The
2 judicial review procedure is the same as that for contested
3 cases under the Montana Administrative Procedure Act.

4 Section 20. Enjoining unlawful practice. The practice
5 of naturopathy in violation of [sections 2 through ~~22~~ 21]
6 may be enjoined by the district court on petition by the
7 board. In any such proceeding, it is not necessary to show
8 that any person is individually injured by the actions
9 complained of. If the respondent is found to have so
10 practiced, the court shall enjoin him from practicing until
11 he has been licensed. Procedure in such cases must be the
12 same as in any other injunction suit. The remedy by
13 injunction is in addition to criminal prosecution and
14 punishment.

15 Section 21. Enforcement and penalty. (1) A county
16 attorney must prosecute all persons charged with violation
17 of any of the provisions of [sections 2 through ~~22~~ 21];
18 however, the board may retain its own attorney to prosecute
19 or assist in prosecuting any person so charged and may
20 compensate the attorney for such services.

21 (2) A person who violates any of the provisions of
22 [sections 2 through ~~22~~ 21] is guilty of a misdemeanor and is
23 punishable, upon conviction, by a fine not exceeding \$500 or
24 by imprisonment in the county jail not exceeding 30 days, or
25 both such fine and imprisonment.

1 Section 22. Licensure exception -- practitioners on
 2 October 1, 1985. (1) Notwithstanding the provisions of
 3 [sections 1 through ~~22 21~~], a person engaged in the practice
 4 of naturopathy, as defined in [section 4], in this state on
 5 October 1, 1985, is eligible for licensure if the person:

6 (a) has practiced naturopathy, as defined in [section
 7 4], in the state for at least 12 months prior to October 1,
 8 1985;

9 (b) is a graduate of a college of naturopathy, as
 10 defined in [section 4], or has graduated prior to 1970 from
 11 a naturopathic college determined by the board to have
 12 adequate standards and good reputation; and

13 (c) is willing and able to abide by the provisions of
 14 [sections 2 through ~~22 21~~].

15 (2) A person eligible to be licensed under the
 16 provisions of this section shall apply to the board, as
 17 defined in [section 4], in writing for licensure by October
 18 1, 1985. Such an applicant shall submit evidence of his
 19 qualifications to the board for investigation, with a fee
 20 for application and license in an amount to be set by the
 21 board under 37-1-134. If licensure is denied, a portion of
 22 the fee may be retained by the board for the expense of
 23 investigation. The board shall register persons approved for
 24 licensure under this section in the directory of licensed
 25 naturopathic doctors and shall issue them certificates of

1 license.

2 Section 23. Transition for initial board appointments.
 3 The first board members appointed after July 1, 1985, shall
 4 be appointed to terms of 5, 3, and 2 years to stagger board
 5 members' terms.

6 Section 24. Severability. If a part of this act is
 7 invalid, all valid parts that are severable from the invalid
 8 part remain in effect. If a part of this act is invalid in
 9 one or more of its applications, the part remains in effect
 10 in all valid applications that are severable from the
 11 invalid applications.

12 Section 25. Codification instruction. (1) Section 1 is
 13 intended to be codified as an integral part of Title 2,
 14 chapter 15, part 18.

15 (2) Sections 2 through ~~22 21~~ are intended to be
 16 codified as an integral part of Title 37.

17 Section 26. Effective date. This act is effective July
 18 1, 1985.

-End-