

Naturopathic Act, C.C.S.M. c. N80

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C.C.S.M. c. N80

The Naturopathic Act

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

Definitions

1 In this Act,

"association" means The Manitoba Naturopathic Association; (« Association »)

"board" means The Board of Naturopaths for which provision is made herein; (« conseil »)

"minister" means the minister appointed by the Lieutenant Governor in Council to administer this Act; (« ministre »)

"naturopathy" means a drugless system of therapy that treats human injuries, ailments, or diseases, by natural methods, including any one or more of the physical, mechanical, or material, forces or agencies of nature, and employs as auxiliaries for such purposes the use of electro-therapy, hydro-therapy, body manipulations, or dietetics; (« naturopathie »)

"registered naturopath" means a person who is registered as a member of the association. (« naturopathe inscrit »)

S.M. 2005, c. 39, s. 32.

Continuation of association

2 The Manitoba Naturopathic Association is continued as a body corporate with the objects, powers, and duties set forth herein.

Membership in association

3 The association shall be composed of

(a) all persons who are members thereof on the coming into force of this Act; and

(b) all other persons who, after the coming into force of this Act, are registered as members of the association under this Act.

Head office

4(1) The head office of the association shall be at The City of Winnipeg in Manitoba or at such other place in Manitoba as may be determined by the by-laws of the association.

Powers respecting property

4(2) The association may purchase or otherwise acquire, hold, and alienate property, movable or immovable, real or personal, and may do and perform all such acts and things as bodies corporate generally can do and perform, and has the general capacity which the common law ordinarily attaches to corporations incorporated by royal charter under the great seal.

Appointment of board

5(1) There shall be a board elected or appointed as provided in the regulations, which shall consist of five persons, and which shall be known as: "The Board of Naturopaths".

Term of office

5(2) The members of the board shall hold office until their successors are appointed or elected under this Act and the regulations.

Quorum

5(3) The presence of at least three members of the board is necessary at any meeting of the board to constitute a quorum.

Board's powers to make regulations

6(1) The board may, subject to all other provisions of this Act, make regulations ancillary thereto

(a) for the regulation of naturopaths as members of the association and as to the terms and conditions upon which the members shall be entitled to practise naturopathy in Manitoba;

(b) prescribing the qualifications as to education, character, and experience that a naturopath must have before he may be so registered;

(c) for maintaining a register of persons so entitled to practise; and providing for the fees payable by a naturopath,

(i) on being so registered; and

(ii) for the annual renewal of his registration;

(d) prescribing the discipline and control of registered naturopaths, including the prohibition or control of advertising by or on behalf of any registered naturopath;

(e) for the investigation of any complaint of unprofessional conduct, incompetency, or want of skill, on the part of any registered naturopath;

(f) for the cancellation or suspension of the registration of any registered naturopath found by the board to be guilty of such unprofessional conduct, incompetency or lack of skill as to render it desirable in the public interest that his registration should be cancelled or suspended;

(g) for the reinstatement of any naturopath whose registration has been cancelled or suspended;

(h) fixing the maximum fees or charges that a naturopath may receive or make for professional services rendered by him;

(i) respecting the calling of meetings of the board as well as of the association, the procedure to be followed at meetings, and the right to vote thereat;

(j) concerning the election or appointment, and the term of office, of the members of the board, and the creation of offices, and the duties to be performed by persons holding those offices;

(k) as to the application of funds of the association; and

(l) generally for the better carrying out of this Act.

Regulations to be published in Gazette

6(2) Regulations made by the board do not come into force until they have been published in one issue of *The Manitoba Gazette*.

Amendments and revocations

6(3) The board may at any time amend or revoke any regulation; but no such amendment or revocation has effect until it is published in one issue of *The Manitoba Gazette*.

Act may be pleaded in bar

7 No action shall be brought against the board or against any member of the board for anything done in good faith under this Act and within the powers of the board, notwithstanding any want of form in the proceedings.

Right of appeal

8(1) Any person whose application for registration has been refused, or whose registration has been cancelled or suspended, may, at any time within one month from the date of the decision or order of the board, appeal from the decision or order of the board to a judge of the Court of Queen's Bench.

Proceedings on appeal

8(2) Ten days' notice of every appeal shall be served on the secretary of the board and a copy thereof filed with the Registrar of the court.

Disposal of appeal

8(3) The judge shall deal with the appeal in a summary manner, and his decision is final; and the costs of the appeal are in the discretion of the judge.

Conduct of examinations

9(1) The board shall make rules concerning the examinations and the conduct thereof, including the age, moral character, and academic standing, of applicants for examination and also as to examination fees.

Examining committee

9(2) There shall be an examining committee appointed by the board for the purpose of examining the qualifications of every person who applies to be registered as a member of the association.

Members of examining committee

9(3) The examining committee shall be composed of three members of the association, each of whom shall hold office for such term as the board shall fix.

Filling of vacancies

9(4) Where a member of the examining committee resigns, or is unable or unwilling to act, or dies, the board shall appoint another member to act in his place for the residue of the term for which he was appointed.

Qualifications of applicant

10 Subject to section 3, the persons entitled to apply for registration as members of the association are only those who

(a) file with the examining committee a certificate or other evidence satisfactory to the examining committee, showing that they have passed at least junior matriculation examinations or an examination equivalent thereto;

(b) have attended a school or college of naturopathy that is approved by the board, for at least four academic years and graduated therefrom;

(c) pass an examination, prepared or approved by the examining committee, on each of the following subjects: anatomy, physiology, chemistry, pathology, histology, neurology, gynaecology, sanitation and hygiene, general diagnosis including symptomatology, and the principles and practice of the methods of naturopathy; and

(d) comply with those provisions of the regulations that concern admission and registration.

Examining committee to report

11(1) In a written report to the board the examining committee shall indicate the results of its investigation and examination of every person who applies for registration as a member of the association.

Board to issue licences

11(2) Where the board is satisfied that an applicant is duly qualified to practise naturopathy and that he is a person of integrity and good moral character, it shall, subject to this Act and the regulations, grant him a certificate of registration which entitles him to all the rights and privileges conferred by this Act.

Registration if emergency

11.1(1) Despite anything in this Act or the regulations, the board may waive any requirements for registration under this Act and the regulations to allow a person who is authorized to practise naturopathy in another jurisdiction in Canada or the United States to practise naturopathy in the province during an emergency, if the minister gives the board written notice that

(a) a public health emergency exists in all or part of the province; and

(b) he or she has determined, after consulting with public health officials and any other persons that the minister considers advisable, that the services of a naturopath from outside the province are required to assist in dealing with the emergency.

Emergency need not be declared

11.1(2) The board may exercise its authority under subsection (1) even if no emergency has been declared under an enactment of Manitoba or Canada.

Certificate of registration

11.1(3) If necessary to carry out the intent of this section, the board may issue a certificate of registration to a person allowed to practise under subsection (1), on such terms and conditions as the board may determine.

S.M. 2005, c. 39, s. 33.

Prohibition of unregistered persons using title of naturopath and practising naturopathy

12(1) No person other than a registered naturopath shall engage in the practice of naturopathy, or use the title "Naturopath" or any word, title or designation abbreviated or otherwise, to imply that he is engaged in the practice of naturopathy.

Practice by unregistered person an offence

12(2) Every person who practises naturopathy, either alone or in conjunction with any other method of treatment of the human body for disease and the causes of disease, for hire, gain, reward, or remuneration, or the hope or expectation thereof, unless he is a registered naturopath, is guilty of an offence.

Falsely pretending to be naturopath

12(3) Every person who is not a registered naturopath and who practises, or holds himself out as practising naturopathy, either alone or in conjunction with any other method of treatment of the body for disease and the causes of disease, or advertises, or uses any prefix or suffix to his name signifying, that he is qualified to practise naturopathy, either alone or in conjunction with any other method of treatment of the human body for disease and the causes of disease, is guilty of an offence.

Limitation of use of title "Doctor"

12(4) No registered naturopath shall, in conjunction with his name, and to designate his profession or calling, display, or make use of, the prefix or title "Doctor" or the abbreviation "Dr.", or any other words or letters commonly used to designate a legally qualified medical practitioner, or that suggest that he is a graduate or licentiate in medicine or surgery of any university or other diploma-granting body, unless at the same time he displays, or makes use of, the word "Naturopathy", or the word "Naturopath", immediately preceding or following his name.

Offence for fraudulent registry

13 It is an offence for any person wilfully to procure, or attempt to procure, himself to be registered under this Act by making any false or fraudulent representation or declaration, either orally or in writing; and every person knowingly aiding or assisting him therein is guilty of an offence.

One act constitutes offence

14 In any prosecution under this Act, it is sufficient proof of an offence under this Act if it is proved that the accused has done or committed a single act of unlicensed practice, or has committed on one occasion any act prohibited by this Act.

Limitation of time for prosecutions

15 No prosecution under this Act shall be commenced after two years from the date of the alleged offence.

Penalties

16 Every person who commits an offence against a provision of this Act for which no other penalty is provided, is liable, on summary conviction,

(a) for a first offence, to a fine not exceeding \$100.;

(b) for a second offence, to a fine not exceeding \$250.; and

(c) for a third or subsequent offence, to imprisonment for a term not exceeding three months without the option of a fine.

S.M. 1998, c. 32, s. 7.

Penalties to be paid to association

17 All penalties recoverable under this Act shall be paid to the convicting magistrate and by him be paid to the association, and shall form part of the funds thereof.

Power to collect fees for services

18 Every registered naturopath is entitled to demand from any person by whom he is consulted or employed, and to recover as a debt in any court of competent jurisdiction, the proper charges for the consultation and employment, or either of them.

Exemption from jury service

19 Every registered naturopath is, if he so desires, exempt from serving on all juries and inquests whatsoever.

Limitation of actions for malpractice

20 No registered naturopath is liable in any action for negligence or malpractice by reason of professional services requested and rendered, unless the action is commenced within two years from the date when, in the matter complained of, those professional services terminated.

Persons exempted from application of Act

21 Nothing in this Act applies to or affects,

(a) the practice of any profession or calling by any person practising it under authority of a general or special Act of the Legislature;

(b) any nurse acting in the absence of, or under the prescription or direction of, a legally qualified medical practitioner;

(c) the furnishing of first aid or temporary assistance in cases of emergency;

(d) persons treating human ailments by prayer or spiritual means as an enjoyment or exercise of religious freedom.

Notice of contagious disease

22 Any naturopath who has reason to believe that any person whom he may be treating has any contagious or infectious disease, or any other disease dangerous to public health, shall immediately give notice in writing to the officer of health of the municipality in which that person resides.

Medical Act not to apply

23 Nothing in *The Medical Act* prohibits a registered naturopath from practising naturopathy for hire, gain, or hope of reward.

Certain practices prohibited

24 Nothing in this Act or the regulations authorizes any person to prescribe or administer drugs for use internally or externally, or to use or direct or prescribe the use of anaesthetic for any purpose whatsoever, or to practise surgery or midwifery.

Confidentiality of information

25(1) Subject to section 26, every person employed, appointed or retained for the purpose of administering this Act, and every member of the board or a committee of the board, shall preserve secrecy about all information that comes to his or her knowledge in the course of his or her duties, and shall not communicate any information to any other person, except

(a) to the extent the information is available to the public, or is required to be disclosed, under this Act;

(b) in connection with the administration of this Act, including, but not limited to, the registration of members, complaints about members, allegations of members' incapacity, unfitness, incompetence or acts of professional misconduct, or the governing of the profession;

(c) to a body that governs the practice of a health profession pursuant to an Act of the Legislature, to the extent the information is required for that body to carry out its mandate under the Act; or

(d) to a body that governs the practice of naturopathy in a jurisdiction other than Manitoba.

Offence

25(2) A person who contravenes subsection (1) is guilty of an offence and is liable, on summary conviction, to a fine of not more than \$50,000.

S.M. 1998, c. 32, s. 7; S.M. 2005, c. 39, s. 34.

Board to collect information

26(1) In addition to any other information maintained in administering this Act, the board must collect and record each member's

(a) date of birth;

(b) sex; and

(c) education or training, as required for registration and renewal of registration.

Member to provide information

26(2) A member must provide the board with the information required under subsection (1), in the form and at the time set by the board.

Minister may require information

26(3) The minister may request in writing that the board provide information on members — including personal information — contained in the register or collected under subsection (1), to establish and maintain an electronic registry of health service providers to be used for the following purposes:

(a) to validate the identity of a provider seeking access to a patient's personal health information maintained in electronic form;

(b) to generate information — in non-identifying form — for statistical purposes.

Board to provide information to minister

26(4) The board must provide the minister with the information — including personal information — requested under subsection (3), in the form and at the time set by the minister after consulting with the board.

Minister may disclose information

26(5) Despite any other provision of this Act or any provision of another Act or a regulation, the minister may

(a) disclose — in non-identifying form — information provided under subsection (4) to any entity authorized to receive it under subsection (6); and

(b) impose conditions respecting the use, retention and further disclosure of the information.

An entity must comply with any conditions imposed by the minister.

Authorized entities

26(6) The following entities are authorized to receive information — in non-identifying form — under subsection (5):

(a) a regional health authority established or continued under *The Regional Health Authorities Act*;

(b) Regional Health Authorities of Manitoba, Inc.;

(c) CancerCare Manitoba;

(d) The Manitoba Centre for Health Policy;

(e) a government or organization with which the Government of Manitoba has entered into an agreement to share information for the purposes stated in subsection (3).