



This Bill Analysis reflects the contents of the bill as it was presented in committee.

# HOUSE BILL 557: North Carolina Healing Arts Commission.

2023-2024 General Assembly

<b>Committee:</b>	House Regulatory Reform. If favorable, re-fer to Rules, Calendar, and Operations of the House	<b>Date:</b>	May 31, 2023
<b>Introduced by:</b>	Reps. Warren, Riddell	<b>Prepared by:</b>	Aaron McGlothlin Committee Counsel
<b>Analysis of:</b>	First Edition		

**OVERVIEW:** *The Proposed Committee Substitute (PCS) for House Bill 557 would establish the Healing Arts Commission to regulate the practice of healing arts in the State and create a State licensing process for reflexologists, music therapists, and naturopathic doctors.*

### BILL ANALYSIS:

The PCS for House Bill 557 would create the Healing Arts Article (Article) within Chapter 90 of the General Statutes and establish the North Carolina Healing Arts Commission (Commission) to regulate and oversee the practice and provision of healing arts in the State. The three initial healing arts professions that would be regulated under the Commission are reflexology, music therapy, and naturopathy.

The Article broadly defines "healing arts" as the "use of allopathic, complementary, or alternative approaches to the art and science of medicine for the prevention, identification, and treatment of human physical or mental conditions, diseases, ailments, illnesses, infirmities, pain, defects, or injuries and the promotion and restoration of health and wellness."

### NORTH CAROLINA HEALING ARTS COMMISSION

The Commission would initially be comprised of seven members appointed by the Governor and the General Assembly, as follows:

- Two reflexologists (one appointed by the Governor, one by the Senate).
- Two music therapists (one appointed by the Governor, one by the House).
- Two naturopathic doctors (one appointed by the Governor, one by the House).
- One public member (appointed by the Governor).

After the initial appointments expire, Commission terms would be for three years.

The Commission would have the authority to administer the provisions of the Article, adopt rules, appoint advisory committees to oversee each healing arts profession, issue, revoke, or deny North Carolina Healing Arts Licenses, discipline licensees, conduct any necessary administrative hearings, establish fees, authorize expenditures from those collected fees, and remit funds to the advisory committees.

The Commission may establish fees for healing arts professions not exceeding the following amount:

- Issuance of a North Carolina Healing Arts License: \$300
- North Carolina Healing Arts License renewal (annually): \$350

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- Late renewal fee: \$200

Violations of the Article would result in a written warning for the first violation, a civil penalty of no more than \$200 for the second violation, and a civil penalty of no more than \$200 and a Class 1 misdemeanor for the third and each subsequent violation. The Commission would also be permitted to seek an injunction against any person found violating the Article. The clear proceeds of any civil penalty would be remitted to the Civil Penalty and Forfeiture Fund.

## PRACTICE OF REFLEXOLOGY

**Part 2** of the Article would provide that the practice of reflexology would be considered a healing arts profession and therefore regulated under the Article. The Article defines "reflexology" as a "protocol of manual techniques, including thumb and finger walking, hook and backup and rotating on a point, that are applied to specific reflex areas predominantly on the feet and hands and that stimulate the complex neural pathways linking body systems and support the body's efforts to function optimally" and further clarifies that the practice of reflexology is not massage and bodywork therapy as defined in Article 36 of Chapter 90.

### Reflexology Advisory Committee

Part 2 would direct the Commission to create a Reflexology Advisory Committee (Reflexology AC) comprised of two reflexologists from a list of names submitted by the North Carolina Reflexology Association and a public member not engaged in the practice of reflexology or otherwise having a significant financial interest in a health service or profession. The Reflexology AC would be responsible for administering the Part, establishing and determining qualifications for the Healing Arts License in reflexology, providing proof of licensure to licensed reflexologists, maintaining a list of certified reflexologists, and making recommendations to the Commission to adopt rules; to issue, deny, revoke, or suspend licenses; and to discipline licensed reflexologists, including advising the Commission to seek civil or criminal penalties against noncertified individuals engaging in the practice of reflexology in the State.

### Healing Arts License in Reflexology

To obtain a Healing Arts License in reflexology, an applicant must meet all the following criteria:

- The applicant must be at least 18 years of age.
- The applicant is of good moral character, as determined by the Reflexology AC.
- The applicant holds a national certification in reflexology from the American Reflexology Certification Board (ARCB).
- The applicant has paid an application or renewal fee to the Commission as required by this Article.

A Healing Arts License in reflexology issued by the Commission must be renewed annually on or before January 1.

Under this Article, compensation may be received for reflexology services only when those services are performed by an individual holding a North Carolina Healing Arts License in reflexology. Nonlicensed individuals providing reflexology services would be subject to the injunctive, civil, and criminal penalties of the Article, unless the individual is a reflexology student working to obtain certification from the ARCB or the individual holds a certification from the ARCB and that certification was obtained no more than six months prior to that individual receiving compensation for reflexology services.

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No individual may use the title "North Carolina Certified Reflexologist" unless that individual holds a valid North Carolina Healing Arts Certificate in reflexology issued by the Commission. Individuals holding themselves out as North Carolina Certified Reflexologists must always carry a Reflexology AC-issued identification card when providing reflexology services. Individuals in violation of this subsection are subject to the injunctive, civil, and criminal penalties of the Article.

Reciprocity would be available for individuals who are licensed or certified to practice reflexology in another State, and this Article would not apply to individuals providing reflexology services if the individual is a licensed massage and bodywork therapist, physician, chiropractor, acupuncturist, physical therapist, cosmetologist, registered nurse, or a member of other professions licensed by the State so long as the reflexology services account for less than 25% of the individual's work.

## PRACTICE OF MUSIC THERAPY

**Part 3** of the Article would provide that the practice of music therapy would be considered a healing arts profession and therefore regulated under the Article. The Article defines "music therapy" as the "clinical and evidence based use of music interventions to accomplish individualized goals within a therapeutic relationship by a credentialed professional who has completed an approved music therapy program, including (i) assessment of a client's emotional, physical, and spiritual health, social functioning, communication abilities, and cognitive skills through the client's history and observation and interaction of the client in music and nonmusic settings; (ii) development and implementation of treatment plans, based on a client's assessed needs, using music interventions, including music improvisation, receptive music listening, song writing, lyric discussion, music and imagery, music performance, learning through music, and movement to music; and (iii) evaluation and documentation of the client's response to treatment."

Part 3 largely matches the provisions of Part 2, except for certain items specific to music therapy, listed below:

- The Music Therapy Advisory Committee (Music Therapy AC) would be comprised of two music therapists from a list of names submitted by the Music Therapy Association of North Carolina and a public member not engaged in the practice of music therapy or otherwise having a significant financial interest in a health service or profession.
- In addition to the age, character, and fee requirements for licensure by the Music Therapy AC, the applicant must meet all the following criteria:
  - The applicant has completed an academic program accredited by the American Music Therapy Association with at least a bachelor's degree in music therapy from an accredited college or university.
  - The applicant has successfully completed the certification exam offered by the Certification Board for Music Therapists.
  - The applicant has completed a minimum of 1,200 hours of clinical training, with at least 180 hours in pre-internship experience and 900 hours in internship experience.
- A Healing Arts License in music therapy issued by the Commission must be renewed every five years.

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## PRACTICE OF NATUROPATHIC MEDICINE

**Part 4** of the Article would provide that the practice of naturopathic medicine would be considered a healing arts profession and therefore regulated under the Article. The article defines "naturopathic medicine" as "a system of natural health care that employs diagnosis and treatment using diagnostic techniques and natural therapies for the promotion, maintenance, and restoration of health and the prevention of disease," including (i) the administration or provision of natural medicines, natural therapies, natural topical medicines, hydrotherapy, dietary therapy, and naturopathic physical medicine; (ii) the use of diagnostic procedures, including physical and orificial examination, but excluding endoscopy, sigmoidoscopy, and colonoscopy; and (iii) the ordering, performing, and interpretation of laboratory tests and diagnostic imaging.

A naturopathic doctor may not perform any of the following functions unless otherwise licensed by this State to do so: (i) prescribe, dispense, or administer any prescription drug or controlled substance; (ii) use general or spinal anesthetics; (iii) perform surgical procedures; (iv) administer ionizing radioactive substances for therapeutic purposes; (v) child delivery; and (vi) diagnose and treat cancer, except naturopathic doctors may provide adjunctive or complementary care of patients who have previously or currently been diagnosed with cancer.

### Naturopathic Medicine Advisory Committee

Part 4 would direct the Commission to create a Naturopathic Medicine Advisory Committee (Naturopathic Medicine AC) comprised of two naturopathic doctors from a list of names submitted by the North Carolina Association of Naturopathic Physicians and a public member not engaged in the practice of naturopathic medicine or otherwise having a significant financial interest in a health service or profession. The naturopathic Medicine AC would be responsible for administering the Part, establishing and determining qualifications for the Healing Arts License in naturopathic medicine, providing proof of licensure to licensed naturopathic doctors, maintaining a list of licensed naturopathic doctors, and making recommendations to the Commission to adopt rules; to issue, deny, revoke, or suspend licenses; and to discipline licensed naturopathic doctors.

### Naturopathic Doctors Formulary Council

The Naturopathic Medicine AC would be directed to establish the Naturopathic Doctors Formulary Council to develop and recommend to the Naturopathic Medicine AC, on an ongoing basis, a formulary for naturopathic doctors to use in practice. The Council would consist of six members, including two licensed naturopathic doctors, two physicians, one pharmacist, and one member of the public who is not licensed or employed in a health care profession.

### Healing Arts License for Naturopathic Medicine

In addition to the age, character, and fee requirements for licensure by the Naturopathic Medicine AC, the applicant must meet all of the following criteria:

- The applicant has graduated from an approved program of naturopathic medicine offered by an institution of higher education that is accredited by a regional or national institutional accrediting body recognized by the U.S. Secretary of Education, and that is accredited or has achieved candidacy status for accreditation by the Council on Naturopathic Medical Education or an equivalent federally recognized accrediting body for the naturopathic medical profession.
- The applicant has successfully passed the Naturopathic Physicians Licensing Examination (NPLEX) administered by the North American Board of Naturopathic Examiners, or a

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competency-based state or Canadian province naturopathic licensing examination administered prior to the existence of NPLEX and approved by the Naturopathic Medicine AC.

- The applicant attests to having a collaboration and consultation agreement with a licensed physician.
- The applicant submits to a criminal history record check by the Naturopathic Medicine AC.

Naturopathic doctors would be required to complete at least 20 hours of continuing education approved by the Naturopathic Medicine AC as a condition for license renewal. A Healing Arts License for naturopathic medicine issued by the Commission must be renewed annually on or before January 1.

## Exemptions to the Naturopathic Medicine Licensing Requirement

All of the following individuals are exempt from the prohibition against practicing naturopathic medicine without a license: (i) licensed professions under other laws of this State performing services within the authorized scope of practice for their licensed profession; (ii) the practice of naturopathic medicine by a person employed by the federal government engaged in the performance of duties prescribed by federal law; (iii) a person rendering emergency aid without compensation; (iv) the practice of naturopathic medicine by a naturopathic doctor licensed in another state when called into North Carolina to consult with a licensed health care provider for a period not to exceed six months; (v) the practice of naturopathic medicine by students completing clinical requirements; and (vi) a person who does not hold themselves out to be a naturopathic doctor when furnishing information to customers or selling, administering, or utilizing nutritional supplements, herbs, food, or homeopathic preparations at the person's retail, health spa, or health consulting establishment.

**Section 1.(b)** of the bill would provide that the practice of naturopathic medicine by a licensed naturopathic doctor does not constitute the practice of medicine or surgery under Article 1 of Chapter 90.

**Section 1.(c)** would provide that a licensed reflexologist engaged in the practice of reflexology is not required to obtain licensure under the Massage and Bodywork Therapy Practice Act.

**Section 1.(d)** would authorize the Department of Public Safety to provide criminal history records to the Naturopathic Medicine AC for applicants for licensure and to charge fees to offset the cost incurred by conducting these criminal history record checks.

**EFFECTIVE DATE:** Section 1 of this act would become effective January 1, 2024. The remainder of this act would become effective when it becomes law.