

BILL ANALYSIS

Senate Research Center

C.S.S.B. 257
By: Luna
Health & Human Services
4-25-97
Committee Report (Substituted)

DIGEST

Currently, naturopathic medicine is not regarded as a distinct health care profession, and is neither licensed nor regulated as such. However, a significant number of Texas citizens are turning to naturopathic medicine for their health care needs. During its reformation in past years, the profession has developed an infrastructure that includes accredited educational institutions, standards of practice and care, peer review, credentialing, malpractice insurance, a national independent physicians association, and scientific research. This legislation recognizes naturopathic medicine as a medical profession and provides standards for its licensing and regulation while establishing penalties for violations in order to better protect the public health, safety, and welfare.

PURPOSE

As proposed, C.S.S.B. 257 establishes the regulation and licensing of the practice of naturopathic medicine, provides a means of identifying qualified naturopathic physicians, and provides penalties for violations.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Board of Health in SECTIONS 4(a) and (c), 8(f), 9(a), 10, 11(c) and (d), 14(a), 15, 17(c), and 18(a) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. PURPOSE. Sets forth the findings of the legislature regarding naturopathic medicine and the purpose of this Act.

SECTION 2. DEFINITIONS. Defines "advisory committee," "approved naturopathic college," "board," "department," "diagnose," "minor office procedure," "natural antibiotics," "natural medicines," "naturopathic medicine," "naturopathic childbirth," "naturopathic mobilization therapy," "naturopathic physician," "naturopathic physical medicine," "practice of naturopathy," and "topical preparations."

SECTION 3. AUTHORIZED ACTIVITIES. Sets forth the preparations, therapies, and evaluation methods a person licensed as a naturopathic physician is authorized to use under this Act.

SECTION 4. POWERS AND DUTIES OF BOARD AND DEPARTMENT. Provides that the Texas Board of Health (board), with the advice of the Naturopathic Physicians Advisory Committee (advisory committee), is required to adopt rules consistent with this Act, and is authorized to adopt rules authorizing the use by naturopathic physicians of other evaluative procedures and other natural substances, treatments, procedures, and therapies, provided they meet certain requirements. Requires the Texas Department of Health (department) to administer and investigate violations of this Act, prepare and administer examinations, and perform other duties authorized by this Act. Provides that Chapter 2001, Government Code, applies to this Act.

SECTION 5. EXCEPTIONS. Sets forth those persons and conditions to which this Act does not apply.

SECTION 6. PROHIBITED ACTS. Prohibits a naturopathic physician from prescribing,

dispensing, or administering any legend drugs or controlled substances or performing surgical or X-ray procedures, except as authorized by this Act or board rule; practicing emergency care except as a samaritan in the case of emergency or for the care of minor injuries; or claiming to practice allopathic medicine, surgery, or certain other methods of treatment not authorized by this Act or board rule.

SECTION 7. DUTIES AND RESPONSIBILITIES. Establishes that a naturopathic physician has the same responsibility as any other licensed health care provider regarding certain issues, except that the physician's authority is limited to the scope of practice authorized by this Act or board rule.

SECTION 8. LICENSE QUALIFICATIONS. Sets forth the conditions by which a person is qualified to be licensed as a naturopathic physician, both with and without examination. Establishes the terms under which a person licensed without taking the examination is authorized to use the title "naturopathic physician" and other relevant titles, and practice naturopathy. Authorizes the board to adopt rules providing for limitations on the practice of a person licensed without taking the examination, but prohibits the board from requiring such a person to be identified as a person whose practice is limited.

SECTION 9. EXAMINATION. Authorizes the board to prescribe a nationally developed standard examination as part or all of the examination prescribed or endorsed by the board. Requires the board, by rule, to determine the passing criteria for the examination, and authorizes the board to adopt other rules necessary to the administration of the examination. Sets forth the terms by which the board is required to set certain other fees.

SECTION 10. LICENSE FEES. Requires the board, by rule, to adopt an initial licensing fee and annual renewal fees in amounts necessary to cover the costs of administering this Act.

SECTION 11. LICENSE RENEWAL. Sets forth the conditions by which a license to practice as a naturopathic physician is required to be renewed. Requires the board to adopt rules as to what constitutes an approved program of continuing education and the manner in which attendance is monitored, recorded, and submitted to the department. Authorizes the board to adopt other rules necessary to the administration of license renewals.

SECTION 12. CONTINUING EDUCATION. Establishes the conditions by which naturopathic physicians are required to complete continuing education hours, including continuing education requirements for the regular renewal of the license.

SECTION 13. INACTIVE STATUS; RETIRED STATUS. Sets forth the terms by which a license holder is required to place the person's license on inactive status, activate a license, and place a license on retired status. Prohibits a license holder whose license is on inactive or retired status from practicing naturopathic medicine.

SECTION 14. SPECIALTY PRACTICE. Sets forth the terms by which a naturopathic physician is prohibited from practicing naturopathic childbirth without obtaining a certificate of specialty practice in naturopathic childbirth, and establishes the method for becoming certified. Requires the board to adopt rules to certify naturopathic physicians for specialty practice, and authorizes the advisory committee to prescribe a national standardized examination in obstetrics or natural childbirth as constituting the specialty examination.

SECTION 15. USE OF X-RAY. Sets forth the terms by which a naturopathic physician is authorized to use an X-ray, and by which the board is required to adopt rules for the issuance of a certification to use X-rays.

SECTION 16. USE OF TITLES; PENALTY; INJUNCTION. Establishes the titles and terms which a naturopathic physician is authorized to use. Provides that a person commits a third degree felony if the person holds the person out as a naturopathic physician, suggests that the person practices naturopathic medicine, or uses the terms and abbreviation that apply to a naturopathic physician without holding a license or while on retired or inactive status. Establishes that a person

who violates this section may be enjoined by the district court on petition by the board.

SECTION 17. COMPLAINT PROCEDURE IN GENERAL. Requires the department to keep an information file about each complaint filed with the department which contains certain records. Sets forth the complaint procedure. Requires the board, by rule, to adopt a form to standardize information concerning complaints made; and to prescribe information to be provided to a person when the person files a complaint.

SECTION 18. COMPLAINT INVESTIGATION AND DISPOSITION. Requires the board to adopt rules concerning the investigation of a complaint filed with the department which establish certain requirements. Requires the department to dispose of all complaints in a timely manner.

SECTION 19. DISCIPLINE OF LICENSE HOLDER. Authorizes a license to practice naturopathy to be denied or, after notice and hearing, suspended, probated, or revoked in certain circumstances. Sets forth the terms by which a person whose application for a license is denied or whose license is suspended or revoked is entitled to a hearing.

SECTION 20. NATUROPATHIC PHYSICIANS ADVISORY COMMITTEE. Sets forth the terms by which the Naturopathic Physicians Advisory Committee is created as an advisory committee to the board, including member qualifications and term appointment. Establishes the conditions under which the advisory committee is authorized to adopt rules for the conduct of its activities; required to elect a presiding officer; required to meet at certain times; prohibited from receiving compensation; and required to recommend rules to implement standards for the consideration of the board and examinations for the approval of the department. Authorizes a naturopathic physician member of the advisory committee to be licensed as a member of another health profession regulated or licensed by the state.

SECTION 21. CONFORMING AMENDMENT. Amends Section 3.06(b), Article 4495b, V.T.C.S. (Medical Practice Act), to provide that this Act does not apply to a licensed naturopathic physician who confines the physician's practice strictly to naturopathy as defined by law. Makes a conforming change.

SECTION 22. CONFORMING AMENDMENT. Amends Section 3(a), Article 4512g, V.T.C.S. (Licensed Professional Counselor Act), to provide that, except as provided by Subsection (b), this Act does not apply to the activities and service of licensed, rather than certified, social workers. Makes a conforming change.

SECTION 23. CONFORMING AMENDMENT. Amends Section 5(39), Article 4542a-1, V.T.C.S. (Texas Pharmacy Act), to redefine "practitioner." Makes a conforming change.

SECTION 24. CONFORMING AMENDMENT. Amends Section 481.002(39), Health and Safety Code, to make a conforming change.

SECTION 25. CONFORMING AMENDMENT. Amends Section 483.001(12), Health and Safety Code, to make a conforming change.

SECTION 26. INITIAL APPOINTMENTS TO ADVISORY COMMITTEE. Sets forth the terms by which the board is required to appoint the initial three naturopathic physician members of the Naturopathic Physicians Advisory Committee.

SECTION 27. Effective date: September 1, 1997.

SECTION 28. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 2.

Defines "advisory committee" and redefines "approved naturopathic college" and "naturopathic mobilization therapy."

SECTION 3.

Authorizes a person licensed as a naturopathic physician to use therapeutic ultrasound, rather than ultrasound, for evaluation purposes.

SECTION 8.

Grants licensing authority to the advisory committee rather than the board in certain instances.

SECTION 12.

Provides that the total number of required continuing education hours for all naturopathic physicians is not less than 15 approved hours annually, rather than 30 hours biennially.

SECTION 14.

Authorizes the advisory committee, rather than the board, to prescribe a national standardized examination.

SECTION 16.

Amends the list of terms which a naturopathic physician has the right to use. Provides that a person who impersonates a naturopathic physician commits a third degree felony, rather than a Class B misdemeanor.

SECTION 17.

Sets forth the procedure for filing complaints with the department.

SECTION 18.

Establishes the method for investigating and disposing of complaints.

SECTION 19.

Amends the method for disciplining a license holder who is guilty of certain violations.

SECTION 20.

Authorizes, rather than prohibiting, a naturopathic physician member of the advisory committee to be licensed as a member of another health profession.

SECTION 22.

Provides that this Act does not apply to the activities and services of licensed, rather than certified, social workers.