

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 695
SPONSOR(S): Bowen
TIED BILLS:

Naturopathic Medicine

IDEN./SIM. BILLS: SB 2556

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Health Care Regulation Committee, Hamrick, Mitchell.

SUMMARY ANALYSIS

Naturopathic practitioners were first licensed in Florida in 1927. In 1959, the Legislature abolished the licensing authority for naturopathy and the board was dissolved. Only naturopathic practitioners licensed at that time could continue to be licensed, and no new licenses could be issued (s. 462.023, F.S.). Currently, only a few naturopaths have active licenses.

HB 695 amends ch. 462, F.S., to reestablish licensure of naturopathic physicians with an better defined scope of practice and higher educational standards that will enable them to diagnose, treat, and prescribe legend drugs. The provisions of the bill include:

- Renaming the profession from Naturopathy to Doctor of Naturopathic Medicine, and establishing a board;
New education requirements, including receiving a bachelor's degree and graduation from an program accredited by the Council on Naturopathic Medical Education or a program approved in Florida, and a one year internship or residency;
New examination requirements, including national examinations as well as those given by other states and Canada;
Grandfathering in currently licensed naturopathic physicians;
Limiting prescriptions to non controlled drugs, and prohibiting surgery.
Excluding acupuncture and oriental medicine, and providing exemptions for supplement retailers, religious freedoms and family remedies.

The Sunrise Act, s. 11.62, F.S., requires review of proposed legislation to establish regulation of a profession using statutory criteria in s. 11.62(3), F.S., to determine whether evidence shows:

- Substantial risk of harm to the public if there is no regulation;
The skills required by the profession are specialized and readily measurable;
Regulation will not have an unreasonable effect on job creation or job retention;
The public can not be adequately protected by other means; and
The overall cost effectiveness and economic impact of the proposed regulation is favorable.

The proponents of the bill provided evidence to support licensure based on the profession's training programs and licensure exams, but have not provided sufficient evidence that there is substantial harm or danger to the public from the profession that necessitates licensure.

The bill takes effect July 1, 2005.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government- The bill provides the Department of Health the authority to regulate and license the profession of naturopathic medicine.

Safeguard individual liberty- The bill provides consumers access to safe and cost effective natural treatment options provided by specifically trained, regulated and licensed professionals.

B. EFFECT OF PROPOSED CHANGES:

HB 695 amends chapter 462, F.S., to reestablish licensure of naturopathic physicians with a better defined scope of practice and higher educational standards that will enable them to diagnose, treat, and prescribe legend drugs. The bill provides for purpose, exceptions, rulemaking authority, general licensure requirements, and privileges and status of naturopathic physicians. The provisions of the bill:

- Rename the profession to Doctor of Naturopathic Medicine;
- Establish a Board of Naturopathic Medicine of seven members appointed by the Governor and approved by the Senate, with five naturopathic physicians and two non-health care practitioners;
- New education requirements, including a bachelor's degree, graduation from a program accredited by the Council on Naturopathic Medical Education or a program approved in Florida, and a one year internship or residency;
- Establish new examination requirements, including national examinations as well as those given by other states and Canada;
- Grandfather in currently licensed naturopathic physicians;
- Allow prescription of legend drugs, not including controlled drugs, and prohibiting surgery; and
- Provide exemptions to the naturopathic physician scope of practice to provide for the continued practice of supplement retailers, religious freedoms and family remedies.

The conclusions of the, December, 2003, Sunrise Report by staff of the Committee on Health Care based on statutory criteria of s. 11.62(3), F.S., for consideration of whether to license a profession found:

- There is evidence for support of licensure based on the existence of accredited training programs and a national licensure examination;
- The proponents of regulation did not provide sufficient evidence that there is substantial harm or that the public is endangered from the unregulated practice of the profession; and
- Current statutes already allow naturopathic modes of treatment by licensed medical doctors and osteopathic physicians, and other licensed health practitioners (s. 456.41, F.S.).

BACKGROUND

History of Naturopathy in Florida

Naturopathic practitioners were first licensed in Florida in 1927. In 1959, the Legislature abolished the licensing authority for naturopathy. Only those naturopathic practitioners licensed at that time could continue to be licensed and no new licenses have been issued (s. 462.023, F.S.). Currently, only seven naturopathic practitioners have active licenses. These licensees are regulated by the Division of Medical Quality Assurance of the Department of Health. In the last two legislative sessions, naturopathic physicians have sought to reestablish licensure in Florida with a board and an expanded scope of practice.

Naturopathic physicians

According to the Florida Naturopathic Physician Association (FNPA), naturopathic practice distinguishes itself from other health care practitioners by its holistic approach, not the specific treatments it uses. Therapy is directed at the whole person and at the underlying cause of illness, such as the patient's lifestyle, diet, and emotional state.

Naturopathic physicians are trained in nutrition (diet and nutritional supplements), health-risk assessment, homeopathy, botanical medicine, counseling, and naturopathic physical medicine (such as therapeutic ultrasound, diathermy, hydrotherapy, and naturopathic manipulative therapy).

According to the FNPA, naturopathic childbirth (with specialty training), minor office procedures (superficial skin wound repair, etc.), and naturally derived prescription drugs and their synthetic analogs (antibiotics, hormones, etc.) are also part of naturopathic training and practice, but training does not include general surgery, surgical repair of fractures, or chemotherapy.

Florida Naturopathic Physician Association's Reasons for Licensure

According to the Florida Naturopathic Physician Association (FNPA), licensure is needed to allow for:

- Improved consumer access to health care—consumer's desire access to safe and cost effective natural treatment options provided by specifically trained physician-level professionals.
- Naturopathic physicians to practice as trained—without licensure, new naturopathic physicians are unable to practice to the full extent of their training.
- Insurance coverage—some insurance companies cover some naturopathic services, but new practitioners can not be reimbursed because they are unable to become licensed as naturopathic physicians.
- Increased cost effectiveness of health care—the profession considers naturopathic treatment to be a cost effective alternative to conventional medicine because it emphasizes prevention, patient participation, and technologically simpler treatments.

Statutory Criteria for Consideration of Licensure of a Profession

Section 11.62(6), F.S., requires that when making a recommendation concerning proposed legislation providing for new regulation of a profession, a legislative committee shall determine:

- Whether the regulation is justified based on the Sunrise Review criteria, the information submitted by proponents of the regulation, and the information provided by the department under s. 11.62(3)-(5), F.S.;
- The least restrictive and most cost-effective regulatory scheme that will adequately protect the public; and
- The technical sufficiency of the proposed legislation, including its consistency with the regulation of other professions and occupations under existing law.

Proponents have provided evidence that naturopathic medicine meets statutory standards of s. 11.62(3), F.S., of the Sunrise Act in terms of:

- 1) Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability (s. 11.62(3)(b), F.S.).

The profession of naturopathic physician has specialized skills and training as evidenced by:

- Recognized and accredited training programs for naturopathic physicians; and
- A recognized national examination for licensure that assesses specialized, measurable skills.

- 2) Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable (s. 11.62(3)(e), F.S.). Proponents have provided information that:

Consumers would be provided a wider range of desired alternative and complementary health practices that will be provided at lower cost than traditional medicine.

- 3) Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment (s 11.62(3)(c), F.S.).

The bill provides expanded opportunities for trained health practitioners to provide alternative and complementary health care in Florida.

Proponents have not provided convincing evidence that naturopathic medicine meets statutory standards of s. 11.62(3), F.S., of the Sunrise Act in terms of:

- 1) Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote (s. 11.62(3)(a), F.S.).

Only isolated instances of harm in other states have been provided by proponents of the bill.

- 2) Whether the public is or can be effectively protected by other means (s. 11.62(3)(d), F.S.).

Currently in Florida:

- The public can receive naturopathic modes of treatment from licensed allopathic and other physicians, and from other licensed health professionals; and
- The state currently permits many non-invasive, traditional, and alternative health practices as practiced by traditional naturopathy without state regulation.

Scope of Naturopathic Practice

Three different groups of practitioners use naturopathic techniques:

- **“Naturopathic physicians,”** who are licensed in 12 states to practice a limited form of primary care;
- **“Traditional naturopaths,”** who practice non-invasive traditional and alternative healing and are not licensed; and
- **“Licensed health professionals,”** such as medical doctors and nurses, who incorporate some naturopathic techniques in their practice.

Current Statute (s. 462.01(1), F.S.) defines the scope of practice for naturopathy as:

...The use and practice of psychological, mechanical, and material health sciences to aid in purifying, cleansing, and normalizing human tissues for the preservation or restoration of health, according to the fundamental principles of anatomy, physiology, and applied psychology, as may be required. Naturopathic practice employs, among other agencies, phytotherapy, dietetics, psychotherapy, suggestotherapy, hydrotherapy, zone therapy, biochemistry, external applications, electrotherapy, mechanotherapy, mechanical and electrical appliances, hygiene, first aid, sanitation, and heliotherapy; provided, however, that nothing in this chapter shall be held or construed to authorize any naturopathic physician licensed hereunder to practice materia medica or surgery or chiropractic medicine, nor shall the provisions of this law in any manner apply to or affect the practice of osteopathic medicine,

chiropractic medicine, Christian Science, or any other treatment authorized and provided for by law for the cure or prevention of disease and ailments.

The proposed bill updates and limits the scope of practice by providing grounds for disciplinary action of a licensed naturopathic doctor if they prescribe any controlled substances that are considered Schedule I, Schedule II, or Schedule III. A naturopathic doctor is not authorized to practice acupuncture, oriental medicine, child birth attendance, midwifery, or the examination, diagnosis, and treatment of teeth and gums.

The bill provides that a naturopathic doctor may perform minor surgeries and procedures, administer vitamins, food and food supplements.

Educational Requirements

In recent years, naturopathic physicians have improved the educational standards of their profession through nationally accredited four year programs, standardized licensure examinations, and support of professional associations. The profession is still in the process of development. The training programs for naturopathic physicians do not include residency programs, such as those required of Medical Doctors and Osteopathic Physicians. Only Utah requires a one year residence prior to licensure. Some of the colleges providing four year programs are not yet fully accredited.

The Council on Naturopathic Medical Education (CNME) has accredited or recognized five, four-year, graduate-level, naturopathic medical education programs leading to the Doctor of Naturopathic Medicine (N.M.D.) or Doctor of Naturopathy (N.D.) degree in the U.S.

Accreditation standards for naturopathic physician education established by CNME include a minimum of three years of undergraduate premedical study from an accredited college or university as a prerequisite for entry to a naturopathic medical school. (All except one program requires an undergraduate degree for admission.)

An accredited naturopathic medical college program is a four-year post-graduate curriculum. The first two years of study focus on standard medical sciences (e.g., anatomy, physiology, pathology, biochemistry, immunology, embryology and related areas). Specialty courses are required in pediatrics, obstetrics, cardiology, dermatology, neurology, urology, and other clinical sciences.

The second two years focus on clinical skills and a range of natural therapeutics. Training in naturopathic therapeutics includes botanical medicine, homeopathy, natural childbirth, acupuncture, hydrotherapy, naturopathic manipulative therapy and therapeutic nutrition. Along with these natural therapies, one full year of training is required in physical diagnosis, and laboratory and x-ray diagnosis. Training also includes pharmacology.

The four years of training include a clinical internship that consists of 1500 hours of treating patients under the supervision of licensed naturopathic and conventional medical physicians.

While residency programs after graduation are encouraged, they are only required for licensure in Utah and few positions are available.

National Accreditation Organization

The Council on Naturopathic Medical Education (CNME) is recognized by the U.S. Department of Education as an accrediting agency for naturopathic graduate education programs under Sections 114 and 496 of the Higher Education Act of 1965. The Act requires federal recognition of accrediting organizations in order for the programs they accredit to be eligible for participation in federal educational loan programs and receive federal grants. The CNME is recognized as an accrediting

agency for graduate-level, four-year naturopathic medical education programs leading to the Doctor of Naturopathic Medicine (N.M.D.) or Doctor of Naturopathy (N.D.).

Naturopathic Medical Colleges

Florida College of Integrative Medicine (Orlando, FL)

The Florida College of Integrative Medicine was established in 1990 as the National College of Oriental Medicine with a single program in Acupuncture, Herbology and Oriental Medicine. Currently, it is undergoing changes. On May 14, 2003, the Council on Naturopathic Medical Education (CNME) accepted the Florida College of Integrative Medicine's application for candidacy for accreditation of its naturopathy program. Candidacy status indicates the college or program satisfies the eligibility requirements, complies with the standards to the degree expected for its stage of development, and has demonstrated the potential for achieving accreditation within five years of having obtained candidacy. Currently, the College is having difficulty with class enrollment, which is a key component to the accreditation process.

Bastyr University (Seattle, WA)

Bastyr University was founded in 1978 to train naturopathic physicians. Degree programs have been added in nutrition, acupuncture, oriental medicine and psychology. Bastyr is accredited by the Council on Naturopathic Medical Education (CNME) and the Commission on Colleges of the Northwest Association of Schools and Colleges.

National College of Naturopathic Medicine (Portland, OR)

The National College of Naturopathic Medicine was founded in 1956. It is the oldest naturopathic medical school in North America.

Southwest College of Naturopathic Medicine and Health Sciences (Tempe, AZ)

The Doctor of Naturopathic Medicine program at Southwest College of Naturopathic Medicine and Health Sciences was started in 1993. Southwest College is approved by an autonomous Arizona Naturopathic Physicians Board of Medical Examiners and by the Arizona Board for Private Post-secondary Education.

University of Bridgeport College of Naturopathic Medicine (Bridgeport, CT)

The University of Bridgeport, College of Naturopathic Medicine was granted candidacy status by the Council on Naturopathic Medical Education in 2001.

Varied Scope of Practice in 12 States

Naturopathy practice acts currently exist in twelve states: Alaska; Arizona; California; Connecticut; Hawaii; Maine; Montana; New Hampshire; Oregon; Utah; Vermont; and Washington, along with Washington D.C. Kansas registers Naturopathic doctors for a limited scope of practice.

In some jurisdictions, the scope of practice for naturopathy includes alternative modalities such as acupuncture, biofeedback, homeopathy, hypnotherapy or massage. A few statutes permit naturopaths to perform minor surgery and naturopathic or natural childbirth. In general, the practice acts allow naturopaths to utilize an extensive array of therapies and procedures. In several states, licensees must have a special certificate to practice natural childbirth, acupuncture, or to dispense natural substances or devices

C. SECTION DIRECTORY:

- Section 1.** Renames the title to chapter 462, F.S., from Naturopathy to Naturopathic Medicine.
- Section 2.** Amends s. 462.01, F.S., to revise and provide definitions to the practice act of Naturopathic Medicine.
- Section 3.** Creates s. 462.0215, F.S., to provide the authority to create the Board of Naturopathic Medicine; membership requirements; duties; guidelines for probable cause panels and the disciplinary process.
- Section 4.** Amends s. 462.023, F.S., to provide powers and duties to the board to include rulemaking authority.
- Section 5.** Amends s. 462.08, F.S., to provide conforming terminology to license renewal provisions.
- Section 6.** Amends s. 462.11, F.S., to provide conforming and correcting terminology to regulate naturopathic medicine.
- Section 7.** Amends s. 462.13, F.S., to provide for additional powers and duties to the board and department.
- Section 8.** Amends s. 462.14, F.S., to revise the grounds for disciplinary action to include the newly developed board and adds the title of doctor of naturopathic medicine, and naturopathic doctor.
- Section 9.** Amends s. 462.16, F.S., to provide conforming language to the reissue of a license to any person who practices naturopathic medicine and to specify authority for setting fees.
- Section 10.** Amends s. 462.17, F.S., to provide conforming language.
- Section 11.** Amends s. 462.18, F.S., to provide conforming language to educational requirements.
- Section 12.** Amends s. 462.19, F.S., to revise the fee for license renewal.
- Section 13.** Creates s. 462.193, F.S., to provide requirements for licensure as a naturopathic physician, set fees, grounds for licensure denial or restriction, and certification processes.
- Section 14.** Creates s. 462.195, F.S., to provide exemptions from naturopathic licensure requirements.
- Section 15.** Amends s. 462.2001, F.S., to update the saving clause; providing conforming language and provide that certain rights and privileges of active licensees are retained.
- Section 16.** Creates language to provide a grandfather clause for current licensees.
- Section 17.** Amends s. 2043, F.S., to establish the Board of Naturopathic Medicine within the Division of Medical Quality Assurance of the Department of Health.
- Section 18.** Amends s. 381.0031, F.S., to provide conforming language.
- Section 19.** Amends s. 468.301, F.S., to provide conforming language.
- Section 20.** Amends s. 476.044, F.S., to provide conforming language.
- Section 21.** Amends s. 477.0135, F.S., to provide conforming language.
- Section 22.** Amends s. 485.003, F.S., to provide conforming language.
- Section 23.** Amends s. 486.161, F.S., to provide conforming language.
- Section 24.** Amends s. 627.351, F.S., to provide conforming language.
- Section 25.** Amends s. 893.02, F.S., to provide conforming language.
- Section 26.** Amends s. 921.0022, F.S., to provide conforming language.
- Section 27.** Provides that the bill will take effect July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

According to the Department of Health, the cost to regulate the profession of Naturopathic Medicine through licensure and a board is:

1. Revenues:

Estimated Revenue	1st Year	2nd Year (Annualized/Recurr.)
Licensure fees	\$50,000	\$50,000
Total Estimated Revenue	\$50,000	\$50,000

2. Expenditures:

Estimated Expenditures	1st Year	2nd Year (Annualized/Recurr.)
Salaries		
1 FTE, RS II, PG 17	\$37,794	\$37,794
Other Personal Services		
Board Member Compensation	\$350	\$1,400
Expense		
Non-recurring expense package	\$3,230	
Board member travel	\$2,625	\$10,500
Recurring expense package w/medium travel	\$13,227	\$13,227
Operating Capital Outlay		
Non-recurring OCO package	\$1,800	
Human Resources	\$389	\$389
Total Estimated Expenditures	\$59,415	\$63,310

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Naturopathic physicians currently licensed in the state will have increased fees.

D. FISCAL COMMENTS:

The bill requires a Board of Naturopathic Medicine be established composed of 7 members. DOH assumes there will be one (1) board meeting during the first year and four board meetings during the second year. Each board meeting will be 1 day in duration. Costs associated with a board meeting include \$50 Board member compensation; average round trip travel costs of \$250; one day per diem of \$26; and one night hotel costs at \$99 per night. According to DOH, to implement this will require 1 FTE

RS II, pay grade 17, with medium travel. Salary and benefits were computed using 10% above the annual minimum plus 28% for benefits. A lapse is not provided for since the effective date of July 1, 2005, does not provide adequate time to implement provisions of this bill.

The bill establishes an initial application fee cap of \$500. DOH estimates that each initial applicant would pay \$500 and that each year 100 individuals would apply for licensure. The amount of allocated expenses for DOH Medical Quality Assurance administrative costs could range anywhere from \$75,000 to \$200,000 per year. DOH estimates that it is almost certain that the board would be operating in a deficit posture because of the small licensure base.

The bill establishes a renewal fee cap of \$1,000. DOH estimates that each licensee would pay \$500 renewal fee every two years. The first renewal cycle would be in year 3 or FY 07-08. Potential renewal revenues in year 3 are estimated at \$104,000 based on the current number of licensees (8) and renewal of 100 new licensees in year 1 and year 2. If the estimate of 100 new licensees per year for the 2 years after implementation is too high, then revenues will be affected and costs will not be covered.

There may also be additional workload involved in handling disciplinary complaints; however, the Department is unable to anticipate the amount of work that may be generated.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the Board of Naturopathic Medicine adequate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the Department of Health the proposed effective date of the bill will not allow the department to provide the structure necessary to administer a newly created board nor for the application and appointment of Board members.

The bill allows the board to elect a state competency examination, but does not provide for examination fees. Specific and later in time, it might override the national examination requirements in s. 456.017, F.S.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES