

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Health Care Committee

BILL: SB 2678

INTRODUCER: Senator Webster

SUBJECT: Naturopathic Medicine

DATE: April 21, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HE	Unfavorable
2.	_____	_____	JU	_____
3.	_____	_____	HA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill revises the regulation of naturopathy in Florida to establish a mechanism to again allow the initial licensure of naturopathic physicians. A seven-member Board of Licensed Naturopathic Physicians is created to regulate naturopathic medicine, rather than the Department of Health. The newly created board is given rulemaking authority to administer the regulation of naturopathic medicine.

The bill revises the definition of the practice of naturopathy. The terms “natureopathy,” “naturopathy,” “naturopathic practitioner,” “naturopath,” and “naturopathic medicine” are *not* synonymous with “doctor of naturopathic medicine,” or “naturopathic physician,” and the practice of naturopathy and the use of these terms are not restricted or regulated by or under ch. 462, F.S. “Doctor of naturopathic medicine,” “naturopathic doctor,” or “naturopathic physician” means a person licensed to practice naturopathic medicine. The practice of a doctor of naturopathic medicine is revised to: include minor surgeries and procedures, and the administration of vitamins, food, and food supplements; and to exclude acupuncture, oriental medicine, childbirth attendance or midwifery, and the examination, diagnosis, and treatment of teeth and gums. “Naturopathy” is also defined to mean a system of health care practice, which employs natural health modalities, substances, and education to promote health.

The bill establishes licensing requirements for naturopathic physicians. The bill specifies that a physician who holds a doctor of medicine or doctor of osteopathy degree, who has completed a one-year internship approved by the American Medical Association or the American Osteopathic Association, and who is licensed under ch. 462, F.S., as a doctor of naturopathic medicine or as a naturopathic physician has rights and privileges equal to those of Florida-licensed medical physicians and osteopathic physicians.

The bill provides exemptions to the naturopathic licensing requirements. The bill creates the Naturopathic Medical Formulary Council and specifies disclosure requirements for medications recommended or prescribed by naturopathic physicians. Religious practices that do not involve the use of prescription drugs and the administration of domestic or family remedies are also exempted from naturopathic licensure requirements.

This bill amends sections 462.01, 462.023, 462.08, 462.11, 462.13, 462.14, 462.16, 462.17, 462.18, 462.19, 462.2001, 20.43, 381.0031, 468.301, 476.044, 477.0135, 485.003, 486.161, 627.351, 893.02, and 921.0022, Florida Statutes.

This bill creates sections 462.0215, 462.193, 462.195, 462.30, and 462.40, F.S., and two undesignated sections of law.

II. Present Situation:

Naturopathy

The term “naturopathy” was used in the late nineteenth century to refer to an emerging system of natural therapies and philosophy to treat disease. Naturopathic physicians diagnose, treat, and care for patients using a system of practice that bases treatment on natural laws governing the human body. These practitioners may provide treatment to patients using psychological, mechanical, and other means to purify, cleanse, and normalize human tissues for the preservation and restoration of health. This may include the use of air, water, light, heat, earth, food and herb therapy, psychotherapy, electrotherapy, physiotherapy, minor surgery, and naturopathic manipulation. Naturopathic physicians are trained in standard medical sciences and in the use and interpretation of standard diagnostic instruments. Naturopathic medicine stresses a holistic approach to health care, which involves studying, and working with the patient mentally and spiritually, as well as physically, and developing an understanding of the patient in the patient’s chosen environment.

Twelve states currently have naturopathy licensing laws: Alaska, Arizona, California, Connecticut, Hawaii, Maine, Montana, New Hampshire, Oregon, Utah, Vermont, and Washington. In some jurisdictions, the scope of practice for naturopathy includes alternative modalities such as acupuncture, biofeedback, homeopathy, hypnotherapy or massage. A few states 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. In 2002, Kansas began to register naturopaths. Kansas did not sanction licensing or any practice of medicine other than the use of botanical treatments.

California passed legislation in September 2003, establishing licensure of naturopathic doctors. The California Medical Association opposed the legislation because it would allow naturopathic doctors to be primary care providers, including calling themselves physicians, prescribing medications, performing minor surgical procedures, and delivering babies. The medical association succeeded in getting restrictions that naturopathic doctors may not call themselves

physicians and that require physician oversight for prescribing medications and childbirth assistance. Minor surgery was limited to treating minor abrasions and superficial treatments, such as removing warts. The legislation leaves the terms “naturopath” and “naturopathy” in the public domain so that graduates of naturopathic vocational programs or correspondence courses can describe their practice. It does not prevent or restrict the practices or activities of any other practitioner, consultant, or individual; nor does it restrict or prevent individuals engaged in the sale of vitamins, nutritional supplements, herbs or homeopathic remedies.

In Florida, chapter 462, F.S., provides for the regulation of the practice of natureopathy and naturopathy by the Department of Health. “Natureopathy” and “naturopathy” are defined as synonymous terms and mean 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 (botanical\herbal medicine), dietetics, psychotherapy, suggestotherapy (process of influencing attitudes and behaviors by suggestions), hydrotherapy (scientific use of water in the treatment of diseases), zone therapy (a process of using various points on the human body causing a reflex action in another part of the body to treat disease and relieve pain), biochemistry, external applications, electrotherapy (generation of heat in the body by use of electrical current), mechanotherapy (manipulation of the body tissues and joints), mechanical and electrical appliances, hygiene, first aid, sanitation, and heliotherapy (the use of sun rays in the treatment). The definition of “naturopathy” further provides that nothing in the chapter may be construed to authorize any Florida-licensed naturopathic physician to practice materia medica (prescribe) or surgery or chiropractic medicine. The definition of naturopathy may not 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.

Chapter 462, F.S., prohibits the issuance of a license to any person who was not practicing naturopathy in Florida as of July 1, 1959. The chapter authorizes the Department of Health to adopt rules to implement the regulation of naturopathic medicine including the establishment of fees. The chapter provides procedures for those naturopathic physicians currently licensed in Florida to renew their license. The department reports that there are seven naturopathic physicians currently licensed to practice in Florida.

History of Naturopathy in Florida

Naturopathy was initially recognized by the Legislature in the Medical Act of 1921¹, which defined the practice of medicine and exempted naturopaths from the medical practice act. Naturopathic practitioners were first licensed in Florida in 1927.² Doctors of Naturopathy were required to observe state, county, and municipal regulations regarding the control of communicable diseases, the reporting of births and deaths, and all matters relating to the public health as was required of other “practitioners of the healing arts.” Between 1947 and 1954, legal cases were decided regarding the rights of naturopaths to prescribe narcotic drugs. The Circuit

¹ See chapter 8415, Laws of Florida.

² See chapter 12286, Laws of Florida.

Court in Pinellas County held that practitioners of naturopathy had the right to prescribe narcotic drugs.³ On appeal, the Florida Supreme Court affirmed the lower court's decision.⁴

Chapter 57-129, Laws of Florida, abolished the Board of Naturopathic Examiners and significantly revised the regulation of naturopathy and placed the regulation under the Florida State Board of Health. Naturopaths were classified into three groups based on the length of time that the practitioner was licensed in the state. Under that law, those licensed less than two years could not have their licenses renewed; those licensed more than two years but less than 15 years would be denied prescribing medicine in any form and those licensed more than 15 years would be prohibited from prescribing narcotic drugs. The Florida Supreme Court held that the naturopathic laws, as amended by ch. 57-129, L.O.F., were unconstitutional and void.⁵

In 1959, the Legislature abolished the licensing authority for naturopathy.⁶ Only those naturopathic practitioners licensed at that time who had been residents of Florida for two years prior to enactment of ch. 59-164, L.O.F., were authorized to renew their licenses. According to the Department of Health, only seven naturopathic practitioners have active licenses to practice in Florida. 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.

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 Higher Education Act of 1965 requires federal recognition of accrediting organizations in order for the programs they accredit to be eligible for participation in federal educational loan programs and to receive federal grants.

The Council on Naturopathic Medical Education lost its federal recognition, January 16, 2001, because the National Advisory Committee on Institutional Quality and Integrity of the U.S. Secretary of Education found that CNME had not responded appropriately to violations of its standards at Southwest College of Naturopathic Medicine and Health Sciences in Tempe, Arizona. The college had gone through an administrative upheaval that nearly led to its closure in 1997 and 1998. The committee concluded that CNME had failed to issue a timely order to show cause why Southwest should not have its candidacy for accreditation ended.

On September 10, 2003, CNME regained its recognition by the U.S. Department of Education. CNME was given initial recognition for two years as an accrediting agency for graduate-level,

³ *In re: Complaint of Melsner*, 32 So.2d 742 (Fla.1947). See also *State Department of Public Works v. Melsner*, 69 So.2d 347 at 353 (Fla. 1954).

⁴ *Supra*. See also Attorney General Opinion 54-96 and s. 893.02(19), F.S., relating to controlled substances, which defines "practitioner" to include "... a naturopath licensed pursuant to chapter 462, F.S." In 1939, the 5th Circuit Fed. Ct. (which includes Louisiana, Mississippi, and Texas) interpreted the Federal Narcotic Drug Act which determined that a "naturopath" was not a "physician;" therefore, they were prohibited from prescribing narcotic drugs. The court determined that even under phytotherapy, they could not prescribe drugs. *Perry v. Larson*, 104 F.2d 728 (1939).

⁵ See *Eslin v. Collins*, 108 So.2d 889 (Fla. 1959).

⁶ See ch. 59-164, L.O.F.

four-year naturopathic medical education programs leading to the Doctor of Naturopathic Medicine (N.M.D.) or Doctor of Naturopathy (N.D.) degree.

Naturopathic Medical Colleges

There are three accredited colleges of naturopathic medicine in the United States: Bastyr University, Kenmore, Washington; National College of Naturopathic Medicine, Portland, Oregon; and Southwest College of Naturopathic Medicine, Tempe, Arizona. The graduates of these programs receive a Doctor of Naturopathic Medicine degree after four years of professional study. Admission requirements include completion of a bachelor's degree before matriculation into the naturopathic medicine program with specified exceptions, including the following courses: inorganic chemistry with lab, organic chemistry with lab, biology with lab, physics, and psychology.

Bastyr University (Seattle, Washington) 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 and the Commission on Colleges of the Northwest Association of Schools and Colleges. The National College of Naturopathic Medicine (Portland, Oregon) was founded in 1956. It is the oldest naturopathic medical school in North America. The Southwest College of Naturopathic Medicine and Health Sciences (Tempe, Arizona) has a Doctor of Naturopathic Medicine program, which 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. The University of Bridgeport, College of Naturopathic Medicine (Bridgeport, Connecticut) was granted candidacy status by the Council on Naturopathic Medical Education in 2001.

The Florida College of Integrative Medicine/I.W. Lane College of Integrative Medicine (Orlando, FL) 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 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. On October 8, 2003, the Florida College of Integrative Medicine closed on transfer of ownership of the Doctor of Naturopathic Medicine program to the I.W. Lane College of Integrative Medicine.

Academic Titles

Section 817.567, F.S., prohibits any person in the state from claiming either orally or in writing that she or he possesses an academic, educational, or professional program of study beyond the level of a specialized associate degree, or title associated with the credential unless the person has, in fact, been awarded the degree from an accredited institution; a state or federal government supported institution; a school or institution chartered outside the United States, the academic degree from which has been validated by an accrediting agency approved by the U.S. Department of Education as equivalent to the baccalaureate or postbaccalaureate degree conferred by a regionally accredited college in the U.S.; an institution licensed by the

Commission for Independent Education; or religious seminary. Section 817.567, F.S., provides that no person awarded a doctorate degree from an institution not listed above may use the title “Dr.” or any letters which purport to signify satisfactory completion of the requirements of a doctorate degree, after the person’s name. A person who violates s. 817.567, F.S., is liable for a first-degree misdemeanor punishable by up to one year of imprisonment and a fine up to \$1,000.⁷

III. Effect of Proposed Changes:

Section 1. Creates an undesignated section of law to redesignate ch. 462, F.S., which is entitled “Naturopathy” to “Naturopathic Medicine.”

Section 2. Amends s. 462.01, F.S., relating to definitions used in ch. 462, F.S., to define “board” to mean the Board of Licensed Naturopathic Physicians. “Doctor of naturopathic medicine” or “naturopathic physician” means a person licensed to practice naturopathic medicine.

The definition of “Natureopathy” or “Naturopathy” is amended to define “naturopathy” as a system of health care practice which employs natural health modalities, substances, and education to promote health. The bill specifies that the terms “natureopathy,” “naturopathy,” “naturopathic practitioner,” “naturopath,” and “naturopathic medicine” are *not* synonymous with “doctor of naturopathic medicine,” or “naturopathic physician,” and the practice of naturopathy and the use of these terms are not restricted or regulated by or under ch. 462, F.S. The practice of a doctor of naturopathic medicine is revised to: include the administration of vitamins, food, and food supplements; and to exclude acupuncture, oriental medicine, child birth attendance or midwifery, and the examination, diagnosis, and treatment of teeth and gums.

“Naturopathic Medicine” is defined to mean a system of primary health care practiced by a licensed naturopathic physician for the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases, which uses: medical diagnostics and treatments as provided in ch. 462, F.S., and naturopathy as defined in this section, which does not require licensure under this chapter.

“Approved naturopathic medical program” is defined to mean:

- A naturopathic medical education program in the United States accredited by the Council on Naturopathic Medical Education or an equivalent federally recognized accrediting body for the naturopathic medical profession recognized by the Board of Naturopathic Medicine. This program must offer graduate-level, full-time didactic and supervised clinical training leading to the degree of Doctor of Naturopathic Medicine. The program must be an institution or part of an institution of higher education that is accredited or is a candidate for accreditation by an accrediting agency recognized by the United States Secretary of Education; or

⁷ Section 817.567, Florida Statutes, which prohibits people from claiming to hold academic degrees or titles unless such degrees or titles were conferred by accredited institutions, was found by a federal court to have violated the First Amendment in that it was not narrowly tailored to achieve substantial government interest. The court found that the State could have merely required those holding degrees from unaccredited institutions to disclose the fact that the institutions were unaccredited. See *Strang v. Satz*, S.D.Fla.1995, 884 F.Supp. 504.

- A degree-granting college or university that is reputable and in good standing in the judgment of the board and that offers a full-time structured curriculum in basic sciences and supervised patient care comprising a doctoral naturopathic medical education. As a prerequisite to graduation, a student must be enrolled for not less than 132 weeks and must complete the course of study within a period of not less than 35 months.

Section 3. Creates s. 462.0215, F.S., relating to the Board of Licensed Naturopathic Physicians, to establish a seven-member board within the Department of Health, and conditions of appointment, membership, and terms of office. The board, in conjunction with the department, must establish a disciplinary training program for members of the board. The program must provide for initial and periodic training in the grounds under which a licensed naturopathic physician may be subject to discipline. A member of the board may not participate on a probable cause panel or in a disciplinary decision of the board unless she or he has completed the disciplinary training program. During the time board members are appointed to a probable cause panel, they must attempt to complete their work on every case presented to them. If consideration of a case is begun but is not completed during the term of the board members on the panel, they may reconvene as a probable cause panel for the purpose of completing their deliberations on that case. All provisions of ch. 456, F.S., relating to activities of the board are applicable. Chapter 456, F.S., provides general regulatory provisions for health care practitioners.

Section 4. Amends s. 462.023, F.S., relating to powers and duties of the board, to delete the provision that prohibited the Department of Health from adopting any new rules, which would cause any person who was not licensed as a naturopathic physician on July 1, 1959, to become licensed. The Board of Licensed Naturopathic Physicians and the Department of Health are authorized to adopt rules needed to carry out the purposes of ch. 462, F.S.

Section 5. Amends s. 462.08, F.S., relating to the renewal of a license to practice naturopathy, to change references to “naturopathy” to “naturopathic medicine” to conform to definitions which are revised in the bill.

Section 6. Amends s. 462.11, F.S., relating to requirements for naturopathic physicians to comply with all state or local regulations regarding disease, reporting of births and deaths, and other matters pertaining to public health, to change references to doctors of “naturopathy” to doctors of “naturopathic medicine,” “naturopathic doctors,” or “naturopathic physicians” to conform to definitions which are revised in the bill. The reference to “Naturopaths” is revised to “Doctors of naturopathic medicine, naturopathic doctors, or naturopathic physicians.”

Section 7. Amends s. 462.13, F.S., relating to additional powers and duties of the Department of Health, to establish the authority of the Board of Licensed Naturopathic Physicians as created in the bill. The board and the department will assume the existing powers and duties held by the department in its enforcement of regulation of naturopathic medicine.

Section 8. Amends s. 462.14, F.S., relating to grounds for disciplinary action, to establish the Board of Licensed Naturopathic Physicians’ regulatory authority to enter an order, deny licensure, or impose penalties on applicants or licensed naturopathic physicians and changes

references to “naturopathy” or “doctor of naturopathic medicine” to conform to definitions which are revised or created in the bill.

Section 9. Amends s. 462.16, F.S., relating to reissue of licenses, to establish the authority of the Board of Licensed Naturopathic Physicians to set fees not to exceed \$250 for the reissuance of a naturopathic medicine license and to change references to “naturopathy” or “naturopathic medicine” to conform to definitions which are revised or created in the bill. Obsolete terminology is revised.

Section 10. Amends s. 462.17, F.S., relating to penalties applicable to naturopathy, to change references to “naturopathy” to “naturopathic medicine” to conform to definitions which are revised or created in the bill. The prohibition against practicing or advertising to practice naturopathy without being licensed is revised to prohibit the use of specified protected titles or claims to be a “licensed naturopathic physician,” “naturopathic physician,” “doctor of naturopathic medicine,” “licensed doctor of naturopathic medicine,” or “naturopathic medicine doctor” in connection with providing health care services or use of a title after the person’s name which signifies completing the requirements of a doctorate degree, in violation of s. 817.567, F.S. Using the terms “natureopathy,” “naturopathy,” “naturopathic practitioner,” “naturopath,” or “naturopathic medicine” is not prohibited.

Section 11. Amends s. 462.18, F.S., relating to educational requirements for naturopathic physicians, to establish the authority of the Board of Licensed Naturopathic Physicians over educational requirements for license renewal, to change references to “naturopathy” to “naturopathic medicine” to conform to definitions which are revised or created in the bill, and to revise obsolete terminology.

Section 12. Amends s. 462.19, F.S., relating to renewal of license for naturopathic physicians, to increase the fee cap for license renewal from \$50 to \$100.

Section 13. Creates s. 462.193, F.S., relating to licensure by examination, to provide requirements for a person to become licensed as a naturopathic physician in Florida. The Department of Health must license each applicant who the Board of Licensed Naturopathic Physicians certifies: has completed the application form and paid an application fee no greater than \$500; is at least 21 years of age; is of good moral character; and has not committed any act or offense which would constitute the basis for disciplining a naturopathic physician. The applicant must have been awarded a bachelor’s degree from an institution that holds accreditation from a regional accrediting agency recognized by the U.S. Secretary of Education, and which program included, at a minimum as determined by Board of Licensed Naturopathic Physicians rule, courses in such fields as anatomy, biology, and chemistry before entering naturopathic medical school.

The applicant must meet one of the following naturopathic medical education and postgraduate training requirements: graduation from an approved naturopathic medical program; graduation from an approved school of naturopathic medicine which is licensed by the Florida Commission for Independent Education to grant the degree of Doctor of Naturopathic Medicine; or graduation from a foreign medical school certified by the Educational Commission for Foreign Medical Graduates to be examined in the basic and clinical medical sciences, or graduation from an

accredited United States allopathic, chiropractic, or osteopathic medical school, and completion of a two-year course in naturopathic medicine from an approved naturopathic medical program.

The applicant must submit fingerprints and payment in an amount to cover the costs for a criminal history background check. The applicant must obtain a passing score on a competency-based national naturopathic licensing examination administered by the North American Board of Naturopathic Examiners or an equivalent agency recognized by the Florida Board of Licensed Naturopathic Physicians. For graduates of approved naturopathic schools defined in s. 462.01(1)(b), F.S., eligibility for licensure may be granted upon presentation of evidence of successful passage of a Florida Board of Licensed Naturopathic Physicians-approved state competency examination or a Canadian provincial examination. For graduates of foreign medical schools or allopathic, osteopathic, or chiropractic medical schools who have completed a two-year course in naturopathic medicine from an approved naturopathic medical program, eligibility for licensure may be granted upon presentation of evidence of successful passage of the applicable medical examinations, parts one and two.

The board may require an applicant who has failed the licensure examination after five attempts to complete additional remedial education or training to sit for the examination a sixth or subsequent time. The applicant must be physically and mentally fit to practice as a doctor of naturopathic medicine, have not been found guilty of a felony, and have not his license to practice any profession refused, revoked, or suspended by any other state, district, or territory of the United States or another country for reasons that relate to her or his ability to practice as a doctor of naturopathic medicine. An applicant must have completed a one year internship or residency.

The section specifies that a physician who holds a doctor of medicine or doctor of osteopathy degree, who has completed a one-year internship approved by the American Medical Association or the American Osteopathic Association, and who is licensed under ch. 462, F.S., as a doctor of naturopathic medicine or as a naturopathic physician has rights and privileges equal to those of Florida-licensed medical physicians and osteopathic physicians.

The section provides alternative administrative procedures for the Board of Licensed Naturopathic Physicians or the Department of Health to issue a 90-day licensure delay if the board or department has reason to believe that the licensure applicant does not meet licensure requirements. The 90-day licensure delay must be issued in writing by the department to notify the applicant regarding the delay. The board may not certify any applicant for licensure who is under investigation in another jurisdiction for an offense that would constitute a violation of the naturopathic act until the investigation has been completed. The board may enter an order that imposes one or more sanctions to implement its authority to certify an applicant for licensure.

Section 14. Creates s. 462.195, F.S., relating to exemptions from naturopathic licensure requirements, to exempt a person licensed, certified, or registered in Florida who is engaging in the profession or occupation for which he or she is licensed, certified, or registered. Any person providing health care services who is not licensed under ch. 462, F.S., and who *does not* use the title or claim to be a “licensed naturopathic physician,” “naturopathic physician,” “doctor of naturopathic medicine,” “licensed doctor of naturopathic medicine,” or “naturopathic medicine doctor” in connection with providing health care services or a title after the person’s name which

signifies completing the requirements of a doctorate degree, in violation of s. 817.567, F.S., is exempt from the licensure requirements of ch. 462, F.S.

The use of terms “naturopathy,” “naturopathy,” “naturopathic practitioner,” “naturopath,” and “naturopathic medicine” by a person providing health care services who is not licensed under ch. 462, F.S., is *not* prohibited.

Religious practices that do not involve the use of prescription drugs and the administration of domestic or family remedies are also exempted from naturopathic licensure requirements.

Chapter 462, F.S., may not be construed to prohibit a Florida-licensed medical physician, osteopathic physician, chiropractic physician, podiatric physician, optometrist, advanced registered nurse practitioner, registered nurse, licensed practical nurse, occupational therapist, massage therapist, physical therapist, psychologist, clinical social worker, marriage and family therapist, or mental health counselor from the lawful practice of his or her profession. This section does not limit or restrict the sale, use, or recommending the use of a dietary supplement or homeopathic remedy.

Section 15. Amends s. 462.2001, F.S., relating to a savings clause, to change references to “naturopathy” to “naturopathic medicine” to conform to definitions, which are revised or created in the bill. Naturopathic physician licenses that are valid on July 1, 2006, shall remain in full force and effect.

Section 16. Creates s. 462.30, F.S., to establish requirements and duties for the seven-member Naturopathic Medical Formulary Council. The conditions of appointment to the council are specified. Two council members must be Florida-licensed doctors of naturopathic medicine, naturopathic doctors, or naturopathic physicians and three council members must be Florida-licensed pharmacists. The council must establish a formulary for use by naturopathic physicians and immediately upon adoption or revision of the formulary the council must transmit the approved formulary to the Board of Licensed Naturopathic Physicians which must adopt the formulary by temporary rule. The formulary must be reviewed annually by the council or at any time at the request of the Board of Licensed Naturopathic Physicians. The formulary may not go beyond the scope of prescription medicines and medical devices covered by approved naturopathic medical education and training and existing naturopathic medical formularies or board-approved continuing education. The formulary may not include medicines or devices that are inconsistent with the training provided by approved naturopathic medical colleges or universities. This section does not authorize a doctor of naturopathic medicine, naturopathic doctor, or naturopathic physician to dispense, administer, or prescribe any prescription drug as defined in s. 893.03, F.S., relating to controlled substances or medical device unless such prescription drug or medical device is specifically included in the formulary.

Section 17. Creates s. 462.40, F.S., to require a patient to advise his or her primary care physician or other treating health care provider of the medications or substances that have been prescribed or recommended by his or her doctor of naturopathic medicine, naturopathic doctor, or naturopathic physician. Doctors of naturopathic medicine, naturopathic doctors, or naturopathic physicians must advise their patients, in writing, of this requirement for their patients to disclose medications or substances that have been prescribed or recommended. The

failure of any patient to make the disclosure required by this section establishes a presumption that any subsequent injuries sustained by the patient were caused by the failure to disclose medication prescribed by the doctor of naturopathic medicine, naturopathic doctor, or naturopathic physician. This presumption may be rebutted by clear and convincing evidence that such patient's injuries were caused by the negligence of the primary care physician.

Section 18. Creates an undesignated section of law, to provide that doctors of naturopathic medicine, naturopathic doctors, or naturopathic physicians who hold a license on the effective date of the bill shall retain the rights and privileges as they had before implementation of the amendments to the naturopathic practice act.

Section 19. Amends s. 20.43, F.S., relating to the organization of the Department of Health, to establish the Board of Licensed Naturopathic Physicians.

Section 20. Amends s. 381.0031, F.S., relating to reports of diseases of public health significance, to change a reference to "naturopathy" to "naturopathic medicine" to conform to definitions which are revised or created in the bill.

Section 21. Amends s. 468.301, F.S., relating to radiologic technology, to change a reference to "naturopathy" to "naturopathic medicine" to conform to definitions which are revised or created in the bill.

Section 22. Amends s. 476.044, F.S., relating to barbering, to change a reference to "naturopathy" to "naturopathic medicine" to conform to definitions which are revised or created in the bill.

Section 23. Amends s. 477.0135, F.S., relating to cosmetology, to change a reference to "naturopathy" to "naturopathic medicine" to conform to definitions which are revised or created in the bill.

Section 24. Amends s. 485.003, F.S., relating to hypnosis, to change references to "naturopathy" to "naturopathic medicine" to conform to definitions which are revised or created in the bill.

Section 25. Amends s. 486.161, F.S., relating to physical therapy, to change a reference to "naturopath" to "doctor of naturopathic medicine, naturopathic doctor, or naturopathic physician" to conform to definitions which are revised or created in the bill.

Section 26. Amends s. 627.351, F.S., relating to insurance risk apportionment plans, to change a reference to "naturopaths" to "doctors of naturopathic medicine, naturopathic doctors, or naturopathic physicians" to conform to definitions which are revised or created in the bill.

Section 27. Amends s. 893.02, F.S., relating to controlled substances, to change a reference to "naturopath" to "doctor of naturopathic medicine, naturopathic doctor, or naturopathic physician" to conform to definitions which are revised or created in the bill.

Section 28. Amends s. 921.0022, F.S., relating to the criminal punishment code, to change a reference to “naturopathy” to “naturopathic medicine” to conform to definitions which are revised or created in the bill.

Section 29. Provides an effective date of July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Naturopathic physicians will be subject to an increase in the fee cap for license renewal from \$50 to \$100.

The Board of Licensed Naturopathic Physicians is authorized to set fees not to exceed \$250 for the reissuance of a naturopathic medicine license.

Naturopathic physician applicants must pay an application fee no greater than \$500 and an amount equal to costs incurred by the Department of Health for the criminal background check of the applicant.

B. Private Sector Impact:

Naturopathic physicians who are currently licensed in Florida will have increased licensure fees, and some alternative health related practices may be restricted.

C. Government Sector Impact:

The Department of Health estimates that it will incur expenditures equal to \$68,777 for fiscal year 2006-07 and \$67,859 for fiscal year 2007-08. The department estimates that its costs will be offset by its receipt of revenue equal to \$50,500 each year for fiscal years 2006-07 and 2007-08.

According to the Department of Health, estimated costs for establishing the Board of Licensed Naturopathic Physicians are based on the assumption that there will be four board meetings in fiscal year 2006-07 and one board meeting in fiscal year 2007-08. Each board meeting will be one day in duration. Costs associated with a board meeting include \$50 for 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.

The department estimates that the support costs of implementing the board include one 0.5 position, pay grade 15, and one 0.5 position pay grade 15. Salary and benefits were computed using 10 percent above the annual minimum plus 28 percent for benefits.

The amount of allocated expenses that support other regulation functions could range anywhere from \$75,000 to \$200,000 per year.

VI. Technical Deficiencies:

On page 25, lines 25 and 26, the bill should correct the reference to “upon adoption revision of the formulary” so that it reads “upon adoption or revision of the formulary.”

On page 25, line 28, the term “temporary” should be deleted.

On page 26, line 11, “s. 893,03” should be corrected to refer to “s. 893.03.”

VII. Related Issues:

The bill defines “doctor of naturopathic medicine,” “naturopathic doctor,” or “naturopathic physician” to mean a person licensed to practice naturopathic medicine. The bill appears to allow persons to practice naturopathic medicine without requiring such persons to obtain licensure as a doctor of naturopathic medicine if the person does not use the title or claim to be a licensed naturopathic physician, naturopathic physician, doctor of naturopathic medicine, licensed doctor of naturopathic medicine, or naturopathic medicine doctor. The use of the terms “natureopathy,” “naturopathy,” “naturopathic practitioner,” “naturopath,” and “naturopathic medicine” by a person providing health care services who is not licensed under ch. 462, F.S., is not prohibited. Naturopathy as defined by s. 462.01(6), F.S., as created in the bill does not require licensure under ch. 462, F.S.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
