

LICENSURE AND REQUIREMENTS FOR NATUROPATHIC PHYSICIANS

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House Bill 4531 (H-3) as reported from committee
Sponsor: Rep. Lisa Posthumus Lyons
Committee: Health Policy
Complete to 8-1-16

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 4531 would amend the Public Health Code by adding a section authorizing the Michigan Department of Licensing and Regulatory Affairs (LARA) to establish a fee schedule for naturopathic physicians, and adding Part 186: Naturopathic Physicians to the Code, which would do all of the following:

- Define *Naturopathic medicine* as a system of practice that is based on the natural healing capacity of individuals for the diagnosis, treatment, and prevention of diseases.
- List the requirements for an approved naturopathic medical program and the qualifications necessary to be eligible for licensure in naturopathic medicine.
- Create a Board of Naturopathic Medicine in LARA, appointed by the governor and responsible for adopting and enforcing any necessary policies and procedures, establishing initial and ongoing *licensure requirements*, and setting limits for procedures and prescribing authority, among other responsibilities.
- Create a Naturopathic Formulary Council, responsible for creating a *naturopathic formulary*, which would list the medicines, nonprescription and prescription, which naturopathic physicians may use in the practice of their profession.
- Prohibit individuals from practicing naturopathic medicine unless licensed or otherwise authorized by this bill, except as otherwise provided, beginning one year after the bill takes effect.
- Describe the procedures a naturopathic physician may and may not perform.
- Require LARA to promulgate rules, adopt a national examination, establish procedures and regulate applications and licensing, and establish other rules and procedures as described in greater detail below.

This bill would not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by a naturopathic physician licensed under this act. The bill would take effect 90 days after enactment.

FISCAL IMPACT: House Bill 4531 would have a significant, yet likely neutral, fiscal impact on the Department of Licensing and Regulatory Affairs (LARA), to the extent that LARA would incur expenses to implement, administer, and enforce the licensing and regulation of naturopathic physicians. However, the bill authorizes LARA to determine and establish fees sufficient to adequately offset such expenses.

THE APPARENT PROBLEM:

Currently, there is confusion between the terms naturopathic physician and naturopathic doctor. According to committee testimony, naturopathic "physicians" must complete four years of undergraduate study and four years of medical school, two years of which comprise the same classes as those for medical doctors and doctors of osteopathy.

It might be assumed that those who hold themselves out as naturopathic "doctors" have that same training and education, especially since the state of Michigan does not have a naturopathic licensure program or a prohibition on calling oneself a naturopathic doctor. Naturopathic doctors, however, train over the course of four years rather than eight, and they hold themselves out under the Webster's Dictionary's definition of doctor, meaning a learned, authoritative teacher.

While patients of naturopathic doctors sign release forms to indicate that they understand the doctor's level of training, this bill would seek to remedy any confusion over the use of terms. It would create a licensure program with specific requirements and a prohibition on using the following terms unless those requirements are met: "'doctor of naturopathic medicine', 'doctor of naturopathy', 'naturopathic physician', 'naturopathic doctor', 'naturopathic medical doctor', naturopathic medicine', 'N.D.', and 'N.M.D.'"

Although this bill would alleviate confusion, it would be at the expense of "naturopathic doctors," as they would lose use of the title "doctor," and would be forced to hold themselves out as "healers" or use another term (with possibly negative connotations).

THE CONTENT OF THE BILL:

House Bill 4531 would amend the Public Health Code by adding a section authorizing the Michigan Department of Licensing and Regulatory Affairs (LARA) to establish a fee schedule for naturopathic physicians, and adding Part 186: Naturopathic Physicians to the Code. Details of the bill follow.

Approved naturopathic medical programs

The bill lists the four following routes toward becoming an approved naturopathic medical program, with various accreditation and training requirements:

- *Located in the US, that provides the degree of doctor of naturopathy or doctor of naturopathic medicine AND*
 - Offers graduate-level full time didactic and supervised clinical training,
 - Is accredited or has achieved candidacy status for accreditation by the Council on Naturopathic Medical Education (CNME) or an equivalent federally recognized accrediting body for naturopathic medical programs approved by the board.
 - Is an institution or part of an institution of higher education that is accredited or national institutional accrediting agency recognized by the US Secretary of Education.

- *Offered by a degree-granting college or university that was in existence before the existence of the CNME AND*
 - Offered a full-time structured curriculum in basic sciences and supervised patient care comprising a doctoral naturopathic medical education.
 - Was at least 132 weeks in duration and required completion of the program within a period of at least 35 months as a prerequisite to graduation.
 - Was offered by a college or university that was reputable and in good standing in the judgment of the board.
 - If the program is still offered, it is accredited by the CNME or an equivalent federally recognized accrediting body for naturopathic medical programs approved by the board.

- *Offered by a diploma-granting, degree-equivalent college or university located in Canada that was offered before the existence of the CNME AND*
 - Was offered by a college or university that had provincial approval for participation in government-funded student aid programs.
 - Offered a full-time structured curriculum in basic sciences and supervised patient care comprising a doctoral naturopathic medical education.
 - Was at least 132 weeks in duration and required completion of the program within a period of at least 35 months as a prerequisite to graduation.
 - Was offered by a college or university that was reputable and in good standing in the judgment of the board.
 - If the program is still offered, it is accredited by the CNME or an equivalent federally recognized accrediting body for naturopathic medical programs, approved by the board.
 - If the program is still offered, the college or university has provincial approval for participation in government-funded student aid programs.

- *Offered by a diploma-granting degree-equivalent college or university located in Canada that provides the degree of doctor of naturopathy or doctor of naturopathic medicine AND*
 - Offers graduate-level full-time didactic and supervised clinical training.
 - Is accredited or has achieved candidacy status for accreditation by the CNME or an equivalent federally recognized accrediting body for naturopathic medical programs approved by the board.
 - Is offered by a college or university that has provincial approval for participation in government-funded student aid programs.

Licensure in naturopathic medicine

The bill would require that an applicant for licensure must submit (1) an application for licensure; (2) evidence of graduation from an approved naturopathic medical program and passage of a competency-based examination by a nationally recognized organization; (3) for a graduate of an approved naturopathic medical program, evidence of successful passage of a board-approved state competency examination or Canadian provincial examination; and (4) any other information or documents required under this article or required by the board.

An applicant for licensure is not eligible for a license if the applicant has had a license to practice naturopathic medicine or other health care license, registration, or certification refused, revoked, or suspended by any other jurisdiction for reasons that relate to the applicant's ability to practice naturopathic medicine skillfully and safely, unless that license has been restored to good standing by the applicable jurisdiction.

Allowable procedures by a naturopathic physician

A naturopathic physician may do any of the following, consistent with his or her naturopathic education and training:

- Order and perform physical and laboratory examinations for diagnostic purposes, including, but not limited to, phlebotomy, clinical laboratory tests, orificial examinations, or physiological function tests.
- Order diagnostic imaging studies.
- Dispense, administer, order, or prescribe or perform any of the following:
 - Food, extracts of food, nutraceuticals, vitamins, amino acids, minerals, enzymes, botanicals and their extracts, botanical medicines, homeopathic medicines, all dietary supplements, or nonprescription drugs as defined by the federal Food, Drug, and Cosmetic Act.
 - Prescription or nonprescription medicines as designated by the Naturopathic Formulary Council.
 - Hot or cold hydrotherapy, naturopathic physical medicine, electromagnetic energy, or therapeutic exercise.
 - Devices, including, but not limited to, therapeutic devices, barrier contraception, or durable medical equipment.
 - Health education or health counseling.
 - Repair and care incidental to superficial lacerations or abrasions.
 - Musculoskeletal manipulation.
- Utilize routes of administration that include, but are not limited to, oral, nasal, auricular, ocular, rectal, vaginal, transdermal, intradermal, subcutaneous, intravenous, or intramuscular consistent with his or her naturopathic education and training.
- Other naturopathic therapies as approved by the board.

Prohibited procedures by a naturopathic physician

A naturopathic physician may not do any of the following:

- Prescribe, dispense, or administer any controlled substance or device identified in the federal Controlled Substances Act, except as authorized under this part.
- Perform surgical procedures, with the exception of minor office procedures, if the naturopathic physician completed minor office procedures as part of training or has up-to-date certification of equivalent training. *Minor office procedures* are defined in proposed Section 18605 as: the use of operative, electrical, or other methods for the repair and care incidental to superficial lacerations and abrasions, superficial lesions, and the removal of foreign bodies located in the superficial tissue and the use of antiseptics and local topical anesthetics in connection with those methods, or obtaining specimens to diagnose, assess or treat disease.
- Engage in the practice of or claim to engage in the practice of any other health profession unless licensed to engage in that health profession under this article.

- Use general or spinal anesthetics.
- Administer ionizing radioactive substances for therapeutic purposes.
- Perform surgical procedures using a laser device.
- Perform surgical procedures involving the eye, ear, tendons, nerves, veins, or arteries.
- Perform chiropractic adjustments unless licensed as a chiropractor.

The bill is not meant to prohibit or restrict the practice of naturopathic medicine by authorized naturopathic physicians or students of that practice within their authorized scope of practice. Additionally, it does not prohibit or restrict the actions of people who do not hold themselves out to be naturopathic physicians, such as an individual selling vitamins and herbs.

Requirements for LARA

Under this bill, LARA would be required to create and enforce a framework for virtually all aspects of the practice of naturopathic medicine. Specifically, it must do all of the following:

- **Examination:** Adopt a competency-based national examination that is administered by the North American Board of Naturopathic Examiners or a qualified successor agency and approved by the state Board.
- **Formulate rules, generally:** Formulate rules and guidelines with appropriate notice to those affected if notice can reasonably be given.
- **Application and licensure:** Designate the application form used by applicants and process all applications; issue licenses and license renewals to all individuals who meet the qualifications for licensure as described in this part and as recommended by the Board; and establish procedures for the issuance of licenses and license renewals to applicants who qualify for licensure by reciprocity in this state, in lieu of taking the written examination.
- **Enforcement:** Investigate complaints of unprofessional conduct by a naturopathic physician; determine whether a naturopathic physician will be the subject of a disciplinary hearing; designate and impose sanctions and penalties for violation of these rules; and bring proceedings in court to ensure enforcement.
- **Continuing education:** Provide for the rules for continuing education.
- Establish procedures to govern matters, directly or indirectly, involving any individual related to an employee or agent of LARA in any way by blood or marriage.

Additionally, the director of LARA must consult the board on matters concerning the qualifications of individuals who apply for licensure; the content of any clinical, practical, or residency requirement; the content of existing and proposed rules and guidelines governing the practice of naturopathic medicine in Michigan; the investigation of all credible complaints from naturopathic physicians and the public; and the requirements for issuance and renewal of licenses.

Composition of the Board of Naturopathic Medicine

The seven members of the board will be appointed by the governor, and will consist of three naturopathic physicians, two physicians licensed in the practice of medicine or osteopathy, and two members of the general public who are not and never have been

licensed health professionals under this act and who do not have a financial or legal interest in naturopathic education, business, or practice.

The terms will be staggered initially, with the terms of three members expiring after four years, two after three years, and two after two years. After those initial terms, all appointments will last four years. The governor may remove any of the member of the board for cause before the expiration of the member's term. Within 30 days of its appointment and at least annually thereafter, the board will hold a meeting and elect a chairperson.

Responsibilities of the Board of Naturopathic Medicine

The board may adopt any policies and procedures necessary to carry out its purposes and may recommend necessary disciplinary action. Additionally, the board must do all of the following:

- Perform any administrative, nondisciplinary and non-rule-making functions assigned to the board by the director;
- Determine the qualifications of individuals applying for licensure and define the appropriate scope of practice, which may not exceed the scope described in this bill;
- Review the content of rules and proposed rules governing the practice of naturopathic medicine in this state;
- Evaluate the content of any clinical, practical, or residency requirement;
- Provide any other services and perform any other functions as are necessary and desirable to fulfill its purposes;
- Propose rules to LARA for examination standards for licensure consistent with the standards under this part, and for when those examinations will be provided;
- Establish a minimum amount and kind of continuing education to be required annually;
- Limit the performance of minor office procedures to a naturopathic physician who has graduated from an approved naturopathic medical program that included minor office procedures as part of its curriculum or who has up-to-date certification of equivalent training, as determined by the board;
- Limit the prescribing authority for prescription drugs to a naturopathic physician who has graduated from an approved naturopathic medical program that included pharmacology as part of its curriculum or who has up-to-date certification of equivalent training, as determined by the board;
- Investigate all credible complaints from naturopathic physicians and the public;
- Propose rules to LARA establishing guidelines for the disposition of disciplinary cases involving specific types of violations, which may include fines, periods of suspension or probation, or conditions of probation or reissuance of a license; and
- Provide evaluations regarding the requirements for issuance and renewal of naturopathic medical licenses to LARA.

Naturopathic Formulary Council

The formulary council is separate from the board, and will be made up of two naturopathic physicians appointed by the board, two licensed pharmacists appointed by the board (from a list of nominees provided by the Michigan Board of Pharmacy), and one physician

licensed in medicine or osteopathy appointed by the board (from a list of nominees provided by the Michigan Board of Medicine or Michigan Board of Osteopathic Medicine and Surgery).

The council will establish a formulary for use by naturopathic physicians, and will review it annually or at the request of the board. When the council adopts or revises the formulary, it will immediately transmit the formulary to the board, which will request its adoption by LARA. The formulary is limited to the drugs and devices covered in naturopathic training. A naturopathic physician may not dispense, administer, or prescribe a prescription drug or device unless that drug or devices is specifically included in the naturopathic formulary.

Other rules

A naturopathic physician is subject to the same rules and regulations as any other health professional regarding the control of contagious and infectious diseases, the reporting of births and deaths, and any and all other matters pertaining to the public health.

Reciprocity: If an applicant for licensure submits an application and appropriate fee along with acceptable proof of licensure in good standing in another state, the District of Columbia, or a territory of the United States which has equivalent standards, the board may issue a license without additional examination.

Four-year licensure before renewal: A license expires four years after issuance or last renewal, and may be renewed by the director if the applicant submits the application and renewal fee, and meets licensure and continuing education requirements.

Proposed MCL 333.16348a and MCL 333.18601 to 333.

BACKGROUND INFORMATION:

Eighteen states and the District of Columbia currently appear to allow the practice of naturopathic medicine in some form: Alaska, Arizona, California, Colorado, Connecticut, Hawaii, Kansas, Maine, Maryland, Minnesota, Montana, New Hampshire, North Dakota, Oregon, Utah, Vermont and Washington.

There are seven accredited naturopathic programs across 8 North American campuses:

- Bastyr University (Seattle, WA and San Diego, CA)
- Boucher Institute (Vancouver, BC, Canada)
- Canadian College (Toronto, ON, Canada)
- National College (Portland, OR)
- National University (Chicago, IL)
- Southwest College (Phoenix, AZ)
- University of Bridgeport (Bridgeport, CT)

After graduation, candidates sit for the Naturopathic Physicians Licensing Examinations (NPLEX), established in 1986 and administered by the North American Board of Naturopathic Examiners (NABNE).

ARGUMENTS:

For:

Proponents of the bill argue that licensure would help naturopathic physicians (NDs) to work in concert and consultation with MDs and DOs for the whole health of a patient. Instead of prescribing a medication or scheduling a procedure (both generally disallowed by NDs in this bill), an ND may be able to recommend lifestyle changes and natural practices to improve patient health. MDs from Beaumont Health and other medical facilities testified about the growing acceptance of NDs and the constructive partnerships their practices have formed with NDs. They stressed that NDs understand the strengths of their field, but also its limitations, and refer patients to MDs or DOs when conditions worsen or conventional care may be needed.

They also argued that licensure of naturopathic physicians would clarify the currently unregulated world of naturopathic medicine. Currently, a patient may not be able to distinguish between a naturopathic physician, who has received eight years of training, including four at an accredited naturopathic medical education program, and a naturopathic doctor, or even a person who has received no naturopathic training at all, but chooses to call himself or herself a naturopathic doctor.

Against:

Two competing arguments against regulating naturopathic physicians arose, one which opposed finding only one kind of naturopath legitimate, to the exclusion of all others, and the other which opposed conferring legitimacy on any naturopaths. A third argument notes that the bill goes against the tide of de-regulating professions when regulation is not essential.

- (1) Some argued that licensing will assert that only some naturopaths are legitimate, which is an unfair restriction on remaining naturopaths, and an inappropriate use of status, rather than public health, as a guiding purpose. The Naturopathic Institute in Mount Pleasant is accredited by the American Naturopathic Medical Accreditation Board, but because its training does not meet the standards set forth in the bill, graduates of that school and many others would no longer be able to call themselves naturopathic doctors. This would effectively deprive them of their ability to practice their chosen profession. The bill, some opponents say, works toward creating a monopoly on the practice of naturopathic medicine.
- (2) Others argued that licensure of any naturopaths gives them more credibility and status than their work deserves, elevating them to a similar status to that of medical and osteopathic doctors. They expressed concern that licensure and other statutory regulations would lead the public to think that naturopathic physicians receive the same medical training as MDs and DOs. Instead, they argue, many of their methods of diagnosis and treatment are "unscientific in concept, biologically improbable and clinically unproven."

Although naturopaths insist that their training is comparable to standard medical curriculum, instead of the four-year residency a medical or osteopathic doctor completes, naturopaths may complete an optional one- or two-year residency.

While natural treatments may have a place in healing, opponents assert that reliance on natural herbal remedies rather than pharmaceuticals, especially by a professional licensed by the state, may be dangerous to the patient, especially when such unproven treatment is used in place of evidence-based treatment.

- (3) Critics also argue that other worthy professions have been deregulated in recent years, and that this licensure runs counter to that effort. LARA currently regulates 25 health professions in Michigan, and 15 occupational professions, accounting for a total of approximately 700,000 professionals. In 2015, Governor Snyder wrote to legislative leaders that "[o]ccupational regulations expand the size and scope of state government, and divert staff time and taxpayer funds." Accordingly, he called on the legislature to continue their efforts to deregulate occupations and industries. He congratulated them for deregulating seven industries during his first term, and called on them to deregulate 11 more targeted by his Office of Regulatory Reinvention as duplicative or unnecessary to protect public safety.

POSITIONS:

- Representatives of the Michigan Association of Naturopathic Doctors testified in support of the bill. (4-19-16)
- Representatives of Beaumont Health testified in support of the bill. (4-19-16)

The following organizations oppose the bill

- Health Alliance Plan (4-19-16)
- Michigan Academy of Nutrition and Dietetics (4-19-16)
- Michigan Association of Health Plans (4-19-16)
- Naturopathic Institute of Therapies & Education (5-3-16)
- Michigan Academy of Family Physicians (5-3-16)
- Michigan Osteopathic Association (5-3-16)
- Michigan Orthopedic Society (5-3-16)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.