



H.B. 264

125th General Assembly
(As Introduced)

Rep. Cirelli

BILL SUMMARY

- Provides for regulation and certification of naturopathic physicians by the State Board of Naturopathic Medicine, a licensing board created by the bill.
- Defines the scope of practice of naturopathic physicians.
- Exempts naturopathic physicians from most of the laws governing the practice of medicine and surgery, osteopathic medicine and surgery, and acupuncture.
- Entitles naturopathic physicians to receive payment or reimbursement from workers' compensation and Medicaid for services rendered to eligible patients.
- Establishes requirements that applicants and naturopathic physicians must fulfill to obtain certificates of authority and certificates of registration to practice naturopathic medicine, respectively.
- Subject to certain exceptions, prohibits persons from practicing naturopathic medicine or holding themselves out as naturopathic physicians without valid certificates of authority.
- Establishes grounds for disciplinary action by the Board against applicants or naturopathic physicians.
- Adds naturopathic physicians to the class of persons who are subject to the testimonial privilege under existing law.
- Provides titles that naturopathic physicians may use to identify themselves as practitioners of naturopathic medicine.

- Permits naturopathic physicians to use assistants as long as the assistants satisfy the training requirements and standards established by the Board.
- Permits naturopathic physicians to become "board-certified" in a naturopathic specialty.

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CONTENT AND OPERATION

Regulation and certification of naturopathic physicians

(R.C. 125.22, 4780.01, and 4780.20)

The bill provides for the regulation and certification of naturopathic physicians by the State Board of Naturopathic Medicine, a licensing board created by the bill. As defined in the bill, a "naturopathic physician" is an individual who holds a valid certificate of authority from the State Board of Naturopathic Medicine to practice "naturopathic medicine." "Naturopathic medicine" is defined as a system of primary health care that uses education, counseling, biofeedback, acupuncture, natural medicine, topical medicine, naturopathic physical medicine, therapeutic devices, chelation,¹ minor surgery, immunizations, nutritional

¹ Not defined in the bill, "chelation" means "to grab" or "to bind." Commonly known as "chelation therapy," patients who undergo this therapy are subject to a chemical process in which an amino acid is injected into the body to remove heavy metals or minerals from the body. Specifically, when the amino acid, ethylenediaminetetraacetic acid (EDTA), is injected into a person's veins, it "grabs" minerals such as lead, mercury, copper, iron, arsenic, aluminum, and calcium and removes them from the body.

WebMDHealth, *Chelation Therapy* (visited Jan. 8, 2004) <<http://my.webmd.com/content/healthwise/69/17274>>.



assessment and counseling, hypnotherapy, and dietary therapy to support and stimulate the patient's intrinsic healing processes and includes prevention, diagnosis, treatment, and management of human health conditions, injuries, and diseases. The following terms, used in the definition of "naturopathic medicine," are defined in the bill as follows:

- "Acupuncture" has the same meaning as in existing law regulating the practice of acupuncture (R.C. 4762.01) and means a form of health care performed by the insertion and removal of specialized needles, with or without the application of moxibustion² or electrical stimulation, to specific areas of the body.
- "Natural medicine" means food extracts, food supplements, vitamins, minerals, essential oils, enzymes, digestive aids, nutraceuticals, glandular substances, plant substances, herbal preparations, homeopathic preparations, oligotherapeutic preparations, gammotherapeutic preparations, and natural antibiotics.
- "Topical medicine" means topical analgesics, anesthetics, antiseptics, scabicides, antifungals, compounded preparations, and antibacterials.
- "Naturopathic physical medicine" means therapeutic use of the physical, chemical, or other properties of air, water, heat, cold, sound, light, and electromagnetic non-ionizing radiation and of the physical modalities of electrotherapy, diathermy, ultraviolet light, infrared light, ultrasound, hydrotherapy, massage, naturopathic musculoskeletal therapy, reflexology, and therapeutic exercise.

Scope of practice

(R.C. 4780.30)

Under the bill, a naturopathic physician may use for preventive and therapeutic purposes naturopathic medicine and any therapeutic and clinical modalities taught at any Board-accepted naturopathic medical college. Further, for diagnostic purposes, the bill permits a naturopathic physician to use physical and orificial examinations, x-rays, electrocardiograms, ultrasound, phlebotomy, clinical laboratory tests and examinations, physiological function tests, and any

² "Moxibustion" is defined in R.C. 4762.01 to mean the use of an herbal heat source on one or more acupuncture points.

diagnostic procedures commonly used by physicians in general practice. In addition, a naturopathic physician is permitted to prescribe, administer, or dispense nonprescription medications, natural medicines, or therapeutic devices.

Inapplicability of the law governing physicians

(R.C. 4731.36)

Under current law, most of the statutes governing the practice of medicine and osteopathic medicine do not apply, in connection with specific limitations, to certain persons, including dentists, non-resident physicians, and acupuncturists. The bill adds naturopathic physicians to the persons who are not subject to these statutes.

Inapplicability of the law governing acupuncturists

(R.C. 4762.02)

Current law prohibits any person from engaging in the practice of acupuncture without a valid certificate of registration as an acupuncturist issued by the State Medical Board of Ohio unless the person is a physician or a person performing acupuncture as part of a training program in acupuncture. The bill adds to this exemption all of the following: (1) a naturopathic physician holding a valid certificate of authority to practice naturopathic medicine, (2) a naturopathic medical student performing acupuncture as part of a training program in acupuncture operated by a naturopathic medical college acceptable to the Board, and (3) a naturopathic physician assistant assisting in the practice of acupuncture in accordance with rules adopted by the Board.

Reimbursement for purposes of workers' compensation and Medicaid

(R.C. 4780.32)

The bill provides that a naturopathic physician is a "physician" who performs "medical services" for purposes of workers' compensation and the Medicaid Program. Thus, a naturopathic physician is entitled to payment or reimbursement as provided by those programs under current law.

State Board of Naturopathic Medicine

Membership and terms of office

(R.C. 4780.02)

The bill creates the State Board of Naturopathic Medicine consisting of five members appointed by the Governor with the advice and consent of the Senate. The Governor must make these appointments no later than 60 days after the bill's effective date.

The members of the Board are to have the following qualifications and terms of office:

- Four members must be persons who hold the degree of doctor of naturopathic medicine from a naturopathic medical college. In making the appointments of these members, the Governor must consider the recommendations of the Ohio State Naturopathic Physicians Association. Of the initial members, one must be appointed to a two-year term, one to a three-year term, one to a four-year term, and one to a five-year term. Thereafter, these members are to be appointed to five-year terms.
- One member is to represent the interests of consumers and must not be a member of, or associated with, any health care provider or profession. This member is appointed to a term of five years.

All members must have resided in Ohio for not less than three years prior to their appointment to the Board. A member ceases to be a member if the member ceases to reside in Ohio.

A member appointed to fill a vacancy occurring before the expiration of a term holds office for the remainder of that term. A member continues in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of 60 days has elapsed, whichever occurs first.

Meetings

(R.C. 4780.04)

The bill requires the State Board of Naturopathic Medicine to meet each June and December at times and places as the Board may direct. Three members constitute a quorum and no action of the Board is valid without a concurrence of a quorum. The bill also requires the Board to elect a president, secretary, and

supervising member from among its members. The term of office of these positions is three years.

The Board must keep any records and minutes necessary to fulfill the duties established by the bill and the rules adopted pursuant to the bill. The Board is permitted to hire staff as needed and must have a seal. Ohio Department of Administrative Services must provide routine support for the Board as it does for other state agencies and boards.

Compensation

(R.C. 4780.05)

Under the bill, each member of the State Board of Naturopathic Medicine is to receive an amount determined by the Director of the Ohio Department of Administrative Services pursuant to pay schedules established in existing law for each day employed in the discharge of official duties. However, members are ineligible for step advancements. The bill also requires that each member be reimbursed for necessary and actual expenses incurred in the performance of official duties as a Board member.

Freedom to exchange information

(R.C. 4780.54)

Although the bill prohibits a naturopathic physician from willfully betraying a professional confidence or intentionally violating a privileged communication except where required by law, it provides that this prohibition does not prevent board members from exchanging information with the agencies of other states, provinces, or countries, or with any professional naturopathic medical association, organization, or society, as determined by the Board.

Liability for acts or omissions related to official duties

(R.C. 4780.06)

The bill provides that, except in instances of fraud or bad faith, neither the State Board of Naturopathic Medicine nor any current or former member, agent, representative, or employee of the Board may be held liable in damages to any person as the result of any act, omission, proceeding, conduct or decision related to official duties undertaken or performed pursuant to the bill or rules adopted by the Board. The bill also provides that should a current or former member, agent, representative, or employee request that the state defend the person against any claim or action arising out of any act, omission, proceeding, conduct, or decision related to the person's official duties, and the request is in writing at a reasonable

time before trial and the person cooperates in good faith, the state must provide and pay for the defense and pay any resulting judgment, compromise, or settlement. However, the bill specifies that the state may at no time pay the part of a claim or judgment that is for punitive or exemplary damages.

Moneys received by the Board

(R.C. 4780.07)

The bill creates the Naturopathic Medicine Fund and requires all moneys received by the State Board of Naturopathic Medicine, including fines, to be deposited into this fund. The Secretary of the Board must file a receipt for moneys received by the Board with the Auditor of State.

The bill permits the Board to accept gifts of money or real property for the implementation and administration of the Board's functions.

Rules

(R.C. 4780.08 and 4780.081)

Under the bill, the State Board of Naturopathic Medicine is required to adopt rules to establish or specify all of the following:

- The training requirements to be, and practice parameters of, naturopathic physician assistants.
- The areas of naturopathic medicine in which a naturopathic physician may specialize.
- The number of hours of continuing naturopathic medical education a naturopathic physician must complete if the number required is to be reduced due to disability or absence from the country or because the naturopathic physician has held a certificate of authority for less than two years.
- The guidelines for programs providing postdoctoral training in naturopathic specialties for naturopathic physicians.
- Additional information to be included in an application for a certificate of registration.
- The extent to which a naturopathic physician may waive the payment of all or a part of a deductible or copayment for another naturopathic physician.

- Anything else necessary for the Board to efficiently administer its duties under the bill.

In adopting rules, the Board may consider the naturopathic practice standards set forth by the Ohio State Naturopathic Physicians Association or any association, organization, or professional society approved by the Board.

Reports of violations of the law

(R.C. 4780.10)

The bill provides that any person may report to the State Board of Naturopathic Medicine in a signed writing any evidence the person has that appears to show any of the following:

- That a person is unlawfully practicing naturopathic medicine.
- That a person is unlawfully holding the person's self out as a doctor of naturopathic medicine.
- Grounds for taking action against an applicant or naturopathic physician for committing fraud in passing the examination administered by the Board or committing fraud, misrepresentation, or deception in applying for a certificate of authority or certificate of registration.

Investigations--process

(R.C. 4780.11 and 4780.12)

The bill requires the State Board of Naturopathic Medicine to conduct an investigation when it receives or otherwise has evidence appearing to show any of the following:

- That a person is unlawfully practicing naturopathic medicine.
- That a person is unlawfully holding the person's self out as a doctor of naturopathic medicine.
- Grounds for taking action against an applicant or naturopathic physician for committing fraud in passing the examination administered by the Board or committing fraud, misrepresentation, or deception in applying for a certificate of authority or certificate of registration.

The bill requires the Board to assign a case number to and make a record of each investigation. The Board's supervising member must supervise the investigations unless the Board's president designates another Board member to supervise. No member of the Board who supervises an investigation may participate in further adjudication of the case.

The bill provides that in conducting an investigation, the Board may administer oaths, order the taking of depositions, issue subpoenas to compel the attendance of witnesses, and issue subpoenas duces tecum³ to compel the production of books, accounts, papers, records, and documents. Except in limited circumstances, the board may issue a subpoena duces tecum to compel the production of patient record information only after consulting with the Attorney General's office and receiving the approval of the Board's secretary and supervising member and a member of the Board who is a naturopathic physician. The three Board members may approve the subpoena duces tecum only after determining that there is probable cause to believe the patient record information is material to the investigation and covers a reasonable period of time.

The bill allows the Board to move for an order compelling the production of persons or records if a person does not comply with any subpoena or subpoena duces tecum after reasonable notice to the person.

Investigations--reports made to courts and applications for injunction

(R.C. 4780.13, 4780.14, and 4780.15)

The bill provides that if probable cause exists to believe a person is unlawfully practicing naturopathic medicine or holding the person's self out as a naturopathic physician, the Board must report the violation to the prosecuting attorney of the county in which the violation is occurring. The prosecuting attorney then must cause appropriate proceedings to be instituted in the proper court without delay and be prosecuted in the manner provided by law.

The bill further provides that each year, the Board must prepare a report that documents the disposition of all investigations conducted by the Board during the preceding 12-month period. The bill specifies the items that must be documented in this report. In addition, the bill requires the Board to prepare the

³ A "subpoena duces tecum" is a court process, initiated by a party in litigation, compelling the production of certain documents and other items, material and relevant to facts in issue in a pending judicial proceeding, which documents and items are in custody and control of a person or body served with process. BLACK'S LAW DICTIONARY 995 (6th ed. 1991).

reports in a manner that protects the identity of each person involved in each investigation. The reports are considered public records under existing law.

The bill also permits the Board to apply to the court of common pleas of the county in which a person is unlawfully practicing naturopathic medicine or holding the person's self out as a doctor of naturopathic medicine for an injunction restraining the person from continuing that action.⁴

Investigations--confidentiality of records

(R.C. 4780.16 and 4780.17)

The bill requires proceedings and records of the Board regarding an investigation to be held in confidence. They are not subject to discovery or introduction in evidence in any civil action against a naturopathic physician arising out of matters that are the subject of the investigation. Further, the bill provides that the Board may not make identifying information about a patient public unless the patient or patient's representative consents to the Board making the identifying information public or the Board possesses reliable and substantial evidence that no bona fide naturopathic physician-patient relationship exists.

Legal advisor

(R.C. 4780.18)

The bill provides that the Attorney General is the legal advisor of the State Board of Naturopathic Medicine.

Certificates of authority

Requirements for certificate

(R.C. 4780.22)

The bill provides for the issuance of two types of certificates: certificates of authority and certificates of registration. The first certificate issued is a certificate of authority. Under the bill, on the affirmative vote of at least three members, the State Board of Naturopathic Medicine may issue a certificate of authority to practice naturopathic medicine to an individual who meets the following requirements:

⁴ An "injunction" is a court order prohibiting someone from doing some specified act or commanding someone to undo some wrong or injury. BLACK'S LAW DICTIONARY 540 (6th ed. 1991).

- Submits to the Board a properly completed application for a certificate of authority.
- Is at least 21 years old and of good moral character.
- Has not pleaded guilty to or been convicted of unlawfully practicing naturopathic medicine or representing the person's self as a naturopathic physician.
- Except in certain circumstances (see "Waivers of requirements," below), (1) presents to the Board: (a) a diploma from a naturopathic medical college acceptable to the Board that is accredited by an organization the Board considers satisfactory and (b) an affidavit that the individual is the person named in the diploma and is the lawful possessor of the diploma, stating age, residence, the naturopathic medical college at which the individual obtained education in naturopathic medicine, the time spent in the study of naturopathic medicine, and any other facts the Board requires, (2) passes the Board's examination, and (3) pays the certificate of authority issuance fee.

Waiver of requirements

(R.C. 4780.23 and 4780.24)

On the affirmative vote of at least three members, the Board of Naturopathic Medicine must waive the diploma, affidavit, examination, and fee requirements listed above for an individual who does either of the following:

- Applies for a certificate of authority not later than one year after the bill's effective date and presents satisfactory proof to the Board of having a diploma showing the receipt of the degree of doctor of naturopathic medicine or doctor of naturopathy from a college approved by the Board.
- Wishes to remove to Ohio and is authorized to practice naturopathic medicine in another state, province, or country that the Board determines has authorization standards comparable to the bill's requirements.

On the affirmative vote of at least three members, the Board must waive the diploma, affidavit, and examination requirements, but not the fee requirement, listed above, for an individual who (1) is able to demonstrate experience and knowledge in naturopathic medicine that the Board determines is satisfactory, and

(2) is not, at the time the individual applies for a certificate of authority, authorized by the State Medical Board of Ohio to practice medicine and surgery or osteopathic medicine and surgery or licensed by any other state, province, or country to practice medicine and surgery or osteopathic medicine and surgery.

Fees

(R.C. 4780.25)

The bill establishes a certificate of authority issuance fees of \$100; however, a person authorized to practice naturopathic medicine in another state, province, or country who moves to Ohio and seeks Ohio certification must pay \$300.

Examinations

(R.C. 4780.26)

The bill requires the State Board of Naturopathic Medicine to procure, administer, and grade an examination for individuals seeking a certificate of authority from the Board. The bill requires an individual seeking admittance to the examination to do all of the following:

- Submit a properly completed application for a certificate of authority.
- Be at least 21 years old and of good moral character.
- Have not pleaded guilty to or been convicted of unlawfully practicing naturopathic medicine or representing the individual's self as a naturopathic physician.
- Unless the Board has waived these requirements, have presented to the Board (1) a diploma from an accredited naturopathic medical college acceptable to the Board, and (2) an affidavit affirming that the individual is the person named in the diploma and is the lawful possessor of the diploma.
- Pay the examination fee.

The bill requires the Board to establish an examination fee that is sufficient to cover costs the Board incurs in procuring, administering, and grading the examination. The fee is not to be returned, regardless of whether the individual passes or fails the examination, or whether the individual fails to appear for the examination.

The bill requires the Board to administer the first examination not later than one year after the bill's effective date and not less than twice a year thereafter. It also provides that a person with a doctor of naturopathic medicine degree or a doctor of naturopathy degree must be examined in subjects pertinent to current naturopathic medical educational standards as determined appropriate by the Board.

Signatures on certificates

(R.C. 4780.27)

The bill requires the president and secretary of the State Board of Naturopathic Medicine to sign each certificate of authority the Board issues. The Board's seal is also to be on the certificate to serve as the Board's attestation to the validity of the certificate.

Display of certificates

(R.C. 4780.28)

The bill requires each naturopathic physician to prominently display the naturopathic physician's certificate of authority in the naturopathic physician's office or the place where the major portion of the naturopathic physician's practice is conducted.

Evidence that person does not hold a valid certificate

(R.C. 4780.35)

The bill provides that a certificate of authority signed by the Secretary of the State Board of Naturopathic Medicine, under the Board's seal to the effect that it appears from the Board's records that no certificate of authority has been issued or that a certificate has been revoked or suspended, is prima-facie evidence⁵ of the record in any court or before any officer of the state.

⁵ "Prima-facie evidence" is evidence that, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense, and which if not rebutted or contradicted, will remain sufficient. *BLACK'S LAW DICTIONARY* 825-826 (6th ed. 1991).

Suspension of certificates

(R.C. 4780.44)

The bill provides that a naturopathic physician's certificate of authority is suspended effective October 1 of each even-numbered year unless the State Board of Naturopathic Medicine issues to the naturopathic physician a certificate of registration by that date. Practicing naturopathic medicine after a certificate of authority is suspended constitutes practicing naturopathic medicine without a valid certificate of authority.

However, the bill requires the State Board of Naturopathic Medicine to reinstate a certificate of authority that has been suspended for less than two years for the reason above if the naturopathic physician submits all of the following to the Board:

- The application for the certificate of registration.
- The \$125 registration fee.
- A \$25 penalty.

Refusal and revocation of certificates

(R.C. 4780.50)

The bill permits the State Board of Naturopathic Medicine, on the affirmative vote of at least three members, to refuse to issue a certificate of authority or to revoke a certificate of authority if the Board determines that the applicant or certificate holder either (1) committed fraud in passing the examination administered by the Board, or (2) committed fraud, misrepresentation, or deception in applying for the certificate of authority or certificate of registration.

Certificates of registration

Requirements for registration

(R.C. 4780.40)

To obtain a certificate of registration from the State Board of Naturopathic Medicine, the bill requires each naturopathic physician to complete the following number of hours of continuing naturopathic medical education:

- Except as provided in the next bullet point, if the naturopathic physician has held a certificate of authority for *at least* two years, 35 hours.
- If the naturopathic physician has held a certificate of authority for *less than* two years or, during any part of the two-year period preceding the date the certification to the Board was due, was disabled due to illness or accident or was absent from the country, the number of hours of continuing naturopathic medical education specified by the Board in rules.

The required number of hours of continuing education must be completed prior to the date the naturopathic physician submits an application for a certificate of registration.

Applications

(R.C. 4780.42)

The bill requires the State Board of Naturopathic Medicine to mail an application for a certificate of registration to each naturopathic physician or to contract with a naturopathic professional association to complete this task. The application must be mailed no later than March 1 of each even-numbered year and addressed to the last known post-office address that the Board or association has for the naturopathic physician to whom it is mailed. The application must contain spaces for all of the following:

- The naturopathic physician's full name and principal practice and residence address.
- The number of the naturopathic physician's certificate of authority.
- Any information the Board specifies in rules it adopts as necessary for the Board to issue the certificate of registration, including a statement that the naturopathic physician has fulfilled the continuing naturopathic medical education requirements specified above.
- The naturopathic physician's signature.

Issuance of certificates of registration

(R.C. 4780.43)

The bill provides that no later than October 1 of each even-numbered year, the State Board of Naturopathic Medicine must issue a certificate of registration to

a naturopathic physician who, no later than July 1 of that year, (1) completes and returns to the Board the application for the certificate of registration, and (2) pays to the Board the \$150 registration fee. Unless suspended or revoked, a certificate of registration is valid for a two-year period commencing on October 1 and expiring on September 30 of the second following year.

Registry

(R.C. 4780.45 and 4780.46)

The bill requires the State Board of Naturopathic Medicine to maintain a registry and publish a printed list of each naturopathic physician included on the registry. The list must be published on November 1 of each even-numbered year or as soon as practicable after that date. On the request of a naturopathic physician who received a certificate of registration that year, the Board must mail the naturopathic physician a copy of the list.

Prohibitions against the unlawful practice of naturopathic medicine

(R.C. 4780.20 and 4780.99; Section 3)

The bill prohibits a person from doing any of the following without a valid certificate of authority issued by the State Board of Naturopathic Medicine:

- Subject to certain exceptions (see "Exceptions to prohibitions," below), practice naturopathic medicine.
- Hold the person's self out in any manner as a doctor of naturopathic medicine, including using (1) the terms "doctor of naturopathy," "naturopath," "doctor of naturopathic medicine," "N.M.D.," "N.D.," or other equivalent words or initials in connection with that person's own name,⁶ or (2) any sign, advertisement, card, letterhead, circular, or other writing, document, or design, the evident purpose of which is to induce others to believe that person holds a valid certificate of authority.

A person who engages in any of the above activities without a valid certificate of authority is guilty of a felony of the fifth degree on a first offense and a felony of the fourth degree on each subsequent offense.

⁶ *The bill specifically provides that a naturopathic physician may use the title "doctor," "physician," "naturopathic physician," "naturopath," "doctor of naturopathic medicine," or "doctor of naturopathy," or use the terms "N.D." or "N.M.D.," to show that the naturopathic physician is a practitioner of naturopathic medicine.*

The bill provides that this provision takes effect one year after the bill's effective.

Exceptions to prohibitions

(R.C. 4780.21)

The bill provides that the prohibitions against unlawful practice listed above do not apply to any of the following:

- Persons authorized by the State Medical Board of Ohio to practice medicine and surgery or osteopathic medicine and surgery, podiatry, or acupuncture.
- A naturopathic medical student performing naturopathic medicine as part of a training program in naturopathic medicine operated by a naturopathic medical college that holds a valid certificate of approval.
- A naturopathic physician's assistant assisting in the practice of naturopathic medicine in accordance with rules adopted by the State Board of Naturopathic Medicine.
- A person performing acupuncture as part of a training program in acupuncture operated by an educational institution that holds an effective certificate of authorization issued by the Ohio Board of Regents or a certificate of registration issued by the State Board of Proprietary School Registration.⁷

Disciplinary action

Grounds

(R.C. 4780.51 and 4780.63)

The bill permits the State Board of Naturopathic Medicine, on the affirmative vote of at least three of its members, to take disciplinary action against an applicant for a certificate of authority or a naturopathic physician if any of the following is true:

⁷ *The State Board of Proprietary School Registration is now the State Board of Career Colleges and Schools.*

- The applicant does not meet the requirements for a certificate of authority.
- The applicant or naturopathic physician has pleaded guilty to, or been found guilty of, a felony.
- The applicant or naturopathic physician has pleaded guilty to, or been found guilty of, a violation of federal or state law regulating the possession, distribution, or use of a controlled substance.
- The applicant or naturopathic physician has had a health care license or certificate denied, revoked, or suspended in another state, province, or country on grounds for which the Board may deny, revoke, or suspend a certificate of authority.
- The applicant or naturopathic physician is unable to practice naturopathic medicine according to acceptable and prevailing standards of care approved by the Board by reason of mental or physical illness or habitual or excessive use or abuse of drugs, alcohol, or other substances.
- The naturopathic physician violates state naturopathic medical law or any rule adopted by the Board.
- The naturopathic physician pleads guilty to, or is found guilty of, a misdemeanor committed in the course of practice of naturopathic medicine.
- The naturopathic physician permits the use of the naturopathic physician's name, certificate of authority, or certificate of registration by a person when the naturopathic physician is not actually directing the treatment given.
- The naturopathic physician willfully betrays a professional confidence or intentionally violates a privileged communication, except where required by law.
- The naturopathic physician fails to use universal blood and body fluid precautions.
- The naturopathic physician violates the conditions of limitation placed by the Board upon the naturopathic physician's certificate of authority.

- The naturopathic physician departs from, or fails to conform to, accepted and prevailing standards of naturopathic medicine approved by the Board of similar naturopathic physicians under the same circumstances, whether or not actual injury to a patient is established.
- The naturopathic physician solicits patients.
- The naturopathic physician publishes a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.
- The naturopathic physician waives, or advertises that the naturopathic physician will waive, the payment of all or a part of a deductible or copayment that a patient would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from the naturopathic physician. This ground for disciplinary action, however, is not valid where the naturopathic physician waives deductibles or copayments (1) in compliance with a health insurance or health care policy, contract, or plan that expressly allows the waiver and with full knowledge and consent of the policy, contract, or plan purchaser, payer, and thirty-party administrator, and (2) for naturopathic medicine rendered to another naturopathic physician to the extent allowed by rules adopted by the Board.

Automatic suspensions--guilty plea or finding of guilt

(R.C. 4780.56)

The bill provides that a naturopathic physician's certificate of authority is automatically suspended if the naturopathic physician pleads guilty to, or is found guilty of, any of the following offenses in this state (or a substantially equivalent offense in another state): aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary.

The bill provides that if a naturopathic physician practices naturopathic medicine after the naturopathic physician's certificate of authority is suspended for any of the reasons above, the naturopathic physician is guilty of practicing naturopathic medicine without a valid certificate of authority. After determining

that a naturopathic physician's certificate has been suspended, the Board is required to commence the process of revoking the certificate of authority.

Automatic suspensions--finding of danger of immediate and serious harm

(R.C. 4780.57)

The secretary and supervising member of the State Board of Naturopathic Medicine may recommend that the Board suspend a naturopathic physician's certificate of authority without a prior hearing if the secretary and supervising member determine that there is clear and convincing evidence that (1) the naturopathic physician's continued practice presents a danger of immediate and serious harm to the public, and (2) either of the following: (a) grounds exist to take disciplinary action against the naturopathic physician because the naturopathic physician pleaded guilty to, or has been found guilty of, a felony, or (b) grounds exist to take disciplinary action against the naturopathic physician because the naturopathic physician has pleaded guilty to, or has been found guilty of, a misdemeanor committed in the course of practice.

In order to suspend the naturopathic physician without a prior hearing, the bill requires the Board to review the allegations and obtain the votes of at least four members in favor of the suspension. If the Board suspends the naturopathic physician's certificate of authority without a prior hearing, the Board must send notice of the suspension to the naturopathic physician. The suspension remains in effect until the Board's final adjudicative order becomes effective unless the Board fails to issue its final adjudicative order within 60 days after completion of the adjudication. In the latter circumstance, the suspension will dissolve but will not invalidate any subsequent, final adjudicative order.

When disciplinary action precluded

(R.C. 4780.59)

The bill provides that the Board may not take disciplinary action against an applicant for a certificate of authority or a naturopathic physician on grounds that the individual (1) pleaded guilty to, or has been found guilty of, a felony, (2) pleaded guilty to, or has been found guilty of, a violation of federal or state law regulating the possession, distribution, or use of a controlled substance, or (3) pleaded guilty to, or is found guilty of, a misdemeanor committed in the course of practice, if a trial court renders a final judgment in the applicant's or naturopathic physician's favor and that judgment is based on an adjudication on the merits. The Board may take such action if the trial court issues an order of dismissal on technical or procedural grounds.

When finding of guilt or plea of guilty or no contest is overturned on appeal

(R.C. 4780.60)

If the State Board of Naturopathic Medicine takes action against an applicant for a certificate of authority or a naturopathic physician on any of the grounds listed above, and the finding of guilt or plea of guilty or no contest is overturned on appeal, the applicant or naturopathic physician may petition the Board for reconsideration of the Board's action against the applicant or naturopathic physician on exhaustion of the criminal appeal. After receiving this petition and the relevant court documents from a naturopathic physician, the Board must terminate the action against the naturopathic physician, including reinstating the certificate of authority if it was suspended or revoked. If the individual is an applicant, the Board must resume the determination of whether the applicant meets the requirements for the certificate of authority.

Sealing of conviction records

(R.C. 4780.55)

The bill provides that the sealing of an applicant's or naturopathic physician's conviction records is not to have an effect on a prior disciplinary action taken by the Board or on the Board's authority to complete disciplinary action initiated before the sealing of the conviction records.

Suspected substance abuse or mental or physical illness

(R.C. 4780.61(A) and 4780.62)

If the State Board of Naturopathic Medicine has reason to believe that an applicant for a certificate of authority or a naturopathic physician is unable to practice naturopathic medicine according to acceptable and prevailing standards of care by reason of mental or physical illness or habitual or excessive use or abuse of substances that impair the ability to practice, the bill permits the Board to compel the applicant or naturopathic physician to submit to a mental or physical examination, or both. The examination must be at the applicant's or naturopathic physician's expense and conducted by a physician or, in the case of suspected substance abuse, by a physician or a treatment provider. The physician or treatment provider must be qualified to conduct the examination and must be chosen by the Board. Failure to submit to the examination constitutes an admission of the allegations against the applicant or naturopathic physician unless the failure is due to circumstances beyond the applicant's or naturopathic physician's control. An applicant or naturopathic physician is deemed to have

given consent to submit to a mental or physical examination when directed to do so in writing by the Board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

Determination of mental or physical illness

(R.C. 4780.61(B))

If the State Board of Naturopathic Medicine determines that an applicant's or naturopathic physician's ability to practice is impaired by reason of mental or physical illness, the bill permits the Board to require the applicant or naturopathic physician to submit to care, counseling, or treatment as a condition of the Board issuing, continuing, or reinstating a certificate of authority. The care, counseling, or treatment must be provided by a physician qualified to provide it who is chosen by the Board. If the Board denies or suspends the certificate of authority and the applicant or naturopathic physician submits to the care, counseling, or treatment, the Board must afford the applicant or naturopathic physician an opportunity to demonstrate the ability to practice naturopathic medicine according to acceptable and prevailing standards of care approved by the Board. Upon demonstration of such ability, the Board may issue or reinstate the certificate of authority.

Determination of habitual or excessive use or abuse of substances

(R.C. 4780.61(C))

If the State Board of Naturopathic Medicine determines that an applicant's or naturopathic physician's ability to practice is impaired by reason of habitual or excessive use or abuse of substances that impair the ability to practice, the bill permits the Board to deny or suspend the applicant's or naturopathic physician's certificate of authority and to require the applicant or naturopathic physician to submit to treatment as a condition of issuance or reinstatement of the certificate of authority. The bill requires the Board to afford the applicant or naturopathic physician who submits to treatment an opportunity to demonstrate the ability to practice naturopathic medicine according to acceptable and prevailing standards of care approved by the Board. The demonstration must include all of the following:

- Certification from a treatment provider chosen by the Board that the applicant or naturopathic physician has successfully completed the treatment.
- Evidence of continuing full compliance with an aftercare contract or consent agreement.

- Two written reports indicating that the applicant's or naturopathic physician's ability to practice has been assessed and that the applicant or naturopathic physician has been found able to practice naturopathic medicine according to acceptable and prevailing standards of care by the Board. The reports must be made by individuals chosen by the Board for making such assessments and must describe the basis for the determination.

The bill permits the Board to issue or reinstate the certificate of authority if the applicant or naturopathic physician successfully demonstrates that the applicant or naturopathic physician is able to practice according to acceptable and prevailing standards of care approved by the Board and enters into a written consent agreement. If the Board issues or reinstates the certificate, the bill allows the Board to require the applicant or naturopathic physician to do all of the following in accordance with the Board's continued monitoring of the applicant or naturopathic physician:

- Comply with the written consent agreement.
- Comply with any conditions the Board imposes after a hearing.
- For two years following termination of the consent agreement, submit to the Board written progress reports made under penalty of perjury stating whether the applicant or naturopathic physician has maintained sobriety.

Reports to Board regarding criminal offenses

(R.C. 4780.52)

If a naturopathic physician pleads guilty or no contest to, or is found guilty of, any criminal offense that constitutes grounds for action against the naturopathic physician under state naturopathy law, the naturopathic physician must inform the Board of the plea or the finding of guilt.

Standards of other professions not to be used

(R.C. 4780.53)

The bill prohibits the Board from judging an applicant for a certificate of authority or a naturopathic physician by the standards of any other medical profession when appearing before the Board in the context of an administrative hearing.

Child support defaults

(R.C. 4780.65)

The bill requires the State Board of Naturopathic Medicine to comply with the Code provisions pertaining to child support defaults (R.C. 3123.41 to 3123.50) by individuals who apply for or seek renewal of a professional license issued by the state.

Testimonial privilege

(R.C. 2317.02)

Under current law, physicians, attorneys, and members of the clergy, among others, are prohibited from testifying with respect to specific communications made by their patients, clients, parishioners, or others they deal with in confidence. This prohibition, called the "testimonial privilege," is held by the patient, client, parishioner, or other person. Thus, if the privilege is waived, the physician, attorney, member of the clergy, or other person is permitted to testify regarding the communications protected by the privilege.

The bill adds naturopathic physicians to the persons who are subject to the testimonial privilege. Specifically, the bill provides that a naturopathic physician is prohibited from testifying, absent a waiver, with respect to the following:

- A communication a patient makes to the naturopathic physician.
- Advice the naturopathic physician gives to a patient.
- A communication a licensed health professional makes to the naturopathic physician regarding a patient.

Titles

(R.C. 4780.31)

The bill permits a naturopathic physician to use the title "doctor," "physician," "naturopathic physician," "naturopathic doctor," "naturopath," "doctor of naturopathic medicine," or "doctor of naturopathy," or use the terms "N.D." or "N.M.D.," to show that the naturopathic physician is a practitioner of naturopathic medicine.

Naturopathic physician assistants

(R.C. 4780.33)

The bill permits a naturopathic physician to use an assistant in the naturopathic physician's practice if the assistant meets the training requirements for, and complies with the practice parameters of, naturopathic physician assistants as adopted by the State Board of Naturopathic Medicine pursuant to rules.

Specialization

(R.C. 4780.34)

The bill allows a naturopathic physician to be "board-certified" in a particular naturopathic specialty if the naturopathic physician submits to the State Board of Naturopathic Medicine documentation satisfactory to the Board that the naturopathic physician has completed training in that naturopathic specialty from a program that both (1) provides postdoctoral training in naturopathic specialties for naturopathic physicians, and (2) meets the guidelines for such a program established by rules adopted by the Board.

Notice of change in address

(R.C. 4780.29)

Under the bill, a naturopathic physician must give written notice to the State Board of Naturopathic Medicine of any change in the naturopathic physician's principal practice or residence address within 30 days of the change.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	08-19-03	p. 1035

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