

MAINE STATE LEGISLATURE

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R d s

L.D. 1852

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MAJORITY
BUSINESS AND ECONOMIC DEVELOPMENT

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
SECOND REGULAR SESSION

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COMMITTEE AMENDMENT "A" to H.P. 1351, L.D. 1852, Bill, "An Act to Establish the Board of Complementary Health Care Providers and to Regulate the Practice of Naturopathic Medicine"

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Amend the bill in section 13 in that part designated "§12501." by striking out all of subsection 9.

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Further amend the bill in section 13 in that part designated "§12501." in subsection 12 in the 2nd line (page 4, line 39 in L.D.) by striking out the following: "practiced by naturopathic doctors"

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Further amend the bill in section 13 in that part designated "§12501." by renumbering the subsections to read consecutively.

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Further amend the bill in section 13 in that part designated "§12502." in subsection 1 in the 5th line (page 5, line 28 in L.D.) by striking out the following: "9" and inserting in its place the following: '7'

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Further amend the bill in section 13 in that part designated "§12502." in subsection 1 in the 9th line from the end (page 5, line 35 in L.D.) by striking out the following: "Three" and inserting in its place the following: "Two" and in 7th line from the end (page 5, line 37 in L.D.) by striking out the following: "Three" and inserting in its place the following: 'Two'

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COMMITTEE AMENDMENT

R. W. S.

COMMITTEE AMENDMENT "A" to H.P. 1351, L.D. 1852

2 Further amend the bill in section 13 in that part designated
3 "§12502." in subsection 1 in the 2nd to 4th lines from the end
4 (page 5, lines 40 to 42 in L.D.) by striking out the following:
5 "Two members must be members of the public, neither of whom is a
6 practitioner of any healing art or has any family connection with
7 such a practitioner." and inserting in its place the following:
8 'One member must be a member of the public who is not a
9 practitioner of any healing art or has no family connection with
10 such a practitioner.'

11 Further amend the bill in section 13 in that part designated
12 "§12502." in subsection 1 in the last line (page 5, line 43 in
13 L.D.) by inserting after the following: "State." the following:
14 'One member must be a pharmacist who is licensed in this State.'

15 Further amend the bill in section 13 in that part designated
16 "§12502." in subsection 3 in the 4th line (page 6, line 2 in
17 L.D.) by striking out the following: "public members." and
18 inserting in its place the following: 'public member.'

19 Further amend the bill in section 13 in that part designated
20 "§12502." in subsection 5 in the first line (page 6, line 11 in
21 L.D.) by striking out the following: "Five" and inserting in its
22 place the following: 'Four'

23 Further amend the bill in section 13 in that part designated
24 "§12506." in the first paragraph in the 2nd line (page 9, line 35
25 in L.D.) by striking out the following: "section 12525,
26 subsection 4;"

27 Further amend the bill in section 13 in that part designated
28 "§12521." in subsection 1 in the first and 2nd lines (page 12,
29 lines 7 and 8 in L.D.) by striking out the following: "or
30 profess to be practicing"

31 Further amend the bill in section 13 in that part designated
32 "§12521." in subsection 1 in the 2nd line (page 12, line 8 in
33 L.D.) by inserting after the following: "medicine" the
34 following: 'or profess to be a naturopathic doctor'

35 Further amend the bill in section 13 in that part designated
36 "§12522." in subsection 1 in the last line (page 12, line 32 in
37 L.D.) by inserting after the following: "subsection 4." the
38 following: 'This subsection may not be construed to prevent an
39 individual other than a naturopathic doctor from using, ordering
40 or recommending any of the above listed items as long as the
41 individual is not prohibited from doing so by any other federal
42 or state statute or regulation.'

COMMITTEE AMENDMENT

R. of S.

COMMITTEE AMENDMENT "A" to H.P. 1351, L.D. 1852

2 Further amend the bill in section 13 in that part designated
3 "~~§12522.~~" in subsection 4 by striking out all of paragraph B
4 (page 13, lines 7 to 11 in L.D.) and inserting in its place the
5 following:

6 'B. A naturopathic doctor may prescribe only those
7 noncontrolled legend drugs that a subcommittee of the board,
8 consisting of the 2 naturopathic members, the pharmacist
9 member and the allopathic or osteopathic physician member,
10 designates by rule as consistent with a naturopathic
11 doctor's education and training.'

12 Further amend the bill in section 13 in that part designated
13 "~~§12525.~~" in subsection 2 in the last paragraph in the
14 next-to-last line (page 15, line 21 in L.D.) by striking out the
15 following: "subsection 1" and inserting in its place the
16 following: "subsections 1, 2 and 3"

17 Further amend the bill in section 13 in that part designated
18 "~~§12525.~~" in subsection 2 in the last paragraph in the last line
19 (page 15, line 22 in L.D.) by striking out the following: "4."
20 and inserting in its place the following: "4, paragraph A. A
21 conditional licensee may not prescribe legend drugs or receive
22 specialty certification."

23 Further amend the bill in section 13 in that part designated
24 "~~§12525.~~" in subsection 3 in paragraph C in the first line (page
25 15, line 37 in L.D.) by striking out the following: "approved by
26 the board" and inserting in its place the following:
27 "administered by the National Commission for the Certification of
28 Acupuncturists"

29 Further amend the bill in section 13 in that part designated
30 "~~§12525.~~" by striking out all of subsection 4.

31 Further amend the bill in section 13 in that part designated
32 "~~§12525.~~" in subsection 5 in the first line (page 16, line 15 in
33 L.D.) by striking out the following: "5." and inserting in its
34 place the following: "4."

35 Further amend the bill in section 13 in that part designated
36 "~~§12526.~~" in subsection 3 in the 6th line (page 16, line 49 in
37 L.D.) by striking out the following: "specialty certifications"
38 and inserting in its place the following: "a certification in
39 naturopathic acupuncture"

40 Further amend the bill in section 13 in that part designated
41 "~~§12526.~~" in subsection 3 in the 4th line from the end (page 16,
42 line 50 in L.D.) by striking out the following: "8 hours of" and
43 inserting in its place the following: "15 hours of
44 board-approved"

COMMITTEE AMENDMENT

R.S.

2 Further amend the bill by inserting after section 14 the
following:

4
6 'Sec. 15. Allocation. The following funds are allocated from
Other Special Revenue funds to carry out the purposes of this Act.

8 1996-97

10 **PROFESSIONAL AND FINANCIAL REGULATION,**
12 **DEPARTMENT OF**

14 **Licensing and Enforcement Division**

16 All Other \$2,900

18 Allocates funds for the additional cost of
19 adopting new rules pertaining to the
20 regulation of naturopathic doctors by the
21 Board of Complementary Health Care
22 Providers.'

24 Further amend the bill by relettering or renumbering any
nonconsecutive Part letter or section number to read
consecutively.

26
28 Further amend the bill by inserting at the end before the
statement of fact the following:

30 **FISCAL NOTE**

32 1996-97

34 **APPROPRIATIONS/ALLOCATIONS**

36 Other Funds \$2,900

38 **REVENUES**

40 Other Funds \$3,300

42 The reorganization of the Acupuncturist Licensing Board into
43 the new Board of Complementary Health Care Providers, which will
44 regulate acupuncturists and naturopathic doctors, will increase
45 licensure fee collections. The estimated annual increase of
46 dedicated revenue to the new board is \$3,300, beginning in fiscal
47 year 1996-97.

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R. of S.

COMMITTEE AMENDMENT "A" to H.P. 1351, L.D. 1852

2 The new Board of Complementary Health Care Providers will
3 require an Other Special Revenue allocation of \$2,900 in fiscal
4 year 1996-97 for the costs of adopting certain rules. The board
5 can absorb within its existing allocations some minor additional
6 costs associated with the expenses of 2 more board members than
7 the board's immediate organizational predecessor, the
8 Acupuncturist Licensing Board.

9 This bill may also increase prosecutions for Class E
10 crimes. If a jail sentence is imposed, the additional costs to
11 the counties are estimated to be \$83.70 per day per prisoner.
12 These costs are not reimbursed by the State. The number of
13 prosecutions that may result in a jail sentence and the resulting
14 costs to the county jail system are expected to be insignificant.

15 The additional workload and administrative costs associated
16 with the minimal number of new cases filed in the court system
17 can be absorbed within the budgeted resources of the Judicial
18 Department. The collection of additional fines may increase
19 General Fund revenue by minor amounts.'

22 **STATEMENT OF FACT**

23 This amendment accomplishes the following.

- 24 1. It makes it clear that it is the practice of
25 naturopathy, not just the title, that is being licensed.
- 26 2. It strengthens the regulatory board's control over the
27 use of drugs by naturopaths.
- 28 3. It eliminates childbirth from the scope of practice of
29 naturopaths.
- 30 4. It removes one naturopath, acupuncturist and public
31 member from the board and adds a pharmacist.
- 32 5. It makes it clear that this bill does not prohibit a
33 person from using or recommending items in the naturopath's scope
34 of practice unless this use is specifically prohibited by law.

35 The Joint Standing Committee on Business and Economic
36 Development has elected to make as part of the Statement of Fact
37 the report required by the Maine Revised Statutes, Title 5,
38 section 12015, subsection 3 when a profession is first
39 recommended for regulation. The report follows:
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COMMITTEE AMENDMENT

R. 4/5

COMMITTEE AMENDMENT "A" to H.P. 1351, L.D. 1852

2 A. What is the nature of the potential harm to the public
4 if the occupation or activity is not regulated and the
extent to which there is a threat to the public health or
safety?

6 The public is subject to harm from those who may represent
8 themselves as naturopathic doctors who do not have the
necessary education and experience to recognize potential
10 dangerous conditions requiring treatment or further
diagnostic tests from a specialist. Unregulated
12 practitioners may perform physical treatments that are
inappropriate, dangerous or beyond their scope of training.

14 B. What is the extent to which existing legal remedies are
16 inadequate to prevent or redress the kinds of harm
potentially resulting from nonregulation?

18 Currently, there is no adequate legal remedy preventing or
20 redressing potential harm. The burden for complaint
resolution is shifted entirely on the consumer with civil
22 action as the avenue for resolve. However, civil action
will not by itself prevent an incompetent practitioner from
24 continuing to practice. With licensure, a greater degree of
control and oversight would exist, and the public would then
26 be able to have its complaints addressed by the regulatory
board.

28 C. What is the extent to which the public is guided in
30 selecting competent practitioners by private certification,
membership in professional or occupational association or
32 academic credentials?

34 Currently, the public has little guidance in determining the
credentials of naturopathic physicians in Maine. Although
36 the Maine Association of Naturopathic Physicians is the
statewide professional organization, it cannot impose its
standards on others who may choose to represent themselves
38 as naturopathic physicians. With a statewide licensing
authority the public would have a recognized resource for
40 appropriate information concerning standards of education
and training.

42 D. What is the extent to which the occupation or profession
44 has made efforts to regulate itself by adoption of standards
of performance, a code of ethics or methods of resolving
46 disputes with consumers of their services?

48 The American Association of Naturopathic Physicians (AANP)
has developed standards of care that its state constituency
50 associations agree to uphold. The Maine Association of

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Naturopathic Physicians (MANP) is a constituent association of the AANP. Without licensure, the MANP is unable to enforce these standards upon practitioners within Maine. It also has no authority to handle complaint resolution for the public or powers of disciplinary action. Without regulatory powers, the public health, safety and welfare are not adequately protected.

E. What is the nature of the standard proposed for granting a license, as compared with the standards adopted in other jurisdictions, and the authority of the proposed regulatory board to amend those standards or establish new standards?

The proposed standards are similar to those standards established in the other licensed jurisdictions. These standards reflect the current education and training required by a practitioner who has graduated from a 4-year, federally accredited naturopathic medical college and passed a standardized national licensing exam.

F. What are the qualifications of members of the proposed regulatory board?

All professional members of the board are required to meet the professional licensing standards of the State. Public member qualification would be consistent with the qualifications required of public members serving on other health care boards in Maine.

G. What is the extent to which the harm expected to result from continued nonregulation may reasonably be expected to be reduced by the program of regulation proposed?

There are proven incidences of harm in other states by those people claiming to be naturopathic physicians who do not meet the standards proposed in the Maine Revised Statutes, Title 32, chapter 113-B. As other states continue to license naturopathic physicians, unqualified practitioners will likely continue to move into the unregulated areas, thus increasing potential harm to the public. By licensing naturopathic physicians, a means for consumer complaint resolution as well as enforcement and penalty provisions for those who violate the standards set forth by Title 32, chapter 113-B would be established.