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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 672
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Barhorst and Santucci

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SUMMARY

- Prohibits an individual from representing the individual’s self as a practitioner of naturopathic medicine unless the individual is licensed by the State Medical Board.
- Establishes a criminal penalty for violating that prohibition.
- Creates licensing requirements for the practice of naturopathic medicine and requires the State Medical Board to regulate the licensing of naturopathic medicine.
- Establishes services an individual licensed to practice naturopathic medicine can and cannot perform.
- Requires additional authorization from the State Medical Board for a licensed individual to prescribe, dispense, and administer prescription drugs and devices.
- Outlines circumstances in which the State Medical Board may limit, revoke, suspend, or refuse to issue, renew, or reinstate a license.
- Creates a Naturopathic Advisory Council to assist the Board in regulating naturopathic medicine.

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DETAILED ANALYSIS

License to practice naturopathic medicine

The bill prohibits an individual from recklessly representing the individual’s self as any of the following unless the individual holds a license to practice naturopathic medicine:

- A naturopathic physician;
- A naturopathic doctor;
- A naturopath;
- A doctor of naturopathic medicine or naturopathy;
- A “N.D.” or “ND”;
- A practitioner or provider of naturopathic medicine, naturopathic health care, or naturopathy;
- Someone who is authorized to practice naturopathic medicine.¹

An individual who violates this prohibition is guilty of a felony of the third degree.²

The bill defines “naturopathic medicine” as a system of primary health care that uses patient education, naturopathic therapies, and therapeutic substances to do any of the following:

- Prevent, diagnose, and treat conditions, injury, and disease;
- Promote or restore health;
- Support and stimulate a patient’s inherent self-healing process.³

¹ R.C. 4789.02.

² R.C. 4789.99.

³ R.C. 4789.01.

This definition overlaps with the continuing law definition for what constitutes the practice of medicine. The bill specifies that an individual who is licensed to practice naturopathic medicine and who practices in compliance with the bill's requirements is not in violation of the continuing law prohibition against practicing medicine without the appropriate license.⁴

The State Medical Board must implement and administer the Naturopathic Medicine Licensing Law.⁵

Application and eligibility

To obtain a naturopathic medicine license, applicants must apply to the State Medical Board and pay an application fee of \$305 (no part of the fee is returned if a license is denied). The Board may prorate the fee for an initial license. An applicant also must provide information showing that the applicant:

- Is at least 18 years old;
- Meets one of the education requirements described under “**Education requirements,**” below;
- Passed a competency-based national naturopathic licensing examination administered by the North American Board of Naturopathic Examiners or a successor organization recognized by the State Medical Board;
- Demonstrates a good, ethical, and professional reputation (notwithstanding a current law prohibition against considering one’s moral character); and
- Has not had a license to practice naturopathic medicine or other health care-related license, registration, or certificate suspended, refused, or revoked by any other jurisdiction for reasons related to the applicant’s ability to skillfully and safely practice naturopathic medicine unless that license, registration, or certification has been restored to good standing by that jurisdiction.

If the Board determines the applicant meets the requirements, the Board must issue a license no later than 60 days after receiving a complete application. An affirmative vote of a majority of the Board members is required to determine that an applicant meets the requirements.⁶ An application cannot be withdrawn without Board approval.⁷

⁴ R.C. 4731.34 and R.C. 4731.41 and 4731.99, not in the bill.

⁵ R.C. 4789.03.

⁶ R.C. 4789.05(A), (B), and (C).

⁷ R.C. 4789.10(F)(2).

Out-of-state applicants

The Board must issue a license to an out-of-state applicant to practice naturopathic medicine in Ohio in accordance with the Out-of-State Applicants Law⁸ if either of the following applies:

- The applicant is licensed in another state;
- The applicant has satisfactory work experience, a government certification, or a private certification in a state that does not issue a license to practice naturopathic medicine.⁹

Education requirements

An applicant must meet one of the following education requirements to be eligible for a license under the bill:

- Hold a doctoral degree of naturopathy or naturopathic medicine from a naturopathic medical education program in the U.S. or a degree-equivalent diploma from a naturopathic medical education program offered by a college or university in Canada, provided the following apply to the program at the time the degree or diploma was conferred:
 - The program offered graduate-level full-time didactic and supervised clinical training;
 - The program was accredited, or reached candidacy status for accreditation, by the Council on Naturopathic Medical Education;
 - If the program is in the U.S., the program was, or was part of, a college or university that was accredited, or reached candidacy status for accreditation, by a regional or national institutional accrediting agency recognized by the U.S. Secretary of Education;
 - If the program is in Canada, the program had provincial approval for participation in government-funded student aid programs.¹⁰
- Hold a doctoral naturopathic medical degree or degree-equivalent diploma from a college or university that was conferred to the applicant before the Council on Naturopathic Medical Education existed, provided the following apply to the program:
 - The program offered full-time curriculum in basic sciences and supervised patient care at the time the degree or diploma was conferred;
 - The program was at least 132 weeks long and required completion of the program within a period of no less than 35 months at the time the degree or diploma was conferred;

⁸ R.C. Chapter 4796.

⁹ R.C. 4789.05(D).

¹⁰ R.C. 4789.06(A).

- The program was, or was a part of, a college of naturopathic medicine or a college of liberal arts and naturopathic medicine that was reputable and in good standing with the State Medical Board at the time the degree or diploma was conferred;
- If the program still exists, it must be accredited by the Council on Naturopathic Medical Education at the time the applicant applies for a license;
- If the program still exists and is in Canada, it must have provincial approval for participation in government-funded student aid programs at the time the applicant applies for a license.¹¹

License renewal

A license is valid for two years and may be renewed. A licensee who wishes to renew a license must apply for renewal on or before January 31 of even-numbered years. However, the Board may establish a different expiration date for an initial license. A renewal application must be submitted to the State Medical Board along with a fee of \$305.

To renew a license, an individual must certify to the Board that the licensee has done the following:

- Completed continuing education requirements established by the Board that are equivalent to the continuing education requirements to practice medicine and surgery or osteopathic medicine and surgery.
- Reported any criminal offense in which the individual pleaded guilty, was found guilty, or was found eligible for intervention in lieu of conviction since last signing an application for a license.

The Board may require a random sample of licensees to submit materials documenting the licensee has complied with the continuing education requirements. If the Board finds that a licensee has not complied with these requirements, the Board may refuse to renew a license.¹²

License suspension

If a license is not renewed on or before its expiration date, it is automatically suspended on its expiration date. The State Medical Board can reinstate a suspended license if the individual qualifies for renewal and pays a penalty set by the Board.

If the license has been suspended for more than two years, the Board may impose additional requirements for reinstatement, including:

- Requiring an applicant to pass an oral or written examination, or both;
- Requiring additional training and to pass an examination when the training is completed;

¹¹ R.C. 4789.06(B).

¹² R.C. 4789.07 and 4789.03.

- Restricting or limiting the extent, scope, or type of practice in which an applicant may engage.¹³

Authorized services

Under the bill, a licensed individual may perform any of the following services so long as they are consistent with naturopathic education and training:

- Order and perform physical and laboratory examinations for diagnostic purposes including phlebotomy, clinical laboratory tests, orifical examinations, and physiological function tests;
- Order diagnostic imaging studies;
- Dispense, administer, order, prescribe, or perform specified substances and therapies, including administering nonprescription drugs or homeopathic medicine and performing repair and care incidental to superficial lacerations and abrasions;
- Utilize routes of administration that include oral, nasal, auricular, ocular, rectal, vaginal, transdermal, intradermal, subcutaneous, intravenous, and intramuscular.¹⁴

Unauthorized services

A license issued under the bill does not authorize an individual to do any of the following:

- Perform surgical procedures, except for repair and care of superficial lacerations and abrasions, superficial lesions, or the removal of foreign bodies located in superficial tissue;
- Practice or claim to practice as a medical doctor, osteopath, dentist, podiatrist, optometrist, psychologist, advanced practice professional nurse, physician assistant, chiropractor, physical therapist, acupuncturist, or any other health care professional;
- 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 extending beyond superficial tissue;
- Perform chiropractic adjustments or musculoskeletal manipulation;
- Perform acupuncture.¹⁵

Authority to prescribe drugs and devices

A license issued under the bill does not authorize a licensee to prescribe, dispense, or administer prescription drugs or devices, unless the licensee is authorized to do so by the State

¹³ R.C. 4789.08.

¹⁴ R.C.4789.09(A).

¹⁵ R.C. 4789.09(B).

Medical Board. To become authorized, a licensee must pass the elective pharmacology examination administered by the North American Board of Naturopathic Examiners or a successor examination approved by the State Medical Board. A licensee authorized to prescribe, dispense, and administer prescription drugs and devices under the bill may only prescribe prescriptions on a formulary adopted by the Board. The Board cannot include any drugs or devices on the formulary that are inconsistent with the training provided by naturopathic medical education programs. Unless included in that formulary, a licensee authorized to prescribe, dispense, or administer prescription drugs and devices cannot prescribe, dispense, or administer controlled substances. A licensee with this authority is considered a licensed health professional authorized to prescribe drugs for the purposes of the Pharmacists and Dangerous Drugs Law.

Before independently prescribing, dispensing, or administering prescription drugs and devices, a licensee must establish and complete a 12-month collaborative relationship with a physician licensed to practice medicine or surgery or osteopathic medicine or surgery to review the licensee's prescribing practices. This relationship does not imply or create a supervisory relationship between the physician and licensee.

If an individual wants to renew authorization to prescribe, dispense, and administer prescription drugs and devices, the individual must complete ten hours of continuing education in topics of pharmacology each licensing period in addition to other continuing education requirements required by the Board.¹⁶

Discipline by the Medical Board

The reasons for which the Board may discipline a licensee, and the types of disciplinary action the Board may take against licensees, are similar to the reasons the Board may discipline and actions the Board may take against other healthcare professionals regulated by the Board. The Board, by an affirmative vote of a majority of the members, may limit, revoke, suspend, or refuse to issue a license to practice naturopathic medicine to an individual found by the Board to have committed fraud, misrepresentation, or deception in applying for or securing a license.

The bill requires the Board, by an affirmative vote of a majority of the members, to limit, revoke, suspend, or refuse to issue, renew, or reinstate a license, or reprimand or place on probation a licensee for any of the following reasons:

- Failure to comply with the requirements of the Naturopathic Medicine Licensing Law;
- Permitting the licensee's name or license to be used by another individual;
- Failure to employ acceptable scientific methods in the selection of modalities for treatment provided under a license to practice naturopathic medicine;
- A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a violation of any federal or state law regulating the possession, distribution, or use of any drug;

¹⁶ R.C. 4729.01, 4789.03, 4789.09(B)(1), and 4789.091.

- Willfully betraying a professional confidence;
- Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients, in relation to the practice of naturopathic medicine, or in securing or attempting to secure any license or certificate issued by the Board;
- A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a client is established;
- Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other individual, that an incurable disease or injury, or other incurable condition, can be permanently cured;
- The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of the practice of naturopathic medicine;
- A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;
- Commission of an act that constitutes a felony in Ohio, regardless of the jurisdiction in which the act was committed;
- A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of the practice of naturopathic medicine;
- Commission of an act in the course of the practice of naturopathic medicine that constitutes a misdemeanor in Ohio, regardless of the jurisdiction in which the act was committed;
- A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;
- Commission of an act involving moral turpitude that constitutes a misdemeanor in Ohio, regardless of the jurisdiction in which the act was committed;
- Violation of the conditions of limitation placed by the Board on a license to practice naturopathic medicine;
- Failure to pay required license renewal fees;
- Inability to practice naturopathic medicine according to acceptable and prevailing standards of care by reason of mental or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;
- Impairment of ability to practice naturopathic medicine according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair the ability to practice;

- Failure to maintain the confidentiality of privileged communications without the written consent of a patient or a patient's parent or guardian, as applicable, unless otherwise required by law, court order, or necessity to protect public health and safety;
- Failure to comply with the continuing education requirements necessary to renew a license;
- Failure to comply with any standards for the ethical practice of naturopathic medicine that the Board adopts;
- Failure to cooperate in a disciplinary investigation conducted by the Board, including failure to comply with a Board subpoena or order or failure to answer truthfully a question presented by the Board in an investigative interview.

Disciplinary actions taken by the Board must be taken pursuant to an adjudication under the Administrative Procedure Act.¹⁷ However, in lieu of adjudication, the Board may enter into a consent agreement with an individual to resolve an allegation of a violation.¹⁸ An individual's failure to renew a license to practice naturopathic medicine in accordance with the renewal requirements described above does not remove or limit the Board's jurisdiction to take disciplinary action against the individual.¹⁹

Investigations

The Board must investigate evidence that appears to show an individual has violated the Naturopathic Medicine Licensing Law. Any individual may report to the Board in a signed writing any information the individual may have that appears to show a violation. The Board must conduct investigations of alleged violations in the same manner that the Board conducts investigations under continuing law with respect to other licenses the Board issues.²⁰

License surrender

The surrender of a license to practice naturopathic medicine is not effective until accepted by the Board. The Board may use a telephone conference call for acceptance of the surrender. A telephone conference call is considered a special meeting under the Open Meetings Act (instead of a regularly scheduled meeting; different notice requirements apply).²¹ Reinstatement of a license to practice naturopathic medicine surrendered to the Board requires an affirmative vote of a majority of the Board members.²²

¹⁷ R.C. Chapter 119.

¹⁸ R.C. 4789.10(B) to (D).

¹⁹ R.C. 4789.10(F)(3).

²⁰ R.C. 4789.10(E).

²¹ R.C. 121.22, not in the bill.

²² R.C. 4789.10(F).

Limitation on initial license refusal

The Board cannot refuse to issue a license to an applicant because of a conviction of, plea of guilty to, judicial finding of guilt of, or judicial finding of eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with the continuing law procedure that limits a licensing authority's ability to refuse to issue an initial license based on a prior disqualifying offense.²³

Child support orders

On receipt of notice that a licensee is in default under a child support order under the procedures established in continuing law, the Board must comply with the requirements of that law or rules adopted pursuant to it with respect to an individual licensed to practice naturopathic medicine under the bill.²⁴

Human trafficking

The bill requires the Board to immediately suspend a licensee's naturopathic medicine license in accordance with continuing law requirements if the licensee is convicted of, or pleads guilty to, the offense of trafficking in persons.²⁵

Regulatory procedures

The bill establishes additional procedures for the regulation of naturopathic medicine licensees that are the same as procedures that apply to the other health care professionals the State Medical Board regulates under continuing law, including the following:

- Notifications provided to the Board by physicians authorized to practice medicine or surgery or professional associations or societies of those physicians regarding actions taken against a licensee;²⁶
- Requirements relating to a licensee suffering impairment from the use of drugs or alcohol;²⁷
- A register of license applicants, and naturopathic medicine licenses issued or revoked;²⁸
- Deposit of fees, penalties, and other funds in the state treasury to the credit of the existing State Medical Board Operating Fund.²⁹

²³ R.C. 4789.10(G).

²⁴ R.C. 4789.11 and R.C. 3123.41 to 3123.50, not in the bill.

²⁵ R.C. 4789.12 and 4776.20.

²⁶ R.C. 4731.224.

²⁷ R.C. 4731.25.

²⁸ R.C. 4731.07.

²⁹ R.C. 4731.24.

Naturopathic Advisory Council

The bill requires the State Medical Board to appoint the Naturopathic Advisory Council for the purpose of advising the Board on issues relating to the practice of naturopathic medicine. The Council may consist of no more than seven individuals knowledgeable in naturopathic medicine. A majority of the members are required to be licensed to practice naturopathic medicine in Ohio and be actively engaged in the practice. Individuals appointed to the Council in the first year after the bill's effective date do not need to be licensed to practice naturopathic medicine in Ohio. The bill requires the Council to include one physician who is a member of the State Medical Board and one individual who will represent the interest of consumers and is not affiliated with any health care profession.

The Board must appoint the members to the Council within 90 days after the bill's effective date. Initially, the Board must stagger the terms of office for members. Thereafter, terms of office for all members are three years and end on the same day of the same month as the previous term. Members hold office from the date of appointment until the end of the term for which the member was appointed. The bill includes the standard vacancy provisions. Members are not compensated for service on the Council, but members are required to be reimbursed for necessary expenses.

Under the bill, the Council must meet at least four times each year and at other times as necessary to carry out its duties. The Council may make recommendations to the Board regarding the following:

- The practice of naturopathic medicine and the administration and enforcement of the Naturopathic Medicine Licensing Law;
- Continuing education requirements for license renewal;
- The formulary of prescription drugs and devices that a licensee may prescribe to a patient;
- Standards of care and ethical conduct in the practice of naturopathic medicine.³⁰

HISTORY

Action	Date
Introduced	10-08-24

ANHB0672IN-135/sb

³⁰ R.C. 4789.04 and Section 3.