

MAR 9 1995

HUMAN RESOURCES

HOUSE FILE 327
BY HAMMITT

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for licensing of naturopathic physicians,
2 imposing fees, and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 327

1 Section 1. NEW SECTION. 152E.1 SCOPE OF PRACTICE.

2 Naturopathic physicians shall be recognized as providers of
3 primary health care using naturopathic medicine. They shall
4 be permitted to diagnose by performing and ordering common
5 diagnostic procedures and to employ for the purposes of
6 prevention and therapeutic treatment, all natural medicines
7 and therapies, homeopathic drugs, minor office procedures,
8 lifestyle modification techniques, therapeutic devices as
9 defined in this chapter, and public health measures, and to
10 exercise limited prescription rights as defined in this
11 chapter.

12 Naturopathic physicians shall have the same authority and
13 responsibility as other health care professionals regarding
14 public health laws, reportable diseases and conditions,
15 communicable disease control and prevention, recording of
16 vital statistics, health and physical examinations, and local
17 boards of health, except that such authority shall be limited
18 to activity consistent with the scope of practice authorized
19 by this chapter.

20 Sec. 2. NEW SECTION. 152E.2 DEFINITIONS.

21 As used in this chapter, unless the context otherwise re-
22 quires:

23 1. "Approved clinical training program" means a clinical
24 training program in naturopathic medicine approved by the
25 board or approved or accredited by an educational or pro-
26 fessional association recognized by the board, including the
27 council on naturopathic medical education or its successor if
28 certified by the United States department of education as a
29 specialized accrediting agency.

30 2. "Approved internship" means an internship in naturo-
31 pathic medicine approved by the board or approved or
32 accredited by an educational or professional association
33 recognized by the board, including the council on naturopathic
34 medical education or its successor if certified by the United
35 States department of education as a specialized accrediting

1 agency.

2 3. "Approved naturopathic medical college" means a college
3 or program granting the degree of doctor of naturopathic
4 medicine or doctor of naturopathy that is approved by the
5 naturopathic board of examiners and which meets one or more of
6 the following requirements:

7 a. Is accredited by the council on naturopathic medical
8 education or other accrediting agencies recognized by the
9 United States department of education.

10 b. Has candidate status for accreditation by the council
11 of naturopathic medical education or other accrediting
12 agencies recognized by the United States government.

13 c. Has been investigated by the board and found to meet
14 educational standards equivalent to those established by the
15 council of naturopathic medical education or other accrediting
16 agencies recognized by the United States government.

17 Naturopathic programs which granted degrees prior to 1981 may
18 be approved by the board as having appropriate educational
19 standards.

20 4. "Board" means the naturopathic board of medical
21 examiners established in chapter 147.

22 5. "Common diagnostic procedures" means noninvasive
23 diagnostic procedures and commonly used diagnostic modalities
24 consistent with naturopathic practice, including the taking of
25 health history, physical examination, radiology,
26 electrocardiogram, ultrasound, physiological function tests,
27 clinical laboratory analysis which obtains samples of human
28 tissue products including superficial scrapings, and
29 phlebotomy.

30 6. "Department" means the Iowa department of public
31 health.

32 7. "Homeopathic preparations" means any article that is
33 recognized pursuant to the current official United States
34 homeopathic pharmacopoeia and other official homeopathic
35 pharmacopoeia.

1 8. "Lifestyle modification" means methods used to
2 influence health such as exercise, hygiene, counseling, stress
3 reduction, and dietary therapy and advice.

4 9. "Minor office procedures" means the use of a device or
5 a physical measure for the repair and care of superficial
6 tissue injuries and wounds, and the use of antiseptics and
7 local anesthetics in connection with such methods. "Minor
8 office procedures" does not include general or spinal
9 anesthetics, major surgery, surgery of the body cavities, or
10 specialized surgeries such as plastic surgery, surgery
11 involving the eye, or surgery involving tendons.

12 10. "Natural medicines and therapies" means materials
13 found in nature which have therapeutic use, including food and
14 food extracts, vitamins, minerals, enzymes, digestive aids,
15 plant and animal substances, homeopathic preparations, natural
16 antibiotics, vaccines, topical medicines, and nondrug
17 contraceptive devices, excluding intrauterine devices.

18 11. "Naturopathic medicine" is the practice by
19 naturopathic physicians of the art and science of the
20 diagnosis, prevention, and treatment of human health
21 conditions, injuries, and diseases using education, and
22 natural medicines and therapies to stimulate or support, or
23 both, the natural processes of the human body.

24 12. "Naturopathic physical medicine" includes, but is not
25 limited to, the therapeutic use of the physical agents of air,
26 water, heat, cold, sound, light, and the physical modalities
27 of electrotherapy, diathermy, ultraviolet light, ultrasound,
28 hydrotherapy, naturopathic manipulative therapy, and
29 therapeutic exercise.

30 13. "Naturopathic physician" means a person licensed to
31 practice naturopathic medicine under this chapter.

32 14. "Preceptorship" means an internship in naturopathic
33 medicine approved by the board or approved or accredited by an
34 educational or professional association recognized by the
35 board, including the council on naturopathic medical education

1 or its successor if certified by the United States department
2 of education as a specialized accrediting agency.

3 15. "Proprietary medicine" means a nonnarcotic drug or
4 device, as provided in section 155A.3, that may be sold
5 without a prescription and is labeled and packaged in
6 compliance with applicable state or federal law.

7 16. "Special dietary need" means a need that exists in the
8 human body by reason of any physical, physiological,
9 pathological, or other condition, as a result of any injury,
10 ailment, or infirmity, including but not limited to pregnancy,
11 lactation, age, allergies, and sensitivities to food.

12 17. "Specialist" means a physician who has successfully
13 completed postdoctoral training, who is certified by a
14 specialty board recognized by the board, and who is licensed
15 to practice a specialty pursuant to this chapter.

16 18. "Topical medicines" means topical analgesics,
17 anesthetics, antiseptics, scabicides, antifungals, and
18 antibacterials.

19 Sec. 3. NEW SECTION. 152E.3 LICENSE AND RENEWAL
20 REQUIRED.

21 A person shall not engage in the practice of naturopathic
22 medicine or use the title naturopathic physician unless the
23 person has received a license from the board pursuant to this
24 chapter and chapter 147.

25 Only a naturopathic physician licensed pursuant to this
26 chapter shall use any of the following terms: naturopathic
27 physician, naturopathic doctor, naturopath, doctor of
28 naturopathic medicine, doctor of naturopathy, N.D., or N.M.D.
29 A naturopathic physician shall not use the term "physical
30 therapy" or "chiropractic".

31 Sec. 4. NEW SECTION. 152E.4 QUALIFICATIONS FOR LICENSURE
32 AND RECIPROCAL AGREEMENTS.

33 1. To be eligible for a license to practice naturopathic
34 medicine, the applicant shall do all of the following:

35 a. Submit an application in the form prescribed by the

1 board.

2 b. Pay a fee required by the department which shall
3 compensate and be retained by the department for the costs of
4 administering this chapter.

5 c. Be a graduate of an approved naturopathic medical
6 college and pass a competency examination prescribed by the
7 board covering the appropriate naturopathic subjects.

8 2. Application and renewal procedures and reciprocal
9 agreements shall be provided in accordance with chapter 147.

10 Sec. 5. NEW SECTION. 152E.5 SCOPE OF CHAPTER.

11 Section 152E.1 shall not be construed to include the
12 following persons:

13 1. Persons otherwise licensed to practice medicine and
14 surgery, osteopathy, osteopathic medicine and surgery,
15 optometry, occupational therapy, chiropractic, podiatry,
16 dentistry, or physical therapy or to practice as a physician's
17 assistant.

18 2. Persons who sell proprietary medicines or natural
19 substances that are not prescription drugs and do not require
20 a prescription drug order as defined in section 155A.3.

21 3. Students of naturopathic medicine who have completed at
22 least two years' study in a naturopathic school of medicine,
23 who are under the supervision of a naturopathic physician
24 licensed pursuant to this chapter, and who are engaged in a
25 board-approved clinical training, internship, or preceptorship
26 training program in naturopathic medicine.

27 4. Naturopathic assistants who assist a naturopathic
28 physician licensed pursuant to this chapter in the practice of
29 naturopathic medicine in the treatment of patients, as
30 prescribed and supervised by the naturopathic physician,
31 except such assistants shall not diagnose any patient's
32 condition or develop any treatment program for a patient.

33 5. Persons engaged in the lawful practice of any healing
34 art that is regulated in this state, except that no such
35 person shall use the title naturopathic physician, doctor of

1 naturopathic medicine or the designation N.M.D., doctor of
2 naturopathy or the designation N.D., or publicly profess to
3 practice naturopathic medicine.

4 6. A graduate of a naturopathic school of medicine who is
5 continuing training and performing duties in an internship,
6 preceptorship, or clinic training program in naturopathic
7 medicine approved by the board, and who is supervised by a
8 naturopathic physician licensed pursuant to this chapter.

9 7. A naturopathic physician who is authorized by another
10 state, district, or territory of the United States or a
11 province of Canada to practice naturopathic medicine and who
12 is engaged in the consultation of a patient upon the request
13 of a naturopathic physician licensed pursuant to this chapter.

14 Sec. 6. NEW SECTION. 152E.6 POWERS OF THE BOARD.

15 In addition to duties and responsibilities provided in
16 chapters 147 and 272C the board shall:

17 1. Adopt rules pursuant to chapter 17A consistent with
18 this chapter and chapter 147 which are necessary for the
19 performance of its duties.

20 2. Establish standards and guidelines for naturopathic
21 physicians including minimum curriculum requirements.

22 3. Prepare and conduct an examination for applicants for a
23 license.

24 4. Approve a list of prescription medicines which shall be
25 permitted to be used by naturopathic physicians.

26 Sec. 7. NEW SECTION. 152E.7 NATUROPATHIC ASSISTANTS.

27 The board may approve naturopathic assistants who, under
28 the supervision and direction of a naturopathic physician, may
29 assist the physician in the treatment of patients, and the
30 board may issue a certificate to such assistant pursuant to
31 rules adopted by the board for naturopathic assistants.

32 Sec. 8. NEW SECTION. 152E.8 REVOCATION.

33 1. The naturopathic board of medical examiners, after due
34 notice and hearing in accordance with chapter 17A, may issue
35 an order to discipline a licensee for any of the grounds set

1 forth in section 147.55, chapter 272C, or this subsection.

2 Notwithstanding section 272C.3, licensee discipline may
3 include a civil penalty not to exceed ten thousand dollars.

4 2. Pursuant to this section, the naturopathic board of
5 medical examiners may discipline a licensee who is guilty of
6 any of the following acts or offenses:

7 a. Knowingly making misleading, deceptive, untrue or
8 fraudulent representation in the practice of the physician's
9 profession.

10 b. Being convicted of a felony in the courts of this state
11 or another state, territory, or country. Conviction as used
12 in this paragraph shall include a conviction of an offense
13 which if committed in this state would be deemed a felony
14 without regard to its designation elsewhere, or a criminal
15 proceeding in which a finding or verdict of guilt is made or
16 returned, but the adjudication of guilt is either withheld or
17 not entered. A certified copy of the final order or judgment
18 of conviction or plea of guilty in this state or in another
19 state shall be conclusive evidence.

20 c. Violating a statute or law of this state, another
21 state, or the United States, without regard to its designation
22 as either felony or misdemeanor, which statute or law relates
23 to the practice of medicine.

24 d. Having the license to practice naturopathic medicine
25 revoked or suspended, or having other disciplinary action
26 taken by a licensing authority of another state, territory, or
27 country. A certified copy of the record or order of
28 suspension, revocation, or disciplinary action is prima facie
29 evidence.

30 e. Knowingly aiding, assisting, procuring, or advising a
31 person to unlawfully practice naturopathic medicine.

32 f. Being adjudged mentally incompetent by a court of
33 competent jurisdiction. Such adjudication shall automatically
34 suspend a license for the duration of the license unless the
35 board orders otherwise.

1 g. Being guilty of a willful or repeated departure from,
2 or the failure to conform to, the minimal standard of
3 acceptable and prevailing practice of naturopathic medicine in
4 which proceeding actual injury to a patient need not be
5 established; or the committing by a naturopathic physician of
6 an act contrary to honesty, justice, or good morals, whether
7 the same is committed in the course of the naturopathic
8 physician's practice or otherwise, and whether committed
9 within or without this state.

10 h. Inability to practice naturopathic medicine with
11 reasonable skill and safety by reason of illness, drunkenness,
12 excessive use of drugs, narcotics, chemicals, or other type of
13 material or as a result of a mental or physical condition.
14 The naturopathic board of medical examiners may, upon probable
15 cause, compel a naturopathic physician to submit to a mental
16 or physical examination by designated physicians or to submit
17 to alcohol or drug screening within a time specified by the
18 naturopathic board of medical examiners. Failure of a
19 naturopathic physician to submit to an examination or to
20 submit to alcohol or drug screening shall constitute admission
21 to the allegations made against the naturopathic physician and
22 the finding of fact and decision of the naturopathic board of
23 medical examiners may be entered without the taking of
24 testimony or presentation of evidence. At reasonable
25 intervals, a naturopathic physician shall be afforded an
26 opportunity to demonstrate that the naturopathic physician can
27 resume the competent practice of naturopathic medicine with
28 reasonable skill and safety to patients.

29 A person licensed to practice naturopathic medicine who
30 makes application for the renewal of a license, as required by
31 section 147.10, gives consent to submit to a mental or
32 physical examination as provided by this paragraph when
33 directed in writing by the naturopathic board of medical
34 examiners. All objections shall be waived as to the
35 admissibility of the examining physicians' testimony or

1 examination reports on the grounds that they constitute
2 privileged communication. The medical testimony or
3 examination reports shall not be used against a naturopathic
4 physician in another proceeding and shall be confidential,
5 except for other actions filed against a naturopathic
6 physician to revoke or suspend a license.

7 i. Willful or repeated violation of lawful rule or
8 regulation adopted by the naturopathic board of medical
9 examiners or violating a lawful order of the board, previously
10 entered by the board in a disciplinary or licensure hearing,
11 or violating the terms and provisions of a consent agreement
12 or informal settlement between a licensee and the board.

13 Sec. 9. NEW SECTION. 152E.9 PROCEDURE FOR SUSPENSION OR
14 REVOCATION.

15 A proceeding for the revocation or suspension of a license
16 to practice naturopathic medicine or to discipline a person
17 licensed to practice naturopathic medicine shall be
18 substantially in accord with the following procedure:

19 1. The naturopathic board of medical examiners may, upon
20 its own motion or upon verified complaint in writing, and
21 shall, if such complaint is filed by the director of public
22 health, issue an order fixing the time and place for hearing.

23 A written notice of the time and place of the hearing
24 together with a statement of the charges shall be served upon
25 the licensee at least ten days before the hearing in the
26 manner required for the service of notice of the commencement
27 of an ordinary action or by restricted certified mail.

28 2. If the licensee has left the state, the notice and
29 statement of the charges shall be so served at least twenty
30 days before the date of the hearing, wherever the licensee may
31 be found. If the whereabouts of the licensee is unknown,
32 service may be had by publication as provided in the rules of
33 civil procedure upon filing the affidavit required by said
34 rules. In case the licensee fails to appear, either in person
35 or by counsel at the time and place designated in the notice,

1 the board shall proceed with the hearing as provided in this
2 section.

3 3. The hearing shall be before a member or members
4 designated by the board or before an administrative law judge
5 appointed by the board. The presiding board member or
6 administrative law judge may issue subpoenas, administer oaths
7 and take or cause depositions to be taken in connection with
8 the hearing. The presiding board member or administrative law
9 judge shall issue subpoenas at the request and on behalf of
10 the licensee. The hearing shall be open to the public.

11 The compensation of the administrative law judge shall be
12 fixed by the board. The administrative law judge shall be an
13 attorney vested with full authority of the board to schedule
14 and conduct hearings. The administrative law judge shall
15 prepare and file with the board the administrative law judge's
16 findings of fact and conclusions of law, together with a
17 complete written transcript of all testimony and evidence
18 introduced at the hearing and all exhibits, pleas, motions,
19 objections, and rulings of the administrative law judge.

20 4. A stenographic record of the proceedings shall be kept.
21 The licensee shall have the opportunity to appear personally
22 and by an attorney, with the right to produce evidence in the
23 licensee's own behalf, to examine and cross-examine witnesses,
24 and to examine documentary evidence produced against the
25 licensee.

26 5. If a person refuses to obey a subpoena issued by the
27 presiding member or administrative law judge or to answer a
28 proper question during the hearing, the presiding member or
29 administrative law judge may invoke the aid of a court of
30 competent jurisdiction or judge of this court in requiring the
31 attendance and testimony of the person and the production of
32 papers. A failure to obey the order of the court may be
33 punished by the court as a civil contempt may be punished.

34 6. Unless the hearing is before the entire board, a
35 transcript of the proceeding, together with exhibits

1 presented, shall be considered by the entire board at the
2 earliest practicable time. The licensee and the licensee's
3 attorney shall have the opportunity to appear personally to
4 present the licensee's position and arguments to the board.
5 The board shall determine the charge or charges upon the
6 merits on the basis of the evidence in the record before it.

7 7. If a majority of the members of the board vote in favor
8 of finding the licensee guilty of an act or offense specified
9 in section 147.55 or 152E.8, the board shall prepare written
10 findings of fact and its decision imposing one or more of the
11 following disciplinary measures:

12 a. Suspend the licensee's license to practice the
13 profession for a period to be determined by the board.

14 b. Revoke the licensee's license to practice the
15 profession.

16 c. Suspend imposition of judgment and penalty or impose
17 the judgment and penalty, but suspend enforcement and place
18 the physician on probation. The probation ordered may be
19 vacated upon noncompliance. The board may restore and reissue
20 a license to practice naturopathic medicine, but may impose a
21 disciplinary or corrective measure which it might originally
22 have imposed. A copy of the board's order, findings of fact,
23 and decision, shall be served on the licensee in the manner of
24 service of an original notice or by certified mail return
25 receipt requested.

26 8. Judicial review of the board's action may be sought in
27 accordance with the terms of the Iowa administrative procedure
28 Act.

29 9. The board's order revoking or suspending a license to
30 practice naturopathic medicine or to discipline a licensee
31 shall remain in force and effect until the appeal is finally
32 determined and disposed of upon its merit.

33 Sec. 10. Section 147.1, subsections 7 and 10, Code 1995,
34 are amended to read as follows:

35 7. "Licensed" or "certified" when applied to a physician

1 and surgeon, podiatrist, osteopath, osteopathic physician and
2 surgeon, naturopathic physician, physician assistant,
3 psychologist or associate psychologist, chiropractor, nurse,
4 dentist, dental hygienist, optometrist, speech pathologist,
5 audiologist, pharmacist, physical therapist, occupational
6 therapist, practitioner of cosmetology arts and sciences,
7 practitioner of barbering, funeral director, dietitian,
8 marital and family therapist, mental health counselor, or
9 social worker means a person licensed under this subtitle,
10 excluding chapters 152B, 152C, and 152D.

11 10. "Profession" means medicine and surgery, podiatry,
12 osteopathy, osteopathic medicine and surgery, practice as a
13 naturopathic physician, practice as a physician assistant,
14 psychology, chiropractic, nursing, dentistry, dental hygiene,
15 optometry, speech pathology, audiology, pharmacy, physical
16 therapy, occupational therapy, cosmetology arts and sciences,
17 barbering, mortuary science, marital and family therapy,
18 mental health counseling, social work, or dietetics.

19 Sec. 11. Section 147.2, Code 1995, is amended to read as
20 follows:

21 147.2 LICENSE REQUIRED.

22 A person shall not engage in the practice of medicine and
23 surgery, podiatry, osteopathy, osteopathic medicine and
24 surgery, naturopathic medicine, psychology, chiropractic,
25 physical therapy, nursing, dentistry, dental hygiene,
26 optometry, speech pathology, audiology, occupational therapy,
27 pharmacy, cosmetology, barbering, dietetics, or mortuary
28 science or shall not practice as a physician assistant as
29 defined in the following chapters of this subtitle, unless the
30 person has obtained from the department a license for that
31 purpose.

32 Sec. 12. Section 147.13, Code 1995, is amended by adding
33 the following new subsection:

34 NEW SUBSECTION. 18. For naturopathic physicians,
35 naturopathic medical examiners.

1 Sec. 13. Section 147.14, Code 1995, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 15. For naturopathic physicians, three
4 naturopathic physicians engaged in the practice of
5 naturopathic medicine in this state and two public members who
6 have each resided in this state for five years immediately
7 preceding their appointment and who have demonstrated an
8 interest in the health issues of this state. A majority of
9 the members of the board constitutes a quorum.

10 Sec. 14. Section 147.74, Code 1995, is amended by adding
11 the following new subsection:

12 NEW SUBSECTION. 18A. A naturopathic physician licensed
13 under chapter 154E and this chapter may use the prefix
14 "Doctor", but shall add after the person's name the letters
15 "N.D." or "N.M.D.".

16 Sec. 15. Section 147.80, Code 1995, is amended by adding
17 the following new subsection:

18 NEW SUBSECTION. 24A. License to practice as a
19 naturopathic physician issued upon the basis of an examination
20 given by the naturopathic board of medical examiners, license
21 to practice as a naturopathic physician issued under a
22 reciprocal agreement, or renewal of a license to practice as a
23 naturopathic physician.

24 Sec. 16. Section 147.136, Code 1995, is amended to read as
25 follows:

26 147.136 SCOPE OF RECOVERY.

27 In an action for damages for personal injury against a
28 physician and surgeon, osteopath, osteopathic physician and
29 surgeon, dentist, podiatrist, optometrist, pharmacist,
30 chiropractor, naturopathic physician, or nurse licensed to
31 practice that profession in this state, or against a hospital
32 licensed for operation in this state, based on the alleged
33 negligence of the practitioner in the practice of the
34 profession or occupation, or upon the alleged negligence of
35 the hospital in patient care, in which liability is admitted

1 or established, the damages awarded shall not include actual
2 economic losses incurred or to be incurred in the future by
3 the claimant by reason of the personal injury, including but
4 not limited to, the cost of reasonable and necessary medical
5 care, rehabilitation services, and custodial care, and the
6 loss of services and loss of earned income, to the extent that
7 those losses are replaced or are indemnified by insurance, or
8 by governmental, employment, or service benefit programs or
9 from any other source except the assets of the claimant or of
10 the members of the claimant's immediate family.

11 Sec. 17. Section 272C.1, subsection 6, Code 1995, is
12 amended by adding the following new paragraph:

13 NEW PARAGRAPH. cc. The naturopathic board of medical
14 examiners, created pursuant to chapter 147.

15

EXPLANATION

16 This bill describes the scope of practice of naturopathic
17 physicians and provides for licensing of naturopathic
18 physicians by a newly created naturopathic board of medical
19 examiners. The board may also establish a voluntary
20 certification process for naturopathic assistants.

21 Naturopathic physicians are added to the health care
22 professions regulated under chapters 147 and 272C.

23 The bill exempts from the scope of the practice certain
24 professions. The bill requires that naturopathic physicians
25 have the same responsibility as other health care
26 professionals with respect to the public health laws, the
27 reporting of diseases, and the recording of vital statistics,
28 consistent with their authorized scope of practice.

29 The bill sets out licensing requirements and provides that
30 licenses be issued to naturopathic physicians by the board.
31 The board is also allowed to issue renewals and reciprocal
32 licenses. Fees are imposed for licensing and for renewal of a
33 license.

34 Grounds for revocation and suspension of licensing are
35 provided, as well as the procedure to be employed for

1 suspension or revocation. A maximum of a \$10,000 civil
2 penalty may be assessed.

3 Existing penalties for violation of chapters 147 and 272C,
4 regulating all health practice professions, are made
5 applicable under the bill.

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