CS FOR SENATE BILL NO. 306(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 5/3/04
Offered: 4/28/04

Sponsor(s): SENATORS SEEKINS, Dyson, Green

A BILL

FOR AN ACT ENTITLED

"An Act relating to the practice of naturopathic medicine; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 08.01.010(26) is amended to read:

(26) regulation of the practice of **naturopathic medicine** [NATUROPATHY] under AS 08.45;

*** Sec. 2.** AS 08.45.010 is amended to read:

Sec. 08.45.010. Practice of naturopathic medicine [NATUROPATHY] without license prohibited. A person **who does not hold a license issued under this chapter** may not

(1) practice **naturopathic medicine** [NATUROPATHY] in the state**; or**

(2) use any of the following titles: "doctor of naturopathy," "naturopath," or "naturopathic physician" [WITHOUT A LICENSE].

*** Sec. 3.** AS 08.45.020 is amended to read:

Sec. 08.45.020. Application for license. A person desiring to practice **naturopathic medicine** [NATUROPATHY] shall apply in writing to the division of occupational licensing of the Department of Community and Economic Development.

*** Sec. 4.** AS 08.45.030 is repealed and reenacted to read:

Sec. 08.45.030. Issuance of license. The division shall issue a license to practice naturopathic medicine on receipt of

(1) an application on a form acceptable to the division;

(2) documentation satisfactory to the division that the applicant

(A) is a graduate of an approved naturopathic medical college or program; and

(B) has passed the naturopathic physicians licensing examination approved by the division with a score that meets the requirements established in regulation; and

(3) all applicable fees.

*** Sec. 5.** AS 08.45.050 is repealed and reenacted to read:

Sec. 08.45.050. Restrictions on practice of naturopathic medicine. (a) A person who practices naturopathic medicine may not engage in surgery except that a person who practices naturopathic medicine may perform minor surgery under AS 08.45.120(a)(6).

(b) Notwithstanding that a specific act is within the definition of "naturopathic medicine" or is described as an activity authorized under AS 08.45.120, a person licensed under this chapter may not perform the act if the person lacks appropriate education or training related to the act.

*** Sec. 6.** AS 08.45.060 is amended to read:

Sec. 08.45.060. Grounds for suspension, revocation, or refusal to issue a license. The division may **deny a license to an applicant under this chapter or**, after a hearing, impose a disciplinary sanction **authorized under AS 08.45.070** on a person licensed under this chapter when the division finds that the **applicant or** licensee

(1) secured**, or attempted to secure,** a license through deceit, fraud, or

intentional misrepresentation;

(2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional activities;

(3) advertised professional services in a false or misleading manner;

(4) has been convicted of a felony or other crime that affects the **applicant's or** licensee's ability [TO CONTINUE] to practice competently and safely;

(5) failed to comply with this chapter, with a regulation adopted under this chapter, or with an order of the division;

(6) **is** [CONTINUED TO PRACTICE AFTER BECOMING] unfit **to practice naturopathic medicine** due to

(A) professional incompetence;

(B) addiction or severe dependency on alcohol or a drug that impairs the **applicant's or** licensee's ability to practice safely; **or**

(C) physical or mental disability; **or**

(7) engaged in lewd or immoral conduct in connection with the delivery of professional service to patients.

*** Sec. 7.** AS 08.45.070(a) is amended to read:

(a) When it finds that a licensee under this chapter has violated **AS 08.45.050 or 08.45.120** [AS 08.45.040 - 08.45.050] or is guilty of an offense under AS 08.45.060, the division may impose the following sanctions singly or in combination:

(1) permanently revoke the license to practice;

(2) suspend the license for a determinate period of time;

(3) censure the licensee;

(4) issue a letter of reprimand to the licensee;

(5) place the licensee on probationary status and require the licensee to

(A) report regularly to the division upon matters involving the basis of probation;

(B) limit practice to those areas prescribed;

(C) continue professional education until a satisfactory degree of skill has been attained in areas determined by the division to need

improvement;

(6) impose limitations or conditions on the practice of the licensee.

*** Sec. 8.** AS 08.45.080 is amended to read:

Sec. 08.45.080. Unlicensed practice <u>or use of title</u> a misdemeanor. A person who **<u>violates</u>** [PRACTICES NATUROPATHY IN THE STATE WITHOUT A LICENSE IN VIOLATION OF] AS 08.45.010 is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $1,000, or by imprisonment for not more than a year, or by both.

*** Sec. 9.** AS 08.45.100 is amended by adding new subsections to read:

(b) After consideration of draft regulations, if any, prepared by the division in collaboration with a qualified trade association of naturopathic physicians, the department may adopt regulations to

(1) establish the standards the division will use to approve naturopathic medical colleges or programs for satisfaction of the requirements of AS 08.45.030(2)(A), 08.45.120(a)(4), 08.45.120(a)(6), and 08.45.120(a)(8); the standards must require, at a minimum, that the college or program include a four-year, full-time resident program of academic and clinical study of naturopathic medicine;

(2) implement the peer review process under (c) of this section;

(3) implement the continuing education requirement of AS 08.45.110; and

(4) establish the standards under which the division may issue certificates of specialty practice for a person licensed under this chapter.

(c) The division shall establish a naturopathic peer review committee consisting of three members appointed annually from a list of nominees presented to the division by an approved qualified trade association for naturopathic physicians. The committee members serve without compensation for their work on the committee. The committee shall meet to review complaints filed with the division under this chapter. Attendance and participation at meetings of the committee may be by teleconferencing or other two-way communication method. The committee shall make written recommendations to the division as to whether grounds for disciplinary action exist under AS 08.45.060 and as to appropriate disciplinary sanctions under

AS 08.45.070 in each case under review. If the division approves the recommendations of the committee, the licensee may either accept the recommendations of the committee or request a hearing before the division.

*** Sec. 10.** AS 08.45 is amended by adding new sections to read:

Sec. 08.45.110. Continuing education requirement. Before a license may be renewed, the licensee shall document to the division's satisfaction that the licensee has received at least 45 hours of continuing education in naturopathic medicine in the previous two years, at least 15 hours of which was instruction in pharmacology or pharmacotherapeutics presented by a licensed pharmacist or another professional approved by the division.

Sec. 08.45.120. Authorized activities; use of titles. (a) A person licensed under this chapter may

(1) prescribe or administer for preventive and therapeutic purposes the following: food, extracts of food, vitamins, minerals, enzymes, whole gland substances, botanical medicines, and homeopathic preparations;

(2) prescribe or administer intravenous botanicals, substances, vitamins, and minerals;

(3) administer health care counseling, nutritional counseling and dietary therapy, naturopathic physical applications, therapeutic devices, and nonprescription drugs;

(4) if authorized under regulations of the department, prescribe schedules IIIA, IVA, and VA controlled substances as described under AS 11.71.160, 11.71.170, and 11.71.180 if the person has

(A) registered with the federal Drug Enforcement Administration;

(B) successfully completed pharmacology training from an approved naturopathic medical college; and

(C) entered into a collaborative agreement as described under AS 08.45.125 with a person or persons licensed to practice medicine under AS 08.64;

(5) prescribe and implement barrier devices for contraception;

(6) perform minor surgery after providing proof satisfactory to the division of successful completion of training in minor surgery from an approved naturopathic medical college;

(7) perform or order for diagnostic purposes a physical or orificial examination, ultrasound, phlebotomy, clinical laboratory test or examination, physiological function test, and other diagnostic procedures commonly used by a person licensed to practice medicine under AS 08.64.230(a); and

(8) if authorized under regulations of the department, prescribe legend drugs or prescription drugs if the person has

(A) successfully completed pharmacology training from an approved naturopathic medical college; and

(B) entered into a collaborative agreement as described under AS 08.45.125 with a person or persons licensed to practice medicine under AS 08.64; and

(9) use the title of "doctor of naturopathy," "naturopath," "naturopathic physician," or their abbreviations.

(b) In this section, "legend drug" and "prescription drug" have the meanings given in AS 08.80.480.

Sec. 08.45.125. Collaborative agreements for drugs. (a) A collaborative agreement required under AS 08.45.120(a)(4) and (a)(8) must be in writing in a form approved by the department and include

(1) a commitment of at least one collaborating physician who is

(A) licensed to practice medicine under AS 08.64;

(B) able to comply with the terms of the agreement;

(C) engaged in the active practice of medicine in the state; and

(D) committed to collaborate with not more than six licensees under this section;

(2) a formulary of controlled substances and legend drugs or prescription drugs that

(A) are authorized under AS 08.45.120(a)(4) and (a)(8) and regulations adopted under that section that describes the standard protocols and

practices that must be used;

(B) are approved by the collaborating physician to be prescribed or dispensed by the person licensed under this chapter; and

(C) include standard protocols and practices that describe the circumstances under which each drug on the formulary may be prescribed or dispensed, the extent of supervision required of the collaborating physician, if any, and a periodic review of the licensee's competence and standard practices;

(3) a requirement that the licensee consult with and have a patient protocol approved by a collaborating physician before prescribing a schedule IIIA controlled substance for each patient; and

(4) a requirement that the licensee review the formulary, including the standard practices under (2) of this subsection, with a collaborating physician before executing a collaborative agreement, six months after executing the agreement, and every 12 months thereafter.

(b) A collaborating physician licensed under AS 08.64 and a person licensed to practice naturopathic medicine under this chapter are not liable for the actions or inactions of the other as a result of a collaborative agreement entered into under this section.

(c) The licensee shall post the name of the collaborating physician under (a) of this section in a conspicuous location visible to patients of the licensee.

(d) Upon request, the licensee shall provide a copy of the standard practices under (a)(2) of this section to a pharmacist licensed in the state.

(e) The licensee shall include the name of the collaborating physician under (a) of this section on each prescription written under AS 08.45.120(a)(4) or (a)(8) by the licensee.

Sec. 08.45.130. Fees. The division shall set fees under AS 08.01.065 for each of the following:

(1) a license issued under this chapter;

(2) renewal of a license issued under this chapter.

*** Sec. 11.** AS 08.45.200(3) is amended to read:

(3) **<u>"naturopathic medicine"</u>** ["NATUROPATHY"] means the use of

hydrotherapy, dietetics, electrotherapy, sanitation, suggestion, mechanical and manual manipulation for the stimulation of physiological and psychological action to establish a normal condition of mind and body; in this paragraph, "dietetics" includes herbal and homeopathic remedies.

*** Sec. 12.** AS 08.45.200 is amended by adding new paragraphs to read:

(4) "approved naturopathic medical college or program" means a college or program that grants a degree of doctor of naturopathy or doctor of naturopathic medicine and that

(A) is accredited by the Council on Naturopathic Medical Education or another accrediting agency recognized by the United States Department of Education;

(B) has the status of candidate for accreditation by an entity described in (A) of this paragraph; or

(C) has been approved under a regulation adopted by the department under this chapter;

(5) "department" means the Department of Community and Economic Development;

(6) "minor surgery"

(A) means the use of

(i) operative, electrical, or other methods for surgical repair and care incidental to superficial lacerations and abrasions or superficial lesions, and the removal of foreign bodies located in superficial tissues; and

(ii) antiseptics and local anesthetics in connection with methods authorized under (i) of this subparagraph;

(B) does not include use of general or spinal anesthetics, major surgery, surgery of the body cavities, or specialized surgery, such as plastic surgery, surgery involving the eyes, or surgery involving tendons, ligaments, nerves, or blood vessels.

*** Sec. 13.** AS 47.08.050 is amended to read:

Sec. 47.08.050. Services excluded from coverage. Annually, the committee

shall determine in light of appropriated funds and expected need the medical expenses reimbursable under AS 47.08.010 - 47.08.140, except that the following are not reimbursable:

(1) dentistry and optometry unless prescribed by a licensed dentist or physician as medically necessary as the result of the injury or illness;

(2) elective medical or surgical procedures;

(3) drugs and medications not prescribed by a licensed physician;

(4) services received as a result of a pregnancy or birth without unusual complications;

(5) private psychological or psychiatric treatment or private alcoholism treatment, unless not available from public agencies or programs;

(6) chiropractic services and services provided by a person who practices **naturopathic medicine** [NATUROPATHY];

(7) services not of a medical nature;

(8) medical services currently provided to persons in the custody of the Department of Corrections;

(9) costs incurred before July 1976.

*** Sec. 14.** AS 08.45.035 and 08.45.040 are repealed.

*** Sec. 15.** AS 08.45.120(a)(4)(C), 08.45.120(a)(8)(B), and 08.45.125, as enacted by sec. 10 of this Act, are repealed July 1, 2009.

*** Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LICENSE TO PRACTICE NATUROPATHY; TRANSITIONAL PROVISIONS. A license to practice naturopathy issued under AS 08.45, including a temporary license, that is in effect on February 28, 2005, remains in effect for the period for which the license was issued and is considered to be a license to practice naturopathic medicine under AS 08.45, as amended by this Act. However, a person who holds a license issued under AS 08.45 that is in effect on February 28, 2005, is subject to the authority of the department in regard to acts of the licensee that occurred on or before February 28, 2005, to impose a disciplinary sanction under AS 08.45.070.

*** Sec. 17.** AS 08.45.110, as enacted by sec. 10 of this Act, takes effect January 1, 2007.

1 *** Sec. 18.** Except as provided in sec. 17 of this Act, this Act takes effect March 1, 2005.