

Approved: _____

Date

Feb 8, 1999

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS.

The meeting was called to order by Chairperson Lisa Benlon on February 3, 1999 in Room 521-S of the Capitol.

House Committee members were present. Except for :Deena Horst, excused
Douglas Johnston, excused
John Toplikar, excused

Committee staff present: Theresa Kiernan - Revisor , Mary Galligan - Research, Dennis Hodgins - Research, June Constable- Committee Secretary

Conferees appearing before the committee: Proponents: Gwen Welshimer, Bob Timberlake, Dr. William Simon, D.O., Dr. Steven Gould, D.C., Opponents: Mark Stafford, Chip Wheeler, Jerry Slaughter

Others attending: See Guest List, attached to these Minutes.

Silent roll for the House Committee was taken by the Secretary of that Committee.
Chair Lisa Benlon called the meeting to order.

Secretary Graber requested an introduction of a bill changing civil service status of some positions from classified to unclassified. Rep. Hayzlett moved that such a bill be introduced. Rep. Gilbert seconded. Motion carried.

Dana Fenton requested an introduction of a bill to re-authorize a charter commission to look at structure of county commissioners. Rep. Storm moved that such a bill be introduced. Rep. O'Connor seconded. Motion carried.

Rep. Benlon requested an introduction of a bill which would allow open primary elections in Kansas, specifically which would allow voting across party lines and allowing Independent voters to vote. Rep. Powers moved that such a bill be introduced. Rep. Welshimer seconded. Motion carried.

HB 2085 permitting practice of certain naturopaths; repealing K.S.A. 65-2872a

Chair Lisa Benlon asked Researcher Emalene Correll to give background on Naturopathy . She set out general methods of naturopathic and related licensure matters. 1982 was the beginning of legislative matters of naturopathy. She defined Acts regarding credentialing of various medical professionals. Questions were asked after her presentation by Rep. Storm, asking for clarification on the present law. (Attachment #1.)

Proponent Rep. Gwen Welshimer, spoke to the committee and gave history of attempting to draft this bill. She furnished written testimony which is attached to these minutes (Attachment # 2)

Proponent Clyde Jenson gave testimony as a pharmacologist. No written testimony was furnished. Mr. Jenson spoke on Osteopathic and allopathic methods. His points were 1. Education 2. Validation 3. Integration of Naturopathic methods into traditional medicine. He set out credentials of various colleges, and medical admission qualifications for alternative medicine schools. Naturopaths will have 4 years plus internships of formal education .

Proponent Bob Timberlake passed out written testimony to the committee (Attachment #3) Mr. Timberlake is a consultant for Timberlake Consultants, Inc. He provides public relations for businesses and government.

Proponent Dr. Wm Simon, provided written testimony, (Attachment #4) His presentation to the committee regarded his willingness, as a Chiropractic Doctor, to work with, and in conjunction with, Naturopaths.

Proponent Dr. Steven Gould, provided written testimony, (Attachment #5) He testified as to his referrals between his office and Dr. Beyerle's office.

Opponent Mark Stafford, General Counsel of State Board of Healing Arts, furnished written testimony, (Attachment #6), and testified as to why the present bill **HB 2085** is unconstitutional as set out by other courts in Kansas, and how this bill promotes unregulated practices of healing arts.

Rep. Palmer asked for clarification on the unconstitutional aspect of the present Statutes and **HB 2085**. Rep. Powers asked about the scope of the Board of Healing Arts in various fields of professionals. He also asked Mark Stafford if the Board of Healing Arts had a problem with the philosophy of Naturopathy. Mr. Stafford answered that several members or licensed practitioners, of the board does have conflicts with it.

Opponent Chip Wheeler, of the Osteopathic Association, provided written testimony, (Attachment #7), and testified as to the fundamental difference between allopathic and osteopathic methods and said that this bill creates a contradiction between K.S.A. 65-2867 and 65-2871. He asked that the bill be allowed to die in committee or referred to Health and Human Services.

Opponent Jerry Slaughter, of the Kansas Medical Society, provided written testimony, (Attachment #8) opposed the bill because regulatory agencies for the state, for health professionals, have traditionally defined the scope of the credentials when they license practitioners. Also there is no definitions provided in the bill, of what Naturopathy actually encompasses - there are no standards to hold practitioners (to). Rep. Powers asked the question as to why the statute was in force for 16 years prior to this time without anyone raising the present questions. He asked if the Board of Healing Arts had received complaints. Rep. Welshimer asked if the original statute, enacted in 1982, intended to close the door to Naturopaths. Also how can we expect the profession to advance itself if it can't be regulated by the Board of Healing Arts, and if not that board, then who?

Rep. Powers noted that the original statute stated "without the approval of the Board of Healing Arts". Were they Grandfathered in?

Rep. Gilbert asked if the Kansas Chiropractors were represented by the Kansas Medical Society. Rep. Huff asked how many Naturopaths are now in the State of Kansas. And why are there only 11 states honoring the practice of naturopathy.

Rep. Vining asked if there is now a governing body in the state for Naturopaths. Rep. Gilbert asked if there had ever been training facilities for Naturopaths in Kansas.

Chair Lisa Benlon asked if there was further testimony, hearing none, she announced that the hearing was closed on **HB 2086**.

There being no further business to come before the Chair, meeting was adjourned. The next meeting scheduled is February 8, 1999, at 3:30 in room 521-S

June Constable

House Governmental Organization
and Elections
Guest List

2-3-99

Your Name	Representing
JERRY SLANKOFFER	AMS 2/3/99
Chip Wheeler	KAOM
Bill Simon D.D.	
Steven J. Gould, D.C.	
STAN BEYRCE	KANP
Lesla Bray	KDHE
Bob Timberlake	KANP
Amy Bynk	KANP
John [unclear]	STANLEY BEYRCE
Clyde B. Jensen Ph.D.	NCNM
Rebecca [unclear]	KCA
Harold Riem	KAOM
Rich [unclear]	Health Midwest
Henry Soldan	Hein & Wein Chofel
Mark Stafford	Bd of Healing Arts

65-2872a.

Chapter 65.--PUBLIC HEALTH Article 28.--HEALING ARTS

65-2872a. Practice of certain naturopaths permitted without approval by board; certain activities prohibited. Any naturopath who is a graduate of a nationally recognized naturopathic college as approved by the state naturopath association and practicing in the state of Kansas as of January 1, 1982, shall be permitted to practice in Kansas without approval by the board of healing arts. No naturopath shall be permitted to practice surgery, obstetrics or write prescriptions for prescription drugs.

History: L. 1982, ch. 378, § 6; July 1.



*Gov. Org. & Elections
Feb. 3, 1999
Attachment #1*

STATE OF KANSAS

COMMITTEE ASSIGNMENTS

MEMBER: GOVERNMENTAL ORGANIZATION
& ELECTIONS, RANKING MINORITY MEMBER
BUSINESS, COMMERCE & LABOR
KANSAS 2000
LOCAL GOVERNMENT
REP., NATIONAL CONFERENCE OF
STATE LEGISLATURES

GWEN WELSHIMER
REPRESENTATIVE, EIGHTY-EIGHTH DISTRICT
SEDGWICK COUNTY
6103 CASTLE
WICHITA, KANSAS 67218
316-685-1930
DURING SESSION
LEGISLATIVE HOTLINE
1-800-432-3924
OFF: 785-296-7687



TOPEKA

HOUSE OF
REPRESENTATIVES

Gwen Welshimer

DATE: February 3, 1999

TO: Rep. Lisa Benlon, Chairperson, Governmental
Organization and Elections Committee and
Committee Members

SUBJECT: HB#2085, Naturopathic Providers

HB #2085 is in response to a court decision which is included in your handout. The Journal Entry of Judgment on the Pleadings, Case No. 96-C-885, includes the decision, "K.S.A. 65-2872a is an unlawful delegation of legislative authority in violation of Article II, Sec. 1 of the Kansas Constitution."

Although the judgement is in response to a pharmacist's challenge that the sale of naturopathic remedies is an unlawful prescription of drugs, this bill and this hearing does not address that. The purpose of the bill is to clear up the "illegal" language in the statute so that the two successful naturopathic practices in the state, and nearly 4,000 Kansans who use naturopathic remedies can get on with their lives. A copy of the original statute is attached to the decision.

I am not going to try to address the qualities of the profession since there are experts here that are ready to tell you about that.

What the bill keeps the same as the original statute is the grandfathering in of those who represent themselves as naturopathic providers. It does not ask for funding, board appointments, licensing, insurance, or state regulation. Instead, it asks to continue accreditation at the national level for any new naturopaths in Kansas and grandfathers the two who have been in this profession here for many years. The national accreditation process is impressive, as I am sure will be pointed out to the committee. There is just no way to fairly regulate this profession in this state with only two providers here.

Added to your handouts from me is a very good comprehensive study by legislative research in the state of Colorado. Their conclusion and subsequent action of the Colorado Legislature in June of 1993 was that no regulation was needed over the profession by the state. As naturopaths became providers in the state, some had national accreditation and some did not. So the profession is seeking licensing this year in order to maintain professionalism. HB 2085 requires national accreditation and regulation for future providers here which should solve that problem for us up front.

G.O.E
Feb. 3, 1999
Attachment
2
2-1

AUG 08 1996

FILED

APP. DOCKET NO. _____

Mark W. Stafford, #13233
Shelly Gasper, #12896
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603
(913) 296-7413

AUG 12 3 44 PM '96

COPY

CLERK OF THE DISTRICT COURT
18TH JUDICIAL DISTRICT
SEDGWICK COUNTY, KANSAS
BY _____

IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS
CIVIL COURT DEPARTMENT

STATE OF KANSAS, *ex rel.*)
STATE BOARD OF HEALING ARTS)
Plaintiff)
vs.)
STANLEY W. BEYRLE and)
JANET ROYSTON, R.N.)
Defendants)

Case No. 96-C-885

(Pursuant to K.S.A. Chapter 60)

JOURNAL ENTRY OF JUDGMENT ON THE PLEADINGS

NOW on this first day of August, 1996, comes on for hearing the motion by Plaintiff for partial judgment on the pleadings. Plaintiff appears through Mark W. Stafford and Shelly Gasper, Attorneys for the Board of Healing Arts. Defendant appears through Randall J. Price, Attorney at Law.

After hearing the arguments of counsel and being advised in the premises of the motion, the Court sustains Plaintiff's motion. The Court finds that *Gumbhir v. Kansas Board of Pharmacy*, 228 Kan. 579, 618 P.2d 837, K.S.A. 65-2872a controls this case. Applying *Gumbhir*, K.S.A. 65-2872a is an unlawful delegation of legislative authority in violation of Article II, § 1 of the Kansas Constitution. The Court also finds that the

legislature intended the existing healing arts act to exist without K.S.A. 65-2872a. The statute is severed from the remainder of the healing arts act.

The Court specifically reserves judgment on whether Defendant unlawfully prescribed drugs as alleged in the Petition, or whether Defendant exceeded his statutory authority. No facts or law were considered regarding those issues for the purpose of this motion.

Finally, the Court grants Defendant's motion for permission to take an interlocutory appeal. The remainder of the case is stayed until the appeal is resolved either by decision or remand. Such stay will be reconsidered upon motion of the Defendant. In accordance with this ruling, Defendant is advised that the practice of naturopathy is no longer authorized by statute, and that all activity within the purview of the healing arts act must cease until such time as the legislature appropriately grants the authority.

IT IS THEREFORE ORDERED that K.S.A. 65-2872a is declared unconstitutional in violation of Article II, § 1 of the Kansas Constitution, which invalidity does not affect the remainder of the healing arts act.

IT IS FURTHER ORDERED that this matter is stayed pending appeal of this order.

ENTERED this ____ day of August, 1996.

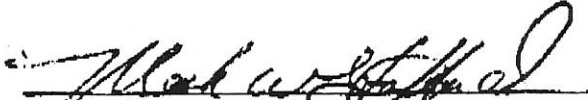
DAVID W. DEWEY

Honorable David W. Dewey
District Judge, Division VII

2

Last page -
11-25-98
Wichita to Furse

PREPARED AND APPROVED BY:



Mark W. Stafford, #13223
Shelly Gasper, #12896
KANSAS STATE BOARD OF HEALING ARTS
235 S. Topeka Blvd.
Topeka, Kansas 66603
913/296-7413
Attorneys for Plaintiff

APPROVED BY:



Randall J. Price
The Rycon Building
532 North Broadway
Wichita, Kansas 67214
Attorney for Defendant

Certificate of Service

I certify that, pursuant to Kan.S.Ct. Rule 170, a copy of the foregoing proposed Journal Entry of Judgment on the Pleadings was served this 24 day of August, 1996 by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Randall J. Price
The Rycon Building
532 N. Broadway
Wichita, Kansas 67214



is certified by the board of healing arts under K.S.A. 65-2899 to administer such general and local anesthetics.

History: L. 1957, ch. 343, § 72; L. 1976, ch. 273, § 33; L. 1976, ch. 276, § 2; July 1.

Research and Practice Aids:

Physicians and Surgeons ⇌ 6(1).
C.J.S. Physicians, Surgeons and Other Health-Care Providers §§ 2 to 5, 14, 15, 28.

Law Review and Bar Journal References:

"Guideline for Joint Policy Statement on Nursing Service," 69 J.K.M.S. 66, 67 (1968).
"Physician's Assistant and Nurse Practitioner Laws: A Study of Health Law Reform," Philip C. Kissam, 24 K.L.R. 1, 12, 22, 23, 26, 27 (1975).
"Recent Legislation: The Kansas Approach to Medical Malpractice," Nancy Neal Scherer and Robert P. Scherer, 16 W.L.J. 395, 407 (1977).

Attorney General's Opinions:

Persons deemed engaged in the practice of healing arts. 85-92.
Tests for alcohol or drugs; who may administer. 87-64.
Master level psychologists; supervision; limitations on practice. 87-184.
Mobile intensive care technicians; authorized activities. 90-134.

CASE ANNOTATIONS

1. Mentioned; terms "physician" and "qualified medical technician" as used in 8-1003 interpreted. *State v. Carter*, 202 K. 63, 66, 446 P.2d 759.
2. Cited; practice of healing arts does not include those whose services are performed under supervision of a licensed practitioner. *State, ex rel., v. Doolin & Shaw*, 209 K. 244, 257, 262, 497 P.2d 138.
3. Cited; ambulance services as professional services and exempt from bidding requirements in home rule statute (19-214) examined. *Curtis Ambulance v. Shawnee Cty. Bd. of Cty. Com'rs*, 811 F.2d 1371, 1381 (1987).

65-2872a. Practice of certain naturopaths permitted without approval by board; certain activities prohibited. Any naturopath who is a graduate of a nationally recognized naturopathic college as approved by the state naturopath association and practicing in the state of Kansas as of January 1, 1982, shall be permitted to practice in Kansas without approval by the board of healing arts. No naturopath shall be permitted to practice surgery, obstetrics or write prescriptions for prescription drugs.

History: L. 1982, ch. 378, § 6; July 1.

65-2873. License to practice healing arts by examination; prerequisites; postgraduate study; use of title and degree. (a) Each applicant for a license by examination to practice any branch of the healing arts in this state shall:

- (1) Present to the board evidence of proficiency in the basic sciences issued by the national board of medical examiners, the board of examiners of osteopathic physicians and sur-

geons or the national board of chiropractic examiners or such other examining body as may be approved by the board or in lieu thereof pass such examination as the board may require in the basic science subjects;

(2) present proof that the applicant is a graduate of an accredited healing arts school or college; and

(3) pass an examination prescribed and conducted by the board covering the subjects incident to the practice of the branch of healing art for which the applicant applies.

(b) Any person seeking a license to practice medicine and surgery shall present proof that such person has completed acceptable post-graduate study as may be required by the board by regulations.

(c) The board may authorize an applicant who does not meet the requirements of paragraph (2) of subsection (a) to take the examination for licensure if the applicant:

- (1) Has completed three years of postgraduate training as approved by the board;
- (2) is a graduate of a school which has been in operation for not less than 15 years and the graduates of which have been licensed in another state or states which has standards similar to Kansas; and
- (3) meets all other requirements for taking the examination for licensure of the Kansas healing arts act.

(d) In addition to the examination required under paragraph (3) of subsection (a), if the applicant is a foreign medical graduate the applicant shall pass an examination given by the educational commission for foreign medical graduates.

(e) No person licensed to practice and actively engaged in the practice of the healing arts shall attach to such person's name any title, or any word or abbreviation indicating that such person is a doctor of any branch of the healing arts other than the branch of the healing arts in which such person holds a license but shall attach to such person's name the degree or degrees to which such person is entitled by reason of such person's diploma.

History: L. 1957, ch. 343, § 73; L. 1969, ch. 299, § 16; L. 1976, ch. 273, § 34; L. 1985, ch. 216, § 2; July 1.

Research and Practice Aids:

Physicians and Surgeons ⇌ 5(2).
C.J.S. Physicians and Surgeons §§ 13, 23.

Law Review and Bar Journal References:

"Use of Medical Expert Testimony on Standard Care for Chiropractors," Timothy Short, Vol. VIII, No. 5, J.K.T.L.A. 19 (1985).

STATE OF COLORADO

DEPARTMENT OF REGULATORY AGENCIES
Office of the Executive Director
Joseph A. Garcia, Executive Director

1560 Broadway
Suite 1550
Denver, Colorado 80202
V/TDD (303) 894-7880
(303) 894-7855



Roy Romer
Governor

June 29, 1993

The Honorable Vickie Agler, Chairperson
Joint Sunrise/Sunset Review Committee
State Capitol Building
Denver, Colorado 80203

Dear Representative Agler:

We have completed our evaluation of the sunrise application for Naturopaths and are pleased to submit this written report which will be the basis for my office's oral testimony before the Sunrise and Sunset Review Committee. The report is submitted pursuant to section 24-34-104.1, Colorado Revised Statutes, the "Sunrise Act", which provides that the Department of Regulatory Agencies shall conduct an analysis and evaluation of proposed regulation to determine whether the public needs and would benefit from the regulation.

The report discusses the question of whether there is a need for the regulation in order to protect the public from potential harm, whether regulation would serve to mitigate the potential harm and, whether the public can be adequately protected by other means in a more cost effective manner.

Sincerely,

Joseph A. Garcia
Executive Director

I. INTRODUCTION

Sunrise Process

The Department of Regulatory Agencies has completed its evaluation of the application for regulation of naturopathic physicians submitted by the Colorado Association of Naturopaths. The applicants seek state regulation of naturopathic physicians. Pursuant to the Colorado Sunrise Act, C.R.S. 24-34-104.1, the applicant must prove the benefit to the public of the proposal for regulation according to the following criteria.

- 1) Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety or welfare of the public, and whether the potential for harm is easily recognizable and not remote or dependant on tenuous argument;
- 2) Whether the public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional or occupational competence; and,
- 3) Whether the public can be adequately protected by other means in a more cost-effective manner.

The scope of this review was comprehensive in nature. As part of this sunrise review process, the Department of Regulatory Agencies performed a literature search, interviewed naturopathic physicians, contacted pertinent professional associations, and reviewed other states' statutes regarding naturopathy licensure. In addition, a class was taken on the practice of homeopathy. Results of this process are reflected in the recommendations section of this report.

II. BACKGROUND

The Naturopathic Physician

The U.S. Department of Labor defines the naturopathic physician as one who "diagnoses, treats, and cares for patients, using a system of practice that bases its treatment of all physiological functions and abnormal conditions on natural laws governing the body, utilizes physiological, psychological and mechanic methods, such as air, water, heat, earth, phytotherapy (treatment by use of plants), electrotherapy, physiotherapy, minor or orificial surgery, mechanotherapy, naturopathic corrections and manipulation, and all natural methods or modalities, together with natural medicines, natural processed foods, and herbs, and natural remedies. This definition excludes major surgery, therapeutic use of x-ray and radium, and use of drugs, except those assimilable substances containing elements or compounds which are compounds of bodily tissues and are physiologically compatible to body processes for maintenance of life."

The practice of naturopathy is based on the philosophy that can be summarized most simply as: "helping the body heal itself in the least invasive, most fundamentally curative manner possible. This approach is not tied to any particular therapy or modality, but rather is oriented to a rational blend of vitalistic and mechanistic principles working with the whole person, and educating the patient in the ways of health."¹

Historical Perspective

Naturopathy is a system of health care based on the philosophy that the human body has the power to heal itself by restoring its natural balance. Naturopathy encompasses an evolving system of natural therapeutics which includes hydrotherapy, homeopathy, nutritional therapy, botanical medicines, psychology, physiotherapy, and spinal manipulation.

¹Bradley, Randall N.D., *Philosophy of Naturopathic Medicine* - 1. Pizzorno, Murray & Bradley, 1985.

Natural medicine grew out of alternative healing systems of the 18th and 19th centuries, but traces its philosophical roots to the Hippocratic school of medicine (circa 400 B.C.). Naturopathic medicine has been practiced in the United States and in Europe throughout history. Conventional medicine and naturopathy were at one time quite similar in their use of medicinal plants, diet therapies and hydrotherapy treatments to help heal the sick. Only within the last 40-50 years, has conventional medicine diverged from this path.

The naturopathic profession has a one hundred-year history in North America. Naturopathy evolved in the late nineteenth century from the work of Dr. Benjamin Lust, a German physician who came to the United States in 1892 to spread the practice of hydrotherapy, or the use of water cures to treat illness. The practice grew to include all natural methods of healing, including the use of botanical medicines, homeopathy, nutritional therapy, and manipulative therapies. The term "naturopathy" was coined for this evolving system of natural therapies in 1895 by Dr. John Scheel of New York City, to describe his method of health care

Naturopathy and other forms of "alternative" treatment were more popular and more accepted throughout the country in the early 1900's. Earlier this century there were more naturopathic colleges, doctors, and hospitals, Then due to economic and political pressure, the practice of Naturopathic Medicine almost died out. But it was revitalized in the 1950's by a small naturopathic school in the Northwest. Today, there are two accredited naturopathic medical colleges, one in Oregon and one in Washington. There are plans to open an additional college in Arizona in September, 1994 and discussion of opening another college in Connecticut in 1995.

Recently, the naturopathic profession has become more established. Research into the biological mechanism of health and disease, and the nutritional requirements of these states, has provided greater comprehension of the complexities of the human system. In 1985, the naturopathic profession organized the American Association of Naturopathic Physicians. Recently, the U.S. Congress has allotted \$2 million to the new Federal Office of Alternative Medicine to fund studies of therapies outside the mainstream of Western medicine.²

The Colorado Experience

It is estimated that there are 20 fully qualified naturopathic physicians in Colorado. The applicants expect the number of qualified naturopathic physicians in Colorado to double within two years after licensing, then increase by approximately fifteen (15) new licensed practitioners per year during the following five years.

² Plevin, Nancy, "Alternative Medicine Spurs Interest",
Rocky Mountain News, March 26, 1993

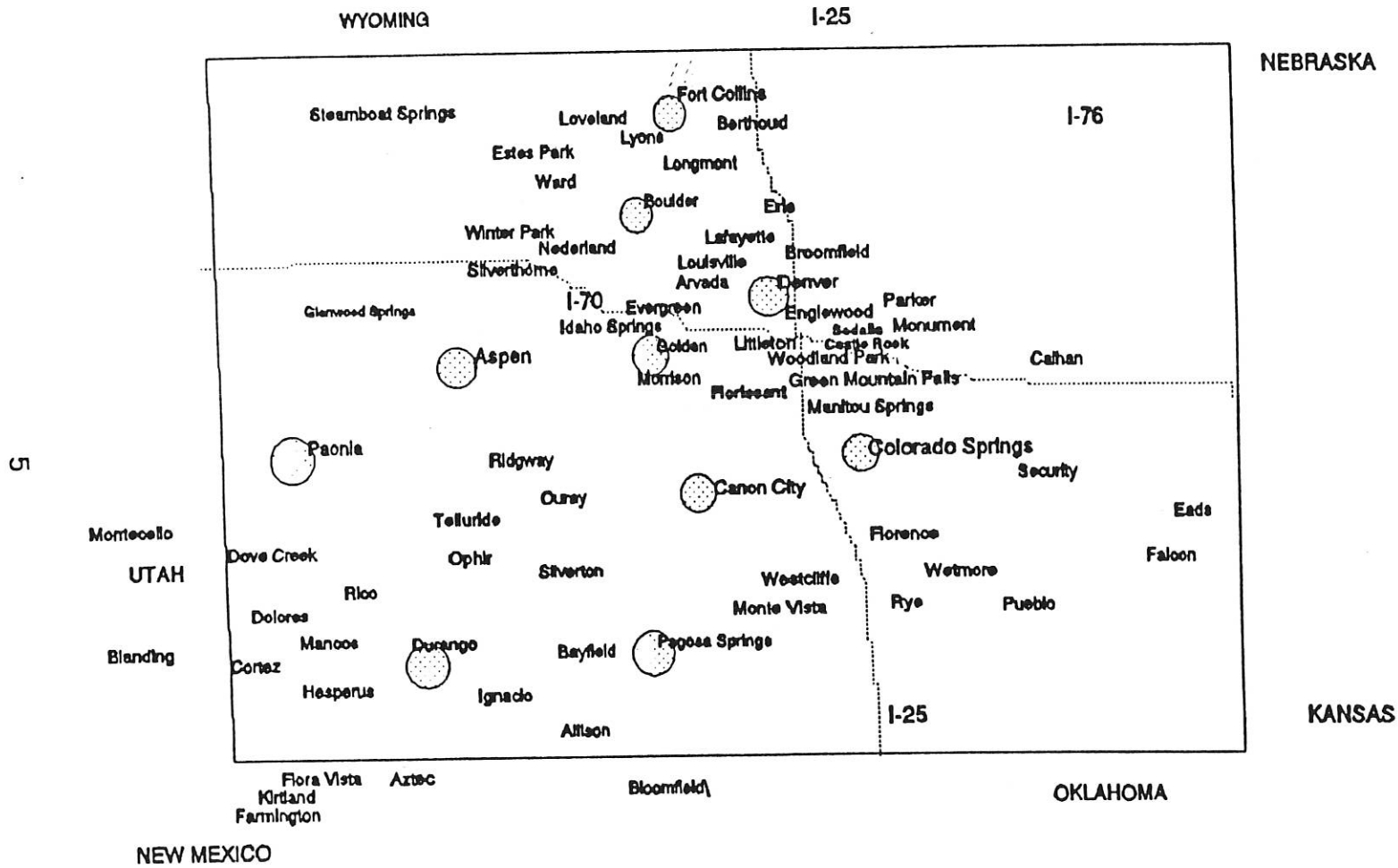
Fifteen Colorado naturopathic physicians belong to the Colorado Association of Naturopathic Physicians (CANP) which was formed in 1985. It is a professional association of naturopathic physicians formed to promote the merits of naturopathic medicine in Colorado and to work towards a law which would enable qualified naturopathic physicians to practice. The American Association of Naturopathic Physicians (AANP) recognized the CANP as a constituent organization in Fall, 1987. Active members in the CANP must hold either a valid license to practice naturopathic medicine in a state with a board of examiners recognized by the AANP or hold a degree of Doctor of Naturopathic Medicine from a naturopathic medical college approved by the Council on Naturopathic Medical Education. The CANP exists to establish and maintain basic levels of competence in its membership in order to better serve and protect the public.

Currently the practice of Naturopathic Medicine has an uncertain status in the state of Colorado. There are no laws to regulate its practice or establish standards for its scope of practice. According to the current legal definition and methods of practice, naturopathic medicine today would be considered the practice of medicine. Presently, many patients drive 2-3 hours seeking alternative therapies and some also come from out of the state. The Colorado Association of Naturopathic Physician estimates an average patient load of 2,000 patients per naturopathic physician. The map on the following page illustrates the geographic distribution of naturopathic physicians and their patients.

At the current time it is still possible to obtain a mail order "naturopathic degree". Nothing prevents anyone from obtaining such a degree and hanging out a shingle to practice as a naturopathic physician. Persons in Colorado may obtain a diploma as a Doctor of Naturopathy through correspondence courses offered by several schools in the United States. For example, the Clayton School of Natural Healing in Birmingham, Alabama offers a Doctor of Naturopathy Program (all courses are correspondence) for a fee of \$975.00. The average time to complete the program is about six months and upon completion, the student receives a Doctor of Naturopathy diploma. As of December, 1992, the tuition and fees to attend the accredited National College of Naturopathic Medicine for four years were \$42,560. The Clayton School naturopathic correspondence program offers coursework in nutrition, massage, reflexology, iridology, degenerative diseases (focus on arthritis and cancer), and homeopathy.

11-6

Geographic Distribution of Naturopathic Physicians and Their Patients



○ Towns in which naturopaths are located.

Other towns listed are where clients of naturopaths live.

Scope of Practice

Naturopathic physicians believe that health results from the harmonious functioning of all parts of a person. Therapy is directed at the whole person and at the underlying cause of illness, such as the patient's lifestyle, diet habits and emotional state. Naturopaths take a holistic approach to healing. In diagnosing ailments, naturopathic physicians take medical histories, order laboratory tests, and do physical examinations. Treatment methods include nutritional advice, the use of homeopathic remedies, herbs and botanical medicines, vitamin and mineral therapy, physiotherapy, hydrotherapy, psychological counseling, stress management, and spinal manipulation. In regard to spinal manipulation, naturopathic physicians differ from chiropractors in that chiropractors may specialize in one therapeutic approach while naturopathic practice usually includes a broad range of drugless therapies. Although a chiropractor will also use drugless methods, these are employed only to augment the central chiropractic therapy of manipulation.

One treatment method, homeopathy, based on the principle that "like cures like," is a treatment where the patient receives tiny doses of natural substances that in larger dosages would cause the same symptoms as the ailment. It is based upon the observed relationship between a remedy's ability to produce signs and symptoms in a healthy individual and the same remedy's ability to cure a sick patient with similar signs and symptoms. Homeopathic remedies are derived from a wide variety of plant, mineral and chemical substances. Homeopathic remedies were given legal status by the 1938 Federal Food, Drug, and Cosmetic Act. These remedies are recognized as drugs in the Homeopathic Pharmacopeia of the United States. Homeopathic remedies are available from practitioners, health food stores, as well as manufacturers who sell directly to the public. Problems have occurred where companies have marketed products under the name of homeopathic remedies but they were unproven, untested and not included in the Homeopathic Pharmacopeia. Some skeptics of the effectiveness of homeopathic remedies contend that they lack a scientific rationale. They contend that the theory of "like cures like" still seeks experimental and clinical support.³

In response to the skeptics, a British biochemistry professor concluded in a 1984 edition of the British Homeopathic Journal: "Despite a great deal of experimental and clinical work there is only a little scientific evidence to suggest that homeopathy is effective. This is because of bad design, execution, reporting or failure to repeat promising experimental work and not necessarily because of the inefficacy of the system which has yet to be properly tested on a large enough scale."

³Morgan, Peter P. "Homeopathy - Will its theory ever hold water"? Canadian Medical Association Journal, May 15, 1992, p.1719-1720

Hydrotherapy, another method of treatment used by naturopathic physicians, is defined as the use of water in any of its forms for the maintenance of health or the treatment of disease. Water at any temperature is used for therapeutic purposes. For example, the physiotherapy departments of many hospitals have heated hydrotherapy pools for treatment. In addition, alternate treatments with hot and cold water are used to stimulate the circulation of the blood. Hydrotherapy may also be recommended for its revitalizing properties during convalescence. There is disparity among the scientific community as to the effectiveness of hydrotherapy. An article in a 1983 journal states:

"Hydrotherapy is based on the physical properties of water, acting from outside the body mainly during the time of its application. The underlying cause of the disease being treated is not affected, so hydrotherapy must be considered as an adjunct, as a palliative measure facilitating the activity of other remedies or spontaneous healing."⁴

There are six principles that naturopathic physicians consider to be fundamental in defining naturopathic medicine. They are:

- a. The Healing Power of Nature:
Naturopathic medicine recognizes an inherent healing process in the person that is ordered and intelligent. The body is capable of healing itself. The role of the naturopathic physician is to identify and remove obstacles to healing and recovery and to facilitate and augment this inherent natural tendency of the body.
- b. Identify and Treat the Cause:
Naturopathic physicians seek to identify and remove the underlying causes of illness, not merely eliminate or suppress symptoms.
- c. First Do No Harm:
Naturopathic physicians follow three guidelines to avoid harming patients:
 1. Utilize methods and medicinal substances which minimize risks of side effects, using the least force needed to diagnose and treat.
 2. Avoid when possible the harmful suppression of symptoms.
 3. Acknowledge and work with the individual's self healing process.

⁴Franchimont P, Juchmes J, and Lecomte J. "Hydrotherapy - mechanisms and indications". *Pharmacol Ther* 20:79, 1983.

- d. Doctor as Teacher:
Naturopathic physicians recall that the origin of the word "doctor" is the Latin word, "to teach". A fundamental emphasis in naturopathic medicine is patient education.
- e. Treat the Whole Person:
Naturopathic physicians attempt to take into consideration all the factors that make up a patients lives and affect their health and well being.
- f. Prevention:
Naturopathic medicine emphasizes the prevention of disease, assesses risk factors, and makes appropriate interventions with patients to prevent illness.

Education and Training

The U.S. Department of Education recognizes the Council on Naturopathic Medical Education (CNME) as the national agency for accreditation of naturopathic medical curriculum. The CNME requires four years of graduate level study in medical sciences and naturopathic therapeutics. The two accredited naturopathic colleges in the United States are the John Bastyr College of Naturopathic Medicine in Seattle, Washington and the National College of Naturopathic Medicine (NCNM) in Portland, Oregon. The National College of Naturopathic Medicine (NCNM), founded in 1956, is the oldest and largest of the naturopathic colleges.

The naturopathic medical college program is a 4-year post-graduate curriculum consisting of two years of instruction in basic sciences (e.g.) anatomy, physiology, biochemistry, immunology, embryology, and related areas, with specialty courses required in pediatrics, obstetrics, cardiology, urology, and other fields. The first two years of training are reportedly similar to that received by medical doctors (please see Appendix B). During the third and fourth years, the emphasis is on the clinical sciences (e.g.) pediatrics, dermatology, and botanical medicine. This training focuses more on the use of natural therapies and treatments as part of the clinical experience. Along with natural therapies, one full year of training is required in physical diagnosis, as well as laboratory and x-ray diagnosis. Pharmacology is also taught, though not practiced, as naturopaths need to be aware of the effects of drugs and their side effects.

Students gain experience with patients during the last two years of the naturopathic medical program. At NCNM, for example, clinical training hours make up 1,525 of the total 5,188 hours of instruction. They consist of externships in an on-campus clinic where students work under the supervision of a licensed naturopath in private practice. In addition, students must demonstrate competence in specific skills, knowledge, judgment, professional and ethical behavior, and communication skills. NCNM has a post-graduate program for training in a specialty area, but opportunities are limited since only two to four post-graduate fellowships are offered each year.

Examinations

In 1985, in response to a need for the development of standards for licensing naturopathic physicians and to provide a measure which could be accepted across jurisdictions, a group of licensed naturopathic physicians formed NPLEX (Naturopathic Physicians Licensing Examination). To date, the sole purpose of NPLEX has been to prepare an examination which may be administered by licensing jurisdictions to qualified applicants with the objective of identifying those individuals who have the knowledge and the skills necessary to be licensed as a naturopathic physician.

NPLEX contracted with the National Assessment Institute to do the initial development of the examination. A questionnaire was sent to licensed naturopathic physicians nationwide to determine which functions of diagnosis and treatment were being encountered in practice, and to assess the level of frequency and criticality associated with each aspect. A set of seven (7) clinical exam blueprints were developed, on which the NPLEX is based. Two "Add-On" exams (in Homeopathy and Minor Surgery) were also made available to jurisdictions that required demonstrated competence in these areas.

The National Assessment Institute set standards for test development, administration, item review, and scoring, all of which are followed today. NPLEX has contracted with other organizations (including Columbia Assessment Services and the Washington State Department of Health) to provide the exam production and scoring services. Gradually NPLEX has taken over more of the responsibility for this process.

For the purposes of the naturopathic physicians' request for licensure, the Department of Regulatory Agencies, Division of Registrations's testing expert reviewed the examination development, scoring and security of NPLEX. The review included such specific questions as:

- * What topics are covered on the test? Do they represent knowledge or ability areas that are most important to safe, effective public practice?
- * Who in terms of professional position, writes the test questions; who reviews and edits them; who has final approval of the questions; and who assembles the test?
- * Are test questions administered experimentally before they are included on a test for official scoring?

The conclusion of the review was that the NPLEX satisfies the standards applicable to credentialing tests. Please see Appendix A for the findings and conclusions of this report.

III. PROPOSAL FOR REGULATION

This sunrise application proposes licensure of naturopathic physicians. This occupational group is also known as naturopathic doctors, Doctors of Naturopathy, N.D., naturopaths, naturopathic practitioners, Doctors of Naturopathic Medicine, Naturopathic Medical Doctors (Arizona only), and natureopathy (Connecticut).

The applicant argues that the state should license naturopathic physicians because naturopathic medicine is an autonomous profession and might be considered a form of the practice of medicine and needs to have independent regulation and the accompanying individual responsibility.

The applicant further argues that licensure would:

- Expand the range of services provided directly by naturopathic doctors. Without regulation, naturopathic patients are referred to other practitioners for diagnosis, immunizations, and other restricted services;
- Reduce the overall costs of health care for naturopathic patients because the naturopathic doctor would be able to perform services without having to rely so heavily on referrals;
- Establish standards for education, examination, and practice. Currently, the public has no way to determine the qualifications of individuals claiming to be naturopathic physicians;
- Give the public freedom of choice in health care by providing access to natural health care and at the same time guarantee the public that they are seeing well trained, qualified practitioners; and,
- Halt the practice of sub-standard and inadequate naturopathic medicine.

The regulatory scheme is envisioned as being similar to existing legislation in other states. The following components characterize the program:

- Licensing program administered by the Division of Registrations located within the Department of Regulatory Agencies.
- A licensing board consisting of a combination of professional members and representatives from the general public.
- Establishment of minimum education standards including a degree from an accredited naturopathic medical college.
- Passing scores required on the NPLEX and local jurisprudence exam.

IV. NATUROPATHIC MEDICINE: CONTRIBUTIONS TO HEALTH CARE REFORM

In response to a request from the 1993 Task Force on National Health Reform, the American Association of Naturopathic Physicians submitted a report on Naturopathic Medicine: Contributions to Health Care Reform. These recommendations are one of many sources requested by the task force to provide input into the process of reforming the health care system in the United States.

The fundamental recommendation of naturopathic physicians to the Health Care Reform Task force is to transform the United States health care system from one that focuses almost entirely on consequences to one that focuses equally on causes. In order to accomplish this objective, naturopaths believe that the United States must shift from an exclusively disease-oriented system which over-utilizes expensive specialists in end-state disease treatment to a system that also promotes health and wellness. The following summarizes the key issues discussed in this report.

Naturopathic Medicine and Health Care Access

Naturopathic primary care physicians contend that they could help immediately solve some national and regional problems with shortages of primary care family practice physicians in under-served areas. Health care reform allowing consumers to choose naturopathic physicians as their primary care providers in regions where naturopathic services are available would give public access to a well developed system of prevention-oriented primary care medicine. They further argue that consumers with an alternative medicine preference would be assured of equal access to a primary care physician familiar with their medical preferences.

Potential Long-Term Cost Impacts of Naturopathic Medicine

Naturopathic preventive medicine is focused on reducing the incidence of expensive chronic disease. A previous U.S. Surgeon General (Koop) suggests that dietary changes alone can prevent significant heart disease and cancer. The dietary changes recommended by the Surgeon General have been mainstays of naturopathic practice for the last century. Naturopathic physicians describe their practice as educating the patient in self-care, thus playing a major role in disease prevention and thereby reducing utilization of more expensive and invasive health care. Nutrition and lifestyle changes are essential ingredients to preventive medicine.

Naturopathic physicians maintain that they are accessible to communities because of low cost and a practice structure which supports spending enough time with patients to allow full understanding of their problems and opportunity to provide prevention-oriented education. Average office visits are thirty minutes for naturopaths as compared to six minutes in conventional medicine.

Potential Indirect Cost Impacts of Naturopathic Medicine

Malpractice suits against naturopathic physicians are extremely rare, and ND's do not practice in a climate of defensive medicine. One malpractice insurance provider reported that a group of fifty naturopathic physicians had only four incidents reported, with no settlements or judgments, over a period of four years. Jury Verdicts Northwest, a legal database which records court cases in Washington and Oregon, the area of the country with the largest number of practicing naturopathic physicians, showed no judgments for malpractice against ND's between the start of the database in 1983 and a report filed in 1991.

Naturopathic physicians believe that the benefits of a more pluralistic health care delivery system potentially would be a community-based health care system that is affordable, effective and easily adoptable by the U.S. to provide health care to under-served populations, i.e. inner-city and rural populations.

Cultural Diversity of Naturopathic Medicine

Among the populations requiring greater access to basic care are many ethnic groups which naturopathic physicians are exceptionally qualified to serve. These include Native American, Hispanic, Asian, and other groups which continue to practice their traditional natural healing methods. Naturopathic medical education provides leadership in integrating Western medical sciences and diagnostics with traditional therapies from diverse cultures. There is growing consensus in the international health community that the ideal in health care is an integration of alternative traditional medicine with modern Western medicine, contingent upon appropriate training and regulation.

V. REGULATION IN OTHER STATES

The legal status of naturopathy varies from state to state. In some states, the practice of naturopathy, though not regulated, is protected through court rulings or attorney general rulings. In most states, naturopathic physician status is unprotected or unclear.

Three states have repealed regulation of this profession; Florida, Utah, and Nevada. Nevada ceased licensing naturopathic physicians in 1987 (in Nevada naturopathic physicians were required to be supervised by medical doctors.). Utah discontinued licensing new naturopathic practitioners in 1981 because the licensing board had not recognized any naturopathic school as meeting its standards and with only 24 licensees the board had not granted a new license in over 12 years, with most having been granted prior to 1959. Although naturopathic licensing in Florida was discontinued in 1959, there are still laws and a board regulating those naturopaths practicing as a "dying class". Both Utah and Florida allow naturopathic physicians licensed prior to program termination dates to continue to practice.

Currently, seven states license naturopathic physicians: Arizona, Alaska, Connecticut, Hawaii, Montana, Oregon, and Washington. The following summarizes their licensure programs.

Alaska's law places several restrictions on the practice of naturopathy. A person who practices naturopathy may not prescribe a prescription drug, perform surgery or use the word "physician" as a title. There are currently 16 licensed naturopathic physicians in Alaska practicing naturopathy.

Arizona's Naturopathic Physicians Board of Medical Examiners was established in 1935. Although Arizona remains the state with the third highest number of licensed naturopathic physicians, the number of licensed naturopathic physicians has declined since 1980 when there were 140 physicians licensed by the Board. At the present time, there are 96 licensees. Like Alaska, Arizona restricts the practice of naturopathic physicians by prohibiting naturopaths from prescribing drugs and performing minor surgery.

Connecticut's law does not allow licensed naturopathic physicians to perform minor surgery, prescribe drugs or practice venipuncture. There are currently 65 licensed naturopaths in Connecticut.

Hawaii has regulated naturopathic physicians since 1925. There are currently 47 licensed naturopaths. Originally, the Board of Health was responsible for conducting examinations and issuing licenses. In 1969, the board was transferred to the Department of Regulatory Agencies, now the Department of Commerce and Consumer Affairs. The regulation of naturopathy was reviewed in 1978 and 1985 with continued regulation recommended.

Montana is the most recent state to license naturopathic physicians. In 1991, the Board of Alternative Health Care was conceived to regulate lay midwives and naturopathic physicians. When the program first began, there were only five naturopaths in the state. Today, there are 20 licensed NDs in Montana.

Oregon was the first state to license naturopaths (1927), although they were able to practice before then under an exemption in the Osteopathic Practice Act. The total number of practicing NDs in Oregon is 284, ranking number one in licensed naturopaths in the United States. Oregon also has the most encompassing law as NDs are allowed to prescribe drugs, perform minor surgery, and practice natural childbirth with a certificate of special competency. Oregon is the home of the National College of Naturopathic Medicine, the oldest and largest of the naturopathic colleges now operating.

Washington originally regulated naturopathic physicians in 1919, as part of their law created to regulate professions engaged in "drugless healing". The law was substantially amended in 1988 to reflect the current practice of naturopathic physicians. Washington has the second largest number of licensed naturopathic physicians, totalling 245. Washington is the home of the other naturopathic medical college in the United States, the John Bastyr College of Naturopathic Medicine.

STATE EXPERIENCE IN REGULATING NATUROPATHIC PHYSICIANS

STATE	YEAR LAW ENACTED	TYPE OF LAW	REGULATORY BODY	NO OF LICENSEES	COMPLAINT ACTIVITY	EXAMINATION REQUIREMENTS	EDUCATION REQUIREMENTS
Alaska	1986	Licensure	Board of Examiners in Naturopathy	16	1993 - 0 1992 - 0 1991 - 1 1990 - 2	NPLEX Examination on Homeopathy	Graduate of accredited school, university or college of naturopathy
Arizona	1935	Licensure	Arizona Naturopathic Physicians Board of Medical Examiners	96	1993 - 2 1992 - 7 1991 - 3 1990 - 8	NPLEX Clinical Series Homeopathy Jurisprudence Exam	Graduate of school of naturopathic medicine approved by the Board
Connecticut	1920	Licensure	Board of Naturopathic Examiners	65	1990 to present - 3*	NPLEX Clinical Series Jurisprudence Exam	Graduate of legally chartered school or college of naturopathy approved by the State Board of Naturopathic Examiners
Hawaii	1925	Licensure	Board of Examiners of Naturopathy	47	Not available	NPLEX Clinical Series Homeopathy Minimum passing score - 75% correct.	Graduate of an accredited school, university, or college of naturopathy approved by the Commission on Accreditation of the Council of Naturopathic Medical Examiners
Montana	1991	Licensure	Board of Alternative Health Care	20	1993 - 0 1992 - 0 1991 - 0	NPLEX Clinical Series Basic Sciences Minor Surgery Homeopathic	Graduate of 4 year accredited CNME college or a college approved by the Board of Alternative Health Care
Oregon	1927	Licensure	Board of Naturopathic Examiners	284	1993 - 7 1992 - 24 1991 - 23 1990 - 20	NPLEX Basic Science Clinical Series Homeopathy Minor Surgery Botanical Pharmacology Oregon Jurisprudence Exam	Graduate of Naturopathic school or college approved by the Oregon Board of Naturopathic Examiners
Washington	1919 (Original law dealing with practice of "drugless therapeutics" 1988 law substantially amended.	Licensure	Naturopathic Physicians Advisory Commission Secretary of Department of Health	245	1989 to Present - 38	NPLEX Basic Science Clinical Series Homeopathy Minor Surgery Washington Jurisprudence Exam	Washington approved (DOH) college of Naturopathy

NPLEX - the Naturopathic Physicians Licensing Examination

*Complaints where licensing action was taken.

CNME - Council of Naturopathic Medical Examiners

THE SCOPE OF NATUROPATHIC PRACTICE IN THE STATES WHICH LICENSE NATUROPATHS

	Arizona	Connecticut	Hawaii	Alaska	Oregon	Washington	Montan
Practice under supervision of licensed MD only	No	No	No	No	No	No	No
Prescribe drugs	No	No	No	No	Yes	Yes	No
Perform minor surgery	No	No	No	No	Yes	Yes	Yes
Hydrotherapy	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Colonic irrigation	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Physiotherapy	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Manipulation	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Electrotherapy	Yes	Yes	Yes	Yes	Yes	Yes	Yes
X-ray	Yes	Yes	No	No	Yes	Yes	No
Venipuncture	No	Yes	Yes	Yes	Yes	Yes	?
Obstetrics/gynecology	Yes	Yes	Yes	No	Yes*	No	Yes*

* Additional Certification Required

VI. IS THERE A NEED FOR REGULATION?

Public Harm

This report has found no evidence of physical or financial harm being caused to Colorado consumers by the operation of naturopathic physicians. Cases of harm or potential harm related to the practice of naturopathy can be attributed to persons calling themselves naturopathic physicians who, in fact, have not successfully graduated from an accredited naturopathic medical college or passed an accredited examination. Also, the State Board of Medical Examiners has no cases of complaints against naturopaths. Although recognizing that documenting financial harm is difficult, the Department has found no evidence that unavoidable financial harm is occurring to consumers because naturopathic physicians are not regulated.

Members of the Colorado medical community have expressed concerned over certain practices of naturopathic physicians that have the potential for harming the public that include:

- * the practice of venipuncture which is the puncturing of veins to remove blood or inject drugs or nutrients;
- * the use of colonic irrigations;
- * the ability to prescribe drugs;
- * the performance of minor surgery; and
- * the naturopathic treatment philosophies relating to diet and high dose supplements.

Cost of Regulation

State programs regulating occupations in Colorado are funded by revenues paid by the licensees and applicants for a license. Based on the estimated number of naturopaths currently in Colorado, Colorado could reasonably anticipate approximately 20 applicants for a license to practice naturopathy. Not all of these applicants may meet the state's requirements so the actual number practicing could even be fewer. While it is true that more naturopathic physicians may relocate to Colorado if there were a licensure program, there is no evidence that they would relocate here in large numbers. Five of the seven licensed states have fewer than 100 licensees. The Department has recently created new programs and a conservative estimate for start-up of a program is \$30,000. Assuming that Colorado did produce 20 naturopathic physicians, the cost to these practitioners would therefore be \$1500 per license per year. This seems to be an unreasonable burden to place on the practitioners absent any clear harm from the unregulated practices of this profession.

Possible Regulatory Approaches to the Practice of Naturopathic Medicine

Several regulatory approaches to the practice of naturopathic medicine are described below, along with the positive and negative aspects of each approach.

1. Create a Board of Naturopathic Medicine. The applicants have requested a full licensing board with title protection and scope of practice protection. This type of regulation is the most restrictive and involves governmental intervention to conduct an examination and to determine minimum qualifications and experience. In addition, a licensing board enforces the law and rules and regulations and disciplines violators. As a rule, applicants for licensure must satisfy certain state prerequisites before they are allowed to take the licensing examination. An agency of Colorado government must grant permission to an individual to engage in a given occupation upon finding that the applicant has attained the minimum degree of competency necessary to ensure public health, welfare and safety. This sunrise analysis found little harm to the public from the practice of naturopathic physicians, therefore a very restrictive governmental regulatory program is inappropriate at this time. In addition, a separate board for such a small group of practitioners is uncommon and costly. If naturopathic physicians were to be licensed, an estimated cost of \$1,500 would be assessed as an annual fee.
2. Develop a Registration Program similar to the regulatory scheme for the practice of acupuncture. Every acupuncturist desiring to practice in Colorado must register with the Division of Registration (Division) within the Department of Regulatory Agencies. In order to qualify to register, an acupuncturist must have successfully completed an education program conforming to standards approved by the Division Director. The regulatory scheme further requires a mandatory disclosure statement

of information to patients, grounds for disciplinary action, criminal and civil penalties, and reporting requirements for malpractice judgments or settlement. The Division Director also has the power to inspect on a complaint basis any premises where acupuncture services are provided and to order the physical or mental examination of an acupuncturist for reasonable cause.

Though the regulatory program for the practice of acupuncture is called registration, it is very similar to other occupational licensing programs in Colorado. Registration programs by definition, involve only listing one's name and address and payment of a fee. As a rule, the law does not require the individual to pass an examination or show that predetermined standards have been met. A program similar to the acupuncture program is very time-consuming and may not be the most cost-effective way of regulating such a small group of practitioners.

3. Create a Board of Alternative Health Care. With the advent of the registration of lay midwives in 1993 and given the existing acupuncturists' registration program, a Board of Alternative Health Care could be created to regulate a registration program for the three professions. Alternatives to the traditional Western medical model are increasing in popularity. According to the New England Journal of Medicine, a third of the population today consults alternative healers, spending nearly \$14 billion a year for their services.⁵ Given that the numbers of existing lay midwives, naturopathic physicians and acupuncturists are relatively low, a combined board might more effectively utilize limited resources. However, creation of such a board might also invite a plethora of alternative health care providers to seek state regulation.

Alternatives to Regulation

There are existing alternatives to regulation which are cost-effective means to protect the health, safety and welfare of the public. Colorado statutes protect the public from consumer fraud, incompetent or illegal medical practice, and unlawful cancer treatment. In regard to consumer protection, falsely representing the use or benefits of products or services through any medium of communication violates the Colorado Consumer Protection Act (C.R.S. 6-1-101, et. seq.). Regarding the treatment of cancer, any treatment of cancer not recognized as effective by the Board of Health is prohibited by the Colorado Cancer Control Act (C.R.S. 12-30-101, et. seq.) It is unlawful for any person other than a licensed physician, licensed osteopath, or licensed dentist to diagnose, treat or prescribe the treatment of cancer.

⁵ Eisenberg, David M., et. al., "Unconventional Medicine in the United States", New England Journal of Medicine, January 28, 1993, Page 250.

Conclusion and Recommendation

The Colorado Association of Naturopathic Physicians has not shown that the public is being substantially harmed by the unregulated practice of naturopathic physicians. In addition, the number of naturopathic physicians in Colorado comprise such a small number that a regulatory program is not appropriate at this time. Civil, criminal, and administrative means exist to address the unlicensed practice of medicine by naturopathic physicians and there are no documented cases of harm, no further benefit would accrue to the public by regulating the profession. Concerns do exist concerning the scope of practice of naturopathic physicians and the public's perception of their title "physician". By licensing naturopaths, the State would be giving recognition to the profession. This may mislead the public about the effectiveness of certain naturopathic services which may have no clinically proven medical value. The Department has not found any significant harm to the public resulting from the unregulated practice of naturopathic physicians that could be effectively addressed by the proposed regulatory scheme.

RECOMMENDATION:

The General Assembly should not regulate the practice of naturopathic physicians.

Appendix A
EXAM PROGRAM EVALUATION
Naturopathic Physicians Licensing Examination

Job analysis or practice delineation

1. Has a job analysis or practice delineation study been done? If not, is one planned?

In the fall of 1985, the National Assessment Institute (a test development company) performed an initial job analysis. Subsequently, a review was made of such analyses in related disciplines, and a tasks/competencies outline was constructed. This was the basis of a nationwide survey of naturopathic physicians, who evaluated elements of the outline in terms of their criticality and frequency. A test plan was developed from the results of this survey and has been refined and revised subsequently.

Test development

1. What topics are covered on the test? Do they represent knowledge or ability areas that are most important to safe, effective public practice?

The NPLEX consists of five Basic Science exams, seven Clinical Science exams and two add-on Clinical exams. The last two are required by some licensing jurisdictions only. The composition of the Basic and Clinical areas are as follows:

Anatomy (50 questions)
Biochemistry (50 questions)
Microbiology (50 questions)
Pathology (50 questions)
Physiology (50 questions)

Physical and Clinical Diagnosis (150 questions)
Lab Diagnosis & Diagnostic Imaging (75 questions)
Emergency Medicine (50 questions)
Physical Medicine (50 questions)
Materia Medica & Toxicology (50 questions)
Nutrition (50 questions)
Psychology & Lifestyle Counseling (50 questions)

Minor Surgery (50 questions)
Homeopathy (50 questions)

The specific content of these examinations is determined on the basis of job analysis findings and through several levels of

subject matter expert review. The focus of review is on necessary knowledge for safe, effective practice.

2. What is the basis for the weighting of each topic on the test?

Weighting is determined by job analysis findings and subject matter expert review. Greatest emphasis is given to areas that are most critical to safe, effective practice.

3. What is the basis for the examination format used?

All questions are four-option multiple-choice, suitable for measuring the knowledge represented on the NPLEX.

4. Who, in terms of professional position, writes the test questions; who reviews and edits them; who has final approval of the questions; and who assembles the test (selects the questions for each form)?

Item-writing assignments are given to the chairs of Local Exam Committees (LECs) who recruit licensed naturopathic physicians qualified to write exam items. These items are reviewed by the responsible LEC in respect to their criticality, frequency and entry level status. Subsequently, the Executive Director of the NPLEX Board reviews items for proper fit with the test blueprints. Finally, the Central Exam Committee and a testing specialist review and revise these items and assemble exam forms. The Central Exam Committee, which is responsible to the NPLEX Board of Directors, is the final authority on items that are to be included in an exam. Committee members have been trained in question selection and exam development.

5. Are all items referenced to readily accessible published documents?

Yes. For each item in the NPLEX bank, a reference source is included.

6. Are test questions administered experimentally before they are included on a test for official scoring?

Apparently not. However, experimental pretesting is a technical luxury that few credentialing exam programs can afford to undertake. In addition, it is infrequently done due to security issues and technical difficulties. NPLEX does make a preliminary scoring of its examinations to determine if any questions are malfunctioning. Items that do not contribute to the reliability and validity of the exam may be appropriately re-keyed. Only then is final scoring initiated.

7. Who retains possession of the item bank? How and where is it maintained? Who has access to the item bank?

The NPLEX item bank is maintained on computer, using a widely known test development/banking/scoring software package. The Executive Director of NPLEX, who is a psychometrician, has exclusive access to the computerized item bank.

8. How is security of the items maintained during initial development, while at the printers, during shipment, during site storage, etc.?

Exam security is maintained by policy (written and unwritten), proctor manuals, and terms of contracts between NPLEX and organizations that use and administer the exam.

9. How many exam forms are available? How many are in circulation? How often are the forms revised and what percentage of the test is changed when it is revised?

It is NPLEX policy that 50% of all items on an exam will be new items. Each exam is developed anew on this basis. NPLEX does not retain particular forms which are readministered over time. The approach used by NPLEX is fairly standard and acceptable practice.

Passing score

1. Who establishes the passing score and on what basis?

The NPLEX is a criterion-referenced test, as credentialing exams normally and properly are. Its passing score is established using the Angoff method, which is a widely known and accepted technique. Passing scores for the various exams differ, but usually fall within the range of 65%-75%.

2. Have there been any challenges to the cut score currently in place?

No.

Scoring and analysis

1. Who scores the examination?

The test is scored using a standard software package. The NPLEX Executive Director, who is a psychometrician, is responsible for scoring.

2. In what form are scores reported to candidates?

Number of questions answered correctly and converted scores are reported. Candidates are also informed of the required passing score for any section they take.

3. What measures are taken to ensure against scoring errors?

Exam answer sheets are scored via an optical scanner. Two passes per sheet are made, and the two readings are compared to identify and correct scanning errors. In addition, hand scoring is

available to any candidate upon request and payment of a \$20.00 fee.

4. Is an item analysis conducted after each form of the exam is administered?

Yes. Questions showing anomalous statistics on a preliminary scoring are reviewed by subject matter experts and re-keyed if necessary.

5. Are test forms equated so that differences in difficulty are reduced?

Yes. Equating is done by assuring that 50% of all questions in a form are previously used items, by adherence to the test specification, and by using passing scores that are adjusted to the difficulty level of the exam.

6. Are statistical reports on test reliability and validity available for review?

Reliability and validity information is included in published NPLEX reports. Reliability values are in the acceptable range.

Appendix B
NATUROPATHIC AND MAJOR MEDICAL SCHOOLS
 Comparative Curricula

	National College of Naturopathic Medicine	Bastyr College (Naturopathic)	Johns Hopkins	Mayo	Yale	Stanford
Basic and Clinical Sciences Including: Anatomy, Cell Biology, Physiology, Pathology, Neurosciences Clinical/Physical Diagnosis, Histology, Genetics, Biochemistry, Pharmacology, Lab Diagnosis, Pharmacognosy, Biostatistics, Epidemiology, Public Health, History, Philosophy, Ethics, Research and other coursework.	2070	1891	1794	1640	1457	1401
Clerkships' and Allopathic Therapeutics Including: Lecture and clinical instruction in Dermatology, Family Medicine, Psychiatry, Medicine, Radiology, Pediatrics, Obstetrics, Gynecology, Neurology, Surgery**, Ophthalmology, and clinical electives.	1974	1959	3260	3080	2040 (+ thesis)	3840
Naturopathic Therapeutics Including: Botanical Medicine, Homeopathy, Oriental Medicine, Hydrotherapy, Naturopathic Manipulative Therapy.	492	335	0	0	0	0
Therapeutic Nutrition	144	138	17	elective	elective	elective
Counseling	144	158	0	0	0	0
			(included under psychiatry above)			
TOTALS	4824	4481	5071	4720	3497 (+ thesis)	5241

* Clerkships' are estimated to be 40 hours per week of mixed lecture and clinical training.
 ** Naturopathic physicians study minor surgery only.

Sources: 1988 Curriculum Directory of the Association of American Medical Colleges;
 1988 catalogues of National College of Naturopathic Medicine and Bastyr College

2-31

NATUROPATHIC MEDICAL EDUCATION
Nutrition and Lifestyle Modification

"Diseases of dietary excess and imbalance...now rank among the leading causes of illness and death in the U.S. and generate substantial health care costs."
U.S. Surgeon General's Report (1988)

"Improved nutrition training of physicians and other health care professionals is needed. Training should emphasize basic principles of nutrition, the role of the diet in health promotion and disease prevention, nutrition assessment methodology and their interpretation, therapeutic aspects of dietary intervention, (and) behavioral aspects of dietary counseling."

Coursework Recommended by U.S. Surgeon General	Naturopathic Physician	Registered Dietician	Medical Doctor
Biochemistry and physiology	345	120	398
Basic nutrition, nutrition assessment and interpretation	72	108	21
Diet and disease; Therapeutic diets	128	72	0 ⁶
Counseling	150	36	0 ⁷
Internship	1300 ⁸	900 ⁹	0 ¹⁰
National/State exams	yes	yes	no ¹¹
TOTALS	1995	1236	419

U.S. Surgeon General's Report (1988)

SOURCES:

- The Surgeon General's Report on Nutrition and health, 1988.
- The 1987 curricula of Bastyr College, Seattle, and National College of Naturopathic Medicine, Portland, Oregon.
- The American Dietetic Association.
- The 1988 catalogue of Oregon State University, Corvallis.
- Nutrition Education in U.S. Medical Schools, National Academy Press, 1985. The 1987 Curriculum Directory of the Association of American Medical Colleges. Medical school hours are averages for Johns Hopkins, Mayo, Yale and Stanford medical schools.
- Naturopathic Physicians, Registered Dieticians, and Medical Doctors may take nutrition electives above and beyond this curriculum.

NOTES :

- 6 Not taught in most schools.
- 7 MD's receive about 96 hours of psychiatric clerkship, not likely to include behaviorally-oriented counseling.
- 8 Consists of dietary evaluation or treatment of most patients.
- 9 May be performed in food management rather than clinical nutrition.
- 10 Medical internship does not normally include training in diet and disease.
- 11 Less than 4% of tests are in nutritional areas, mostly in biochemistry, physiology and pediatrics.

BIBLIOGRAPHY

- American Association of Naturopathic Physicians, Naturopathic Medicine: Contributions to Health Reform: Submittal Prepared in Response to a Request for Information from the T Force on National Health Reform, April 1993.
- Barrett, Stephen, "Homeopathy: Is it medicine", Nutrition Forum, Volume 4, No. 1, January 1987.
- Bradley, Randall. Philosophy of Naturopathic Medicine - 1, Pizzorno, Murray & Bradley, 1985.
- Clark, Jane Bennett, "Alternative Medicine is Catching On", Kiplinger's Personal Finance Magazine, January, 1993, p.96.
- Drugless Healing (Naturopathy), Olympia: Legislative Budget Committee, 1986.
- Eisenberg, David M., et. al., "Unconventional Medicine in the United States", The New England Journal of Medicine, January 28, 1993, p. 246-252.
- Gorman, James, "Homeopathic care enjoys healthy boom", Rocky Mountain News, September 4, 1992, p. 4.
- Gort, Elaine H. and David Coburn, "Naturopathy in Canada: Changing Relationships to Medicine, Chiropractic and the State", Social Sciences Medicine, Volume 26, No. 10, 1988.
- Morgan, Peter P., "Will its theory ever hold water?", Canadian Medical Association Journal, Volume 146, No. 10, 1992.
- "Naturopathic Medicine" (Section 9), Peterson' Guide to Graduate Programs in Business, Education, Health and Law, 1992
- Other States' Regulation of Naturopaths: A Performance Audit of the Naturopathic Board of Examiners, Arizona Office of the Auditor General, 1981.
- Paulson, Tom, "The Art of Alternative Medicine, Naturally", The Seattle Times, August 7, 1988.
- Performance Audit: Naturopathic Physicians Board, Report to the Arizona Legislature, 1991.
- Plevin, Nancy, "Alternative Medicine Spurs Interest", Denver Post, March 26, 1993
- Podolsky, Doug, "Big claims, no proof: a look at farther-out cures, from aromas to reflexology", U.S. News & World Report, September 23, 1991, p. 77.
- Revkin, Andrew C., "Dilutions of Grandeur", Discover, January, 1989, p. 74-75.

Schi. Robert, Homeopathy: The Illustrated Guide, New York:Harmony Books, 1988.

Statutes

Alaska Revised Statutes, 1993. Chapter 45. Naturopaths

Arizona Revised Statutes, 1990. Chapter 14. Naturopathic Physicians

Connecticut Revised Statutes, 1993. Chapter 373. Natureopathy

Hawaii Revised Statutes, 1993. Chapter 455. Naturopathy

Oregon Revised Statutes, 1993. Chapter 685. Naturopaths

Washington Revised Statutes, 1993. Chapter 18.36A RCW. Naturopathy

Toufexis, Anastasia, "Dr. Jacobs' Alternative Mission", Time, March 1, 1993, p. 43-44.

Washington Legislative Budget Committee, Drugless Healing (Naturopathy), Olympia: Legislative Budget Committee, 1986.

KANSAS BOARD OF HEALING ARTS

BILL GRAVES
Governor



235 S. Topeka Blvd.
Topeka, KS 66603-3068
(785) 296-7413
FAX # (785) 296-0852
(785) 368-7102

February 3, 1999

The Honorable Lisa L. Benlon
State Representative, 17th District
Chair, House Committee on Governmental
Organization and Elections

Re: House Bill No. 2085; practice of naturopathy

Dear Representative Benlon:

Thank you for the opportunity to appear before you on behalf of the State Board of Healing Arts in opposition to House Bill 2085. This proposed legislation seeks to allow certain individuals to practice naturopathy without regulation under the healing arts act. The Board believes that this bill is unconstitutional, and is contrary to the public policy of the State of Kansas.

The State Board of Healing Arts is a fifteen member agency appointed by the Governor to regulate 11 health care professions. Those regulated professions include medical doctors, doctors of osteopathic medicine and surgery, doctors of chiropractic, doctors of podiatry, physician assistants, respiratory therapists, physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, and athletic trainers. The board regulates these professionals by enforcing licensing and registration statutes. These statutes provide processes to determine initial qualification for licensure or registration, and to discipline those who engage in unprofessional or incompetent conduct.

House Bill 2085 is modeled after K.S.A. 65-2872a. That statute was declared unconstitutional by the Sedgwick County District Court. The judgment is currently on appeal in the Kansas Supreme Court.

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR

MEMBERS OF THE BOARD

RONALD J. ZOELLER, D.C., PRESIDENT
TOPEKA
DONALD B. BLETZ, M.D., VICE-PRESIDENT
OVERLAND PARK

WILLIAM BRYANT, WASHINGTON
JAMES D. EDWARDS, D.C., EMPORIA
HOWARD D. ELLIS, M.D., LEAWOOD
ROBERT L. FRAYSER, D.O., HOISINGTON
JOHN P. GRAVINO, D.O., LAWRENCE
JANA D. JONES, M.D., LANSING
LANCE MALMSTROM, D.C., TOPEKA

LAUREL H. RICKARD, MEDICINE LODGE
CHRISTOPHER P. RODGERS, M.D., HUTCHINSON
HAROLD J. SAUDER, D.P.M., INDEPENDENCE
EMILY TAYLOR, LAWRENCE
HAI K. TRUONG, D.O., WICHITA
ROGER D. WARREN, M.D., HANOVER

2-35

The bill would allow three methods of gaining authority to practice naturopathy. The first is to graduate from a school accredited by the council on naturopathic medical education. The second is to graduate from a school approved by an accrediting body that has been recognized by the United States department of education. The third is to have practiced under K.S.A. 65-2872a. That statute allowed those who graduated from a school approved by the state naturopathic association to practice. Again, that section is unconstitutional, so bootstrapping that method into this bill would likewise seem to be tainted.

The Board believes that this bill violates Article II, § 1 of the Kansas Constitution. That section vests the legislative power of the State in the Legislature. This legislative power includes establishing standards by which individuals may enter a profession. The Kansas Supreme Court has ruled that the legislature may not delegate this constitutional power to a non-governmental entity. The case of *Gumbhir v. State Board of Pharmacy*¹ directly controls in this matter. The Court in *Gumbhir* held a similar statute unconstitutional, stating that the statute in question was an unlawful delegation of legislative authority. Statutes such as House Bill 2085 violate Article II, § 1 by failing to establish standards by which an educational program is accredited or approved. These standards are a legislative matter. But in House Bill 2085, setting those standards is left to other non-governmental groups or to a non-governmental accrediting body. Defining the meaning of naturopathy is left to the school or to the accrediting body. If the non-governmental organization changes its standards to include or exclude a program, a decision over which this legislature has no control, then the category of persons who are allowed to practice naturopathy outside the healing arts act also changes. Thus, there is a change in Kansas law without an act of this legislature.

The Board also believes that the bill is contrary to established public policy in this state. House Bill 2085 fails in a very important way: there is nothing in the bill to define what that practice is. There is not even complete agreement within the industry as to the breadth and depth of naturopathy. At least one school in this country teaches spinal manipulation. Prior to the injunction issued by the Court which declared the statute unconstitutional, a naturopath in this state was injecting prescription-only drugs intravenously. This bill seeks to allow these practices to occur without any regulation whatsoever.

Naturopaths seek to be legitimate participants in the health care delivery system. They seek to be primary care providers. The Legislature has developed many laws regulating the health care delivery system including mandatory professional liability insurance, peer review, quality assurance, reimbursement, mandatory reporting to name a few. These laws are enacted to protect the public health, safety and welfare. The bill as written does not define naturopathy or its scope of practice. The bill would merely allow a person to practice naturopathy as taught. A person practicing naturopathy under the bill would do so without being subject to liability insurance requirements, without peer review, without mandatory continuing education, without any code of ethics or other disciplinary process, and without having to report infectious diseases. Choice in health care is becoming popular. But I suspect that most people do not know that by choosing an unregulated

¹ 228 Kan. 579

provider, they lose these important statutory protections.

The Board does agree with the basic premise of the bill, which is that the practice of naturopathy fits within the definition of the healing arts. The Board also believes that persons who practice naturopathy should not be free of regulatory oversight, as this bill would allow. There are states that have recognized naturopathy as a health care profession. Those states have done so through regulation, and not by granting individuals a waiver from laws intended to protect the public. I urge you to reject this bill. If naturopathy is to be allowed in this state, it should not be as an unregulated industry.

Very truly yours,



Mark W. Stafford,
General Counsel

HOUSE BILL No. 2085

By Committee on Governmental Organization and Elections

1-21

2-38

9 AN ACT permitting practice of certain naturopaths; repealing K.S.A. 65-
10 2872a.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

(a)

13 Section 1. Any naturopath who has graduated from a school of na-
14 turopathic college, which has been ~~granted accreditation or candidate for~~
15 ~~accreditation by the council on naturopathic medical education, or other~~
16 ~~accrediting body for naturopathic medical education which has been rec-~~
17 ~~ognized by the United States department of education,~~ or any naturopath
18 who practiced naturopathy in Kansas under K.S.A. 65-2872a prior to the
19 effective date of this act may practice naturopathy in Kansas. Except as
20 otherwise provided in this section, a naturopath shall practice naturopathy
21 in a manner consistent with the education and training of the naturopath.
22 No naturopath shall attempt to diagnose, treat or advise a patient on
23 matters falling outside the boundaries of naturopathic practice. No na-
24 turopath shall practice surgery or write prescriptions for prescription
25 drugs. A naturopath who engages in the practice of naturopathy in ac-
26 cordance with this section shall not be subject to the Kansas healing arts
27 act.

approved by the commissioner of education pursuant to subsection (b)

28 Sec. 2. K.S.A. 65-2872a is hereby repealed.

29 Sec. 3. This act shall take effect and be in force from and after its
30 publication in the Kansas register.

(b) The commissioner of education shall approve only those schools or colleges which require the study of naturopathy and which the commissioner determines have standards of education not less than that required for accreditation by the council on naturopathic medical education.

**Testimony of
Robert D. Timberlake
Kansas Governmental Organization and Elections Committee
February 3, 1999**

TO: Representative Lisa Benlon, Chairperson, Governmental Organization and Elections Committee and Committee Members.

SUBJECT: HB #2085, NATUROPATHIC PROVIDERS

It is my honor and privilege to testify before your committee today. I want to thank you in advance for your time and attention to this important matter before you.

For the record, my name is Bob Timberlake. I live in Concord, NH and am president of Timberlake Consulting, Inc. which provides business and governmental relations including regulatory affairs services nationally. I have provided these services to many people and organizations in search of solutions for the integration of nonconventional practices into the current health care system. I am here to testify on behalf of the Kansas Association of Naturopathic Doctors, in support of HB #2085.

First I would like to paint a background of why this bill before you is important to the citizens of Kansas. The U.S. spends over \$1 trillion per year on health care, which is over two and one-half times the defense budget. And yet, according to recently released figures from the World Health Organization, the U.S. placed 18th in the list of "good health" of the developed countries using infant mortality and longevity as the criterion. It stated that one of the important determinant factors was that nations ranking higher than the U.S. had developed a pluralistic approach to health care delivery. In other words, people had the freedom to choose what type of health care would benefit them the most without penalty such as insurance inequality or lack of access due to monopolistic regulatory authority. We are the 18th despite the fact that we:

- (1) have the highest number of doctors in the world;
- (2) have the highest number of hospitals in the world;
- (3) have the highest number of medical schools in the world;
- (4) have the highest number of doctors per capita in the world; and
- (5) spend far more on health care than any other country in the world.

We have the highest instance of infant mortality in the developed world and we are 17th in life expectancy. A child stands a better chance of reaching their 5th birthday in Hong Kong than a child does in the US. What this means to me is we do not have all the answers in our current delivery system. The sixteen countries with better life expectancy have pluralistic health systems which allow other schools of medicine and professionals to provide care in a cooperative manner. By combining the strengths of what, in this country, are deemed as alternative therapies with that of conventional medicine, we can greatly improve the health of Americans,

*G.O.E.
Feb. 3, 1999
Attachment 3
3-1*

help reduce the incidence of chronic and degenerative disease, thus significantly reduce health care costs.

What I would like to suggest is that naturopathic doctors can help fill a gap in our health care delivery system here in the U.S. and in Kansas. Naturopathic medicine is a rapidly growing and re-emerging primary care health system. Naturopathic doctors have a different understanding as to how the human body works. I believe it is an expanded understanding. It is a recognition that the human body has extraordinary recuperative power from within. I see naturopathic doctors as the experts in mobilizing these powers.

What does the naturopathic doctor do? You may be surprised to know that naturopathic doctors perform physical exams, order laboratory testing, perform gynecological exams, nutritional and dietary assessments, allergy testing and other diagnostic procedures in states where they are licensed. The naturopathic doctor is a modern day medical detective using the symptoms of the patient as messengers to lead them to the underlying causes of disease. Naturopathic doctors are particularly effective in treating chronic diseases such as arthritis, asthma and allergies as well as many other acute and degenerative conditions. They are trained to know when to refer to specialists and they do refer. In the states that license naturopathic doctors, that referral network is well established. Naturopathic doctors can provide primary medical care to the under served areas of this country where no other physicians may be available.

What is the education and training provided this profession? Who monitors the accreditation of naturopathic medical schools? The Council on Naturopathic Medical Education (CNME) is recognized by the US government as the accrediting agency for naturopathic medical education. The CNME is reviewed and must meet the same standards established by exactly the same U.S. government Dept. of Education agency that reviews the accrediting for US medical schools. In other words, the CNME must meet the very same criteria as the Liaison Committee on Medical Education (LCME), its conventional medicine counterpart.

Former Surgeon General C. Everett Koop, MD stated "We have a system that is distinguished by a virtual absence of self-regulation on the part of those who provide care, but distinguished as well by the absence of such natural marketplace controls as competition in regard to price, quality and service".

With this in mind, let me provide you with a brief historical perspective. Throughout the first half of this century, naturopathic doctors were licensed in as many as 25 states. With the advent of chemical medicines as we know it today, everyone expected the scourge of all disease would be successfully treated by these new innovative drugs. During this time there was little demand by those pursuing the practice of medicine to become naturopathic doctors and as a result all schools of naturopathic medicine closed. Thus there was no need for new licenses to be granted. Many of the states sunsetted the licensing laws during this period. This helped contribute to the development of a single, dominant school of medicine referred to above by the former Surgeon General. We now see that after 50 years of focus on drug therapy and surgery, the incidence of chronic, degenerative diseases along with our health care costs have sky rocketed. Correspondingly, the demand for naturopathic education and naturopathic doctors is increasing sharply, with naturopathic medical schools having doubled the size of their classes and a new federally accredited school having been established.

In the New England Journal of Medicine, January 1993, a Harvard University study conducted

in 1990, established that over 1/3 of the US citizens are obtaining their health care from outside the current conventional delivery system. Much of the public is looking for a more natural approach to solving their health care needs. **Naturopathic medicine provides significant natural solutions to many existing health care problems.**

Consider this fact — it is well documented that diet and lack of nutrition are major factors in five of the ten leading causes of death in the U.S., including heart disease, cancer, stroke, diabetes, and atherosclerosis. Together, these diseases account for approximately 70% of all deaths in this country. Sound nutritional advice can prevent or at least alleviate most of these diseases. If diet is so important, then wouldn't it make sense that dietary advice should be the primary, or "highest rank in importance" in the evaluation, management, and treatment of any non-emergency medical condition. It follows that an ideal primary care physician would be skilled in medical nutrition as well as conventional diagnosis, rely on low cost and non-toxic therapeutics, and know where to refer to more specialized physicians when necessary. In all the licensed states, naturopathic doctors fulfill these criteria. They are well-trained to know their strengths and know their limitations (and refer appropriately).

In most states where naturopathic doctors are licensed, they have the authority to sign birth and death certificates, provide examinations for schools and other legally required physical assessments. They are recognized and reimbursed as primary care doctors for state Medicaid in many jurisdictions and are reimbursed by third party insurance companies even though it is not usually mandated. As an example, many insurance carriers have instituted cost saving wellness programs reimbursing naturopathic doctors as the providers on their own.

The federal government has also requested significant input from the naturopathic profession. Quoting from the congressional record, "the (Senate Appropriations) Committee is not satisfied that the conventional medical community has fully explored the potential that exists in unconventional medical procedures." In the last several years, one of the federally accredited naturopathic schools, Bastyr University received over \$1,000,000 in NIH grants to research naturopathic medicine's efficacy in the treatment of AIDS. Also the recently created Office of Alternative Medicine has been given independent status and increased funding by the federal government.

Currently eleven states regulate the practice of naturopathic medicine. In each of these states, licensure has been the regulatory choice. The states are Arizona, Utah, Oregon, Washington (state), Alaska, Hawaii, Montana, Connecticut, Vermont, New Hampshire and Maine. Many of these states have had licensure for their naturopathic doctors for many decades. The state of Washington licensed naturopathic doctors in 1918. Lets look at what has happened when there are no standards of education established for practitioners in a state. A naturopathic doctor graduates with the equivalent amount of school loan debt as a conventional physician often in excess of \$100,000. States which do not recognize the practice are unlikely to have any significant numbers of these doctors willing to move their families, start new practices and provide services to their citizens only to have their practice closed down or be threatened with expensive legal proceedings. As surrounding states have licensed naturopathic doctors, some unqualified people have moved to nearby states to practice. Nevada does not license naturopathic doctors. An arrest a few years ago of a person who has repeatedly claimed to be a naturopathic doctor found her using "large quantities of dangerous drugs", claiming to cure cancer and netting \$14,000 per day according to a newspaper article. This person would not meet the criteria for education established in HB #2085. HB #2085 will help protect Kansas citizens

from situations such as this.

Currently there are several correspondence schools operating in unregulated states in the U.S. which issue Doctorate of Naturopathic Medicine degrees with minimal correspondence only training with as little as three months and one thousand dollars needed to obtain these diplomas. In some cases it is not even required to have a high school diploma as prerequisite education. Meanwhile the demand for services from non-conventional health care practices are continuing to grow at a rapid rate. Without recognition of appropriate educational standards of this rapidly growing area of interest, public harm and confusion is very likely to occur. These types of problems will not just go away by ignoring them. A solution could be to follow the recent course of actions taken in this decade such as Alaska, Montana, New Hampshire, Vermont Utah and Maine have done in establishing recognition at the primary care level for practitioners fully trained in these reemerging health care options - naturopathic doctors.

I believe the question to you as lawmakers is not whether naturopathic doctors meet acceptable standards--they do, but rather is the Kansas legislature going to allow it's citizens the freedom to choose naturopathic health care in Kansas and whether they will allow the best trained practitioners to provide this needed service. I would propose the potential risk of not recognizing naturopathic doctors may far outweigh any perceived risk in recognizing this profession. I respectfully request you support the passage of HB 2085.



February 1, 1999

RE: Naturopathy in the State of Kansas

TO WHOM IT MAY CONCERN:

My name is William C. Simon, I am a chiropractic physician. I graduated from Cleveland Chiropractic College in Kansas City in 1981 and was licensed to practice in the state of Kansas and Missouri. I was in practice 3-1/2 years. I got my bachelor's degree in nutrition from Park College in Parkville Missouri and I was accepted to osteopathic school and graduated from osteopathic school in May of 1989. I did a rotating internship at Riverside Hospital and I am licensed to practice in the state of Kansas and Missouri. I practiced at Lake of the Ozarks for 1 year and then I have been in Wichita, Kansas for the last 7-1/2 years.

I first came to know of Dr. Beyerle, when a neighbor of mine was telling me that she was taking her child with recurrent ear infections to this naturopath because she was getting concerned because her son was not getting well with traditional approaches and antibiotics and the next step would be ear tubes which she was trying to avoid. That was about 4-1/2 to 5 years ago. Dr. Beyerle shortly thereafter, moved into an office a couple of blocks down the street from where our office is and since that time I have come to know and to work with him on a regular basis.

We have multiple patients in common, I have patients that I see that go to him for his help and expertise and I have patients who want to take the alternative route to their care so consequently, I work closely with Dr. Beyerle and these patients. He also will refer patients to me to medically manage as he does their nutritional support.

Throughout my experience with Dr. Beyerle over the last 4 to 5 years, the outcomes have usually been better than one would expect with just the traditional approach and certainly patient satisfaction was high.

Patients do seek me out because of my approach to alternative medicine and the fact that I am willing to work with them along other lines and do encourage them to take control in their

*G.O.E.
Feb 3, 1999
Attachment 4*

Page 2
February 1, 1999
RE: Naturopathy in Kansas

choices, and therefore, I have had interactions with lots of patients who have sought the alternative route. I do not consider naturopathy an alternative route, I consider it part of medicine because I think it is complimentary to the medications and treatments that we as osteopathic and main stream medical practitioners prescribe.

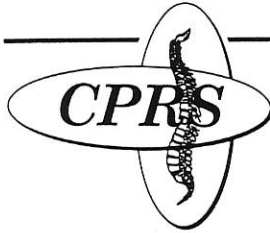
I do agree with the legalization of naturopathic medicine for the state of Kansas as it does offer other avenues for overall patient help. The educational standards are high and I feel that naturopathy has a place within the field of health care.

Sincerely, submitted,

A handwritten signature in cursive script, appearing to read "Simon".

William C. Simon, D.C.D.O.

WCS/ljb



CENTRAL PLAINS RADIOLOGIC SERVICES

Dr. Steven J. Gould, Board Certified Chiropractic Radiologist

P.O. Box 771001 / 555 N. McLean Blvd. Ste. 201

Second floor, Dopps Professional Building

Wichita, KS. 67277-1001

(316)-262-4999

Feb. 3, 1999

To: Rep. Lisa Benlon, Chairperson, Governmental Organization and Elections Committee and Committee Members

Subject: HB#2085, Naturopathic Providers

Dear Madam Chairperson,

Thank you for allowing me to come before this body to share my testimony regarding the Naturopathic Providers bill.

First, let me explain who I am and what I do so that you'll understand the relevance of my appearance here today. I am a chiropractor and a chiropractic radiologist. I graduated from Cleveland Chiropractic College, KC. Mo. in 1989 and then completed a three-year radiology residency program in 1992. The residency program prepared me to be a consultant radiologist for the chiropractic community. I am board certified in radiology by the American Chiropractic Board of Radiology (ACBR). I am an active member of the American Chiropractic College of Radiology (ACCR).

I have been in practice in Wichita, KS. since Oct. 1992. In my practice I review x-rays, MRI exams, and musculoskeletal ultrasound imaging studies. I also see patients as a treating chiropractor. Additionally, I provide continuing education lectures for doctors of chiropractic and chiropractic and medical radiologic technologists through lectures sponsored or approved by the KCA, Cleveland Chiropractic College, KC, Mo., Los Angeles College of Chiropractic, the American Chiropractic Registry of Radiologic Technologists, and the Kansas Society of Radiologic Technologists.

I am active in our state and local chiropractic organizations, (member of the Kansas Chiropractic Association and present secretary-treasurer of the Sedgwick District of the KCA). I am also active in our national organizations, as a member of the American Chiropractic Association (ACA) and vice-president of the Council on Diagnostic Imaging (CDI), a council of the ACA. (My comments today are not to be taken as official statements from the above organizations, but are my personal views.)

I have worked with the naturopathic doctors of Kansas for approximately the past 5 years. I refer patients to them for treatment through naturopathic means. The naturopathic doctors refer patients to me for chiropractic treatment and for radiographic evaluations.

*G.D.E.
Feb 3, 1999
Attachment 5*

5-1

Page 2

When discussing their care with me, patients from the naturopathic clinic have been satisfied with the care they have received and are satisfied with the abilities of the doctors at the clinic.

I am proponent of HB#2085 because it provides for legislation on the industry. Without this bill, as I understand it, there would be no legislation for the practice of new naturopathic doctors.

Patients have the right to choose the type of care they receive. Where would Kansas patients go for naturopathic care if there were no legal naturopaths in the state? Would there be any recourse for illegitimate treatments from non-regulated providers?

I want to help insure that the type of care that patients receive is scientifically sound. If there were no regulation or legislation on naturopathic medicine, then who could perform this art and who would those individuals answer to?

The scenario of acupuncture in the state of Kansas comes to mind. There is no legislation for acupuncture (that I am aware of) and that means that those individuals practicing acupuncture (without already having some form of terminal degree (doctorate)) are diagnosing and treating patients without a license. Likely, those individuals also do not have malpractice insurance. Acupuncturists practicing without another type of licensed degree are without regulation. If there were a persistently negligent provider, then how would the state deal with that provider, other than through the civil courts or the Attorney General's office?

My own professional has come a long way, as far as improving education standards and has recently passed measures to make it mandatory for new chiropractors to have a bachelors degree prior to chiropractic college before being allowed to practice in Kansas.

I am a proponent of HB#2085 to help maintain the high level of education required of Kansas health care professionals and to start legislation for naturopathic doctors. However, I would like to see a change in the bill to make state licensure possible. That may mean inclusion of Naturopaths in the Healing Arts Board. Kansas is unique in that the healing arts board has different professions making up the board. I think that it is a good situation because each group is responsible to the others and the separate professions have to work together.

Thank you,



Steven J. Gould, D.C., D.A.C.B.R.

KANSAS BOARD OF HEALING ARTS

BILL GRAVES
Governor



235 S. Topeka Blvd.
Topeka, KS 66603-3068
(785) 296-7413
FAX # (785) 296-0852
(785) 368-7102

February 3, 1999

The Honorable Lisa L. Benlon
State Representative, 17th District
Chair, House Committee on Governmental
Organization and Elections

Re: House Bill No. 2085; practice of naturopathy

Dear Representative Benlon:

Thank you for the opportunity to appear before you on behalf of the State Board of Healing Arts in opposition to House Bill 2085. This proposed legislation seeks to allow certain individuals to practice naturopathy without regulation under the healing arts act. The Board believes that this bill is unconstitutional, and is contrary to the public policy of the State of Kansas.

The State Board of Healing Arts is a fifteen member agency appointed by the Governor to regulate 11 health care professions. Those regulated professions include medical doctors, doctors of osteopathic medicine and surgery, doctors of chiropractic, doctors of podiatry, physician assistants, respiratory therapists, physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, and athletic trainers. The board regulates these professionals by enforcing licensing and registration statutes. These statutes provide processes to determine initial qualification for licensure or registration, and to discipline those who engage in unprofessional or incompetent conduct.

House Bill 2085 is modeled after K.S.A. 65-2872a. That statute was declared unconstitutional by the Sedgwick County District Court. The judgment is currently on appeal in the Kansas Supreme Court.

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR

MEMBERS OF THE BOARD
RONALD J. ZOELLER, D.C., PRESIDENT
TOPEKA
DONALD B. BLETZ, M.D., VICE-PRESIDENT
OVERLAND PARK

WILLIAM BRYANT, WASHINGTON
JAMES D. EDWARDS, D.C., EMPORIA
HOWARD D. ELLIS, M.D., LEAWOOD
ROBERT L. FRAYSER, D.O., HOISINGTON
JOHN P. GRAVINO, D.O., LAWRENCE
JANA D. JONES, M.D., LANSING
LANCE MALMSTROM, D.C., TOPEKA

LAUREL H. RICKARD, MEDICINE LODGE
CHRISTOPHER P. RODGERS, M.D., HUTCHINSON
HAROLD J. SAUDER, D.P.M., INDEPENDENCE
EMILY TAYLOR, LAWRENCE
HAI K. TRUONG, D.O., WICHITA
ROGER D. WARREN, M.D., HANOVER

G.O.E
Feb 3, 1999
Attachment 6
6-1

The bill would allow three methods of gaining authority to practice naturopathy. The first is to graduate from a school accredited by the council on naturopathic medical education. The second is to graduate from a school approved by an accrediting body that has been recognized by the United States department of education. The third is to have practiced under K.S.A. 65-2872a. That statute allowed those who graduated from a school approved by the state naturopathic association to practice. Again, that section is unconstitutional, so bootstrapping that method into this bill would likewise seem to be tainted.

The Board believes that this bill violates Article II, § 1 of the Kansas Constitution. That section vests the legislative power of the State in the Legislature. This legislative power includes establishing standards by which individuals may enter a profession. The Kansas Supreme Court has ruled that the legislature may not delegate this constitutional power to a non-governmental entity. The case of *Gumbhir v. State Board of Pharmacy*¹ directly controls in this matter. The Court in *Gumbhir* held a similar statute unconstitutional, stating that the statute in question was an unlawful delegation of legislative authority. Statutes such as House Bill 2085 violate Article II, § 1 by failing to establish standards by which an educational program is accredited or approved. These standards are a legislative matter. But in House Bill 2085, setting those standards is left to other non-governmental groups or to a non-governmental accrediting body. Defining the meaning of naturopathy is left to the school or to the accrediting body. If the non-governmental organization changes its standards to include or exclude a program, a decision over which this legislature has no control, then the category of persons who are allowed to practice naturopathy outside the healing arts act also changes. Thus, there is a change in Kansas law without an act of this legislature.

The Board also believes that the bill is contrary to established public policy in this state. House Bill 2085 fails in a very important way: there is nothing in the bill to define what that practice is. There is not even complete agreement within the industry as to the breadth and depth of naturopathy. At least one school in this country teaches spinal manipulation. Prior to the injunction issued by the Court which declared the statute unconstitutional, a naturopath in this state was injecting prescription-only drugs intravenously. This bill seeks to allow these practices to occur without any regulation whatsoever.

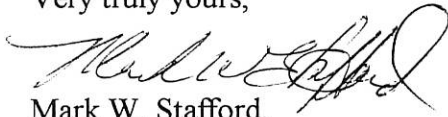
Naturopaths seek to be legitimate participants in the health care delivery system. They seek to be primary care providers. The Legislature has developed many laws regulating the health care delivery system including mandatory professional liability insurance, peer review, quality assurance, reimbursement, mandatory reporting to name a few. These laws are enacted to protect the public health, safety and welfare. The bill as written does not define naturopathy or its scope of practice. The bill would merely allow a person to practice naturopathy as taught. A person practicing naturopathy under the bill would do so without being subject to liability insurance requirements, without peer review, without mandatory continuing education, without any code of ethics or other disciplinary process, and without having to report infectious diseases. Choice in health care is becoming popular. But I suspect that most people do not know that by choosing an unregulated

¹ 228 Kan. 579

provider, they lose these important statutory protections.

The Board does agree with the basic premise of the bill, which is that the practice of naturopathy fits within the definition of the healing arts. The Board also believes that persons who practice naturopathy should not be free of regulatory oversight, as this bill would allow. There are states that have recognized naturopathy as a health care profession. Those states have done so through regulation, and not by granting individuals a waiver from laws intended to protect the public. I urge you to reject this bill. If naturopathy is to be allowed in this state, it should not be as an unregulated industry.

Very truly yours,



Mark W. Stafford,
General Counsel



Kansas Association of Osteopathic Medicine

1260 SW Topeka Boulevard
Topeka, Kansas 66612

Phone (785) 234-5563
Fax (785) 234-5564

Testimony
to the
House Committee on Governmental Organization and Elections
by Charles Wheelen
February 3, 1999

Thank you for the opportunity to express our opposition to HB2085. This bill is unnecessary, and if enacted, would create a questionable and possibly dangerous exemption from the Healing Arts Act.

The Healing Arts Act was created by the Legislature to protect Kansans from individuals who purport to be physicians or chiropractors but do not have the minimum academic credentials and training. The Act also allows the Board of Healing Arts to discipline licensees and if appropriate, revoke the license of a physician or chiropractor. Perhaps most important, KSA 65-2867 makes it unlawful for an unlicensed person to engage in the practice of the healing arts as defined in KSAs 65-2869, 2870, and 2871. Copies of these four sections of the Act are attached for your review.

In order to be guilty of violation of KSA 65-2867, one must either (1) operate an office for the practice of the healing arts, or (2) promote oneself as qualified to engage in the healing arts. This means that the violator would have to create the public impression that he or she is a physician or chiropractor. If a naturopath does not profess to be a physician or chiropractor and does not prescribe controlled substances, perform surgery, or adjust misplaced tissue, he or she would not be in violation of this section of the *Kansas Statutes Annotated*.

According to the *Encarta 98 Encyclopedia*, naturopathic healing employs "alternative medical practices such as botanical medicine, homeopathy, acupuncture, and Oriental medicine." Under current Kansas law, any person (naturopath or other) can recommend non-prescription remedies for human ailments as long as they don't profess to be a physician, surgeon, or chiropractor. But if the provisions of HB2085 were to become law, any person who has a degree from a naturopathic college could advertise themselves as physicians, surgeons, or chiropractors and could perform chiropractic adjustments as well as practice obstetrics. While this may not be the intent of those who support HB2085, it would be the result.

Furthermore, there is no enforcement mechanism in HB2085 to determine if the naturopath has actually graduated from any kind of college, nor does the bill define the practice. Instead, it requires the naturopath to practice in accordance with his or her education and training. In other words, it relies on the curriculum of naturopathic colleges to define what constitutes the practice. This is a questionable delegation of governmental authority to private entities and is poor public policy.

Perhaps the most important reason you should not pass HB2085 is the message it sends to the public. If enacted, it would create the impression that the Kansas Legislature has endorsed the practice of naturopathy. Whereas, if you kill the bill or let it die, Kansans who choose to employ the services of naturopaths may continue to do so and naturopaths may continue to recommend non-prescription remedies and other "alternative" healing techniques.

For the above reasons, we respectfully request that you report HB2085 not recommended for passage. Thank you for considering our testimony.

AOE
Feb 3, 1999
Attachment 7
7-1

dollars (\$200) for each separate offense, and a person for a second violation of any of the provisions of this act, wherein another specific penalty is not expressly imposed, shall be deemed guilty of a misdemeanor and upon conviction thereof shall pay a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each separate offense.

History: L. 1957, ch. 343, § 62; July 1.

65-2863.

History: L. 1957, ch. 343, § 63; Repealed, L. 1976, ch. 273, § 40; Feb. 13.

65-2863a. Administrative fines. (a) The state board of healing arts, in addition to any other penalty prescribed under the Kansas healing arts act, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for a violation of the Kansas healing arts act in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted promptly to the state treasurer. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit it to the state general fund.

(b) This section shall be part of and supplemental to the Kansas healing arts act.

History: L. 1986, ch. 229, § 20; July 1.

65-2864. Enforcement of act; investigations; evidence. The board shall enforce the provisions of this act and for that purpose shall make all necessary investigations relative thereto. Every licensee in this state, including members of the board, shall furnish the board such evidence as he may have relative to any alleged violation which is being investigated. He shall also report to the board the name of every person without a license that he has reason to believe is engaged in practicing the healing arts in this state.

History: L. 1957, ch. 343, § 64; July 1.

CASE ANNOTATIONS

1. Administration of healing arts act considered. Kansas State Board of Healing Arts v. Foote, 200 K. 447, 452, 436 P.2d 828.

65-2865. Rules and regulations; filing. The board shall promulgate all necessary rules and regulations, not inconsistent herewith, for carrying out the provisions of this act, which rules and regulations shall include standards for the dispensing of drugs by persons licensed

to practice medicine and surgery. It may also adopt rules and regulations supplementing any of the provisions herein contained but not inconsistent with this act. All rules and regulations promulgated and adopted by the board shall be filed with the secretary of state as required by law.

History: L. 1957, ch. 343, § 65; L. 1979, ch. 198, § 8; L. 1988, ch. 366, § 19; June 1.

CASE ANNOTATIONS

1. Administration of healing arts act considered. Kansas State Board of Healing Arts v. Foote, 200 K. 447, 452, 436 P.2d 828.

2. Suspension of license for "dishonorable conduct" upheld. Kansas State Board of Healing Arts v. Acker, 228 K. 145, 149, 612 P.2d 610.

3. Provision in 65-1631 restricting approval for examination and registration is unlawful delegation of legislative authority. Gumbhir v. Kansas State Board of Pharmacy, 228 K. 579, 586, 618 P.2d 837.

65-2866. Attorney general, county or district attorney to prosecute violations. Upon the request of the board, the attorney general or county or district attorney of the proper county shall institute in the name of the state or board the proper proceedings against any person regarding whom a complaint has been made charging him or her with the violation of any of the provisions of this act, and the attorney general, and such county or district attorney, at the request of the attorney general or of the board shall appear and prosecute any and all such actions.

History: L. 1957, ch. 343, § 66; L. 1976, ch. 273, § 28; Feb. 13.

➔ **65-2867. Certain acts prohibited; exceptions; penalty.** (a) It shall be unlawful for any person who is not licensed under the Kansas healing arts act or whose license has been revoked or suspended to open or maintain an office for the practice of the healing arts as defined in this act or to announce or hold out to the public the intention, authority or skill to practice the healing arts as defined in the Kansas healing arts act by the use of any professional degree or designation, sign, card, circular, device, advertisement or representation.

(b) This section shall not apply to any person licensed by the board whose license was expired or lapsed and reinstated within a six month period pursuant to K.S.A. 65-2809 and amendments thereto.

(c) This section shall not apply to any health care provider who in good faith renders emergency care or assistance at the scene of an emergency or accident as authorized by K.S.A. 65-2891 and amendments thereto.

(d) Violation of this section is a class C misdemeanor.

History: L. 1957, ch. 343, § 67; L. 1992, ch. 32, § 2; July 1.

65-2868.

History: L. 1957, ch. 343, § 68; L. 1976, ch. 273, § 29; Repealed, L. 1992, ch. 32, § 3; July 1.

65-2869. Persons deemed engaged in practice of medicine and surgery. For the purpose of this act the following persons shall be deemed to be engaged in the practice of medicine and surgery:

(a) Persons who publicly profess to be physicians or surgeons, or publicly profess to assume the duties incident to the practice of medicine or surgery or any of their branches.

(b) Persons who prescribe, recommend or furnish medicine or drugs, or perform any surgical operation of whatever nature by the use of any surgical instrument, procedure, equipment or mechanical device for the diagnosis, cure or relief of any wounds, fractures, bodily injury, infirmity, disease, physical or mental illness or psychological disorder, of human beings.

(c) Persons who attach to their name the title M.D., surgeon, physician, physician and surgeon, or any other word or abbreviation indicating that they are engaged in the treatment or diagnosis of ailments, diseases or injuries of human beings.

History: L. 1957, ch. 343, § 69; L. 1969, ch. 299, § 14; L. 1976, ch. 273, § 30; L. 1988, ch. 251, § 5; July 1.

Research and Practice Aids:

Physicians and Surgeons ⇌ 6(1).

C.J.S. Physicians and Surgeons §§ 10, 23.

Law Review and Bar Journal References:

"Guideline for Joint Policy Statement on Nursing Service," 69 J.K.M.S. 66, 67 (1968).

"Legislative Review of Examining and Licensing Functions of State Boards and Commissions," Stanley D. Elofson, 7 W.L.J. 307, 311 (1968).

Attorney General's Opinions:

Physicians' assistants; advanced registered nurse practitioners; persons authorized to issue prescription orders. 86-125.

Doctors of chiropractic cannot use the term "chiropractic physician." 87-42.

Master level psychologists; supervision; limitations on practice. 87-184.

Persons deemed engaged in practice of chiropractic. 89-91.

Social work practice; psychotherapy; authority to diagnose. 92-43.

CASE ANNOTATIONS

1. Acupuncture does not constitute surgery. Acupuncture Society of Kansas v. Kansas Bd. of Healing Arts, 226 K. 639, 645, 602 P.2d 1311.

65-2870. Persons deemed engaged in practice of osteopathy. For the purpose of this act the following persons shall be deemed to be engaged in the practice of osteopathy or to be osteopathic physicians and surgeons:

(a) Persons who publicly profess to be osteopathic physicians, or publicly profess to assume the duties incident to the practice of osteopathy, as heretofore interpreted by the supreme court of this state, shall be deemed to be engaged in the practice of osteopathy.

(b) Osteopathic physicians and surgeons shall mean and include those persons who receive a license to practice medicine and surgery pursuant to the provisions of this act.

History: L. 1957, ch. 343, § 70; L. 1969, ch. 299, § 15; L. 1976, ch. 273, § 31; Feb. 13.

Law Review and Bar Journal References:

"Legislative Review of Examining and Licensing Functions of State Boards and Commissions," Stanley D. Elofson, 7 W.L.J. 307, 311 (1968).

Attorney General's Opinions:

Doctors of chiropractic cannot use the term "chiropractic physician." 87-42.

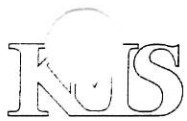
65-2871. Persons deemed engaged in practice of chiropractic. For the purpose of this act the following persons shall be deemed to be engaged in the practice of chiropractic: (a) Persons who examine, analyze and diagnose the human living body, and its diseases by the use of any physical, thermal or manual method and use the X-ray diagnosis and analysis taught in any accredited chiropractic school or college and (b) persons who adjust any misplaced tissue of any kind or nature, manipulate or treat the human body by manual, mechanical, electrical or natural methods or by the use of physical means, physiotherapy (including light, heat, water or exercise), or by the use of foods, food concentrates, or food extract, or who apply first aid and hygiene, but chiropractors are expressly prohibited from prescribing or administering to any person medicine or drugs in materia medica, or from performing any surgery, as hereinabove stated, or from practicing obstetrics.

History: L. 1957, ch. 343, § 71; L. 1976, ch. 273, § 32; Feb. 13.

Research and Practice Aids:

Physicians and Surgeons ⇌ 6(1).

C.J.S. Physicians and Surgeons §§ 10, 23.



KANSAS MEDICAL SOCIETY

February 3, 1999

To: House Governmental Organization & Elections Committee

From: Jerry Slaughter
Executive Director

Subject: **HB 2085; relating to the practice of Naturopathy**

The Kansas Medical Society appreciates the opportunity to appear today in opposition to HB 2085.

This bill would have the effect of creating the virtually unrestricted, unregulated, undefined practice of naturopathy in our state. Nowhere in this bill, nor our existing statutes, is naturopathy defined. That is unprecedented in our statutory and regulatory scheme. Our laws are quite specific about the qualifications, training, scope of practice, and overall regulation of the professions that are credentialed to hold themselves out to the public as health care providers.

The bill says that naturopaths “shall practice naturopathy in a manner consistent with the education and training of the naturopath,” and that no naturopath shall “attempt to diagnose, treat or advise a patient on matters falling outside the boundaries of naturopathic practice.” What other profession in this state is given such a fuzzy and unrestricted scope of practice as that? Who will determine what is allowed and what is not? There is no board or agency created to make such determinations. The Healing Arts Board would not have any jurisdiction over the activities of naturopaths. Who will serve to review inquiries and complaints from the public if there are unqualified naturopaths practicing? And how would an incompetent practitioner be eliminated from practicing? If he or she is not issued a license or registration in the first place, how could they ever be prohibited from practicing, regardless of their competency? In other words, how and who would protect the public?

In an effort to better understand what naturopaths desire to do we did some research and found a lengthy discussion of their scope of practice from the American Association of Naturopathic Physicians (AANP), their national trade group. The AANP literature describes naturopaths as primary care practitioners who “see patients of all ages...suffering from every known disease.” According to AANP they “perform outpatient minor surgery, administer vaccinations and prescribe a limited range of drugs.” They also use diagnostic imaging tools such as x-rays, ultrasound and mammography. The AANP goes on to say that naturopaths “routinely do breast exams, pelvic exams and pap smears.”

G.O.E
Feb 3, 1999
Attachment 8
8-1

House Governmental Organization and Elections Committee
HB 2085; relating to Naturopathy
February 3, 1999
Page 2

The report also states that naturopaths "like MDs, need the authority to write orders to labs and other health care providers...." Also included in the AANP document is home childbirth, including the ability to do episiotomies as well as repair lacerations of the cervix and other structures incident to childbirth. As to their desire to do surgery, the report has a long list of authorized procedures, including "operations on skin and subcutaneous tissue; removal of moles, warts and cysts; cryosurgical treatment of cervical lesions; and cauterization and ligation of hemorrhoids," to name just a few. In other words, the AANP envisions a very broad scope of practice for naturopaths, one that looks a lot like the practice of medicine. That concerns us a great deal, because there is no evidence to suggest that naturopathic training is adequate preparation for such a broad scope of practice.

Normally when the legislature is asked to put its "good housekeeping seal of approval" on a health care provider group there are adequate mechanisms in place to at least assure a minimum level of education, clinical training and competency to practice. None of that exists with this legislation. You are being asked to do something for this group that is not done for any other group. And by adopting this bill you would be saying to the public that in the view of the legislature it is safe for the public to go to this group, that they are properly trained to perform the tasks authorized for them, and that there is a process in place to hold them accountable in the event they are not. Can you say that this bill actually does that?

At a time when higher standards of competence and accountability are being demanded of all health care providers, it is incomprehensible to think that the legislature would authorize such an open-ended, unregulated practice, with virtually no accountability. That is a big step backwards and sends the wrong message to the public. We urge you to report HB 2085 adversely. Thank you for considering our comments.

R. Paul Poe, D.C.

310 West Central
P.O. Box 593
Andover, Kansas 67002
Telephone 733-5454

February 2, 1999

Committee on Governmental Organization and Election
2nd Floor, State Capital
Topeka, KS 66612

RE: HOUSE BILL NO. 2085

I am a life long resident of Kansas and except for serving in the United States Air force as a Medical Specialist in Turkey and time away at college, I have resided in the South Central Kansas area. I hold a B.S. degree in Human Biology and a Doctor of Chiropractic from Logan College of Chiropractic. I am Board Certified as a CCSP (Certified Chiropractic Sports Practitioner) by the American Chiropractic Association. I have been licensed by the State of Kansas to practice the art of Chiropractic for the past 18 years. In those 18 years, I have had the privilege to work with many fine M.D.'s, D.O.'s, D.C.'s, D.P.M.'s, O.D.'s and N.D., all of which have contributed to the health and well-being of many of my patients.

It is with great sincerity that I hope you will SUPPORT House Bill No. 2085. And when taking this matter in consideration that we should all remember when the GOOD LORD was passing out gifts that HE did not stop with the M.D.'s, D.O.'s, or D.C.'s.

Respectfully,



Rodney Paul Poe, D.C.

- cc: Sen. David Corbin
- Sen. Greta Goodwin
- Rep. Donald L. Dahl
- Rep. 74th District
- Rep. William Mason
- Rep. Peggy Palmer
- Rep. Judy Showalter
- Rep. Susan Wagle

No appearance