

SESSION OF 2002

SUPPLEMENTAL NOTE ON SENATE BILL NO. 610

As Amended by Senate Committee on
Public Health and Welfare

Brief*

SB 610 creates a new act that is to be known as The Naturopathic Doctor Licensure Act. The bill also amends one of the statutes in the Kansas Healing Arts Act and one statute in the Pharmacy Act of the State of Kansas.

SB 610 defines terms used in the new laws that would be created by the bill, including "naturopathic medicine" or "naturopathy" defined as a system of health care practiced by naturopathic doctors for the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases that uses education, natural medicines, and therapies to support and stimulate the individual's intrinsic self-healing processes.

The proposed new legislation provides for the licensing of naturopathic doctors by the Board of Healing Arts and directs the Board to administer the provisions of the act; judge the qualifications of applicants for examination and licensure; and adopt rules and regulations. The Board is required to issue licenses to persons who, prior to the effective date of the new act: (1) had graduated from a school of naturopathy that required four years of attendance and was at the time of the applicant's graduation, accredited or a candidate for accreditation by the Council on Naturopathic Medical Education, and (2) had passed the naturopathic physician's licensing examination covering appropriate naturopathic subjects.

Under the provisions of SB 610, an applicant for a license as a naturopathic doctor must have completed an educational program in naturopathy from an approved naturopathic medical college; passed a written examination chosen by the Board of Healing Arts; and paid all

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org/cgi-bin/fulltext/bills.cgi>

applicable fees. The Board may waive the examination, education, or experience requirements and grant a license to an applicant who presents the Board proof of authorization to practice in another state, the District of Columbia, or United States territory if the standards of the other jurisdiction are equivalent to the Kansas requirements or to any applicant who presents proof to the Board that he or she was practicing under the provisions of KSA 65-2872a on the day preceding the effective date of SB 610. The latter statute allows any naturopath who is a graduate of a nationally recognized naturopathic college approved by the state naturopathic association who was practicing in Kansas on January 1, 1982 to practice without approval of the Board of Healing Arts, but such persons may not practice surgery, obstetrics, or write prescriptions for prescription drugs. The Board is also authorized to issue a temporary license to an applicant for a license who meets the requirements for licensure and pays a temporary license fee. A temporary license is to expire on the date the holder's application for a license is approved or one year from the date it was issued, whichever occurs first. The bill includes a fee section in which maximum fees are established. The Board is authorized to set fees through rules and regulations and, if the licensing examination is not administered by the Board, to require the payment of an examination fee directly to the examination service. Licenses must be renewed annually, with renewal contingent on completion of at least 25 hours of continuing education and any other additional requirements established by the Board.

SB 610 authorizes the Board of Healing Arts to deny, refuse to renew, suspend, or revoke a license if the licensee or applicant for a license has been guilty of unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public. Actions that constitute unprofessional conduct are set out in the bill. The Board is given authority to seek injunctions for relief of violations of the law or regulations.

SB 610 makes it unlawful for any person not licensed under the Naturopathic Doctor Licensing Act to practice naturopathic medicine or use certain abbreviations, subject to the practices and persons listed as not to be construed as practicing naturopathic medicine.

As set out in the proposed legislation, naturopathic doctors may not:

- prescribe, dispense, or administer any prescription or controlled drug except those listed in the act;
- administer ionizing radioactive substances for therapeutic purposes;
- perform surgery;
- claim to practice any licensed health care profession or system of treatment unless separately licensed to do so;
- practice obstetrics;
- practice emergency medicine, except as a good samaritan or the care of minor injuries; or
- claim to practice allopathic or osteopathic medicine and surgery, dentistry, podiatry, optometry, chiropractic, physical therapy, or any other system or method of treatment not authorized in the act.

Naturopathic doctors may prescribe, recommend, or administer the following substances and therapies:

- food, food extracts, vitamins, minerals, enzymes, whole gland thyroid, botanicals, homeopathic preparations, nystatin (an antibiotic substance), natural estrogens, and natural progesterone;
- topical drugs as defined in the bill, health care counseling, nutritional counseling and dietary therapy, naturopathic physical applications, therapeutic devices, barrier contraceptive devices, and nonprescription drugs;
- intramuscular or intravenous administration of any vitamins, minerals, botanicals, amino acids, D5W, saline solutions, isotonic solutions, and glandulars, except, in the case of intravenous administration, the patient's physician of record must be notified within 10 days of the treatment (all intramuscular and intravenous injectibles are prescription only drugs); and
- immunizations.

Naturopathic doctors may perform or order noninvasive physical or oroficial examinations, including phlebotomy (venous blood drawing), clinical laboratory tests, speculum examinations, and physiological function tests, except those excepted in the bill, and may order specified tests which must be referred for their conduct and interpretation of test results. The bill also gives naturopathic doctors the same authority and responsibility as doctors of medicine and doctors of osteopathic medicine in regard to public health responsibilities, health and physical examinations, and local boards of health, consistent with the scope of practice set out in the bill. In order to practice naturopathic acupuncture, licensees must obtain a naturopathic acupuncture specialty certification from the Board of Healing Arts. Naturopathic doctors are also to be required to carry professional liability insurance in the amount of not less than \$200,000 per claim and \$600,000 annual aggregate for all claims made during the policy period. Maintenance of insurance is a condition of rendering professional services in Kansas.

SB 610 creates a five-member naturopathic advisory council to advise the Board of Healing Arts.

Two statutes are amended by SB 610. One, a section of the Kansas Healing Arts Act, is amended to add a naturopathic doctor practicing and licenced as required by the Naturopathic Doctor Licensing Act to acts that are not to be construed as a practice of the healing arts. The other statute that is amended is that section of The Pharmacy Act of the State of Kansas which defines terms used in the act. The amendment adds a licenced naturopathic doctor to the definition of "practitioner" for purposes of the pharmacy laws.

Background

SB 610 was introduced in response to the application of naturopathic doctors to go through the procedures set out in the Kansas Act on Credentialing to study whether such providers should be credentialed under Kansas law and the appropriate level of credentialing if credentialing is recommended. Both the technical committee appointed to conduct the credentialing study and the Secretary of Health and Environment recommended credentialing and licensure as the appropriate level thereof. The bill was drafted and introduced at the

request of the Senate Committee on Public Health and Welfare after the technical committee report and the recommendations of the Secretary were submitted to the Committee. Numerous conferees appeared both to support and oppose the bill at the hearing on SB 610. Committee amendments respond to some of the concerns of opponents.

The fiscal note indicates the Board of Healing Arts could expect to collect licence fees from seven naturopathic doctors located in Kansas for a total of \$2,100 and incur additional expenses of \$3,000 for Fiscal Year 2003.