

SESSION OF 2002

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2315

As Amended by Senate Committee of the Whole

Brief*

HB 2315 creates a new act to be known as the Naturopathic Doctor Registration Act and amends statutes that are a part of the Occupational Therapy Practice Act.

Naturopathic Doctors

New Sections 1 through 18 of HB 2315 create a new Naturopathic Doctor Registration Act which is to be administered by the State Board of Healing Arts with the assistance of a Naturopathy Advisory Council appointed pursuant to the provisions of the bill.

The bill defines terms used in the new act, including "naturopathic medicine" or naturopathy which is 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, and includes prescribing, recommending, or administering:

- Food, food extracts, vitamins, minerals, enzymes, whole gland thyroid, botanicals, homeopathic preparations, nonprescription drugs, plant substances that are not designated as controlled substances or prescription drugs, and certain topical drugs;
- Health care counseling, nutritional counseling and dietary therapy, naturopathic physical applications, and barrier contraceptive devices;
- Substances on a naturopathic formulary authorized for intramuscular or intravenous administration pursuant to a written protocol

*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>

entered into with a person licensed to practice medicine and surgery;

- Noninvasive physical examinations, venipuncture to obtain blood for clinical laboratory tests, and oroficial examinations, excluding endoscopies;
- Minor office procedures; and
- Naturopathic acupuncture.

Naturopathic medicine or naturopathy does not include surgery, obstetrics, administering ionizing radiation, or prescribing, dispensing, or administrating controlled substances or any prescription-only drugs except those listed on a naturopathic formulary adopted by the Board of Healing Arts. Other terms, including some used in the foregoing definition of naturopathic medicine, are defined in the bill.

HB 2315 requires the Board of Healing Arts to adopt a naturopathic formulary which lists the drugs and substances that are approved for intramuscular or intravenous administration by a registered naturopathic doctor pursuant to the order of a person licensed to practice medicine and surgery. In creating the formulary, the Board is to appoint a Naturopathic Formulary Advisory Committee to advise the Board and make recommendations on the list of substances to be included in the formulary. The Advisory Committee is to be made up of a licensed pharmacist, a person knowledgeable in medicinal plant chemistry, two persons licensed to practice medicine and surgery, and two registered naturopathic doctors.

The proposed new legislation provides for the registration of those naturopathic doctors who meet the criteria set out in New Section 4 of the bill and directs the Board of Healing Arts to administer the provisions of the act, judge the qualifications of applicants for examination and registration, and adopt specified rules and regulations. Provision is made for the registration of those persons who, prior to the effective date of the new act had: (1) 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 an accrediting body approved by the Board, (2) passed an examination approved by the Board covering appropriate naturopathic subjects, and (3) not

committed any act that would subject such person to a disciplinary action resulting in the suspension or revocation of a registration. The Board may waive education or examination requirements, or both, and register those applicants who are authorized to practice in another jurisdiction that has standards equivalent to those required by Kansas law and for any applicant for registration who on the day preceding the effective date of the new act was practicing under KSA 65-2872a.

Provision is made in HB 2315 for a temporary registration for applicants for registration who have met all requirements for registration or all except the examination. Holders of a temporary registration may practice only under the supervision of a registered naturopathic doctor.

HB 2315 makes it unlawful for any person not registered under the Naturopathic Doctor Registration Act to hold himself or herself out to the public as a registered naturopathic doctor, to use specified titles or abbreviations, or to use other words or letters indicating or implying such person is a naturopathic doctor. A violation is a class B misdemeanor.

Each naturopathic doctor rendering professional services in Kansas must maintain professional liability insurance as a condition to practicing in Kansas.

The Board of Healing Arts is authorized to deny, refuse to renew, suspend, or revoke a registration if the registrant or applicant for registration 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.

The bill creates a five-member Naturopathic Advisory Council to advise the Board of Healing Arts in the administration of the Naturopathic Doctor Registration Act. Three members are to be naturopathic doctors appointed by the Board, one member shall be the president of the Board or such person's designee, and one member is to be a public member appointed by the Governor.

Occupational Therapists and Occupational Therapy Assistants

HB 2315 amends statutes under which occupational therapists and occupational therapy assistants are currently registered by the Board of Healing Arts; creates new laws relating to the practice of occupational therapy; and amends laws relating to optometry, the act often referred to as the good samaritan act, peer review, and an act that pertains to risk management programs in medical care facilities. The latter amendments make no substantive changes in the laws, but change statutory references to occupational therapist from “registered” to “licensed.”

One of the changes resulting from amendments to the existing law is in the terminology used in protected titles whose use is limited to those persons who meet the criteria set out in the statutes. Under the provisions of HB 2315, those persons who meet the educational and other criteria set out in the act may use the word licensed rather than registered in titles referring to occupational therapy or in the use of initials indicating that such person is an occupational therapist or occupational therapy assistant. A number of the amendments in the bill are solely a change in terminology from registered to licensed.

The bill also expands the definition of occupational therapy by:

- Defining occupational therapy as the therapeutic use of purposeful and meaningful occupations to evaluate and treat individuals who have a disease, disorder, impairment, or activity limitation that interferes with their ability to function independently in daily life roles pursuant to referral, supervision, order, or direction by a person licensed to practice medicine or surgery or podiatry, a dentist, or an optometrist rather than as persons who are employed under the supervision of a physician;
- Creating new occupational therapy interventions;
- Creating new occupational therapy services, and
- Creating new statutory definitions of occupational therapy service providers to be known as occupational therapy aides, occupational therapy techs, or occupational therapy paraprofessionals.

The bill creates two new statutes that are made a part of the Occupational Therapy Practice Act. One sets out a list of persons who

are not to be construed as engaged in the practice of occupational therapy. The other sets out the role of occupational therapy aides, techs, or paraprofessionals and requires compliance with supervision requirements for such persons that are to be developed by the Board of Healing Arts by rules and regulations.

Pursuant to the provisions of HB 2315, persons holding a valid registration as an occupational therapist or occupational therapy assistant immediately prior to the effective date of the bill are to be deemed a licensed occupational therapist or occupational therapy assistant.

HB 2315 would become effective on April 1, 2003.

Background

HB 2315 was recommended by the Kansas Occupational Therapy Association whose representative explained that the profession of occupational therapy should be licensed in all states to protect consumers from unqualified practitioners and to provide a legal framework to ensure qualified practitioners' rights to provide occupational therapy services. Following review of the bill and testimony thereon, the Senate Committee found, although there is a change in nomenclature from "registered" to "licensed" in reference to occupational therapists, nothing in the bill creates protection of a scope of practice for occupational therapy. Protection of the titles that may be used by persons who meet the criteria set out in the Occupational Therapy Practice Act is continued through the provisions of HB 2315. The Senate Committee amendments to the original HB 2315 are technical in nature.

The Senate Committee of the Whole further amended HB 2315 to include a new act under which certain practitioners of naturopathy, naturopathic doctors, could obtain registration and provide those naturopathic services set out in the bill as well as having the title, naturopathic doctor, protected from use by unqualified persons.