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## BILL ANALYSIS



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Senate Bill 826 (as reported without amendment)  
Sponsor: Senator Rick Jones  
Committee: Regulatory Reform

Date Completed: 4-5-18

### **RATIONALE**

The use of complementary and alternative medicine (health care approaches developed outside of mainstream Western "conventional" medicine) has become increasingly popular. National Health Interview Surveys conducted over the past two decades by the National Center for Health Statistics have found that between 30% and 40% of adults and about 12% of children use some form of complementary or alternative health approach, such as natural products (dietary supplements other than vitamins and minerals), yoga, chiropractic care, acupuncture, and massage. Naturopathic medicine, also called naturopathy, is an alternative form of medicine that emphasizes prevention, treatment, and optimal health through therapeutic methods and substances that are believed to encourage an individual's self-healing process. Currently, Michigan is one of 30 states that do not provide for the licensure of naturopathic practitioners. It has been suggested that Michigan implement a process for licensing these individuals in order to make the State more attractive to prospective naturopathic practitioners and to ensure the safe and effective use of natural therapies.

### **CONTENT**

**The bill would add Part 186 (Naturopathic Physicians) to Article 15 (Occupations) of the Public Health Code to provide for the licensure of naturopathic physicians. Specifically, the bill would do the following:**

- **Prescribe requirements for naturopathic physician licensure, including an application and examination.**
- **Prescribe the scope of practice for naturopathic physicians.**
- **Create the Michigan Board of Naturopathic Medicine and prescribe its duties, including determining the qualifications of individuals applying for licensure and the scope of practice of naturopathic medicine, establishing continuing education requirements, and promulgating rules for examination standards.**
- **Create the Naturopathic Formulary Council.**
- **Require the Council to establish a naturopathic formulary, which would have to be reviewed annually, or at any time at the Board's request, and prescribe the scope of the formulary.**

**Additionally, the bill would amend the Code to do the following:**

- **Prohibit an individual engaging in the practice of naturopathic medicine from using the term "doctor" or "dr." in any written or printed manner or display without adding "of naturopathic medicine" or a similar term.**
- **Require the Department of Licensing and Regulatory Affairs (LARA) to annually establish a schedule of fees for an individual licensed or seeking a license as a naturopathic physician to offset LARA's administrative expenses.**
- **Include in the definition of "prescriber" a licensed doctor of naturopathic medicine.**

The bill would take effect 90 days after its enactment.

### Licensure

The bill would define "naturopathic medicine" as a system of practice that is based on the natural healing capacity of individuals for the diagnosis, treatment, and prevention of diseases.

Beginning one year after the date Part 186 took effect, an individual could not engage in the practice of naturopathic medicine unless licensed or otherwise authorized under Article 15.

To be eligible for a license to engage in the practice of naturopathic medicine, an applicant would have to submit all of the following to the Board of Naturopathic Medicine, as applicable:

- A completed application for licensure.
- Evidence that he or she was a graduate of an approved naturopathic medical program and had successfully passed a competency-based national naturopathic physicians licensing examination administered by the North American Board of Naturopathic Examiners, or by a successor agency that was nationally recognized to administer a naturopathic physicians licensing examination that represented Federal standards of education and training and that was approved by the Board, except as provided in the following item.
- Evidence of successful passage of a Board-approved state competency examination or Canadian provincial examination, for a graduate of an approved naturopathic medical program offered by a degree-granting college or university in the United States or a diploma-granting, degree-equivalent college or university in Canada.
- Any other information or documents required under Article 15 or required by the Board.

"Approved naturopathic medical program" would mean any of the programs described below:

First, the term would mean a naturopathic medical education program that is located in the U.S., that provides the degree of doctor of naturopathy or doctor of naturopathic medicine, and that meets all of the following requirements: 1) offers graduate-level full-time didactic and supervised clinical training; 2) is accredited or has achieved candidacy status for accreditation by the Council on Naturopathic Medical Education (CNME) or an equivalent federally recognized accrediting body for naturopathic medical programs approved by the Board; and 3) is an institution or part of an institution of higher education that is accredited or is a candidate for accreditation by a regional or national institutional accrediting agency recognized by the U.S. Secretary of Education.

Second, the term would include a naturopathic medical education program offered by a degree-granting college or university that existed before the existence of the CNME and that meets all of the following requirements: 1) offered a full-time structured curriculum in basic sciences and supervised patient care comprising a doctoral naturopathic medical education; 2) was at least 132 weeks in duration and required completion of the program within a period of at least 35 months as a prerequisite to graduation; 3) was offered by a college or university that was reputable and in good standing in the judgment of the Board; and 4) if the program is still offered, is accredited by the CNME or an equivalent federally recognized accrediting body for naturopathic medical programs approved by the Board.

Third, the term would include a naturopathic medical education program offered by a diploma-granting, degree-equivalent college or university located in Canada that was offered before the existence of the CNME and that meets all of the following requirements: 1) was offered by a college or university that had provincial approval for participation in government-funded student aid programs; 2) offered a full-time structured curriculum in basic sciences and supervised patient care comprising a doctoral naturopathic medical education; 3) was at least 132 weeks in duration and required completion of the program within a period of at least 35 months as a prerequisite to graduation; 4) was offered by a college or university that was reputable and in good standing in the Board's judgment; 5) if the program is still offered, is accredited by the CNME or an equivalent federally recognized accrediting body for naturopathic medical programs approved by the Board;

and 6) if the program is still offered, the college or university has provincial approval for participating in government-funded student aid programs.

Finally, "approved naturopathic medical program" would include a naturopathic medical education program offered by a diploma-granting, degree-equivalent college or university located in Canada that provides the degree of doctor of naturopathy or doctor of naturopathic medicine and that meets all of the following requirements: 1) offers graduate-level full-time didactic and supervised clinical training; 2) is accredited or has achieved candidacy status for accreditation by the CNME or an equivalent federally recognized accrediting body for naturopathic medical programs approved by the Board; and 3) is offered by a college or university that has provincial approval for participation in government-funded student aid programs.

Each license granted or renewed would expire four years following the date it was granted or last renewed.

#### Scope of Practice

A naturopathic physician would be permitted to do any of the following, consistent with his or her naturopathic education and training:

- Order and perform physical and laboratory examinations for diagnostic purposes, including phlebotomy, clinical laboratory tests, orificial examinations, or physiological function tests.
- Order diagnostic imaging studies.
- Use routes of administration that included oral, nasal, auricular, ocular, rectal, vaginal, transdermal, intradermal, subcutaneous, intravenous, or intramuscular consistent with his or her education and training.
- Other naturopathic therapies as approved by the Board.

A naturopathic physician also could dispense, administer, order, or prescribe or perform any of the following:

- Food, extracts of food, nutraceuticals, vitamins, amino acids, minerals, enzymes, botanicals and their extracts, botanical medicines, homeopathic medicines, all dietary supplements, or nonprescription drugs as defined by the Federal Food, Drug, and Cosmetic Act (those that do not require a written prescription from a licensed practitioner and are not subject to approval in an application submitted under the Act).
- Prescription or nonprescription medicines as designated by the Naturopathic Formulary Council.
- Hot or cold hydrotherapy, naturopathic physical medicine, electromagnetic energy, or therapeutic exercise.
- Devices, including therapeutic devices, barrier contraception, or durable medical equipment.
- Health education or counseling.
- Repair and care incidental to superficial lacerations or abrasions.
- Musculoskeletal manipulation.

A naturopathic physician would not be permitted to do any of the following:

- Prescribe, dispense, or administer any controlled substance or device identified in the Federal Controlled Substances Act, except as authorized under Part 186.
- Perform surgical procedures except minor office procedures, subject to limitations of the Board (as described below).
- Engage or claim to engage in the practice of any other health profession, including performing chiropractic adjustments, unless licensed to engage in the profession under Article 15.
- Use general or spinal anesthetics.
- Administer ionizing radioactive substances for therapeutic purposes.
- Perform surgical procedures using a laser device.
- Perform surgical procedures involving the eye, ear, tendons, nerves, veins, or arteries.

A naturopathic physician would have to observe and would be subject to all State, county, and municipal rules, ordinances, or regulations in regard to the control of contagious and infectious diseases, the reporting of births and deaths, and any and all other matters pertaining to the public health in the same manner as required of other health professionals under the Code. A violation of any State, county, or municipal rule, ordinance, or regulation would be considered a violation of the Code subject to the investigation and sanction provisions of Sections 16221 and 16226. (Those sections require LARA to investigate activities related to the practice of a health profession by a licensee, a registrant, or an applicant for licensure or registration. The Department may hold hearings, administer oaths, and order the taking of relevant testimony. After its investigation, LARA must provide a copy of the administrative complaint to the appropriate disciplinary subcommittee. If one or more grounds for disciplinary subcommittee action exist, the disciplinary subcommittee must impose sanctions.)

#### Scope of Part 186

Part 186 would not prohibit or restrict any of the following:

- The practice of a profession or occupation by an individual who was licensed, certified, registered, or otherwise authorized under the Code or other laws of the State and who was performing services within his or her authorized scope of practice.
- The practice of naturopathic medicine by students enrolled in an approved naturopathic medical program who were performing services pursuant to a course of instruction or assignments from an instructor, who was a licensed naturopathic physician or a duly licensed professional in the field of instruction, and under the supervision of the instructor.
- Self-care by a patient or uncompensated care by a friend or family member who did not represent or hold himself or herself out to be a naturopathic physician.
- An individual who sold vitamins and herbs from providing information about his or her products.
- An individual who was educated and trained in naturopathy or naturopathic health care and provided naturopathic therapy within the scope of that education and training.
- An individual who was educated and trained as a naturopath, naturopathic practitioner, or traditional naturopathic practitioner and who provided naturopathic therapy within the scope of that education and training.

Additionally, Part 186 would not prohibit or restrict an individual from advising in the use of a therapy, including herbal medicine, homeopathy, nutrition, or other nondrug or nonsurgical therapy that was within the scope of practice of naturopathic physicians, if both of the following were met:

- The individual was not a health care professional and the therapy was within that individual's lawful rights to perform, or, if the individual were a health care professional, the therapy was within the scope of practice of that health care profession.
- The individual was not using a protected word, title, or letters (as discussed below) and did not represent or hold himself or herself out to be a naturopathic physician.

#### Board of Naturopathic Medicine

The bill would create the Board of Naturopathic Medicine in the Department of Licensing and Regulatory Affairs. The Board would consist of the following seven members, each of whom would have to meet the requirements of Part 161 (General Provisions):

- Four naturopathic physicians.
- One physician who was licensed under Part 170 (Medicine) or Part 175 (Osteopathic Medicine and Surgery).
- Two public members.

The Board would have to do all of the following:

- Determine the qualifications of individuals applying for licensure and define, by rule, the appropriate scope of practice of naturopathic medicine in Michigan, although the scope of practice of naturopathic medicine could not exceed the tasks, functions, and duties prescribed by Part 186.
- Review the content of rules and proposed rules governing the practice of naturopathic medicine in Michigan.
- Evaluate the content of any clinical, practice, or residency requirement.
- Establish a minimum amount and kind of continuing education to be required annually for each naturopathic physician as a condition of licensure renewal, subject to Section 16204 (which requires an applicant for renewal to complete an appropriate number of hours or courses in pain and symptom management, if the completion of continuing education is a condition for renewal).
- Limit the performance of minor office procedures to a naturopathic physician who had graduated from an approved naturopathic medical program that included minor office procedures as part of its curriculum or who had up-to-date certification of equivalent training, as determined by the Board, if he or she graduated from an approved naturopathic medical program that did not include minor office procedures as part of the curriculum.
- Limit the prescribing authority for prescription drugs to a naturopathic physician who had graduated from an accredited naturopathic medical program that included pharmacology as part of its curriculum or who had up-to-date certification of equivalent training, as determined by the Board, if he or she graduated from an approved naturopathic medical program that did not include pharmacology as part of the curriculum.
- Promulgate rules for examination standards, consistent with the standards of Part 186, for licensure and when those examinations would be provided.

In promulgating rules for examination standards, the Board would have to adopt a competency-based national examination consistent with the competency examination licensing requirements as the naturopathic licensing examination.

("Minor office procedure" would mean either of the following: 1) the use of operative, electrical, or other methods for the repair and care incidental to superficial lacerations and abrasions, superficial lesions, and the removal of foreign bodies located in the superficial tissues and the use of antiseptics and local topical anesthetics in connection with those methods; or 2) obtaining specimens to diagnose, assess, and treat disease).

#### Naturopathic Formulary Council

The Naturopathic Formulary Council would be created and would be separate and distinct from the Board of Naturopathic Medicine. The Council would be composed of the following five members:

- Two naturopathic physicians appointed by the Board.
- Two pharmacists who were licensed under Part 177 (Pharmacy Practice and Drug Control), appointed by the Board from a list of nominees provided by the Michigan Board of Pharmacy.
- One physician who was licensed under Part 170 or Part 175.

The Michigan Board of Medicine and Michigan Board of Osteopathic Medicine and Surgery could provide a list of nominees for appointment to the Council, and the Board of Naturopathic Medicine would have to appoint the licensed physician from one of those lists.

The Council would have to establish a naturopathic formulary for use by naturopathic physicians. When it adopted or revised the formulary, the Council would have to immediately transmit the formulary to the Board. The Board would have to request that LARA adopt the formulary by rule.

The Council would have to review the naturopathic formulary annually or at any time at the Board's request.

The naturopathic formulary could not go beyond the scope of natural medicines or prescription drugs and devices covered by approved naturopathic education and training or Board-approved continuing education.

The formulary could not include medicines or devices that were inconsistent with the training provided by the approved naturopathic medical programs.

A naturopathic physician could not dispense, administer, or prescribe a prescription drug, or a device as defined in Part 177, unless that prescription drug or device was specifically included in the formulary.

#### Title Protection

The following words, titles, or letters or combination of them, with or without qualifying words or phrases, would be restricted in use to only those individuals authorized to use the terms and in a way prescribed by Part 186: "doctor of naturopathic medicine", "doctor of naturopathy", "naturopathic physician", "naturopathic doctor", "naturopathic medical doctor", "naturopathic medicine", "N.D.", and "N.M.D.".

If he or she did not use the word or title "doctor", "physician", "medical doctor", or "medicine", an individual who was educated and trained in naturopathy or naturopathic health care or who was educated or trained as a naturopath, naturopathic practitioner, or traditional naturopathic practitioner would not be restricted from using any of the following words or titles in connection with his or her practice: "naturopathy", "naturopathic health care", "naturopathic practitioner", or "traditional naturopathic practitioner".

#### Other Provisions

The Department would have to establish procedures to govern matters, directly or indirectly, involving any individual who was related to an employee or agent of LARA in any way by blood or marriage.

Part 186 would not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by a licensed individual.

MCL 333.16265 et al.

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

In recent years, the demand for diverse and integrative health care solutions has grown. However, there is a risk of using supplements, botanicals, and therapeutic diets in harmful manner. This presents a public health issue regarding the safe and effective use of natural therapies. As experts in herb-drug-nutrient interactions, naturopathic physicians bridge the gap between conventional and natural medicine to better meet individuals' health care needs. Currently, Michigan is one of 30 states that do not provide for licensure, so naturopathic physicians practicing in Michigan must obtain a license in a different state. Additionally, because there are no federally recognized education programs in this field in Michigan, many individuals wishing to become naturopathic physicians leave the State for their education. The lack of licensure for naturopathic physicians in Michigan is a deterrent to many prospective clinically trained naturopathic physicians thinking about practicing in the State. The bill would remove these obstacles to increase the number of highly trained integrative health providers who practice in Michigan. Licensing naturopathic physicians would optimize public safety for patients looking for natural medicine alternatives.

The bill would clarify that a naturopathic physician or doctor was someone who had completed a four-year accredited program, had been trained in conventional medical diagnosis, and had passed his or her board exam. It would allow patients to differentiate a naturopathic doctor who had extensive training in medical diagnosis and natural agents from someone who was trained only in natural therapies. The bill would not limit the scope of other natural medicine practitioners nor limit their current business practices.

### **Opposing Argument**

By limiting the use of the title "naturopathic doctor" to individuals authorized to use it under Part 186, the bill would strip that title from over 500 traditional naturopathic doctors in the State, as well as create confusion for prospective naturopathic doctoral students. Historically, the term "naturopathic doctor" or "ND" refers to someone with the credential of a doctorate of naturopathic philosophy, not a medical doctor. In order to earn the credential of naturopathic doctor, individuals must pass a four-year educational program provided by the Naturopathic Institute of Therapies and Education, as well as a national exam created by professionals representing all areas of health care. On the other hand, although they are not licensed physicians, naturopathic physicians are medical practitioners who diagnose, prescribe, and perform minor procedures. Naturopathic physicians do not fit in the category of naturopathic doctor. While individuals should be allowed to become licensed as naturopathic physicians, they should have exclusive claim to the title "naturopathic doctor", which would remove that title from traditional naturopathic doctors who have already earned it.

### **Opposing Argument**

Registered dietitian nutritionists (RDNs) are food and nutrition experts who have earned a minimum of a bachelor's degree through an Accreditation Council for Education in Nutrition and Dietetic program, completed at least 1,200 hours of supervised practice, and passed a national registration examination administered by the Commission on Dietetic Registration. Under the bill, naturopathic physicians would be permitted to advise in the use of nutrition therapy and perform health counseling. This language could be confused with "medical nutrition therapy" services that RDNs provide. Federal law defines medical nutrition therapy as "nutritional diagnostic, therapy, and counseling services provided by a registered dietitian or nutrition professional for the purpose of managing disease". Because Michigan does not regulate medical nutrition therapy or the practice of dietetics and nutrition, many insurers use the terms "nutrition therapy" or "health counseling" and "medical nutrition therapy" interchangeably. Since the bill would require a person to be licensed under Part 186 in order to engage in naturopathic medicine, and naturopathic medicine would include health education or health counseling, the bill could prevent RDNs from providing nutrition care services that Michigan residents rely upon, and their RDNs are uniquely qualified to provide.

### **Opposing Argument**

Historically, musculoskeletal manipulations have been a fundamental tool of chiropractic medicine. The World Health Organization published a document titled "WHO guidelines on basic training and safety in chiropractic" in which it prescribes recommended requirements for individuals who wish to become chiropractors or perform chiropractic services, including required supervised clinical training. The bill should include additional language clarifying who has the necessary training in order to perform a musculoskeletal manipulation.

Legislative Analyst: Stephen Jackson

### **FISCAL IMPACT**

The bill would have a minor, negative impact on the Department of Licensing and Regulatory Affairs. The bill would have no impact on local units of government.

The bill would require LARA to offer licensure to naturopathic physicians, set fees for licensure, process applications for licensure, provide administrative support for a new Board of Naturopathic

Physicians, provide administrative support for a new Naturopathic Formulary Council, provide enforcement and disciplinary services for naturopathic physicians, and provide rule-making support for the Board. The bill would allow LARA to set licensure fee rates. These fees initially would be high to offset information technology and processing costs associated with setting up a new online license application. Estimates from the Department indicate that the initial licensing fee for about 30 anticipated applicants could be as high as \$750. Once application fee revenue exceeded the cost to set up the new online license application, those fees would come down significantly.

It is expected that the Department would absorb sustained costs associated with Board support and rule-making, as it already has staff in place to perform those tasks for other health care and professional boards, and would absorb travel expenses associated with the new seven-member Board and the new five-member Formulary Council. Travel expenses for board members can vary and are reimbursable for other boards housed in LARA.

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.