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## FISCAL IMPACT REPORT

**SPONSOR** Taylor                      **DATE TYPED** 02/23/05                      **HB** 921

**SHORT TITLE** Naturopathic Medicine Practice Act                      **SB** \_\_\_\_\_

**ANALYST** McSherry

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
NFI	\$50-100.0	\$50-100.0	Recurring	Naturopathic Prac- tice Fund

(Parenthesis ( ) Indicate Revenue Decreases)

House Bill 921 relates to, and conflicts with House Bill 890

### SOURCES OF INFORMATION

LFC Files  
 Corrections Department  
 Regulations and Licensing Department

### SUMMARY

#### Synopsis of Bill

House Bill 921 proposes the creation of the Naturopathic Medicine Practice Act which would regulate the naturopathy industry. This bill proposes definitions for naturopathic medicine and terms relating to the practice of naturopathic medicine including: naturopathic doctor, naturopathic medical doctor, naturopathic medicine, naturopathic physical medicine, medicines of mineral, animal and botanic origin, and natural hormones.

Naturopathic medicine is proposed to be defined as: a system of health care practiced by naturopathic doctors for the prevention, assessment and evaluation and treatment of human health conditions, injuries and diseases that uses education, natural medicines, homeopathy and therapies to support and stimulate a person's intrinsic self-healing processes; the definition includes naturopathic physical medicine

The proposed act would establish criteria for a licensing board to license and regulate practitioners of naturopathy and would create a naturopathic medicine practice act fund to be funded by license fees.

The bill proposes that the board would be administratively attached to the Regulations and Licensing Department.

The bill provides that doctors of naturopathic medicine could use the following types of medicines and therapies: food, food extracts, certain medicine of mineral, animal and botanical origins, vitamins, minerals, natural hormones, enzymes, digestive aids, whole gland thyroid, plant substances, homeopathic preparations, topical medicines, counseling, biofeedback, dietary therapy, hygiene and immunizations, certain injections, naturopathic physical medicine, therapeutic devices and barrier devices for contraception.

HB 921 proposes the creation of a 5 member board, 3 members of which would be doctors of naturopathic medicine and 2 members of which would represent the public. The 5 member board would be made responsible for adopting the rules and regulations to “regulate” the professional licensees, including examination requirements, education and experience requirements, and a code of ethics. The bill provides for “grandfathering” of existing practitioners, and exempting existing alternative health care practitioners who are not naturopaths.

The proposed bill provides grounds for disciplinary action against a licensee and sets the penalty as a misdemeanor.

#### Significant Issues

The proposed Act and associated board have not been reviewed by the Sunset/Sunrise subcommittee of the Legislative Finance Committee and have not received a recommendation for creation from the subcommittee.

The proposed license type seems to be similar to other already regulated professions and it is not clear what the number of professionals to which the board would administer licenses would be.

The proposed bill would create a new misdemeanor: the violation of any provision of the Naturopathic Medicine Practice Act including, but not limited to, providing the board with false information, practicing naturopathic medicine without a license, and failure to pay fees.

According to the Regulations and Licensing Department, the proposed board being administratively attached to the Department would permit the board to rely on RLD staff to assist with the development will permit the board to rely on RLD staff to assist with the development of the program framework and the drafting and adopting of rules and regulations.

According to RLD, the creation of this board has not been reviewed through the Sunrise Review Process.

#### **FISCAL IMPLICATIONS**

HB 921 does not include an appropriation, but creates a naturopathy practice fund and provide for the state treasurer to invest the fund as other state funds are invested, and to credit to the fund with returns from the investment. All balances in the fund would remain in the fund and would not revert to the general fund.

A cap on proposed fees is proposed to be five hundred dollars (\$500) for any application, examination, license, registration, inspection, renewal, penalty, reactivation or administrative fee. The proposed language would allow the proposed board to establish fees by rule. The proposed fee for a grandfathered licensee within the first year of the effective date of the act is three hundred fifty dollars (\$350).

The Regulations and Licensing Department estimates that the cost of setting up a naturopathy board, drafting regulations, conducting hearings, and setting up a viable regulation program would cost \$100.0 thousand and a lesser amount on a recurring basis. RLD asserts that the estimate includes funding for a half-time Office Clerk and Administrative support, travel expenses for four board meetings, travel for rule hearings statewide, and any overhead costs associated with setting up a new program. RLD continues that the applicant pool, as identified by this bill, is significantly larger than the pool identified in HB 890 and would be large enough to generate revenue to cover the majority of the costs of regulating naturopathy.

In order to generate \$100 thousand the first year of existence, the board would have to license 286 professionals in naturopathy. No suggestion or citation of the expected number of licensees has been provided at this time. RLD administers other boards which have budgets as small as \$27 thousand in revenues/year.

#### Continuing Appropriations

This bill creates a new fund and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities.

#### **ADMINISTRATIVE IMPLICATIONS**

The Corrections Department reports that, in both the short term and the long term, this bill would somewhat increase the administrative prison staff and probation staff because of the increasing prison population and probation caseloads. The Department reports that it would be able to absorb the additional burden due to the fact that the numbers of persons convicted would be minimal.

Because HB 921 attaches the Naturopathic Medicine Board administratively to the Regulation & Licensing Department, enactment of the bill would have an administrative impact on the Boards and Commissions program staff. The Department reports that the board being administratively attached to the department would permit the board to rely on RLD staff to assist with the development of the program framework and the drafting and adopting of rules and regulations.

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

The proposed act and board seem to relate to similar practices as are covered by the Acupuncture and Oriental Medicine Board and the Massage Therapy Board.

House Bill 921 and House Bill 890 cover similar material and have the same short title but conflict.

Proposed language involving renewal of licenses, duties of the board, longevity of board member appointment, license requirements, definitions of a naturopathic doctor, description of how a na-

turopathic doctor should be designated, and the necessary requirements for accreditation of schools differ between the two bills.

## **TECHNICAL ISSUES**

The Regulation & Licensing Department raises the concern that the act creates a very broad scope of practice that overlaps many existing alternative health practices. The Department also points out that, at the same time, the proposed language creates exemptions for existing alternative practices, provided that patients give informed consent. RLD asserts that the proposed Act would not limit the public's access to existing alternative therapies and remedies, and would provide standards for the practice of Naturopathy.

## **ALTERNATIVES**

The proposed Naturopathy Board could be proposed to the Sunset/Sunrise subcommittee of the Legislative Finance Committee in order to gain support for its creation.

Another alternative would be to not regulate Naturopathic Medicine by not creating a Naturopathic Medicine Act.

The alternative bill, HB 890 which would also provide for a Naturopathic Medicine Practice Act, would not allow for "grandfathering" members of the profession, and would not exempt alternative health practitioners from the act.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

Professional licensure will not be enacted in New Mexico for the Naturopathic profession

## **POSSIBLE QUESTIONS**

1. Why did the proposed board not participate in the Sunset/Sunrise Committee hearings during the fall?
2. How many Naturopathic doctors reside in New Mexico?
3. How many Naturopathic doctors could not be considered professionals under another act?
4. Could Naturopathic doctors be licenses under the Acupuncture and Oriental Medicine Practice Act; or could Acupuncture and Oriental Medicine Practice Act be expanded to include the naturopathic medicine practice?

**EM/lg**