

FIRST REGULAR SESSION

SENATE BILL NO. 327

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS YECKEL AND CARTER.

Read 1st time January 18, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0906S.011

AN ACT

To amend chapter 324, RSMo, by adding thereto ten new sections relating to occupations and professions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 324, RSMo, is amended by adding thereto ten new sections, to be known as sections 324.750, 324.753, 324.756, 324.759, 324.762, 324.765, 324.768, 324.771, 324.774 and 324.777, to read as follows:

324.750. For the purpose of sections 324.750 to 324.780, the following terms shall mean:

- (1) "Department", the department of economic development;**
- (2) "Malpractice", failure on the part of a person certified under this chapter to exercise the degree of care, diligence and skill ordinarily exercised by naturopaths;**
- (3) "Naturopath", an individual who engages in the practice of naturopathy;**
- (4) "Naturopathy", a distinct system of noninvasive health practice in which neither surgery nor drugs are used, consisting instead of assessment, education, counseling and natural health modalities including, but not limited to, the use of foods, food extracts, vitamins, minerals, enzymes, digestive aids, herbs, botanical substances, homeopathic preparations, aromatherapy, air, water, touch, heat, cold, sound, light, iridology and exercise to help stimulate and maintain the body's intrinsic self-healing process.**

324.753. 1. No individuals may represent themselves as certified to practice naturopathy in this state without first complying with this chapter.

2. Individuals certified pursuant to this chapter shall have the exclusive right to use the term certified in conjunction with the following titles and terms:

"Naturopath", "Doctor of Naturopathy", "Naturopathic Doctor", "Naturopathic", "Naturopathy", "Naturopathic health care" and "N.D."

324.756. Individuals certified pursuant to this chapter are authorized to practice naturopathy in conjunction with the term "certified".

324.759. Naturopaths certified pursuant to this chapter may not:

(1) Prescribe, dispense, administer or make any recommendations pertaining to any legend or controlled substance as defined in the federal Controlled Substance Act, United States Code, Title 21, Sections 801 to 971;

(2) Perform surgical procedures;

(3) Practice emergency medicine, except as a Good Samaritan rendering gratuitous services in the case of emergency and except for the care of minor injuries;

(4) Practice or claim to practice medicine, surgery, osteopathy, dentistry, podiatry, optometry, chiropractic, physical therapy or obstetrics;

(5) Recommend discontinuance of medically prescribed treatments;

(6) Engage in sexual contact with a naturopathic client or former client, engage in contact that may be reasonably interpreted by a client as sexual, engage in any verbal behavior that is seductive or sexually demeaning to the patient, or engage in sexual exploitation of a client or former client. For the purposes of this subdivision, "former client" means a person who has obtained services from the naturopath within the past two years;

(7) Use advertising that is false, fraudulent, deceptive or misleading;

(8) Reveal a communication from, or relating to, a naturopathic client except when otherwise required or permitted by law;

(9) Fail to comply with a naturopathic client's request made pursuant to section 324.765 or to furnish a naturopathic client's record or report required by law;

(10) Split fees or promise to pay a portion of a fee to any other professional other than for services rendered by the other professional to the naturopathic client;

(11) Fail to provide a naturopathic client with a copy of the client bill of rights or violation of any provisions of the client bill of rights; or

(12) Fail to provide a naturopathic client with a recommendation that the client see a licensed health care provider.

324.762. The department may adopt such rules as are necessary to carry out the purposes of this chapter including, but not limited to, investigation of complaints, imposition of sanctions from suspension of certification to revocation of certification. The department shall also establish fees based on its estimates of the revenue required to administer this chapter.

324.765. 1. A person certified pursuant to this chapter may use the titles set forth

in section 324.753.

2. All persons certified pursuant to this chapter shall provide to each naturopathic client prior to providing services a written copy of the naturopathic client bill of rights. A copy must also be posted in a prominent location in the office of the naturopath. Reasonable accommodations shall be made for those clients who cannot read or who have communication impairments and those who do not speak English. The naturopathic client bill of rights shall include the following:

(1) The name, complementary and alternative health care title, business address and telephone number of the unlicensed complementary and alternative health care practitioner;

(2) The degrees, training, experience or other qualifications of the practitioner regarding the complimentary and alternative health care being provided, followed by the following statement in bold print:

"THE STATE OF MISSOURI HAS NOT ADOPTED ANY EDUCATIONAL AND TRAINING STANDARDS FOR CERTIFIED NATUROPATHS. THIS STATEMENT OF CREDENTIALS IS FOR INFORMATION PURPOSES ONLY. Under Missouri law, a certified naturopath may not provide a medical diagnosis or recommend discontinuance of medically prescribed treatments. If a client desires a diagnosis from a licensed health care provider, the client may seek such services at any time.";

(3) The name, business address and telephone number of the practitioner's supervisor, if any;

(4) Notice that a complementary and alternative health care client has the right to file a complaint with the practitioner's supervisor, if any, and the procedure for filing complaints;

(5) The name, address and telephone number of the office of an unlicensed complementary and alternative health care practice and notice that a client may file complaints with the department;

(6) The practitioner's fees per unit of service, the practitioner's method of billing for such fees, the names of any insurance companies that have agreed to reimburse the practitioner, or health maintenance organizations with whom the practitioner contracts to provide service, whether the practitioner accepts medicare, medical assistance or general assistance medical care, and whether the practitioner is willing to accept partial payment, or to waive payment, and in what circumstances;

(7) A statement that the client has a right to reasonable notice of changes in services or charges;

(8) Notice that the client has a right to complete and current information concerning the practitioner's assessment and recommended service that is to be

provided, including the expected duration of the service to be provided;

(9) A statement that the client may expect to be treated courteously at all times;

(10) A statement that client's records are confidential, unless release of these records is authorized in writing by the client, or otherwise provided by law;

(11) A statement of the client's right to be allowed access to records and written information from records in accordance with section 324.765;

(12) A statement that the client has the right to choose freely among available practitioners and to change practitioners after services have begun; or

(13) A statement that the client has a right to coordinated transfer when there will be a change in the provider of services.

324.768. 1. Prior to the provision of any services, a naturopathic client must sign a written statement attesting that the client has received the naturopathic client bill of rights.

2. The department shall issue a certificate to practice naturopathy together with the rights and privileges set forth herein to anyone who passes the exam in subsection 3 of this section, pays the required annual fees established by the department, is eighteen years of age and is of good moral character.

3. An applicant for certification shall pass any one of the following examinations:

(1) The examination offered by the American Board of Naturopathic Examiners (ABNE), a nonprofit corporation;

(2) The examination offered by the Natural Health Examination and Certification Board (NHECHB), a nonprofit corporation; or

(3) Any other examination that tests naturopathy as defined in this chapter and which is approved by the department. The examination may be passed prior to the effective date of this section.

324.771. 1. Nothing in this chapter may be construed to prohibit or to restrict:

(1) The practice of a profession by individuals who are licensed, certified or registered under other laws of this state who are performing services within their authorized scope of practice;

(2) An individual from administering a domestic or family remedy;

(3) Persons from furnishing nutritional information or engaging in the explanation to customers about foods, food materials, vitamins, herbs or other dietary supplements in connection with the marketing, sale or distribution of those products;

(4) Any person certified pursuant to this chapter from engaging in the marketing and distribution of food and food materials, vitamins, herbs or other dietary supplements;

(5) A person or group who disseminates information or literature relating to the benefits or preparation of food, food materials or dietary or food supplements;

(6) A person or group who gives speeches, conducts seminars or teaches classes in natural health;

(7) A person or group who conducts exercise, fitness or weight control programs;

(8) A person or group who is traditionally recognized in the community as a provider of naturopathic advice including, but not limited to, a curandero or medicine man or woman, and who advises people according to or based on cultural practices;

(9) A person who practices animal nutrition;

(10) A person who practices midwifery.

2. This chapter recognizes that many of the techniques and modalities used in naturopathy including, but not limited to, the use of nutritional supplements, herbs, foods, homeopathic preparations, and such physical forces as heat, cold, water, touch, light and iridology are not the exclusive privilege of persons certified under this chapter, and their use by persons not certified by this chapter to assess, educate, advise and counsel others is not prohibited by this chapter and does not constitute the practice of medicine.

3. Nothing in this chapter shall be construed to interfere with the religious practices or observances of a religion or religious organization, nor to prevent any person from caring for the sick in accordance with tenets and practices of any church or religious denomination which teaches reliance upon spiritual means through prayer for healing.

324.774. The provisions of sections 324.750 to 324.777 are severable. If any part of sections 324.750 to 324.777 is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

324.777. 1. There is hereby created the "Missouri Naturopathic Advisory Committee", to be composed of five members to be appointed by the department.

2. The naturopathic advisory committee shall:

(1) Assist the department in conducting examinations for applicants of naturopathic certification;

(2) Advise the department on all matters pertaining to the certification of naturopaths;

(3) Review all complaints and/or investigations wherein there is a possible violation of sections 324.750 to 324.770 or regulations promulgated pursuant thereto and make recommendations to the department for action;

(4) Follow the provisions of the department's administrative practice procedures in conducting all official duties.

3. Each naturopathic advisory committee member shall:

(1) Be a citizen of the United States and a resident of the state of Missouri for five years next preceding appointment; and

(2) Be comprised of three certified naturopaths except for initial appointees; and

(3) One member shall be a physician duly licensed by the Missouri state board for the healing arts; and

(4) One member shall be a general public member.

4. Except for the initial appointees, members shall hold office for terms of six years. The department shall designate one member for a term expiring in 2001, one member for a term expiring in 2002, one member for a term expiring in 2003, one member for a term expiring in 2004, and one member for a term expiring in 2005. In the event of death, resignation, or removal of any member, the vacancy of the unexpired term shall be filled by the department in the same manner as the other appointments.

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