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FISCAL IMPACT REPORT

SPONSOR: HJC DATE TYPED: 3/6/03 HB 312/HJCS

SHORT TITLE: Naprapathic Practice Act SB _____

ANALYST: Maloy

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	\$20.0			Recurring	OSF
			\$64.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 255.

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	\$20.0		Recurring	New-Naprapathic Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

- The House Judiciary Committee Substitute for House Bill 312 creates the Naprapathic Practice Act. Naprapathy is defined as: “diagnosis and treatment of persons with connective tissue disorders through the use of special techniques, including tissue manipulation, exercise, postural counseling and the application or use of heat, cold, light, water, radiant energy, electricity, sound and air and assistive devices.”

The bill defines naprapathy as *not* including: “surgery, acupuncture, Chinese herbal medicine, pharmacology or invasive diagnostic testing.” Also, a naprapath who is not li-

censed pursuant to the Acupuncture and Oriental Medicine Practice Act shall not hold himself out as qualified to perform acupuncture or provide oriental medicine treatment. Similarly, the bill provides that a naprapath shall not practice chiropractic services, physical therapy, occupational therapy unless appropriately licensed in these

- The proposed Naprapathic Practice Act outlines:
 1. the definition of the practice of naprapathy;
 2. licensing requirements, including education and training qualifications;
 3. exceptions to licensure;
 4. application procedures; and
 5. designation as a naprapath, as well as license display.
- The bill also creates the Naprapathic Practice Board. This board is to be comprised of 5 members, 3 of whom are licensed naprapaths and 2 of whom are to be members of the general public with no financial interests in the profession of naprapathy. Board members are to be appointed by the governor for four-year terms, and are to advise the superintendent (of the Regulation and Licensing Department) regarding licensure issues.

The bill sets forth the powers and duties of the board in detail:

1. hold hearing and develop rules for the superintendent to review and adopt;
 2. regulate licensure, and renewal of licensure of naprapaths, establishing minimum qualifications and experience requirements;
 3. prescribe the manner in which records of examinations and treatments shall be kept and maintained;
 4. establish rules governing professional conduct in the field;
 5. investigate complaints and pursue disciplinary actions;
 6. provide for the dissemination of information statewide to licensees;
 7. provide for the inspection of licensees' premises;
 8. address reciprocity;
 9. set standards for advertising as a naprapath.; and
 10. the authority to undertake any matter necessary for implementation of Naprapathic Practice Act.
- Any person violating the Naprapathic Practice Act is guilty of a misdemeanor. The civil penalty for a violation may be up to \$1,000.
 - The bill contains a sunset clause providing that the board is terminated on July 1, 2011.
 - Finally, the bill is clear that nothing in the Act is to be construed to prevent a person qualified as a member of a recognized profession, the practice of which requires a license or is regulated pursuant to the laws of New Mexico, from rendering services within the scope of the person's license or a state rule adopted to regulate the profession, providing the person does not represent himself to be a naprapath.

Significant Issues

- Proponents of this legislation anticipate a licensure base of twenty in the first year and

nearly forty the year following. Upon enactment of this bill, proponents also plan to fully establish a naprapathic training school and plan to contribute in various ways to the southern part of the state.

- Naprapathy is formally recognized and licensed only in Illinois. For this reason, there is little knowledge of the profession, and how it should be regulated, in New Mexico.
- Presumably, this board is to be administratively attached to the Regulation and Licensing Department (RLD) in the same way existing boards are attached (a relationship currently being clarified through numerous pieces of legislation). However, while being administratively attached to RLD, most every board independently adopts its rules and regulations, determines the qualifications of its applicants for licensing, and sets its fees. This makes sense because the board members are the knowledgeable experts.

Yet, in this bill, the board is put in the place of simply recommending rules and regulations to the Superintendent of RLD See page 7, lines 3–5. Also, the Superintendent is granted the authority to personally interview potential licensees to evaluate their qualifications, and to set the board’s license fees. See page 6, lines 7-9 and page 10, lines 3-5.

Granting this authority to the Superintendent of RLD is not likely the most prudent course. The Superintendent may not possess the appropriate knowledge base / expertise to make the best decisions possible.

FISCAL IMPLICATIONS

- The bill creates the naprapathy fund. All fees collected pursuant to the Naprapathic Practice Act are OSFs and shall be deposited with the state treasure. Any unexpended or unencumbered balance remaining in the fund at the end of a fiscal year shall not revert to the general fund.
- According to RLD, the proposed naprapathy fund should be adequate to cover the cost of establishing and operating a regulatory board for naprapathy. It is estimated that the cost of setting up a naprapathy board, drafting regulations, conducting hearings, and attending to the various tasks necessary to set up a viable regulation program would cost \$78.5 to \$93.6 in the first year. This includes funding for a full-time Administrator IV, travel expenses for four board meetings, travel for rule hearings statewide, and any overhead costs associated with setting up a new program.

Revenues are estimated at approximately \$20.0 in the first year, assuming that forty (40) licensees are issued a license at \$500 per license. RLD anticipates the need for an additional appropriation of \$64.0 to the department from the general fund.

POSSIBLE QUESTIONS

Did the proposed board follow the sunrise process?

SJM/njw:sb