

SB0193S01 compared with SB0193

~~text~~ shows text that was in SB0193 but was deleted in SB0193S01.

inserted text shows text that was not in SB0193 but was inserted into SB0193S01.

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Senator J. Stuart Adams proposes the following substitute bill:

NATUROPATHIC PRACTICE ACT AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Naturopathic Physician Practice Act by amending definitions and membership of a naturopathic formulary advisory peer committee.

Highlighted Provisions:

This bill:

- ▶ permits a naturopath to

~~under~~ the general supervision of a physician, prescribe tramadol to a patient;
and

~~}~~ administer certain percutaneous injections;

- ▶ adds a licensed physician to the naturopathic formulary advisory peer committee;
and
- ▶ makes technical changes.

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Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-71-102, as last amended by Laws of Utah 2012, Chapter 117

58-71-202, as last amended by Laws of Utah 2005, Chapter 73

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **58-71-102** is amended to read:

58-71-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

~~[(2)]~~ (1) "Acupuncture" has the same ~~[definition as]~~ meaning as described under the definition of the "practice of acupuncture" in Section 58-72-102.

~~[(1)]~~ (2) "Administrative penalty" means a monetary fine imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(3) "Board" means the Naturopathic Physicians Licensing Board created in Section 58-71-201.

(4) "Diagnose" means:

(a) to examine in any manner another person, parts of a person's body, substances, fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection (4)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (4)(a); or

(d) to make an examination or determination as described in Subsection (4)(a) upon or

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from information supplied directly or indirectly by another person, whether or not in the presence of the person making or attempting the diagnosis or examination.

(5) "Local anesthesia" means an agent, whether a natural medicine or prescription drug, which:

(a) is applied topically or by injection [~~in superficial tissues~~] associated with the performance of minor office procedures;

(b) has the ability to produce loss of sensation at the site of minor office procedures; and

(c) does not cause loss of consciousness or produce general sedation.

(6) "Medical naturopathic assistant" means an unlicensed individual working under the direct and immediate supervision of a licensed naturopathic physician and engaged in specific tasks assigned by the licensed naturopathic physician in accordance with the standards and ethics of the profession.

(7) (a) "Minor office procedures" means:

(i) the use of operative, electrical, or other methods for repair and care of superficial lacerations, abrasions, and benign lesions;

(ii) removal of foreign bodies located in the superficial tissues, excluding the eye or ear; [~~and~~]

(iii) the use of antiseptics and local anesthetics in connection with minor office surgical procedures[-]; and

(iv) if approved by the United States Food and Drug Administration, percutaneous injection into skin, tendons, ligaments, muscles, and joints with:

(A) local anesthetics and nonscheduled prescription medications~~{, if approved by the United States Food and Drug Administration for administration by injection}~~; and

(B) natural substances.

(b) "Minor office procedures" does not include:

(i) general or spinal anesthesia;

(ii) office procedures more complicated or extensive than those set forth in Subsection

(7)(a);

(iii) procedures involving the eye; or

(iv) any office procedure involving tendons, nerves, veins, or arteries.

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(8) "Natural medicine" means:

(a) food, food extracts, dietary supplements as defined by the federal Food, Drug, and Cosmetics Act, all homeopathic remedies, and plant substances that are not designated as prescription drugs or controlled substances;

(b) over-the-counter medications;

(c) other nonprescription substances, the prescription or administration of which is not otherwise prohibited or restricted under federal or state law;

(d) prescription drugs:

(i) that, except as provided in ~~Subsection~~ Subsections (8)(e) ~~and (f)~~, are not controlled substances as defined in Section 58-37-2;

(ii) the prescription of which is consistent with the competent practice of naturopathic medicine; and

(iii) the prescription of which is approved by the division in collaboration with the naturopathic formulary advisory peer committee; ~~and~~

(e) testosterone, if the testosterone is:

(i) bio-identical;

(ii) designed to be:

(A) administered topically, for transdermal absorption; or

(B) absorbed across the mucosal membranes of the mouth; and

(iii) prescribed or administered, in accordance with the requirements of federal and state law, solely for the purpose of treating a patient with a low testosterone level in order to restore the patient to a normal testosterone level ~~and~~

~~(f) tramadol, if the tramadol is prescribed and administered:~~

~~(i) under the general supervision of a physician licensed as described in Subsection 58-71-202(2)(d); and~~

~~(ii) in accordance with the requirements of federal and state law, solely for the purpose prescribed.~~

‡ (9) (a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a naturopathic physician, and includes the use of:

(i) natural medicines; and

(ii) uncomplicated episiotomy.

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(b) "Naturopathic childbirth" does not include the use of:

- (i) forceps delivery;
- (ii) general or spinal anesthesia;
- (iii) caesarean section delivery; or
- (iv) induced labor or abortion.

(10) "Naturopathic mobilization therapy":

(a) means manually administering mechanical treatment of body structures or tissues for the purpose of restoring normal physiological function to the body by normalizing and balancing the musculoskeletal system of the body;

(b) does not mean manipulation or adjustment of the joints of the human body beyond the elastic barrier; and

(c) does not include manipulation as [~~defined~~] used in Title 58, Chapter 73, Chiropractic Physician Practice Act.

(11) (a) "Naturopathic physical medicine" means the use of the physical agents of air, water, heat, cold, sound, light, and electromagnetic nonionizing radiation, and the physical modalities of electrotherapy, acupuncture, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic mobilization therapy, and exercise.

(b) "Naturopathic physical medicine" does not include the practice of physical therapy or physical rehabilitation.

(12) "Practice of naturopathic medicine" means:

(a) a system of primary health care for the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases that uses education, natural medicines, and natural therapies, to support and stimulate the patient's intrinsic self-healing processes:

(i) using naturopathic childbirth, but only if:

(A) the licensee meets standards of the American College of Naturopathic Obstetricians (ACNO) or its successor as determined by the division in collaboration with the board; and

(B) the licensee follows a written plan for naturopathic physicians practicing naturopathic childbirth approved by the division in collaboration with the board, which includes entering into an agreement with a consulting physician and surgeon or osteopathic physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and

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specialty care and delivery is indicated, detailing the guidelines by which the naturopathic physician will:

- (I) refer patients to the consulting physician; and
- (II) consult with the consulting physician;
 - (ii) using naturopathic mobilization therapy;
 - (iii) using naturopathic physical medicine;
 - (iv) using minor office procedures;
 - (v) prescribing or administering natural medicine;
 - (vi) prescribing medical equipment and devices, diagnosing by the use of medical equipment and devices, and administering therapy or treatment by the use of medical devices necessary and consistent with the competent practice of naturopathic medicine;
 - (vii) prescribing barrier devices for contraception;
 - (viii) using dietary therapy;
 - (ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and physiological function tests;
 - (x) taking of body fluids for clinical laboratory tests and using the results of the tests in diagnosis;
 - (xi) taking of a history from and conducting of a physical examination upon a human patient; and
 - (xii) prescribing and administering natural medicines and medical devices, except a naturopathic physician may only administer:
 - (A) a prescription drug, as defined in Section 58-17b-102, in accordance with Subsection (8)(d); and
 - (B) local anesthesia that is not a controlled substance, and only in the performance of minor office procedures;
 - (b) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection (12)(a), whether or not for compensation; or
 - (c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions, in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy,"

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"naturopathic medical doctor," "naturopathic medicine," "naturopathic health care," "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that might cause a reasonable person to believe the individual using the designation is a licensed naturopathic physician.

(13) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(14) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(15) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(16) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-71-501.

(17) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-71-502, and as may be further defined by division rule.

Section 2. Section **58-71-202** is amended to read:

58-71-202. Naturopathic formulary peer committee.

(1) The division shall establish a naturopathic formulary advisory peer committee under Subsection 58-1-203(1)(f) to make recommendations to the board for the naturopathic formulary which shall:

(a) consist of noncontrolled legend medications deemed appropriate for the scope of practice of naturopathic physicians; and

(b) include all homeopathic remedies.

(2) The committee shall consist of five members:

(a) one naturopathic physician who is a member of the board;

(b) [~~three~~] two naturopathic physicians who are not members of the board; [~~and~~]

(c) one licensed pharmacist who is also a pharmacognosist[-]; and

(d) one physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68,

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Utah Osteopathic Medical Practice Act.

(3) The committee members shall:

(a) be appointed by the director of the division;

(b) be appointed and serve in accordance with Section 58-1-201, except as those provisions are modified by this section; and

(c) serve without compensation, travel costs, or per diem for their services.

(4) The committee and the division may seek input from other licensing boards.

†

Legislative Review Note

~~as of 2-11-14 12:28 PM~~

~~Office of Legislative Research and General Counsel~~