H.665

Introduced by Representatives Marcotte of Coventry, Batchelor of Derby, Kilmartin of Newport City, Lewis of Derby and McNeil of Rutland Town

Referred to Committee on

Date:

Subject: Health; naturopathic medicine; formularies; advertising practices

Statement of purpose: This bill proposes to require that the naturopathic physician formulary be approved by a pharmacologist and to require that the director of the office of professional regulation remove any substance on the formulary found to be illegal or unsafe. This bill also seeks to ban the sale or use of dietary supplements containing silver and to require that promotional material used by naturopathic physicians state that the naturopath is not a medical doctor.

An act relating to the naturopathic formulary and advertising practices of naturopathic physicians

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 26 V.S.A. § 4121 is amended to read:

§ 4121. DEFINITIONS

As used in this chapter:

* * *

(8) "Naturopathic medicine" or "the practice of naturopathic medicine" means a system of health care that utilizes education, natural medicines, and natural therapies to support and stimulate a patient's intrinsic self-healing processes and to prevent, diagnose, and treat human health conditions, injuries, and pain. In connection with such system of health care, an individual licensed under this chapter may:

(A) Administer or provide for preventative and therapeutic purposes nonprescription medicines, topical medicines, botanical medicines, homeopathic medicines, counseling, hypnotherapy, nutritional and dietary therapy, naturopathic physical medicine, naturopathic childbirth, therapeutic devices, barrier devices for contraception, and prescription medicines authorized by this chapter or by the formulary established under subsection ~~4125(c)~~ 4133(a) of this title.

(B) Use diagnostic procedures commonly used by physicians in general practice, including physical and orificial examinations,

electrocardiograms, diagnostic imaging techniques, phlebotomy, clinical laboratory tests and examinations, and physiological function tests.

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(13) "Dietary supplement" means a product as defined in Sec. 201(ff) of the federal Food, Drug and Cosmetic Act, 21 U.S.C. § 321.

(14) "Drug manufacturer" means a manufacturer of a prescription medicine, over-the-counter-drug, or dietary supplement.

(15) "Manufacture" means the production, preparation, propagation, conversion, or processing of a prescription medicine, over-the-counter-drug, or dietary supplement, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis.

(16) "Pharmacologist-approved naturopathic formulary" means the naturopathic formulary approved by the state pharmacologist.

(17) "State pharmacologist" means a pharmacologist appointed by the director to review and approve the naturopathic formulary.

Sec. 2. 26 V.S.A. § 4122 is amended to read:

§ 4122. PROHIBITIONS AND PENALTIES

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(b) A person licensed under this chapter shall not perform any of the following acts:

(1) Prescribe, dispense, or administer any prescription medicines except those medicines ~~authorized by this chapter~~ listed on the pharmacologist-approved naturopathic formulary established in section 4133 of this chapter.

(2) Perform surgical procedures, except for episiotomy and perineal repair associated with naturopathic childbirth.

(3) Use for therapeutic purposes, any device regulated by the United States Food and Drug Administration (FDA) that has not been approved by the FDA.

(4) Perform naturopathic childbirth without obtaining an endorsement from the director.

(5) Sell, dispense, or administer a prescription medicine, over-the-counter drug, or dietary supplement containing colloidal silver ingredients or silver salts, including silver proteins, silver, silver ion, silver chloride, silver cyanide, silver iodide, silver oxide, and silver phosphate.

(6) Sell, dispense, or administer a prescription medicine, over-the-counter drug, or dietary supplement, unless it was manufactured by a drug manufacturer or pharmacist as defined in section 2022 of this title who compounds drugs or dietary supplements.

(c) A person who violates any of the provisions of this section shall be subject to the penalties provided in 3 V.S.A. § 127(c).

(d) Print and electronic promotional materials for a person licensed under this chapter shall clearly state that the individual is a naturopathic physician and is not a medical doctor.

(e) A person licensed under this chapter shall provide to anyone who requests it, information regarding the source of a prescription medicine, over-the-counter drug, or dietary supplement dispensed or administered during the course of treatment.

Sec. 3. 26 V.S.A. § 4123(a) is amended to read:

(a) Nothing in this chapter shall be construed to prohibit any of the following:

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(4) The use or administration of over-the-counter medicines or other nonprescription agents, regardless of whether the over-the-counter medicine or agent is on the pharmacologist-approved naturopathic formulary established in section 4133 of this chapter, unless it contains colloidal silver ingredients or silver salts for nontopical use, including silver proteins, silver, silver ion, silver chloride, silver cyanide, silver iodide, silver oxide, and silver phosphate.

Sec. 4. 26 V.S.A. § 4125 is amended to read:

§ 4125. DIRECTOR; DUTIES

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(b) The director, with the advice of the advisor appointees, shall adopt rules necessary to perform the director's duties under this section, which shall include rules regulating the pharmacologist-approved naturopathic formulary, the naturopathic formulary examination, and naturopathic childbirth.

(c) ~~At least annually, in consultation with the commissioner of health and in accordance with consultation procedures adopted by the director by rule, the director with the advice of the advisor appointees, shall review and update the formulary of prescription medicines naturopathic physicians may use consistent with their scope of practice and training. Nonnatural substances found to be substantially safer in treatment or without which a patient's primary care would be compromised may be added to the formulary. The formulary shall include prescription medicines necessary for naturopathic practice and naturopathic childbirth.~~ The director shall appoint a state pharmacologist to review the safety and legality of prescription medicines, over-the-counter drugs, or dietary supplements on the naturopathic formulary, as well as proposed additions and deletions to the naturopathic formulary. The state pharmacologist shall be compensated at an hourly rate determined by the director using naturopathic physician licensing fees, collected pursuant to subsection 4130(a) of this chapter.

Sec. 5. 26 V.S.A. § 4133 is added to read:

§ 4133. PHARMACOLOGIST-APPROVED FORMULARY

(a) At least annually, the state pharmacologist in consultation with the director's advisor appointees shall review the safety and legality of prescription medicines, over-the counter drugs, and dietary supplements on the naturopathic formulary, as well as proposed additions to and deletions from the naturopathic formulary. The state pharmacologist shall approve those items on the naturopathic formulary or for addition to the naturopathic formulary if there is clinical evidence of the items' safety, including:

(1) nonnatural substances found to be safe for treatment or without which a patient's care would be compromised; or

(2) prescription medicines necessary for naturopathic practice and naturopathic childbirth.

(b) The director shall remove any prescription medicine, over-the-counter drug, or dietary supplement from the pharmacologist-approved naturopathic formulary immediately upon a finding by the state pharmacologist of persuasive evidence that it is not safe or legal.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2012.