

# GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

## Legislative Fiscal Note

**BILL NUMBER:** Senate Bill 1025 (First Edition)

**SHORT TITLE:** Naturopathic Physicians Registration Act.

**SPONSOR(S):** Senator Kinnaird

<b>FISCAL IMPACT</b>					
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2005-06</u></b>	<b><u>FY 2006-07</u></b>	<b><u>FY 2007-08</u></b>	<b><u>FY 2008-09</u></b>	<b><u>FY 2009-10</u></b>
<b>REVENUES</b>					
<b>Office of Regulatory and Legal Affairs</b>	\$18,900	\$4,900	\$18,500	\$7,700	\$18,500
<b>NC Dept. of Justice</b>	\$1,026	\$266	\$266	\$266	\$266
<b>EXPENDITURES</b>					
<b>Office of Regulatory and Legal Affairs</b>	\$43,500	\$19,250	\$19,827	\$20,422	\$21,034
<b>NC Dept. of Justice</b>	\$1,035	\$268	\$268	\$268	\$268
<b>NC Dept. of Correction</b>		* See Assumptions & Methodology * (pgs. 4-5)			
<b>Judicial Branch</b>		* See Assumptions & Methodology * (pgs. 4-5)			
<b>County Governments</b>		* See Assumptions & Methodology * (pgs. 4-5)			
<b>POSITIONS (cumulative):</b>					
<b>Office of Regulatory and Legal Affairs</b>	.50	.25	.25	.25	.25
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> North Carolina Association of Naturopathic Physicians, Department of Health and Human Services, North Carolina Board of Naturopathic Examiners, NC Department of Justice, Judicial Branch, Department of Correction, and county jails.					
<b>EFFECTIVE DATE:</b> When the act becomes law.					

**BILL SUMMARY:** This bill adds amends Chapter 90 to add a new chapter – Chapter 40 - that would require persons practicing as naturopathic physicians to register with the Office of Regulatory and Legal Affairs, Division of Public Health, Department of Health and Human Services, effective January 1, 2006. The legislation defines naturopathic medicine as a system of natural health care that employs diagnosis and treatment using natural therapies and diagnostic techniques for the promotion, maintenance, and restoration of health and the prevention of disease. Additionally, prohibits a naturopathic physician from certain practices including prescribing or dispensing a prescription drug or any controlled substance and using anesthetics. Also amends GS 114-19.16 to require fingerprinting and allow criminal record checks of applicants. The bill is identical to HB 1234 that was introduced on 4/14/05.

*Source: Bill Digest S.B. 1025 (03/24/0200)*

**ASSUMPTIONS AND METHODOLOGY:** In North Carolina it is a Class 1 misdemeanor to practice medicine without a license per G.S. 90-18. Therefore, an individual who diagnoses or treats a human ailment is considered to be practicing medicine. Currently, naturopathic medicine is not legally accepted in the State, but practitioners with varying levels of experience and education offer services. However, licensure is required for related health practices, i.e. Acupuncture, Chiropractic, Dietetics/Nutrition, Massage and Bodywork Therapy, Optometry, Osteopathy, and Podiatry.

Per this legislation, no individual would be allowed to practice naturopathic medicine without a license effective January 1, 2006. Section 1 of the bill amends Chapter 90 by adding Article 40 – Naturopathic Physicians Registration Act – that would require mandatory licensure for individuals involved in the practice of naturopathic medicine in the State. In accordance with Sections 90-681 and 682, naturopathic medicine would be considered a system of health care that employs diagnosis and treatment using natural therapies and diagnostic techniques for the promotion, maintenance, restoration of health, and the prevention of disease. Per Section 90-683, no individual would be allowed to practice or offer to practice as a naturopathic physician, perform naturopathic medicine, or use any card, title, or abbreviation to indicate that the individual is a naturopathic physician without meeting certain criteria. Specifically, the individual is: 1) registered under the new provision of law, Article 40; 2) licensed to practice in a state or territory that requires, as a condition of licensure, graduation from a four-year postgraduate program in naturopathic medicine approved by the Council of Naturopathic Medical Education; and 3) maintains licensure in a State that meets the requirements of item #2. Additionally, Section 90-684 (a) defines a naturopathic physician as a licensed health care provider, who must adhere to the same responsibilities as other licensed doctors in regard to public health laws, reporting diseases and conditions, communicable disease control and prevention, and recording vital statistics. However, there are prohibitions. Section 90-684 (b) prohibits a naturopathic physician from prescribing or dispensing prescription drugs, practicing or attempting to practice as a medical physician or other specialists designated in Section 90-684 (b) (2), performing surgical procedures requiring sedation, using anesthetics unless licensed by the State, administering ionizing radioactive substances for therapy, and performing chiropractic adjustments or acupuncture unless licensed.

In North Carolina there are two groups that use the title naturopathic doctor. The first group consists of approximately 27 individuals who are graduates of a four-year accredited naturopathic medical school with academic and clinical training. These individuals are members of the North Carolina Association of Naturopathic Physicians, which is an affiliate of the American Association of Naturopathic Physicians (AANP). AANP is the national professional society representing naturopathic physicians who are licensed or eligible for licensing as primary care providers. The second group includes individuals who have a high school degree and have received naturopathic training through mail order or correspondence schools by completing 12-14 courses that take 6-9 months to complete. These individuals may be members of the North Carolina Board of Naturopathic Examiners, which is a board that is registered with the Office of the Secretary of State. According to the Joint Select Committee Report, there are approximately 65 individuals in this group.

To comply with the provisions of Article 40 the 27 individuals who are graduates of a four-year accredited naturopathic medical school with academic and clinical training would be eligible to register as naturopathic physicians. Eligible individuals would have to proceed with mandatory licensure in the State and practice within the confines of the legislation. These individuals would have to meet the registration requirements administered by the Office of Regulatory and Legal Affairs in the Division of Public Health, Department of Health and Human Services, pay applicable fees, and submit to a criminal record check conducted by the NC Department of Justice. Individuals with high school degrees and mail order or correspondence school training would not satisfy the provisions of the law.

#### Office of Regulatory and Legal Affairs

Section 90-685 sets forth the responsibilities of the Office of Regulatory and Legal Affairs, which are to administer and enforce the licensure of individuals practicing as naturopathic physicians in the State. This would entail adoption of rules; examination of documentation pertaining to eligibility to register; collection of fees for registration, renewal, and other services; adoption of a seal containing the name of the Office for use on all documents; and serving as the recipient of complaints against individuals who violate the provisions of this legislation through either investigation or referral to appropriate agencies for investigation or enforcement.

As is the practice with the other occupational licensure, the Office may impose fees for application, registration, registration renewal, late renewal, reasonable charges for duplication services and material, and to conduct a criminal history record check. Since this would be a new licensure, eligible individuals would be required to pay application and registration fees. With a potential registration of 27 individuals the first year, estimated revenue is approximately \$19,926: \$2,700 for applications, \$16,200 for registration, and \$1,026 for criminal record checks. The latter will be forwarded to the NC Department of Justice. It is anticipated that 5-7 eligible individuals will register annually with estimated revenue from applications and registration between \$3,500 and \$4,900, and \$266 for the criminal record checks. The renewal fee of \$400 per eligible naturopathic physician is required every two years and will provide a varied amount of revenue each fiscal year. For example, registrants in FY 05-06 would not renew until FY 07-08 and registrants in FY 06-07 would not until FY 08-09.

The Division of Public Health, Office of Regulatory and Legal Affairs will need a ½ time Public Health Program Manager for the first year to develop the registry system, develop materials for distribution on the rules, and provide oversight for the registry. There is also office equipment needed, which is a one-time expense. The registry and program may be maintained by ¼ time Public Health Program Manager beginning the second year. There is a 3% increase beginning in FY 07-08 for the personnel and on-going expenses.

#### NC Department of Justice

The Department charges \$38 for a state and national fingerprint background check. Of the \$38, \$22 is remitted to the Federal Bureau of Investigation for the national check; the remaining \$16 is retained by the Department of Justice and used to fund receipt-supported positions to conduct the background checks. Internal costs per background check range from \$11.45 to \$17.95, with an average cost of \$16.33. The Office of Regulatory and Legal Affairs anticipates the need for 27 background checks in the first year, and five to seven background checks in each subsequent year (figures in front-page box assume seven checks per year). The Department currently has the capacity to conduct these background checks.

#### **General – Criminal Penalties**

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

This bill would make it a Class 1 misdemeanor to practice naturopathic medicine without a license. There are 27 individuals who meet the licensure requirements under this bill, and approximately 65 individuals currently considered naturopathic doctors who would not meet the eligibility requirements for licensure. If any of these individuals continue to practice after January 1, 2006 without the license required by this bill, they could be charged and convicted with a Class 1 misdemeanor. In addition, the Administrative Office of the Courts has noted that there may be other individuals whose practices fall under the definition of naturopathic medicine as outlined in the bill. Each charge and conviction for practicing without a license would impact the court system and the Department of Correction or local jails.

#### Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.*

As this bill would create a new Class 1 misdemeanor offense, no historical data is available to estimate the number of additional convictions that would result.

- In FY 2003-04, 19 percent of Class 1 misdemeanors resulted in active sentences and the average active sentence length was 31 days. Active sentences of less than ninety days are served in county jail, and DOC reimburses counties at a rate of \$18 per day for any sentence between thirty and ninety days in length.
- The remaining 81 percent of Class 1 misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Corrections (DCC) would incur costs of \$1.87 per offender per day. Offenders sentenced to community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.

On average, for each conviction in FY 2006-07, DCC would incur costs of \$164. Because most Class 1 misdemeanants serving active time as a result of this bill would be housed in county jails, this legislation is not expected to significantly impact prison population.

#### Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

As this bill would create a new Class 1 misdemeanor offense, no historical data is available to estimate the number of additional charges that would result. It is not possible to estimate the number of individuals that would continue to practice naturopathic medicine without a license.

Based on the costs of time in court, attorney preparation time, and indigent defense, the average estimated cost to process one Class 1 misdemeanor is \$3,224 per trial and \$284 per guilty plea. Based on prior-year data, the majority of any new Class 1 misdemeanor charges that are not dismissed are likely to be settled by guilty plea at \$284 per plea.

**SOURCES OF DATA:** North Carolina Association of Naturopathic Physicians, Department of Health and Human Services, and the Joint Select Committee on Naturopathic Licensing - Report to the 2005 Session of the NC General Assembly; North Carolina Department of Justice; Office of State Budget & Management; Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission.

**TECHNICAL CONSIDERATIONS:** None.

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**Signed Copy Located in the NCGA Principal Clerk's Offices**