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SENATE BILL 5037

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State of Washington

62nd Legislature

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By Senators Keiser, Pflug, Kohl-Welles, and Shin

Read first time 01/11/11. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to creating the Washington state board of  
2 naturopathy; amending RCW 18.36A.020, 18.36A.030, 18.36A.060,  
3 18.36A.080, 18.36A.090, 18.36A.100, 18.36A.110, and 18.36A.120;  
4 reenacting and amending RCW 18.130.040; adding new sections to chapter  
5 18.36A RCW; and repealing RCW 18.36A.070.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.36A RCW  
8 to read as follows:

9 (1) There is created the board of naturopathy consisting of seven  
10 members appointed by the governor to four-year terms. Five members of  
11 the board shall be persons licensed under this chapter and two shall be  
12 members of the public. No member may serve more than two consecutive  
13 full terms. Members hold office until their successors are appointed.  
14 The governor may appoint the initial members of the board to staggered  
15 terms from one to four years. Thereafter, all members shall be  
16 appointed to full four-year terms.

17 (2) The public members of the board may not be a member of any  
18 other health care licensing board or commission, have a fiduciary

1 obligation to a facility rendering services regulated under this  
2 chapter, or have a material or financial interest in the rendering of  
3 services regulated under this chapter.

4 (3) The board shall elect officers each year. The board shall meet  
5 at least twice each year and may hold additional meetings as called by  
6 the chair. Meetings of the board are open to the public, except that  
7 the board may hold executive sessions to the extent permitted by  
8 chapter 42.30 RCW. The department shall provide secretarial, clerical,  
9 and other assistance as required by the board.

10 (4) Each member of the board shall be compensated in accordance  
11 with RCW 43.03.240. Members shall be reimbursed for travel expenses  
12 incurred in the actual performance of their duties, as provided in RCW  
13 43.03.050 and 43.03.060.

14 (5) A majority of the board members appointed and serving  
15 constitutes a quorum for the transaction of board business. The  
16 affirmative vote of a majority of a quorum of the board is required to  
17 carry a motion or resolution, to adopt a rule, or to pass a measure.

18 (6) The board may appoint members to panels of at least three  
19 members. A quorum for transaction of any business by a panel is a  
20 minimum of three members. A majority vote of a quorum of the panel is  
21 required to transact business delegated to it by the board.

22 (7) The board may adopt such rules as are consistent with this  
23 chapter as may be deemed necessary and proper to carry out the purposes  
24 of this chapter.

25 (8) The governor may remove a member of the board for neglect of  
26 duty, misconduct, or malfeasance or misfeasance in office. Whenever  
27 the governor is satisfied that a member of the board has been guilty of  
28 neglect of duty, misconduct, or malfeasance or misfeasance in office,  
29 he or she shall file with the secretary of state a statement of the  
30 cause for and the order of removal from office, and the secretary shall  
31 immediately send a certified copy of the order of removal and statement  
32 of causes by certified mail to the last known post office address of  
33 the member. If a vacancy occurs on the board, the governor shall  
34 appoint a replacement to fill the remainder of the unexpired term.

35 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.36A RCW  
36 to read as follows:

1 (1) In addition to any other authority provided by law, the board  
2 shall:

3 (a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to  
4 implement this chapter;

5 (b) Determine the minimum education and experience requirements for  
6 licensure in conformance with RCW 18.36A.090, including, but not  
7 limited to, approval of educational programs;

8 (c) Prepare and administer, or approve the preparation and  
9 administration of, examinations for licensure;

10 (d) Establish by rule the procedures for an appeal of examination  
11 failure;

12 (e) Determine whether alternative methods of training are  
13 equivalent to formal education, and establish forms, procedures, and  
14 criteria for evaluation of an applicant's equivalent alternative  
15 training to determine the applicant's eligibility to take the  
16 examination; and

17 (f) Adopt rules implementing a continuing competency program.

18 (2) The uniform disciplinary act, chapter 18.130 RCW, governs  
19 unlicensed practice, the issuance and denial of licenses, and the  
20 discipline of licensees under this chapter.

21 **Sec. 3.** RCW 18.36A.020 and 2005 c 158 s 1 are each amended to read  
22 as follows:

23 Unless the context clearly requires otherwise, the definitions in  
24 this section apply throughout this chapter.

25 (1) "Department" means the department of health.

26 (2) "Secretary" means the secretary of health or the secretary's  
27 designee.

28 (3) "Naturopath" means an individual licensed under this chapter.

29 (4) (~~"Committee" means the Washington state naturopathic practice~~  
30 ~~advisory committee.~~

31 ~~(5))~~ "Educational program" means an accredited program preparing  
32 persons for the practice of naturopathic medicine.

33 ~~((6))~~ (5) "Nutrition and food science" means the prevention and  
34 treatment of disease or other human conditions through the use of  
35 foods, water, herbs, roots, bark, or natural food elements.

36 ~~((7))~~ (6) "Manual manipulation" or "mechanotherapy" means

1 manipulation of a part or the whole of the body by hand or by  
2 mechanical means.

3 ~~((+8))~~ (7) "Physical modalities" means use of physical, chemical,  
4 electrical, and other noninvasive modalities, including but not limited  
5 to heat, cold, air, light, water in any of its forms, sound, massage,  
6 and therapeutic exercise.

7 ~~((+9))~~ (8) "Homeopathy" means a system of medicine based on the  
8 use of infinitesimal doses of medicines capable of producing symptoms  
9 similar to those of the disease treated, as listed in the homeopathic  
10 pharmacopeia of the United States.

11 ~~((+10))~~ (9) "Naturopathic medicines" means vitamins; minerals;  
12 botanical medicines; homeopathic medicines; hormones; and those legend  
13 drugs and controlled substances consistent with naturopathic medical  
14 practice in accordance with rules established by the ~~((secretary))~~  
15 board. Controlled substances are limited to codeine and testosterone  
16 products that are contained in Schedules III, IV, and V in chapter  
17 69.50 RCW.

18 ~~((+11))~~ (10) "Hygiene and immunization" means the use of such  
19 preventative techniques as personal hygiene, asepsis, public health,  
20 and immunizations, to the extent allowed by rule.

21 ~~((+12))~~ (11) "Minor office procedures" means care and procedures  
22 incident thereto of superficial lacerations, lesions, and abrasions,  
23 and the removal of foreign bodies located in superficial structures,  
24 not to include the eye; and the use of antiseptics and topical or local  
25 anesthetics in connection therewith. "Minor office procedures" also  
26 includes intramuscular, intravenous, subcutaneous, and intradermal  
27 injections of substances consistent with the practice of naturopathic  
28 medicine and in accordance with rules established by the secretary.

29 ~~((+13))~~ (12) "Common diagnostic procedures" means the use of  
30 venipuncture consistent with the practice of naturopathic medicine,  
31 commonly used diagnostic modalities consistent with naturopathic  
32 practice, health history taking, physical examination, radiography,  
33 examination of body orifices excluding endoscopy, laboratory medicine,  
34 and obtaining samples of human tissues, but excluding incision or  
35 excision beyond that which is authorized as a minor office procedure.

36 ~~((+14))~~ (13) "Suggestion" means techniques including but not  
37 limited to counseling, biofeedback, and hypnosis.

1           ~~((15))~~ (14) "Radiography" means the ordering, but not the  
2 interpretation, of radiographic diagnostic and other imaging studies  
3 and the taking and interpretation of standard radiographs.

4           (15) "Board" means the board of naturopathy created in section 1 of  
5 this act.

6           **Sec. 4.** RCW 18.36A.030 and 1991 c 3 s 88 are each amended to read  
7 as follows:

8           (1) No person may practice naturopathy or represent himself or  
9 herself as a naturopath without first applying for and receiving a  
10 license from the secretary to practice naturopathy.

11           (2) A person represents himself or herself as a naturopath when  
12 that person adopts or uses any title or any description of services  
13 that incorporates one or more of the following terms or designations:  
14 Naturopath, naturopathy, naturopathic, naturopathic physician, ND, or  
15 doctor of naturopathic medicine.

16           **Sec. 5.** RCW 18.36A.060 and 1991 c 3 s 91 are each amended to read  
17 as follows:

18           ~~((1))~~ In addition to any other authority provided by law, the  
19 secretary may:

20           ~~((a) Adopt rules, in accordance with chapter 34.05 RCW, necessary~~  
21 ~~to implement this chapter;~~

22           ~~(b))~~ (1) Set all license, examination, and renewal fees in  
23 accordance with RCW 43.70.250;

24           ~~((c))~~ (2) Establish forms and procedures necessary to administer  
25 this chapter;

26           ~~((d) Determine the minimum education and experience requirements~~  
27 ~~for licensure in conformance with RCW 18.36A.090, including but not~~  
28 ~~limited to approval of educational programs;~~

29           ~~(e) Prepare and administer or approve the preparation and~~  
30 ~~administration of examinations for licensure;~~

31           ~~(f))~~ (3) Issue a license to any applicant who has met the  
32 education, training, and examination requirements for licensure and  
33 deny a license to applicants who do not meet the minimum qualifications  
34 for licensure; except that denial of licenses based on unprofessional  
35 conduct or impaired practice shall be governed by the uniform  
36 disciplinary act, chapter 18.130 RCW;

1       ~~((g))~~ (4) Hire clerical, administrative, and investigative staff  
2 as needed to implement and administer this chapter and to hire  
3 individuals, including those licensed under this chapter, to serve as  
4 examiners or consultants as necessary to implement and administer this  
5 chapter;

6       ~~((h))~~ (5) Maintain the official department record of all  
7 applicants and licensees; and

8       ~~((i) Determine whether alternative methods of training are  
9 equivalent to formal education, and establish forms, procedures, and  
10 criteria for evaluation of an applicant's equivalent alternative  
11 training to determine the applicant's eligibility to take the  
12 examination;~~

13       ~~(j) Establish by rule the procedures for an appeal of examination  
14 failure;~~

15       ~~(k))~~ (6) Conduct a hearing on an appeal of a denial of a license  
16 based on the applicant's failure to meet the minimum qualifications for  
17 licensure. The hearing shall be conducted pursuant to chapter 34.05  
18 RCW(~~;~~ and

19       ~~(1) Adopt rules implementing a continuing competency program.~~

20       ~~(2) The uniform disciplinary act, chapter 18.130 RCW, governs  
21 unlicensed practice, the issuance and denial of licenses and the  
22 discipline of licensees under this chapter. The secretary shall be the  
23 disciplining authority under this chapter)).~~

24       **Sec. 6.** RCW 18.36A.080 and 1991 c 3 s 93 are each amended to read  
25 as follows:

26       The secretary, members of the ~~((committee))~~ board, or individuals  
27 acting on their behalf, are immune from suit in any civil action based  
28 on any act performed in the course of their duties.

29       **Sec. 7.** RCW 18.36A.090 and 1991 c 3 s 94 are each amended to read  
30 as follows:

31       The department shall issue a license to any applicant who meets the  
32 following requirements:

33       (1) Successful completion of an educational program approved by the  
34 ~~((secretary))~~ board, the minimum standard of which shall be the  
35 successful completion of a doctorate degree program in naturopathy  
36 which includes a minimum of two hundred post-graduate hours in the

1 study of mechanotherapy from an approved educational program, or  
2 successful completion of equivalent alternate training that meets the  
3 criteria established by the ((secretary)) board. The requirement for  
4 two hundred post-graduate hours in the study of mechanotherapy shall  
5 expire June 30, 1989;

6 (2) Successful completion of any equivalent experience requirement  
7 established by the ((secretary)) board;

8 (3) Successful completion of an examination administered or  
9 approved by the ((secretary)) board;

10 (4) Good moral character; and

11 (5) Not having engaged in unprofessional conduct or being unable to  
12 practice with reasonable skill and safety as a result of a physical or  
13 mental impairment.

14 The ((secretary)) board shall establish what constitutes adequate  
15 proof of meeting the above requirements. Any person holding a valid  
16 license to practice drugless therapeutics under chapter 18.36 RCW upon  
17 January 1, 1988, shall be deemed licensed pursuant to this chapter.

18 **Sec. 8.** RCW 18.36A.100 and 1991 c 3 s 95 are each amended to read  
19 as follows:

20 (1) The ((secretary)) board shall establish by rule the standards  
21 for approval of educational programs and alternate training and may  
22 contract with individuals or organizations having expertise in the  
23 profession and/or in education to report to the ((secretary)) board the  
24 information necessary for the ((secretary)) board to evaluate the  
25 educational programs. The standards for approval shall be based on the  
26 minimal competencies necessary for safe practice. The standards and  
27 procedures for approval shall apply equally to educational programs and  
28 equivalent alternate training within the United States and those in  
29 foreign jurisdictions. ~~((The secretary may establish a fee for  
30 educational program evaluation. The fee shall be determined by the))~~

31 (2) Each educational program requesting approval shall pay all  
32 administrative costs for the educational program evaluation, including,  
33 but not limited to, costs for site evaluation.

34 **Sec. 9.** RCW 18.36A.110 and 1991 c 3 s 96 are each amended to read  
35 as follows:

36 (1) The date and location of the examination shall be established

1 by the ((secretary)) board. Applicants who have been found to meet the  
2 education and experience requirements for licensure shall be scheduled  
3 for the next examination following the filing of the application. The  
4 ((secretary)) board shall establish by rule the examination application  
5 deadline.

6 (2) The examination shall contain subjects appropriate to the  
7 standards of competency and scope of practice.

8 (3) The ((secretary)) board shall establish by rule the  
9 requirements for a reexamination if the applicant has failed the  
10 examination.

11 (4) The ((committee)) board may ((recommend to the secretary))  
12 approve an examination prepared or administered, or both, by a private  
13 testing agency or association of licensing boards.

14 **Sec. 10.** RCW 18.36A.120 and 1991 c 3 s 97 are each amended to read  
15 as follows:

16 The ((secretary)) board shall establish by rule the standards for  
17 licensure of applicants licensed in another jurisdiction. However, the  
18 standards for reciprocity of licensure shall not be less than required  
19 for licensure in the state of Washington.

20 **Sec. 11.** RCW 18.130.040 and 2010 c 286 s 18 and 2010 c 65 s 3 are  
21 each reenacted and amended to read as follows:

22 (1) This chapter applies only to the secretary and the boards and  
23 commissions having jurisdiction in relation to the professions licensed  
24 under the chapters specified in this section. This chapter does not  
25 apply to any business or profession not licensed under the chapters  
26 specified in this section.

27 (2)(a) The secretary has authority under this chapter in relation  
28 to the following professions:

29 (i) Dispensing opticians licensed and designated apprentices under  
30 chapter 18.34 RCW;

31 ((ii)) ~~((Naturopaths licensed under chapter 18.36A RCW;~~  
32 ~~((iii)))~~ Midwives licensed under chapter 18.50 RCW;

33 ~~((iv))~~ (iii) Ocularists licensed under chapter 18.55 RCW;

34 ~~((v))~~ (iv) Massage operators and businesses licensed under  
35 chapter 18.108 RCW;

36 ~~((vi))~~ (v) Dental hygienists licensed under chapter 18.29 RCW;

1       ~~((vii))~~ (vi) East Asian medicine practitioners licensed under  
2 chapter 18.06 RCW;

3       ~~((viii))~~ (vii) Radiologic technologists certified and X-ray  
4 technicians registered under chapter 18.84 RCW;

5       ~~((ix))~~ (viii) Respiratory care practitioners licensed under  
6 chapter 18.89 RCW;

7       ~~((x))~~ (ix) Hypnotherapists and agency affiliated counselors  
8 registered and advisors and counselors certified under chapter 18.19  
9 RCW;

10       ~~((xi))~~ (x) Persons licensed as mental health counselors, mental  
11 health counselor associates, marriage and family therapists, marriage  
12 and family therapist associates, social workers, social work  
13 associates--advanced, and social work associates--independent clinical  
14 under chapter 18.225 RCW;

15       ~~((xii))~~ (xi) Persons registered as nursing pool operators under  
16 chapter 18.52C RCW;

17       ~~((xiii))~~ (xii) Nursing assistants registered or certified under  
18 chapter 18.88A RCW;

19       ~~((xiv))~~ (xiii) Health care assistants certified under chapter  
20 18.135 RCW;

21       ~~((xv))~~ (xiv) Dietitians and nutritionists certified under chapter  
22 18.138 RCW;

23       ~~((xvi))~~ (xv) Chemical dependency professionals and chemical  
24 dependency professional trainees certified under chapter 18.205 RCW;

25       ~~((xvii))~~ (xvi) Sex offender treatment providers and certified  
26 affiliate sex offender treatment providers certified under chapter  
27 18.155 RCW;

28       ~~((xviii))~~ (xvii) Persons licensed and certified under chapter  
29 18.73 RCW or RCW 18.71.205;

30       ~~((xix))~~ (xviii) Denturists licensed under chapter 18.30 RCW;

31       ~~((xx))~~ (xix) Orthotists and prosthetists licensed under chapter  
32 18.200 RCW;

33       ~~((xxi))~~ (xx) Surgical technologists registered under chapter  
34 18.215 RCW;

35       ~~((xxii))~~ (xxi) Recreational therapists;

36       ~~((xxiii))~~ (xxii) Animal massage practitioners certified under  
37 chapter 18.240 RCW;

1       (~~(xxiv)~~) (xxiii) Athletic trainers licensed under chapter 18.250  
2 RCW;

3       (~~(xxv)~~) (xxiv) Home care aides certified under chapter 18.88B  
4 RCW; and

5       (~~(xxvi)~~) (xxv) Genetic counselors licensed under chapter 18.290  
6 RCW.

7       (b) The boards and commissions having authority under this chapter  
8 are as follows:

9       (i) The podiatric medical board as established in chapter 18.22  
10 RCW;

11       (ii) The chiropractic quality assurance commission as established  
12 in chapter 18.25 RCW;

13       (iii) The dental quality assurance commission as established in  
14 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and  
15 licenses and registrations issued under chapter 18.260 RCW;

16       (iv) The board of hearing and speech as established in chapter  
17 18.35 RCW;

18       (v) The board of examiners for nursing home administrators as  
19 established in chapter 18.52 RCW;

20       (vi) The optometry board as established in chapter 18.54 RCW  
21 governing licenses issued under chapter 18.53 RCW;

22       (vii) The board of osteopathic medicine and surgery as established  
23 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and  
24 18.57A RCW;

25       (viii) The board of pharmacy as established in chapter 18.64 RCW  
26 governing licenses issued under chapters 18.64 and 18.64A RCW;

27       (ix) The medical quality assurance commission as established in  
28 chapter 18.71 RCW governing licenses and registrations issued under  
29 chapters 18.71 and 18.71A RCW;

30       (x) The board of physical therapy as established in chapter 18.74  
31 RCW;

32       (xi) The board of occupational therapy practice as established in  
33 chapter 18.59 RCW;

34       (xii) The nursing care quality assurance commission as established  
35 in chapter 18.79 RCW governing licenses and registrations issued under  
36 that chapter;

37       (xiii) The examining board of psychology and its disciplinary  
38 committee as established in chapter 18.83 RCW; (~~and~~)

1 (xiv) The veterinary board of governors as established in chapter  
2 18.92 RCW; and

3 (xv) The board of naturopathy established in chapter 18.36A RCW.

4 (3) In addition to the authority to discipline license holders, the  
5 disciplining authority has the authority to grant or deny licenses.  
6 The disciplining authority may also grant a license subject to  
7 conditions.

8 (4) All disciplining authorities shall adopt procedures to ensure  
9 substantially consistent application of this chapter, the Uniform  
10 Disciplinary Act, among the disciplining authorities listed in  
11 subsection (2) of this section.

12 NEW SECTION. **Sec. 12.** RCW 18.36A.070 (Naturopathic advisory  
13 committee) and 1991 c 3 s 92 & 1987 c 447 s 7 are each repealed.

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