

HOUSE BILL NO. 775

Introduced: 02/12/83

Referred to Committee on Human Services: 02/12/83

Hearing: 2/17/83

Died in Committee

1 *J. Jansen* *House* BILL NO. *775*
 2 INTRODUCED BY *Delebe* *Harrington* *Daily* *Quinn*
 3 *Kados* *Stacy* *Jeff* *Hansen* *Beard* *Kennedy* *Metzger*
 4 *Farris* *Small* *Schultz* *Viment* *Alarke* *Waller*
 5 A BILL FOR AN ACT ENTITLED "THE NATUROPATHIC HEALTH CARE
 6 PRACTICE ACT; PROVIDING FOR THE REGULATION OF NATUROPATHIC

7 HEALTH CARE; ESTABLISHING A BOARD OF NATUROPATHIC PHYSICIANS
 8 FOR THE LICENSURE AND REGULATION OF NATUROPATHIC PHYSICIANS;
 9 PROVIDING FOR THE ADMINISTRATION OF THE ACT, INCLUDING
 10 PROVISIONS FOR SETTING FEES BY THE BOARD; ESTABLISHING
 11 PENALTIES FOR VIOLATIONS; AND PROVIDING AN EFFECTIVE DATE."

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Board of naturopathic physicians. (1) There
 14 is a board of naturopathic physicians.

15 (2) The board consists of three members appointed by
 16 the governor with the consent of the senate for staggered
 17 terms of 5 years. The term of a board member ends on his
 18 resignation or on his absence from the state for a period of
 19 6 months or more. A board member may, upon notice and
 20 hearings, be removed by the governor for neglect of duty or
 21 upon conviction of violating any provisions of [sections 2
 22 through 23]. The governor shall fill a vacancy in the
 23 membership of the board within 60 days of the date of the
 24 vacancy.

25 (3) Except for the members of the first board

1 appointed after October 1, 1983, each board member must be a
 2 Montana-licensed naturopathic physician and have been a
 3 resident of Montana for 3 years.

4 (4) The board is allocated to the department for
 5 administrative purposes only as prescribed in 2-15-121.

6 (5) There may be no monetary liability on the part of
 7 nor may any cause of action arise against the members of the
 8 board, secretary-treasurer, or permanent or temporary
 9 personnel of the board for any act done or proceeding
 10 undertaken or performed in good faith and in furtherance of
 11 the purposes of [sections 2 through 23].

12 Section 2. Short title. [Sections 2 through 23] may be
 13 cited as the "Naturopathic Health Care Practice Act".

14 Section 3. Purpose. (1) It is declared as a matter of
 15 legislative policy that naturopathy within the state of
 16 Montana is recognized as a distinct health care profession,
 17 the practice of which affects the public health, safety, and
 18 welfare and provides for the public's freedom of choice in
 19 health care. It is therefore considered necessary to provide
 20 laws regulating the practice of naturopathic health care to
 21 the end that the public will be protected against
 22 unauthorized and unqualified practice of naturopathy and
 23 from unprofessional conduct by persons licensed to practice
 24 naturopathy.

25 (2) The purpose of licensing naturopathic physicians

1 is to certify in the interest of public health, safety, and
2 welfare that licensed naturopathic physicians have fulfilled
3 specified educational and professional standards and have
4 agreed to abide by practices consistent with such standards.

5 Section 4. Definitions. Unless the context requires
6 otherwise, in [sections 2 through 23] the following
7 definitions apply:

8 (1) "Board" means the board of naturopathic physicians
9 established in [section 1].

10 (2) "Botanical medicine" means any plant substance, in
11 whole or concentrated form, used to treat disease as
12 described in standard texts of botanical materia medica.

13 (3) "Department" means the department of commerce
14 provided for in 2-15-1801.

15 (4) "Glandular medicine" means any substance that is
16 by nature, in part or whole, derived from the animal kingdom
17 that is used to nourish, support, or stimulate the normal
18 function of human endocrine and exocrine glands, organs, and
19 tissues.

20 (5) "Minor surgery" means the performance of minor
21 surgery with the use of antiseptics and local anesthetics by
22 means of surgical, electrical, and other methods for:

23 (a) the surgical repair of superficial lacerations,
24 abrasions, and lesions, and the care incident thereto; and

25 (b) the removal of foreign bodies located in the

1 superficial structures of the body.

2 (6) "Naturopathic manipulation" means manipulating or
3 massaging a human body or any of its limbs, muscles, or
4 parts by the use of hands or mechanical appliances in an
5 effort to relieve any pressure, obstruction, misplacement,
6 or defect in any bone, muscle, ligament, nerve, vessel,
7 organ, or part of the body to restore its normal function.

8 (7) "Naturopathic physician" means a natural person
9 licensed by the board to practice naturopathy as provided in
10 [sections 2 through 23].

11 (8) "Naturopathy" or "naturopathic health care" means
12 the art, science, and philosophy of natural healing as a
13 distinct professional system for the prevention, diagnosis,
14 and treatment of human disease. It has for its objective, by
15 the use of nature's agents, processes, and products
16 administered in health-yielding forms, the maintenance or
17 restoration of a state of health in human beings.

18 Section 5. Exemptions. (1) [Sections 2 through 23]
19 recognize that many of the therapies used by naturopathic
20 physicians, such as the use of nonpoisonous herbs,
21 nutritional supplements, various foods, and physical agents
22 such as heat, cold, water, and light, are universal natural
23 healing arts and that their use constitutes a fundamental
24 right of the people and as such their use by persons is not
25 prohibited by [sections 2 through 23].

(2) Naturopathic health care is not the practice of medicine, osteopathy, or chiropractic. Nothing in [sections 2 through 23] restricts any licensed medical, osteopathic, or chiropractic physician in the practice of his profession.

(3) [Sections 2 through 23 do] not prohibit or require a license with respect to any of the professions or exemptions listed in 37-3-103.

Section 6. License required -- practice of naturopathy -- rights and limitations -- violations. (1) No person may represent himself to the public as a naturopathic physician and engage in the practice of naturopathic health care in this state unless the person is licensed under the provisions of [sections 2 through 23].

(2) A naturopathic physician licensed under [sections 2 through 23] has the right to practice naturopathic health care in accordance with the method, thought, and practice of naturopathic physicians.

(3) He may use the prefix "Dr." or "doctor" as a title. He may use any or all of the following terms: "doctor of naturopathy", "doctor of naturopathic medicine", or their abbreviation, "N.D.", "naturopath", or "naturopathic physician". These words and abbreviations distinguish the naturopathic profession from other health care professions. However, none of these terms or any combination of them may be so used as to convey the idea that the naturopathic

physician is licensed to practice medicine.

(4) A naturopathic physician may not prescribe for or administer to any person any federally controlled substance, except as provided for by [sections 2 through 23]. He may not perform surgery, except minor surgery as provided in subsection (7). He may not use x-ray radiation as a treatment. Violation of this subsection by a naturopathic physician is a violation of Title 37, chapter 3, and is punishable as provided in 37-3-325.

(5) A naturopathic physician may diagnose diseases of human beings by the use of all recognized and accepted physical, laboratory, and clinical diagnostic techniques in which he has received training. Such techniques include drawing blood and taking specimens of body fluids and superficial tissues for microscopic and chemical analysis and the use of diagnostic x-ray in accordance with guidelines promulgated or approved by state or federal health regulatory agencies.

(6) A naturopathic physician may prescribe, dispense, and use nature's agents, forces, processes, and products, including botanical medicine; glandular medicine; vitamin, mineral, and diet therapy; naturopathic manipulation; physiotherapy; and other naturopathic therapies.

(7) The practices of minor surgery and natural childbirth attendance by naturopathic physicians are

1 separate specialties of naturopathic health care requiring
 2 specialization certification by the board. Specialization
 3 certification is separate and in addition to the license to
 4 practice as a naturopathic physician. The board shall
 5 establish qualifications and administer separate
 6 examinations to certify that a naturopathic physician may
 7 engage in the specialty practices of minor surgery and
 8 natural childbirth attendance. A naturopathic physician
 9 without board certification in these specialty practices may
 10 not engage in the practices of minor surgery or natural
 11 childbirth attendance. A violation of this subsection by a
 12 naturopathic physician is a violation of:

13 (a) Title 37, chapter 3, and is punishable as provided
 14 in 37-3-325; and

15 (b) [sections 2 through 23] and is punishable as
 16 provided in [section 23].

17 Section 7. Duties of naturopathic physicians. (1) A
 18 naturopathic physician is authorized to sign birth, death,
 19 and health certificates.

20 (2) A naturopathic physician is subject to all state,
 21 county, and municipal laws and rules on public health
 22 related to the diagnosis and reporting of contagious and
 23 infectious diseases to the proper health authorities in the
 24 respective counties.

25 Section 8. Insurance equity. Health insurance

1 companies and health service corporations may not
 2 discriminate against services provided by a naturopathic
 3 physician nor may they refuse valid claims submitted by
 4 persons for services rendered by a naturopathic physician.

5 Section 9. Board officers -- meetings -- compensation
 6 -- examinations. (1) The board shall, at the first meeting
 7 each year, elect from among its members a president,
 8 vice-president, and secretary-treasurer. The board shall
 9 hold meetings at least twice annually, at times and at
 10 places set by the board. The president of the board may call
 11 special meetings that he considers advisable or necessary. A
 12 majority of the members of the board constitutes a quorum,
 13 and a majority vote of a quorum present at any meeting
 14 governs all actions taken by the board.

15 (2) No member of the board may receive compensation
 16 except for travel and lodging expenses, as provided in
 17 37-1-133, connected with attending meetings and performing
 18 functions of the board.

19 (3) The board shall schedule a time and designate a
 20 place for license examinations. License examinations must be
 21 held at least twice a year. The time for a license
 22 examination must be scheduled at least 90 days prior to the
 23 date of the examination. If no applications for examination
 24 are received by the secretary-treasurer by 10 days prior to
 25 the examination date, the board may cancel the examination.

1 Section 10. Powers and duties. (1) The board shall
2 maintain reasonable and continuing supervision and
3 surveillance over all licensees under [sections 2 through
4 23] to ensure that such licensees maintain standards of
5 conduct and exercise the privileges granted by [sections 2
6 through 23] in the greatest public interest and to carry out
7 the purposes and provisions of [sections 2 through 23].

8 (2) The board may:

9 (a) adopt rules necessary or proper to administer and
10 enforce [sections 2 through 23]. The rules must be fair,
11 impartial, and nondiscriminatory.

12 (b) hold hearings and take evidence in matters
13 relating to the exercise and performance of the powers and
14 duties vested in the board;

15 (c) aid county attorneys in the enforcement of
16 [sections 2 through 23] and the prosecution of persons,
17 firms, associations, or corporations charged with violations
18 of [sections 2 through 23];

19 (d) if necessary, appoint qualified personnel to
20 administer any part or all of any examination provided in
21 [sections 2 through 23]; and

22 (e) under the provisions of [sections 2 through 23],
23 revoke or suspend for cause the license of any naturopathic
24 physician practicing in this state.

25 (3) The board shall:

1 (a) collect all fees provided for in [sections 2
2 through 23] and make dispositions of them as provided for in
3 [section 17];

4 (b) maintain a record of its acts and proceedings,
5 including the issuance, refusal, renewal, suspension, or
6 revocation of licenses;

7 (c) maintain a registry of all naturopathic physicians
8 licensed under [sections 2 through 23]. The registry must
9 indicate the name of the licensee, his current professional
10 office address and phone number, the date of issuance and
11 the number of his license, and whether the license is in
12 good standing.

13 (d) keep all applications for licensure for 10 years;

14 (e) maintain a permanent record of the results of all
15 examinations it gives;

16 (f) retain the examination papers of all applicants as
17 required by [section 12];

18 (g) adopt and use a seal in which appear the words
19 "the Montana board of naturopathic physicians" and "official
20 seal". All board acts, rules, orders, certificates, and
21 licenses must be authenticated by the imprint of the seal
22 together with the signatures of the president or
23 vice-president and the secretary-treasurer of the board.

24 (h) establish, approve, and routinely review a
25 continuing education curriculum and accreditation process

1 for naturopathic physicians in Montana as required for
2 license renewal in [section 16(1)]; and

3 (i) issue a license to practice naturopathy in this
4 state to each successful candidate under the provisions of
5 [sections 11 through 17].

6 Section 11. Application for examination -- fee --
7 qualifications. (1) Each person desiring to practice
8 naturopathic health care in this state shall apply for
9 examination with the secretary of the board, upon the forms
10 and in the manner prescribed by the board, at least 10 days
11 before the date scheduled by the board for the commencement
12 of an examination. An examination fee in an amount set by
13 the board under the provisions of 37-1-134 must accompany
14 the application.

15 (2) A person making application shall furnish evidence
16 to the board, by notarized statements accompanying the
17 application for examination, that the applicant is:

18 (a) 18 years of age or older;

19 (b) a citizen of the United States or has filed a
20 properly executed declaration of intention to become a
21 citizen of the United States; and

22 (c) of good moral character, as declared by the
23 affidavits of two reputable citizens of the state.

24 (3) To be eligible for examination for a license to
25 practice naturopathy, an applicant must submit with his

1 application evidence, in the form of copies of transcripts
2 or diplomas, that the following educational requirements
3 have been satisfactorily completed:

4 (a) a high school education, as shown by a copy of a
5 diploma or its scholastic equivalent;

6 (b) satisfactory completion of at least 2 years' study
7 of liberal arts or sciences, or both, in a college or
8 university accredited by either the Northwest association of
9 schools and colleges or an equivalent regional accreditation
10 association, that meets the preregistration requirements for
11 acceptance to a naturopathic college; and

12 (c) graduation from a naturopathic school or college
13 conforming to the minimal educational standards for
14 naturopathic colleges established by the American council of
15 naturopathic medical education or approved by the board,
16 requires for graduation a period of actual attendance of 4
17 academic years of at least 9 months each, and has adequate
18 courses in all subjects necessary to the practice of
19 naturopathy.

20 (4) The studies required of the applicant for a
21 license to practice naturopathy in this state include
22 anatomy; histology; embryology; physiology; biochemistry;
23 pathology; bacteriology; public health and hygiene;
24 toxicology; obstetrics and gynecology; diagnosis; theory,
25 practice, and philosophy of naturopathy; electrotherapy;

hydrotherapy; physiotherapy; eye, ear, nose, and throat studies; minor surgery; first aid; herbology; proctology; and dietetics. The study of such subjects must total not less than 4,000 lecture, recitation, or clinical hours.

Section 12. Examination -- scope -- retention and inspection of examination papers. (1) Any applicant meeting the requirements of [section 11] must be admitted to an assembled examination to be conducted by the board at the time and place designated as provided in [section 9(3)]. The examination must be in writing, practical in character, and consist of two parts to be administered on 2 consecutive days:

(a) Part I (basic biological sciences) must include questions on anatomy, pathology, general microbiology, biochemistry, and physiology.

(b) Part II (clinical naturopathic practice) must include questions on gynecology and obstetrics, nutrition, public health, laboratory and clinical diagnosis, botanical and homeopathic materia medica, physiotherapy, and general naturopathic practice.

(2) The secretary-treasurer of the board shall retain examination papers for 2 years. While retained, the examination papers may be inspected only by board members, the applicant, a person appointed by the applicant, or by a court of competent jurisdiction in a proceeding in which a

question of the content of the examination papers is involved.

Section 13. Issuance of certificate of license -- reexamination. (1) An applicant who correctly answers 75% of the questions on each of the subjects of the examination and pays a license fee in an amount to be set by the board under 37-1-134 is entitled to be registered as a licensed naturopathic physician in the board directory. The board shall issue to each successful applicant a certificate of license in the form prescribed by the board and bearing the board's official seal.

(2) If an applicant fails to pass an examination, he may, within 1 year from date of failure to pass, take subsequent examinations as scheduled by the board. The applicant need not retake an examination on subjects that he passed in previous examinations. The applicant shall notify the board, within 10 days of an examination, of his intention to retake an examination. The board may require a reexamination fee in an amount to be set under 37-1-134.

Section 14. License reciprocity. (1) Persons currently licensed to practice naturopathy under the laws of any other state having naturopathic educational requirements equivalent to those prescribed in [section 11] and who are in good professional standing in that state may, subject to the rules of the board, be issued a license to practice in

1 this state without examination upon application to the board
2 and payment of a fee in an amount to be set by the board
3 under 37-1-134.

4 (2) The board may examine the applicant's
5 qualifications and deny reciprocity if the board's
6 investigation determines the applicant is not qualified to
7 be licensed as a naturopathic physician in Montana. Upon
8 denial of application for reciprocity, a portion of the fee
9 may be retained by the board for the expense of
10 investigation.

11 Section 15. Licensure exception -- practitioners on
12 October 1, 1983. (1) A person engaged in the practice of
13 naturopathy in this state on October 1, 1983, is eligible
14 for licensure if the person:

15 (a) has practiced naturopathy in the state for 12
16 months prior to October 1, 1983;

17 (b) is a graduate of a naturopathic college that
18 provides the educational requirements as listed in [section
19 11(3)(c)] or graduated prior to 1970 from a naturopathic
20 college determined by the board to have adequate standards
21 and good reputation; and

22 (c) is willing and able to abide by the provisions of
23 [sections 2 through 23].

24 (2) A person eligible to be licensed under the
25 provisions of this section shall apply to the board in

1 writing for licensure by October 1, 1984. Such an applicant
2 shall submit evidence of his qualifications to the board for
3 investigation, with a fee for application and license in an
4 amount to be set by the board under 37-1-134. If licensure
5 is denied, a portion of the fee may be retained by the board
6 for the expense of investigation. The board shall register
7 persons approved for licensure under this section in the
8 directory of licensed naturopathic physicians and shall
9 issue them certificates of license.

10 Section 16. Annual renewal and fee. (1) A license to
11 practice naturopathy is valid for 1 year. The board shall
12 renew licenses on payment of a renewal fee in an amount to
13 be set by the board as provided in 37-1-134 and on receipt
14 by the board of satisfactory evidence that the licensee, in
15 the year preceding, attended and successfully completed a
16 continuing education program approved by the board. The
17 renewal request, evidence of continuing education, and fee
18 must be received by the board no later than the expiration
19 date of the license.

20 (2) The board may exempt a person from the continuing
21 education requirements on application for exemption if the
22 person is unable to comply with the requirements because of
23 a physical or mental condition or for other unusual and
24 extenuating circumstances. No person may be exempted from
25 the continuing education requirements for 2 consecutive

1 years.

2 (3) At least 30 days prior to the date a license will
3 expire, the secretary-treasurer of the board shall notify
4 the licensee by letter, addressed to the licensee at his
5 address as listed in the records of the board, that his
6 license will expire unless application for renewal,
7 accompanied by the annual renewal fee and evidence that
8 continuing education requirements were fulfilled, is
9 received by the board prior to the date of expiration.

10 (4) If the board does not receive the items required
11 in subsection (3) by the date of license expiration, the
12 secretary-treasurer shall, within 7 days of the date of
13 expiration, notify the licensee that his license has expired
14 and that the license will be canceled and revoked in the
15 records of the board unless a request for renewal and
16 reinstatement, accompanied by the renewal fee and an
17 additional late fee as prescribed by the board under
18 37-1-134, is received by the secretary-treasurer of the
19 board not later than 45 days after the letter is sent.

20 (5) The secretary of the board shall cancel all
21 licenses that have not been renewed or reinstated within the
22 45-day period provided in subsection (4). The
23 secretary-treasurer of the board shall notify each person
24 whose license is so canceled.

25 (6) A person who allows his license to be canceled by

1 failure to apply for renewal or reinstatement may have it
2 reinstated for good cause shown to the board and upon
3 payment of all annual renewal fees then accrued plus an
4 additional late fee for each year following the cancellation
5 of the license.

6 (7) A naturopathic physician licensed to practice
7 naturopathy in this state who is in the military service of
8 the United States is not required to pay the annual renewal
9 fee or make application for renewal until December 31 of the
10 calendar year in which he returns to the state from military
11 service.

12 (8) A naturopathic physician who is 70 years of age or
13 older is, upon application, exempted from the renewal
14 requirements of subsection (1).

15 Section 17. Deposit of fees. (1) All fees collected
16 under [sections 2 through 23] must be deposited in the
17 earmarked revenue fund for the use of the board in
18 administering [sections 2 through 23], subject to
19 37-1-101(6).

20 (2) The board shall keep an accurate account of funds
21 received and vouchers issued by the board.

22 Section 18. Denial, suspension, or revocation of
23 license -- grounds. The board may refuse to issue or may
24 suspend or revoke a license issued pursuant to [sections 2
25 through 23] or discipline licensees as provided in 37-1-136

1 for one or more of the following causes:

2 (1) conviction of a felony or conviction of a
3 violation of any state or federal law regulating the
4 possession, distribution, or use of any controlled
5 substance, as shown by a certified copy of record of the
6 court, subject to Title 37, chapter 1, part 2;

7 (2) being adjudicated incompetent or seriously
8 mentally ill;

9 (3) sustaining a physical or mental disability that
10 renders further naturopathic practice dangerous to the
11 public;

12 (4) habitual intemperance with alcohol or habitual
13 addiction to the use of a controlled substance to such an
14 extent as to incapacitate the person from the proper
15 performance of his professional duties;

16 (5) gross malpractice, repeated malpractice, or any
17 malpractice resulting in the death of a patient;

18 (6) engaging in any dishonorable, unethical, or
19 unprofessional conduct that may deceive, defraud, or harm
20 the public;

21 (7) obtaining or attempting to obtain a license to
22 practice in the profession of naturopathy by fraudulent
23 misrepresentation;

24 (8) advertising by means of knowingly false,
25 misleading, or deceptive statements;

1 (9) advertising, practicing, or attempting to practice
2 under a name other than his own;

3 (10) using any false, fraudulent, or forged statement
4 or document or engaging in any fraudulent, deceitful,
5 dishonest, or immoral practice in connection with the
6 licensing requirements of [sections 2 through 23]; or

7 (11) violation of a provision of [sections 2 through
8 23].

9 Section 19. Denial, suspension, or revocation of
10 license -- procedure. (1) Any person, including any member
11 of the board, may file a sworn complaint with the
12 secretary-treasurer of the board against any person having a
13 license to practice naturopathic health care in this state
14 charging him with the commission of any of the offenses set
15 forth in [section 18]. The complaint must set forth a
16 specification of the charges. Upon receipt of a complaint,
17 the board shall, as soon as practicable, set a date and
18 place for hearing on the complaint. The hearing date may be
19 no earlier than 35 days from the date of the meeting setting
20 the hearing date. The secretary-treasurer shall, within 5
21 days after a hearing date is set, mail a copy of the
22 complaint to the accused person at his last address of
23 record with the board. Accompanying the complaint, the
24 secretary-treasurer of the board shall provide written
25 notice of the time and place of the hearing on the complaint

1 and notice that the accused person may be present in person
2 and may be represented by counsel if he so desires, may
3 offer evidence, and may be heard in his defense.

4 (2) The board shall hold a hearing at the time and
5 place set under subsection (1). The board may continue the
6 hearing from time to time as it may determine necessary. At
7 the hearing the board shall receive evidence upon the
8 subject under consideration and shall accord the person
9 against whom charges are preferred a full and fair
10 opportunity to be heard in his defense. The board shall
11 after consideration adopt a resolution finding the accused
12 guilty or not guilty of the matters charged. If the board
13 finds that no circumstances referred to in [section 18]
14 exist with reference to the accused, the board shall dismiss
15 the charges or complaint. If the board finds that one or
16 more of the circumstances referred to in [section 18] exist
17 in reference to the accused, the board shall:

18 (a) revoke his license;

19 (b) suspend his right to practice naturopathy for a
20 period not exceeding 1 year;

21 (c) suspend its judgment of revocation upon the terms
22 and conditions to be determined by the board;

23 (d) place him on probation; or

24 (e) take such other disciplinary action as the board
25 in its discretion considers proper.

1 (3) The secretary-treasurer of the board, in all cases
2 of revocation, suspension, or probation, shall record the
3 facts of the action and any subsequent action of the board
4 with respect thereto.

5 Section 20. Reinstatement after period of suspension.
6 Upon the expiration of the term of suspension, the board may
7 reinstate a license if the suspended licensee furnishes the
8 board with satisfactory evidence that he is then of good
9 moral character and conduct; is restored to good health, if
10 applicable; and has not practiced naturopathy in the state
11 during the term of suspension. If the board is not satisfied
12 that the licensee is then of good moral character and
13 conduct or restored to good health or if the evidence shows
14 that he has practiced naturopathy in this state during the
15 term of suspension, the board may, after notice and hearing,
16 revoke the license.

17 Section 21. Application of Montana Administrative
18 Procedure Act. (1) The contested case procedures of the
19 Montana Administrative Procedure Act apply to the notice and
20 hearing required by [sections 19 and 20], except that
21 neither common law nor statutory rules of evidence need
22 apply, but the board may make rules designed to exclude
23 repetitive, redundant, or irrelevant testimony.

24 (2) Any person aggrieved by the final decision of the
25 board may obtain judicial review of that decision. The

1 judicial review procedure is the same as that for contested
2 cases under the Montana Administrative Procedure Act.

3 Section 22. Enjoining unlawful practice. The practice
4 of naturopathy in any way other than as defined in [sections
5 2 through 23] may be enjoined by the district court on
6 petition by the board. In any such proceeding, it is not
7 necessary to show that any person is individually injured by
8 the actions complained of. If the respondent is found to
9 have so practiced, the court shall enjoin him from
10 practicing until he has been duly licensed. Procedure in
11 such cases must be the same as in any other injunction suit.
12 The remedy by injunction is in addition to criminal
13 prosecution and punishment.

14 Section 23. Enforcement and penalty. (1) A county
15 attorney must prosecute all persons charged with violation
16 of any of the provisions of [sections 2 through 23];
17 however, the board may retain its own attorney to prosecute
18 or assist in prosecuting any person so charged and may
19 compensate the attorney for such services.

20 (2) A person who violates any of the provisions of
21 [sections 2 through 23] is guilty of a misdemeanor and is
22 punishable, upon conviction, by a fine not exceeding \$500 or
23 by imprisonment in the county jail not exceeding 30 days or
24 both such fine and imprisonment.

25 Section 24. Transition for initial board appointments.

1 The first board members appointed after October 1, 1983,
2 shall be appointed to terms of 5, 3, and 2 years to stagger
3 board members' terms.

4 Section 25. Severability. If a part of this act is
5 invalid, all valid parts that are severable from the invalid
6 part remain in effect. If a part of this act is invalid in
7 one or more of its applications, the part remains in effect
8 in all valid applications that are severable from the
9 invalid applications.

10 Section 26. Codification instruction. (1) Section 1 is
11 intended to be codified in Title 2, chapter 15, part 18.

12 (2) Sections 2 through 23 are intended to be codified
13 in Title 37.

14 Section 27. Effective date. This act is effective July
15 1, 1983.

-End-

STATE OF MONTANA

REQUEST NO. 421-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 15, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 775 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 775 is the naturopathic health care practice act; provides for the regulation of naturopathic health care; establishes a board of naturopathic physicians for the licensure and regulation of naturopathic physicians; provides for the administration of the act; includes provisions for setting fees by the board; establishes penalties for violation; and provides an effective date."

ASSUMPTIONS:

- 1) Assume 7 in-state naturopaths currently and one of these is a licensed chiropractor.
- 2) Assume 2 board meetings and exams per year.
- 3) Assume fees commensurate with costs (licenses would be \$1000 each).
- 4) Assume .20 FTE, Grade 11, Step 4 in FY 84 for start-up; and .10 FTE in FY 85.

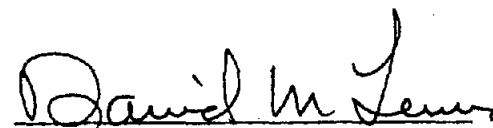
FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>
Revenue	\$ 8,027	\$ 6,289
Expenditures	<u>8,027</u>	<u>6,289</u>
Total Impact	<u>\$ -0-</u>	<u>\$ -0-</u>

TECHNICAL NOTES:

- 1) Does not provide for department duties.
- 2) Section 9(2) provides for travel and lodging, but no meals for board members.

FISCAL NOTE 14:E/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-17-83