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STATEMENT OF DAVID HORTON ON SB 97

Chairman Amodie: Members of the Committee:
My name is David Horton. I represent alternative health care providers.

The Committee has been asked for legislation that will reduce medical malpractice. A daunting task.

But it may be possible to reduce medical malpractice in an indirect way.

Two examples will illustrate:

I

When my family first landed in Pioche in the early '60's, we drove through Panaca to Cedar City for our health care.

Our doctor was a naturopath who had run a clinic in Hurricane Utah, where he had delivered about a hundred babies. All but two were normal deliveries: One referral was a breech presentation; in the other the birth canal was too small for the baby.

Two percent caesarian delivery was extremely low. Low complications; low liability experience.

II

The other example was from a naturopath licensed in Oregon where naturopathic licensure covers general practice and obstetrics. I asked the doctor what his malpractice rates were. He said he didn't remember exactly, but they were very low: They were less than he paid for his car insurance!

Later, when I was District Attorney in Lander County, I got some experience in recruiting and retaining doctors in rural Nevada. It is difficult to recruit, but still more difficult to retain doctors who are accustomed to practicing with a hundred million dollar medical facility at their elbow.

Naturopaths are uniquely well suited to meet rural Nevada's needs, because their treatments are less expensive and involve the patient in looking after his own health—which leads to better patient compliance and better results for the dollar.

These same results are needed by the poor and the elderly.

Dr. Dan Labriola, the author of the book "Complementary Cancer Therapies," is a graduate of the John Bastyr College of Naturopathy. He has committed to provide six trained graduates to take the Nevada examination if we can get naturopathy licensed here. That will get an alternative therapy going that can fill an important gap in Nevada's medical capabilities.

A draft bill is attached.

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SUMMARY - Provides for the qualification, examination, credentialing, scope of practice, and regulation of naturopaths.

FISCAL NOTE Effect on local government: No.
Effect on State or Industrial Insurance: No.

AN ACT
Relating to Naturopathic medicine; providing for the educational, training and examination requirements for a license to practice naturopathic medicine; the establishment and funding of a Board of Naturopathic medicine for the regulation and discipline of the profession; requiring certain policies of insurance to provide benefits for patients of persons licensed under this act, and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS

Section 1. NRS is hereby amended to create a new Chapter 633A which shall read as follows:

Sec. 1. The legislature of the State of Nevada finds it necessary to regulate the practice of naturopathic medicine in order to protect the public health, safety and welfare. It is the legislature's intent that only individuals who meet and maintain minimum standards of competence and conduct may provide naturopathic service to the public.

Sec. 2.
1. No person may practice naturopathic medicine or represent him/her self as a naturopath without first applying for and receiving a license from the Board to practice naturopathic medicine.

2. A person represents him/her self as a naturopath when that person adopts or uses any title or any description of services that incorporates one or more of the following terms or designations: naturopath, naturopathic doctor, naturopathic physician, doctor of naturopathic medicine or doctor of naturopathy.

1 Sec. 3.

2 Naturopathic medicine or naturopathy is the practice by
3 naturopaths of the art and science of the diagnosis, prevention and
4 treatment of disorders of the body by stimulation or support, or
5 both, of the natural processes of the human body.

6 The practice of naturopathy includes manual manipulation
7 (mechanotherapy), the prescription, administration, dispensing and
8 use of nutrition and food science, physical modalities, homeopathy,
9 medicines of mineral, animal and botanical origin (except
10 controlled substances listed in schedules I, II and III of NRS
11 453.166, 453.176 and 453.186) hygiene and immunization, common
12 diagnostic and office procedures, and suggestion.
13

14 Sec. 4. Definitions.

15 1. "Board" shall mean the Nevada State Board of Naturopathic
16 Medical Examiners.

17 2. "Manual manipulation" or "mechanotherapy" means
18 manipulation of a part or a whole of the body by hand or by
19 mechanical means.

20 3. "Nutrition and food science" means the prevention and
21 treatment of disease or other human conditions through the use or
22 regulation of foods, vitamins, minerals, water, herbs, roots, bark
23 or natural food elements.

24 4. "Physical modalities" means the use of physical, chemical
25 electrical and other modalities including, but not limited to,
26 heat, cold, air, light, water in any of its forms, sound, massage
27 and therapeutic exercise.

28 5. "Homeopathy" means a system of treatment based on the use
29 of infinitesimal doses of substances capable of producing symptoms
30 similar to those of the disease treated, as listed in homeopathic
31 pharmacopeia.

32 6. "Medicines of animal, mineral and botanical origin" means
33 medicines derived from animal organs, tissues and oils, minerals,
34 plants, and substances as exemplified in traditional botanical and
35 herbal pharmacopeia.

36 7. "Hygiene and immunization" means the use of such
37 preventive techniques as personal hygiene, asepsis, public health
38 and immunizations.

39 8. "Minor office procedures" means care incident thereto of
40 superficial lacerations and abrasions, and the removal of foreign
41 bodies in superficial structures, not to include the eye; and the
42 use of antiseptics and local anesthetics in connection therewith.

43 9. "Common diagnostic procedures" means the use of
44 venipuncture to withdraw blood, commonly used diagnostic modalities
45 consistent with naturopathic practice, health history taking,
46 physical examination, radiography, examination of body orifices,
47 and laboratory medicine which obtains samples of human tissue
48 products, including superficial scrapings but excluding procedures
49 which would require surgical incision.

50 10. "Suggestion" means techniques including but not limited
51 to counseling, biofeedback and hypnosis.

52 11. "Radiography" means the ordering of radiographic

1 diagnostic studies and the taking and interpretation of standard
2 radiographs.

3 12. "Acupuncture" means the insertion of needles into the
4 human body by piercing the skin for the purpose of relieving pain,
5 treating disease and producing analgesia.
6

7 Sec. 5.

8 Nothing in this chapter shall be construed to prohibit or
9 restrict:

10 1. The practice of a profession by individuals who are
11 licensed, certified or registered under other laws of this state
12 who are performing services within their authorized scope of
13 practice;

14 2. The practice of naturopathic medicine by an individual
15 employed by the government of the United States while the
16 individual is engaged in the performance of duties prescribed for
17 him/her by the laws and regulations of the United States;

18 3. The practice of naturopathic medicine by students
19 enrolled in a school approved by the Board. The performance of
20 services shall be pursuant to a course of instruction or
21 assignments from an instructor and under the supervision of the
22 instructor or preceptor. The instructor or preceptor shall be a
23 naturopath licensed under this chapter.
24

25 Sec. 6. Board members: Numbers, appointment, qualifications,
26 replacement of members and oath of office.

27 1. The Nevada State Board of Naturopathic Medical Examiners
28 consists of five members appointed by the governor.

29 2. Three professional members of the Board must be:

30 (a) Licensed under this chapter.

31 (b) Actually engaged in the practice of naturopathic medicine
32 in Nevada.

33 (c) Residents of Nevada.

34 (d) For the purpose of creating an initial Board items (a)
35 through (c) may be waived and persons currently licensed in an-
36 other state, or who have been previously licensed and who have
37 practiced naturopathic medicine in Nevada may be appointed to the
38 Board.

39 3. Two lay members of the Board must be:

40 (a) Residents of Nevada,

41 (b) Not licensed, certified or registered in any State or
42 jurisdiction to practice any healing art, and

43 (c) Not engaged in the administration of any medical facility
44 or facility for the dependent as defined in chapter 449 of NRS.

45 4. The term of office for each member shall be five years,
46 except the initial appointments shall be:

47 (a) One professional member for one year.

48 (b) One professional member for three years.

49 (c) One professional member for five years.

50 (d) One lay member for two years.

51 (e) One lay member for four years

52 5. Upon expiration of his/her term of office, a member must

1 continue to serve until his successor is appointed and qualifies.

2 6. Before entering upon the duties of his/her office, each
3 member of the Board shall take:

4 (a) The constitutional oath of office, and

5 (b) An oath that he/she is legally qualified to serve on the
6 Board.

7 7. If a vacancy occurs on the Board, a member is absent from
8 the State for a period of 6 months or more without the Board's
9 permission, or a member fails to attend meetings of the Board or to
10 the business of the Board, as determined necessary in its
11 discretion, the Board shall notify the governor, and the governor
12 shall promptly appoint a person qualified under this chapter to
13 replace the member for the remainder of the unexpired term.
14

15 Sec. 7. Board officers, meetings and quorum.

16 1. The Board shall select from its members a president, a
17 vice president and a secretary-treasurer, who hold their respective
18 offices at its pleasure. The Board may fix and pay a salary to the
19 secretary-treasurer.

20 2. The Board shall meet at least twice annually and may meet
21 at other times on the call of the president or a majority of its
22 members.

23 3. A simple majority constitutes a quorum to conduct all
24 business.
25

26 Sec. 8. Compensation and expenses of Board members.

27 1. Each Board member is entitled to receive a salary of not
28 more than \$40 per day as fixed by the Board during the conduct of
29 normal business.
30

31 2. Each Board member shall be reimbursed for actual and
32 necessary expenses for subsistence and lodging not to exceed \$25
33 per day, and for transportation while traveling on the business of
34 the Board.
35

36 Sec. 9. Board fiscal year.

37 The Board shall operate on the basis of a fiscal year
38 commencing on July 1 and terminating on June 30.
39

40 Sec. 10. Payment of Board's expenses from fees; deposit of
41 money in banks and savings and loan associations.

42 1. All reasonable expenses incurred by the Board in carrying
43 out the provisions of this chapter must be paid from the fees which
44 it receives and no part of the salaries or expenses of the Board
45 may be paid out of the state general fund.

46 2. All money received by the Board must be deposited in
47 qualified banks or savings and loan institutions in this state and
48 paid out on its order for its expenses.
49

50 Sec. 11. Offices, employees.

51 1. The Board may maintain offices as it finds necessary to
52 carry out the provisions of this chapter.

1 2 The Board may employ attorneys, investigators and other
2 professional consulting and clerical personnel necessary to the
3 discharge of its duties.
4

5 Sec. 12. Issuance and enforcement of subpoenas.

6 1. For the purposes of this chapter the president or the
7 secretary of the Board, when instructed by the Board, may issue
8 subpoenas to compel the attendance of witnesses and the production
9 of books and papers.

10 2. If any witness refuses to attend or testify or produce any
11 book or papers as required by the subpoena, the secretary or
12 president of the Board, with the approval of the Board, may report
13 to a district court by petition, setting forth that:

14 (a) Due notice has been given of the time and place of
15 attendance of the witness or the production of the books and
16 papers;

17 (b) The witness has been subpoenaed by the Board pursuant to
18 this section, and

19 (c) The witness has failed or refused to attend or produce
20 the books and papers required by the subpoena before the Board
21 which is named in the subpoena, or has refused to answer questions
22 propounded to him/her, and asking for an order of the court
23 compelling the witness to attend and testify or produce the books
24 and papers before the Board.

25 3. Upon such petition, the court shall enter an order
26 directing the witness to appear before the court at a time and
27 place to be fixed by the court in its order, and then and there
28 show cause why he/she has not attended or testified or produced the
29 required books or papers, and upon failure to obey the order the
30 witness must be dealt with as for contempt of court.
31

32 Sec. 13. Board adoption of regulations.

33 The Board shall adopt and enforce regulations necessary to
34 enable it to carry out its duties under this chapter, including but
35 not limited to a code of ethics and standards of practice to be
36 used as a basis for determining whether the conduct and practice of
37 persons licensed under this chapter is acceptable.
38

39 Sec. 14. Board record keeping.

40 The Board shall maintain a record of its proceedings relating
41 to licensure and disciplinary actions.
42

43 Sec. 15. Board approval of schools of naturopathic medicine.

44 1. The Board may approve a schools of naturopathic medicine
45 which:

46 (a) Have achieved at least corresponding status with the
47 Council for Naturopathic Medical Education (C.N.M.E.) as approved
48 by the U.S. Department of Education or

49 (b) For schools graduating students prior to 1988 and for
50 schools outside of the U.S. meet standards equivalent to those of
51 the C.N.M.E. or acceptable standards for the time of their
52 operation.

1 (c) The Board may rely on outside professional organizations
2 for assistance in determining the credentials of schools.
3
4

5 Sec. 16. Qualification of applicants.

6 An applicant for licensure to practice naturopathic medicine
7 must be issued a license by the Board if the applicant applies for
8 a license and pays the fees provided for in this chapter and is:

9 1. Practicing naturopathic medicine in Nevada and has been
10 licensed to practice naturopathy in this State, or is

11 2. 21 years of age or older.

12 3. A citizen of the United States or is legally entitled to
13 live and work in the United States,

14 4. A graduate of a school of naturopathic medicine approved
15 by the Board, or a graduate of a school of allopathic medicine,
16 osteopathic medicine, homeopathic medicine or oriental medicine,
17 with additional training in naturopathy as approved by the Board,
18 and

19 5. Passes the examination prescribed by the Board.
20

21 Sec. 17. Applications for licensure: filing and Board
22 actions.

23 1. Every Applicant shall:

24 (a) File an application with the Board in the manner
25 prescribed by the regulations of the Board

26 (b) Submit proof satisfactory to the Board that the age,
27 citizenship and educational requirements prescribed by this chapter
28 have been met, and

29 (c) Pay in advance to the Board the initial licensing and
30 examination fees prescribed by the Board.

31 2. The Board may hold hearings and conduct investigations
32 into any matter related to the application.

33 3. The Board may reject an application if it verifies that
34 any credential submitted is false.
35

36 Sec. 18. Examination of applicants.

37 1. Examinations must be held at least two times per year at
38 a time and place fixed by the Board. All applicants must be
39 notified in writing of the time and place of the examinations.

40 2. The examinations shall be objective, and practical in
41 nature, and designed to examine the applicant's knowledge in the
42 basic and clinical sciences relating to naturopathic medicine.

43 3. The Board may use a national naturopathic licensing
44 examination and/or the examination from another jurisdiction.

45 4. The Board may employ specialists or other professional
46 consultants or examining services to arrange for and conduct the
47 examination.

48 5. If an applicant fails the first examination, the applicant
49 may retake the missed parts or the whole of the examination as
50 prescribed by the Board at the next examination sitting. The fees
51 for the re-examination shall be prescribed by the Board.
52

1 Sec. 19. License seal.

2 1. Each license issued by the Board must bear a seal adopted
3 by the Board and the signature of its members, and

4 2. Each license authorizes the holder to practice
5 naturopathic medicine as long as the license is kept in effect by
6 appropriate renewal and is not revoked or suspended.
7

8 Sec. 20. Renewal of license.

9 1. Except for retired licensees as provided for in this
10 chapter, each license holder may renew his/her license annually on
11 a schedule to be prescribed by the Board by:

12 (a) Application for renewal on forms provided by the Board,

13 (b) Payment of the annual renewal fee prescribed by the
14 Board and

15 (c) Providing proof of compliance of attendance at no less
16 than 24 hours of continuing education courses approved by the
17 Board.

18 2. The Board shall provide guidelines for the acceptability
19 of continuing education courses as required in this section. Where
20 question exists, the Board shall review course material at the
21 request of any licensee at the next scheduled Board meeting to
22 determine its qualification for the continuing education
23 requirements of this section.

24 3. The secretary of the Board shall notify each licensee of
25 the renewal requirement no less than 60 days prior to the renewal
26 date.
27

28 Sec. 21. Expiration and restoration of license.

29 1. If a licensee fails to renew a license within 30 days
30 after the renewal date, the Board shall give 30 days notice of
31 failure to renew and of revocation of license by certified mail to
32 the licensee at the last known address registered with the Board.
33 If the license is not renewed before the expiration of the 30 days
34 notice, the license is automatically revoked without any further
35 notice or a hearing.

36 2. A person whose license is revoked under this section may
37 apply to the Board for the restoration of that license by:

38 (a) Payment of all past due renewal fees and late payment
39 fees prescribed by the Board and

40 (b) A sworn affidavit stating that the applicant has not
41 withheld information from the Board which, if disclosed, would
42 furnish grounds for disciplinary action under this chapter.
43

44 Sect. 22. Retired licensees.

45 1. A licensee who retires from the practice of naturopathic
46 medicine need not annually renew that license after filing with the
47 Board affidavit stating the date of retirement from practice and
48 such other information reasonably required by the Board.

49 2. A retired licensee who desires to return to practice may
50 apply to renew that license by paying a fee not to exceed the sum
51 of all back annual renewal fees from the date of retirement and
52 submitting evidence of having attended continuing education

1 training satisfactory to the Board.
2
3

4 Sec. 23. Fees

5 The Board shall charge and collect fees not to exceed the
6 following amounts:

7	Initial license and application fee	\$500
8	Annual renewal fee	350
9	Re-examination fee	400
10	Late payment fee	100

11
12 Sec. 24. Disciplinary proceedings: initiation.

13 The grounds for initiating disciplinary action under this
14 chapter are:

15 1. Unprofessional conduct.

16 2. Conviction of:

17 (a) A violation of any federal or state law regulating the
18 possession, distribution or use of any controlled substance as
19 defined in chapter 453 of NRS.

20 (b) A felony or

21 (c) Any offense involving moral turpitude.

22 3. Suspension or revocation of the license to practice
23 naturopathic medicine by any other jurisdiction.

24 4. Gross or repeated malpractice.

25 5. Professional incompetence.
26

27 Sec. 25. Filing a complaint.

28 The Board or any of its members who becomes aware that one or
29 more of the grounds for initiating disciplinary action may exist as
30 to a person practicing naturopathic medicine in this state shall
31 file a written complaint specifying the relevant facts with the
32 board.
33

34 Sec. 26. Forwarding complaints

35 If, from the complaint or from the official records, it
36 appears that the complaint is not frivolous and the complaint
37 charges one or more grounds for initiating disciplinary action,
38 the board shall proceed with an appropriate hearing.
39

40 Sec. 27. Competency examination

41 If the board has reason to believe that the conduct of any
42 naturopathic physician has raised a reasonable question as to his
43 competence to practice naturopathic medicine with reasonable skill
44 and safety, the board may cause a medical competency examination of
45 the naturopathic physician to determine his fitness to practice
46 naturopathic medicine within the standards of the profession.
47

48 Sec. 28. Remedies

49 1. In addition to any other remedy provided by law, the
50 board, through its president, secretary or its attorney, or the
51 attorney general, may apply to any court of competent jurisdiction
52 to enjoin any unprofessional conduct of a naturopathic physician

1 which is harmful to the public.

2 2. The court in a proper case may issue a temporary
3 restraining order or a preliminary injunction for such purposes:

4 (a) Without proof of actual damage sustained by any person,
5 this provision being a preventive as well as a punitive measure,
6 and

7 (b) Pending proceedings for disciplinary action by the board.
8 These proceedings must be instituted and determined as promptly as
9 the requirements for investigation of the case reasonably allow.

10 Sec. 29. Complaints reported by the attorney general.

11 With respect to a complaint reported by the attorney general,
12 where the board has determined to proceed with disciplinary action,
13 the secretary of the board shall fix a time and place for a hearing
14 and cause a notice of the hearing and a formal complaint prepared
15 by the board to be served on the person charged at least 30 days
16 before the date fixed for the hearing.
17

18 Sec. 30. Service of process.

19 1. Service of process made under this chapter must be
20 personal or by registered or certified mail with return receipt
21 requested, addressed to the naturopathic physician at his last
22 known address, as indicated in the records of the board. If
23 personal service cannot be made and if mail service is returned
24 undelivered, the secretary of the board shall cause a notice of the
25 hearing to be published in the county of the naturopathic
26 physician's last known address or, if no newspaper is published in
27 that county, then in a newspaper widely distributed in that county.

28 2. Proof of service of process or publication of notice made
29 under this chapter must be filed with the secretary of the board
30 and be recorded in the minutes of the board.
31

32 Sec. 30. Board hearings.

33 1. The person charged is entitled to a hearing before the
34 board, but the failure of the person charged to attend his hearing
35 or his failure to defend himself does not delay or void the
36 proceedings. The board may, for good cause shown, continue any
37 hearing from time to time.

38 2. If the board finds the person guilty as charged in the
39 complaint, it may by order:

40 (a) Place the person on probation for a specified period or
41 until further order of the board.

42 (b) Administer to the person a public or private reprimand.

43 (c) Limit the practice of the person to, or by the exclusion
44 of, one or more specified branches of naturopathic medicine.
45

46 Sec. 31. Judicial review.

47 Any person who has been placed on probation or whose license
48 has been limited, suspended or revoked by the board is entitled to
49 judicial review of the board's order as provided by law.
50

51 Sec. 32. Restoration of license.
52

1 1. Any person whose:

- 2 (a) practice of naturopathic medicine has been limited, or
3 (b) license to practice naturopathic medicine has been:
4 (1) suspended until further order, or
5 (2) revoked

6 by an order of the board may apply to the board after a reasonable
7 period for removal of the limitation or restoration of his license.

8 1. In hearing the application, the board:

9 (a) may require the person to submit to a medical competency
10 examination and submit such other evidence of changed conditions
11 and of fitness as it deems reasonable, and

12 (b) Shall determine whether under all the circumstances the
13 time of the application is reasonable, and

14 (c) may deny the application or modify or rescind its order
15 as it deems the evidence and the public safety warrant.
16

17 Sec. 33. Immunity from civil action.

18 The board of naturopathic medicine, a society of naturopathic
19 medicine or any person who or other organization which initiates or
20 assists in any lawful investigation or proceeding concerning the
21 discipline of a naturopathic physician for gross malpractice,
22 repeated malpractice, professional incompetence or unprofessional
23 conduct is immune from any civil action for that initiation or
24 assistance or any consequential damages, if the person or
25 organization acted without malicious intent.
26

27 Sect. 34. Penalties.

28 A person who:

29 1. Practices naturopathic medicine:

30 (a) without a license valid under this chapter, or

31 (b) beyond the limitations imposed by this chapter or ordered
32 upon his practice by the board or the court.

33 2. Presents as his own the diploma, license or credentials
34 of another.

35 3. Gives either forged or false evidence of any kind to the
36 board or any of its members in connection with an application for
37 a license.

38 4. Files for record the license issued to another, falsely
39 claiming himself to be the person named in the license, or falsely
40 claiming himself to be the person entitled to the license, or

41 5. Practices naturopathic medicine under a false or assumed
42 name, shall be guilty of a gross misdemeanor.
43

44 Section 2. NRS 0.040 is hereby amended to read as follows:

45 1. Except as otherwise provided in subsection 2, "physician"
46 means a person who engages in the practice of medicine, including
47 osteopathy, homeopathy and naturopathy.

48 2. The terms "physician", "homeopathic physician,"
49 "osteopathic physician," "naturopathic physician" and "chiropractic
50 physician" are used in chapters 630, 630A, 633, 633A and 634 of NRS
51 in the limited senses prescribed by those chapters respectively.
52

1 Section 3. NRS chapter 616 is hereby amended by adding
2 thereto a new section which shall read as follows:

3 No provision of this chapter prevents an employee from
4 providing for treatment of his injuries or disease by a
5 naturopathic physician authorized to practice pursuant to chapter
6 633A.

7
8 Section 4. NRS chapter 689A is hereby amended by adding
9 thereto a new section which shall read as follows:

10 No health insurance policy shall be delivered or issued for
11 delivery in this state if it contains any exclusion, reduction or
12 other limitations of coverage relating to treatment or injury or
13 disease by a naturopathic physician. A policy subject to the
14 provisions of this chapter which is delivered or issued for
15 delivery on or after July 1, 2004, has the legal effect of
16 including the coverage required by this section, and any provision
17 of the policy which is in conflict with this section is void.

18
19 Section 5. NRS chapter 689B is hereby amended by adding
20 thereto a new section which shall read as follows:

21 No group health or blanket health policy maybe delivered or
22 issued for delivery in this state if it contains any exclusion,
23 reduction or other limitation of coverage related to treatment of
24 injury or disease by a naturopathic physician. A policy subject to
25 the provisions of this chapter which is delivered or issued for
26 delivery on or after July 1, 2004, has the legal effect of
27 including the coverage required by this section, and any provision
28 of the policy which is in conflict with this section is void.