

HOUSE BILL REPORT

HB 2775

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to the practice of colon hydrotherapy.

Brief Description: Practicing colon hydrotherapy.

Sponsors: Representatives Macri, Van Werven, Shewmake and Doglio.

Brief History:

Committee Activity:

Health Care & Wellness: 2/4/20, 2/7/20 [DPS].

Brief Summary of Substitute Bill

- Creates a new certified health profession: medical assistant–colon hydrotherapist.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers, Chopp, Davis, Harris, Riccelli, Robinson, Stonier, Thai and Tharinger.

Staff: Jim Morishima (786-7191).

Background:

Colon Hydrotherapy.

Colon hydrotherapy (also known as colonic irrigation) is generally the removal of waste from the large intestine using temperature-controlled water. In 2008 the Washington Court of Appeals affirmed a ruling by the Department of Health (DOH) that colonic irrigation constitutes the practice of medicine. *Yow v. The Department of Health Unlicensed Practice Program*, 147 Wn.App. 807 (2008).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

According to a January 2009 sunrise review by the DOH, colon hydrotherapy is performed using colonic irrigation systems. Colonic irrigation systems are devices regulated by the federal Food and Drug Administration (FDA) that require a prescription. The FDA recognizes colonic irrigation systems for colon cleansing when medically indicated. The sunrise review found that the practice of colon hydrotherapy was within the scope of practice of allopathic physicians, osteopathic physicians, and naturopaths. Colon hydrotherapy may be delegated by these professionals to other licensed persons in certain circumstances.

In the sunrise review, the DOH evaluated a proposal to establish certification for colon hydrotherapists. The sunrise review found that the unregulated practice of colon hydrotherapy can harm or endanger health and safety, but that the public does not need an assurance of professional ability because the procedure is already regulated under the scope of practice of other health professions, and that certification would not be the most cost-effective means of providing public protection.

Medical Assistants.

The DOH issues five types of medical assistant credentials: medical assistant–certified, medical assistant–registered, medical assistant–phlebotomist, forensic phlebotomist, and medical assistant–hemodialysis technician. Each type of medical assistant may perform specified duties if delegated by, and under the supervision of, a health care practitioner.

Summary of Substitute Bill:

A new type of medical assistant is created: medical–assistant colon hydrotherapist. A medical assistant–colon hydrotherapist is authorized to perform colon hydrotherapy upon delegation from and supervision by a licensed naturopath. Colon hydrotherapy may be performed by a medical assistant–colon hydrotherapist at a facility other than the supervising naturopath's office. Colon hydrotherapy is defined as the performance of enemas or colonic irrigation.

A person may not practice colon hydrotherapy unless he or she is certified as a medical assistant–colon hydrotherapist. The Department of Health (DOH) must issue a certification to any person who meets training and competency requirements specified in rule by the DOH. The requirements must be identical to draft rules adopted by the Board of Naturopathy specifying the training and competency requirements necessary for a medical assistant–colon hydrotherapist to deliver colon hydrotherapy in a manner that is consistent with all current standards for public safety.

A person performing colon hydrotherapy for compensation does not need to be licensed as a medical assistant–colon hydrotherapist if he or she is currently practicing colon hydrotherapy for compensation. This exemption expires January 1, 2022.

A naturopath may delegate the performance of colon hydrotherapy to a medical assistant–colon hydrotherapist if:

- the supervising naturopath has conducted a patient evaluation and diagnosis and adopted a plan for patient monitoring;
- the medical assistant–colon hydrotherapist has liability coverage for the colon hydrotherapy; and
- the medical assistant–colon hydrotherapist has a written emergency protocol to address urgent needs that may occur as a result of the colon hydrotherapy.

Substitute Bill Compared to Original Bill:

The substitute bill:

- removes the authorization for a certified nursing assistant to perform colon hydrotherapy and the exemption of colon hydrotherapy from the practice of medicine;
- creates a new type of medical assistant: medical assistant–colon hydrotherapist, authorized to perform colon hydrotherapy under the delegation and supervision of a licensed naturopath;
- requires the Board of Naturopathy to submit draft rules to the Department of Health (DOH) specifying training and competency requirements for medical assistant–colon hydrotherapist;
- requires the DOH to adopt rules specifying the qualifications for medical assistant–colon hydrotherapist, which must be identical to the draft rules submitted by the Board of Naturopathy; and
- exempts, until January 1, 2022, an unlicensed person from the licensing requirement if he or she was practicing colon hydrotherapy on the effective date of the act.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately, except for sections 2, 3, 5 through 7, and 9, relating to the creation of the medical assistant–colon hydrotherapist profession, which take effect July 1, 2021.

Staff Summary of Public Testimony:

(In support) There had been an agreement between colon hydrotherapists and the Department of Health (DOH) in 2009 to allow colon hydrotherapists to practice as long as there were no complaints filed against them. Since the Spring of 2018 the DOH has been issuing cease and desist notices against colon hydrotherapists which has created many hardships. This bill will provide a long-term positive solution to save this valuable modality. This bill removes the immediate threat to over 70 small businesses throughout the state and ensures access to this therapy. The threat of restricting access to this practice creates a health concern to many citizens who rely on this therapy for a wide range of issues ranging from constipation to irritable bowel syndrome. This bill will protect this service, the jobs of colon hydrotherapists, and the health of the community. There was one bad apple case that has had unintended consequences on the industry through the investigation of innocent practitioners. The enforcement actions were not due to complaints of harm from the public.

This is a safe procedure when performed by a trained and certified therapist. Members of the profession are serious about their profession and training and are eager to achieve appropriate oversight and regulation. Over 75 percent of the colon hydrotherapists in Washington are part of the national professional organization and have met extensive training requirements for certification. This bill provides a path forward for colon hydrotherapists to continue operating through oversight by the naturopathic health industry. Colon hydrotherapy has been part of naturopathic training and treatment protocols for decades and delegation to qualified unlicensed providers has always been customary practice. This bill allows patients to maintain their health care, providers to maintain their jobs, and naturopaths to rely on qualified and experienced professionals to provide this specialized service. The bill should have a grace period to allow people who currently engage in the practice to continue working before the registration and training requirements are effective.

(Opposed) None.

(Other) There are a number of conflicts between the bill and existing statutes for nurses and nursing assistants. This would allow nursing assistants to practice under the supervision and delegation from a naturopath, and currently nursing assistants only work under nurses. To allow nursing assistants to do this work, their scope of practice would have to be amended. The bill allows the Board of Naturopathy to establish training and competency requirements for nursing assistants to do this procedure and currently that authority rests with the Nursing Care Quality Assurance Commission. Having two separate regulatory bodies set standards for nursing assistants would be confusing and could lead to conflicting requirements. Current law limits the settings in which a certified nursing assistant can practice and this does not include provider offices or clinics, so further amendments would be needed to allow this. The bill exempts colon hydrotherapy from the practice of medicine and this could have the unintended consequence of allowing anyone to perform colon hydrotherapy, even an unlicensed practitioner. This exemption is unnecessary and creates risk for the public seeking this procedure.

Persons Testifying: (In support) Representative Macri, prime sponsor; Brad Tower, Washington Association of Naturopathic Physicians; Russell Kolbo; and Kristi Zimmer, Jamie Doughty, Henrietta Ochsner, and Gail Palms, Washington Association of Colon Hydrotherapy.

(Other) Paula Meyer, Nursing Care Quality Assurance Commission; and Christie Spice, Department of Health.

Persons Signed In To Testify But Not Testifying: None.