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Alaska Association of Naturopathic Physicians
Office of the President

Our association agrees to provide
a Naturopathic advisor to the
Division of Occupational Licensing who
will serve without cost
to the state.

This advisor will provide professional
expertise when needed to
develop and implement regulations,
and to help with discipline, and
peer review, and to make
recommendations for a more
permanent licensing arrangement.

Sincerely

Gay J. Ryan

HOUSE

COMMITTEE REPORT

(7)

Date referred: 5/10/85

FURTHER REFERRALS:

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee has considered HR 2077 (m)

"An Act relating to the practice of naturopathy; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with _____ same title
- replace with _____ new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

W. J. ...

...

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...

W. J. ...

Chairman

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: _____

REQUEST

Bill Resolution No.: CR 85B 297 (FIR)
 Title: relating to the practice of

 Sponsor: _____
 Requestor: HOUSE MISS COMMITTEE
 Date of Request: 5/11/86

FISCAL DETAIL

Agency Affected: COMMITTEE
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

[Handwritten Signature]
[Handwritten Name]

Prepared by: House MISS Committee Phone: 465-6759
 Division: Legislative Date: 5/11/86

Approved by Commissioner: _____ Date: 5/11/86
 Agency: _____

Distribution (Agency receiving fiscal note):

- Legislative Finance
- Legislative Support
- Revenue
- Office of Management and Budget
- Impaired Agency

mechanic days were not without adventure. His plane crashed in 1929, but he was rescued by a friend of Hutehinson's, one of Alaska's most colorful bush pilots. In 1929 Ben Eielson, one of Alaska's most colorful bush pilots, died in a plane crash while at-
See Pilot's, page B-3

Hutehinson (Huteh) is known to be one of the best mechanics in Alaska. He retired as an aviation mechanic with Mark Air in 1962. Now 80, Hutehinson has as much firsthand knowledge of Alaska's aviation history as anyone living.
Hutehinson, a Fairbanks resi-



Times photo by Herb Swanson
Naturopath Patton Petijohn packs up files at his Anchorage office, having lost an appeal to the state Superior Court

leaves room for a future mezzanine-level gallery for assembly visitors.
Looking through the building's south lobby entrance on the ground level, visitors turn left to the circular wing holding the assembly chambers. Inside the chamber room is an 80-foot diameter circle with a two-story ceiling. Citizens will be seated in 200 theater-typo seats.

...the... team is really a step-up for the... according to chairman... He said he at least... a local... moving into such a grand facility in a year in which declining revenues are making headlines. But Walsh reminds people that the chambers were part of the library from the beginning and that the library was funded with state grants and not

...will be substantially completed April 21, according to Mike Johnson, resident manager for Link Maxwell and Associates. The actual library portion of the facility will not open to the public until September.
Citizens going to testify before the assembly, the Planning and Zoning Commis-

Judge backs ruling barring naturopath from giving services

Practitioners hope for new law setting up licensing board

By Catherine Stadem
Times Writer

An appeal by naturopath Patton Petijohn to reverse a ruling of the Alaska Medical Board that Petijohn practices medicine without a proper license has been rejected by Superior Court Judge Brian Shortell.

In the March 28 decision, Shortell affirmed the board's 1984 decision to issue a cease-and-desist order to Petijohn to stop treating patients by naturopathy, a form of medical treatment that relies on nutrition, vitamins, exercise and herbal remedies.

The decision does not condemn naturopathy but states that only someone with a state medical license may practice it.

"Basically, naturopaths cannot diagnose or treat any symptom or illness or condition with any substance or recommendation whatsoever," said Petijohn of the recent court decision. "They said we could (treat) if someone didn't have a specific

problem — then we could give out advice associated with prevention and health enhancement."
However, "80 percent of the people who come here to the office don't fit that," he continued. Petijohn, who was born in Anchorage and has completed a four-year graduate program in naturopathy in Oregon, has practiced naturopathy for seven years in Anchorage. He is closing his Anchorage office temporarily and will continue to practice natural home births out of his Wasilla office, which he is allowed to do under the legislative provisions governing midwifery.

"If the legislature gets an exception for us as they did last session for midwives," he explained, "we can continue to practice."
The three naturopaths currently practicing in Anchorage — Petijohn, Hope Wing and Cary Jasper — intend to appeal the Superior Court decision. Meanwhile, they are urging

for about 18 months. "People have got to get moving on this," she continued, stating that she and her colleagues are hoping the pending bill will be acted on this session.

"There's a lot of misinformation about our education and training," she said. "There's a lot of fear of quackery."

Wing trained at the National College of Nutritional Medicine in Portland. "Our training emphasizes teaching people to live according to natural laws so their bodies will function as they are meant to."

She doesn't believe she will be immediately affected by the recent decision, however, because Wing works under the direct supervision of a medical doctor.

Jasper, a third-generation Alaskan who has been in practice for 3½ years, said that "it's sad that this is happening. My family and I still have access to naturopathy, but it's the public that's losing the right to choose."

Anchorage Times
4-9-86

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
707 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 14, 1986

SUBJECT: Liability of state for exempting the practice of naturopathy from the practice of medicine

TO: Senator Fred Zharoff
Chair, Labor and Commerce Committee

FROM: Theresa L. Bannister *tlb*
Legislative Counsel

You have requested an opinion whether or not the state would be liable for injuries suffered by a patient of a naturopath if the state passed a law exempting the practice of naturopathy from the practice of medicine. The short answer is that the state would not be liable for such injuries. There do not appear to be constitutional problems with the general concept of enacting such an exemption, and the doctrine of sovereign immunity would prevent a tort action for such injuries against the state.

Under the doctrine of sovereign immunity, the state is immune from liability unless the state provides by statute for liability. The reason behind this immunity is to limit judicial reexamination of decisions properly entrusted to other branches of government. See Industrial Indemnity Co. v. State, 669 P.2d 561, 563 (Alaska 1983). AS 09.50.250 states the actions that can be brought against the state and includes tort actions. However, subsection (a) of that statute contains two major exceptions that are relevant to your question.

One exception prohibits a claim based on the negligence of a state employee or agency when performing a discretionary function or duty. Decisions that rise to the level of planning or policy-making are considered discretionary acts that do not give rise to tort liability, while decisions that are merely operational in nature are not considered to be discretionary acts and therefore are not immune from liability. See, e.g., State v. I'Anson, 529 P.2d 188, 193 (Alaska

Senator Fred Zharoff
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April 14, 1986

1974). Since the making of statutes is certainly policy-making, the enactment of such a statute by the legislature and the planning and policy-making in the implementation of the statute would be discretionary acts for which the state could not be held liable in tort for personal injuries, even if it were claimed that these acts were performed without due care.

The other exception prohibits tort actions based upon an act or omission of a state employee who exercises due care in the execution of a statute or regulation, whether or not the statute or regulation is valid. Therefore, if the state implemented such a bill with all due care, the state would not be liable for patient injuries, whether the particular implementing act amounted to a discretionary or operational act.

Therefore, it does not appear that the enactment or implementation of a statute exempting the practice of naturopathy from the practice of medicine would expose the state to liability for the personal injury claims of patients of naturopaths. The liability of the state regarding such a statute would be no different from its ordinary liability exposure for carrying out governmental functions.

If I can be of further assistance, please advise.

TLB:mkr
m4/103

MEMORANDUM

State of Alaska

TO: Michael Thill, Staff Assistant
Senate Labor & Commerce Committee

DATE: April 11, 1986

FILE NO:

TELEPHONE NO: 465-3600

FROM: Harold M. Brown
Attorney General

SUBJECT: Pettijohn v. State,
-- naturopath appeal

By: 
Peter B. Froehlich
Assistant Attorney General

You asked by telephone yesterday about the effect and meaning of the March 28, 1986 Decision and Order in Pettijohn v. State (Case No. 3AN-84-160 consolidated), by Judge Shortell. The decision affirmed the Medical Board's September 20, 1984 decision and order which prohibits Patton D. Pettijohn from performing in the course of his naturopathy practice, activities which constitute the practice of medicine because he is not licensed under AS 08.64. The decision does not change, but rather merely upholds, the prohibition against practicing medicine without a license that has existed since at least 1949 (AS 08.64.170(a)) and the definition of the practice of medicine which was rewritten in 1983 (AS 08.64.380(2)).

Neither the recent superior court decision nor any existing statutes or regulations prohibit the practice of naturopathy itself. Naturopaths can continue to practice naturopathy as long as they do not at the same time practice medicine in any way. To the extent the two practices overlap, however, naturopaths are still barred from all activities included within that overlap. Naturopaths can also, of course, practice lay midwifery under ch. 33, SLA 1985.

We expect the March 28 Decision and Order to be appealed, but we are confident of our ability to successfully defend it. We will be consulting with the division of occupational licensing and the medical board concerning the practical and enforcement ramifications of the court's decision and order. It is likely that the 4 or 5 known naturopaths in the state will be contacted to ensure that they understand the limits within which they can practice naturopathy under the existing laws which have been upheld by the court.

A copy of both the court's and the board's decisions and orders are attached, along with the board's March 1, 1984 answers to clarifying questions. Please let us know if we can provide any further information.

PBF:md

From: AK. State
Medical Board

It is illegal for Naturopaths to do the following, as stated by the Alaska State Medical Board:

- diagnose an injury or illness
- treat an injury or illness
- care and examinations during pregnancy
- episiotomies
- sutures
- diagnostic testing
- draw blood
- interpret test results
- pap smears
- injections
- analysis for the purpose of diagnosing a pathologic condition or disease
- "well examination"
- gynecology examinations
- remove warts
- use of ultrasound
- Chinese acupuncture
- making dietary recommendations for the purpose of alleviating or curing an illness or disease
- using of the ability to recognize or identify a pathologic condition and correct it

It is legal for Naturopaths to do the following, as stated by the Alaska State Medical Board:

- cut umbilical cords
- nutritional analysis/nutritional therapy
- practice lay midwifery
- determining human pregnancy
- use of topical antiseptics associated with childbirth
- making dietary recommendations to a healthy person for the purpose of preventing illness or disease.
- use of pancreatin or bromelain to improve digestion
- recommending the use of Vitamin E for therapeutic purposes
- selling vitamins and nutritional supplements
- advise healthy persons about good health and nutrition
- conduct and/or interpret laboratory tests to determine a dietary profile on a healthy person
- diagnose and treat all human "conditions", including alcoholism, obesity, addiction to cigarettes or drugs, hearing disorders, speech disorders, etc., as long as the problem does not include the prescription of medications, drugs or surgery