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207

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

Revision Date: 5/7/86

REQUEST

Bill/Resolution No.: CSSSSB 297 (L&C)
 Title: A: Act relating to the practice of naturopathy; and providing for an effective date.
 Sponsor: Senate Labor & Commerce
 Requester: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
 BRU: Occupational Licensing
 Components: _____

EXPENDITURES / REVENUES : (Thousands of Dollars)

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

CAPITAL						
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REVENUE		.6	**	**	**	.6
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FUNDING: (Thousands of dollars)

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

POSITIONS:

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary.

The bill changes the composition of the Board of Chiropractic Examiners to add a sixth nonvoting ex officio naturopathic member, and amends the title of the board to the Board of Chiropractic and Naturopathy Examiners. The bill authorizes the board to license and regulate the practice of naturopathy in Alaska. Costs of

Prepared by: Jennifer Strickler, Management Analyst
 Division: Occupational Licensing

Phone: 465-2144

Date: 5-7-86

Approved by Commissioner: Don H. Loomis
 Agency: Commerce and Economic Development

Date: 5/7/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSSSB 297 (L&C)

adding a sixth member are minimal and will be absorbed by the division.

This fiscal note differs from the previous fiscal note in that assuming the new member will be appointed from the Anchorage area where expenses would be minimal, costs would be absorbed by the division.

REVENUE:

Although there may be as many as six naturopaths in Alaska, we are certain of three practicing naturopaths, and therefore revenues are based on the three practitioners.

AS 08.20.180 currently establishes fees for licensure. Revenues shown are 'new' revenues to be generated from licensing naturopaths. These revenues will be in addition to the revenues generated through the licensing of Chiropractors.

Initial license fee (quadrennial renewal period) = $\$200 \times 3 = \600

Revenues may increase within the quadrennial cycle depending on the number of new practitioners who obtain licensure.

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Agency Affected: Commerce & Economic Dev.
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 Components: _____

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		-0-	-0-	-0-	-0-	-0-
TRAVEL		1.2	1.2	1.2	1.2	1.2
CONTRACTUAL		-0-	-0-	-0-	-0-	-0-
SUPPLIES		-0-	-0-	-0-	-0-	-0-
EQUIPMENT		-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES		-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		1.2	1.2	1.2	1.2	1.2

CAPITAL						
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REVENUE		.6	**	**	**	.6
---------	--	----	----	----	----	----

FUNDING: (Thousands of dollars)

GENERAL FUND		1.2	1.2	1.2	1.2	1.2
FEDERAL FUNDS						
OTHER						
TOTAL		1.2	1.2	1.2	1.2	1.2

POSITIONS:

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PARTTIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary.

The bill amends the Board of Chiropractic Examiners to include naturopaths, therefore creating the Board of Chiropractic and Naturopathy Examiners. It increases the composition of the board from five to six members by adding one nonvoting ex officio naturopath member. Costs mentioned above result from adding the sixth member to a board that already meets twice each year and administers exams in conjunction with

Prepared by: Jennifer Strickler, Management Analyst Phone: 465-2144
 Division: Occupational Licensing Date: 5/6/86
 Approved by Commissioner: *John H. Arpaia* Date: 5/6/86
 Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

- Legislative Finance
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CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSSSB 297 (L&C)

each meeting. Travel costs of \$1.2 could be reduced to \$.7 if the composition of the board were to remain at five members. If reduced by attrition, the replacement of one chiropractic member from Anchorage could be replaced with a naturopath as early as July 1986, therefore reducing per diem costs by \$.5.

An explanation of travel costs follow:

Based on two meetings with exams held in Anchorage -

Transportation from Juneau to Anchorage = \$352 x 2 =	\$ 704.00
Per diem based on three days at \$80 per day = \$240 x 2 =	480.00
	<u>\$1,184.00</u>

REVENUE:

Although there may be as many as six naturopaths in Alaska, we are certain of three practicing naturopaths, and therefore revenues are based on the three practitioners.

AS 08.20.180 currently establishes fees for licensure. Revenues shown are 'new' revenues to be generated from licensing naturopaths. These revenues will be in addition to the revenues generated through the licensing of Chiropractors.

Initial license fee (quadrennial renewal period) = \$200 x 3 = \$600

Revenues may be increased by the end of four years depending on the number of new practitioners who obtain licensure in the interim.

POSITION PAPER

SENATE BILL NO. 297

"An Act relating to the licensing of practitioners of naturopathic medicine; and providing for an effective date."

BACKGROUND

The Bill defines naturopathy as a "system of healing the human body that includes diagnosis and treatment through the use of natural agencies, forces, processes, and products with emphasis on the response of the individual to the disease rather than its treatment in isolation."

There is controversy over the scientific basis of naturopathic medicine. In a 1968 study, the U.S. Department of Health, Education and Welfare stated that "naturopathic theory and practice are not based upon the body of basic knowledge related to health, disease and health care which has been widely accepted by the scientific community." This position has remained unaltered. There is apparently also some division within the ranks of naturopathic physicians with some ascribing solely to "hygienic and prophylactic measures" while others include diagnostic procedures, minor surgery and the use of certain drugs within the scope of naturopathic practice.

There are two four-year colleges of naturopathic medicine in the United States, one in Portland and one in Seattle. In addition, there is a correspondence curriculum in naturopathy available from the Bernadean University in Van Nuys, California but graduates of that program would not be eligible for Alaska licensure under the terms of this Bill.

Alaska currently has no statute providing for the licensure of naturopathic physicians. The Attorney General has held that, to the extent that naturopathy constitutes the practice of medicine as defined in the Alaska Statutes, any person practicing naturopathy would be required to be licensed by the State Board of Medical Examiners. Proponents of naturopathy consider a requirement for medical licensure to be unfair since their discipline is considered, in their view, to be quite distinct from conventional medicine.

DISCUSSION

While certain conditions may be amenable to treatment through naturopathic methods, others would not. A few examples would include malignancies, diabetes in certain age groups or of certain degrees of severity, certain types of infectious diseases, etc. Similarly, it is not always possible to determine the benign or malignant nature of a superficial lesion by its gross appearance. Protection of the public would require that the public clearly understands the limitations of the naturopathic approach and that the practitioner be able to recognize those conditions in which his or her therapy would not be beneficial.

Position Paper
SB 297
Page 2

While naturopathic practitioners are eligible for licensure in some states, several of those states impose restrictions limiting practice to "drugless therapy" and, in some cases, prohibiting surgery.

DEPARTMENTAL POSITION

The Department has reservations about the appropriateness of naturopathic treatment for certain types of illnesses. However, the Department recognizes that certain health care consumers desire to use the services of a naturopath and is, therefore, neutral on this bill. The Department defers to the Department of Commerce and Economic Development on the merits of licensure and the establishment of a Board.

Recommended by: *Robert I. Fraser*
Robert I. Fraser, M.D.
Director
Division of Public Health

Date: 4/29/85

Approved by: *John R. Pugh*
John R. Pugh
Commissioner
Department of Health and
Social Services

Date: 4/30/85

SSSB 297: An Act relating to the licensing of practitioners of naturopathic medicine; and providing for an effective date.

The Department of Commerce and Economic Development and the Division of Occupational Licensing are opposed to SSSB 297, An Act relating to the Practice of Naturopathy, as currently written.

The bill establishes a new chapter under Title 8, Businesses and Professions, to recognize the practice of naturopathy in Alaska. The bill both recognizes the practice of naturopathy and exempts the practice from the provisions of the Medical Practice Act, 08.64. The division does not object to recognizing the practice of naturopathy in Alaska, but opposes the exemption from the Medical Practice Act.

Apparently, the proposed exemption is one means of resolving the current controversy over what practices are acceptable in naturopathy and what practices are, instead, the practice of medicine. To date, there has been no comprehensive definition of the field of naturopathy distinct from the definition of the practice of medicine. The difficulty in developing such a definition is understandable, given the current definition of the practice of medicine in AS 08.64.380:

(2) "practice of medicine" or "practice of osteopathy" means

(A) for a fee, donation or other consideration, to diagnose, treat, operate on, prescribe for, or administer to, any human ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other mental or physical condition; or to attempt to perform or represent that a person is authorized to perform any of the acts set out in this subparagraph;

(B) to use or publicly display a title in connection with a person's name including "doctor of medicine," "physician," "M.D.," or "doctor of osteopathic medicine" or "D.O.," or a specialist designation including "surgeon," "dermatologist," or a similar title, or any title which tends to show that the person is willing or qualified to diagnose or treat the sick or injured;

It appears that, because it remains difficult to define the practice of naturopathy, a proposal is being made to simply exempt naturopaths from the Medical Practice Act. The result of this, however, would be that a naturopath who meets the minimal requirements in 08.45.010 can practice medicine just as a licensed physician can, and with no licensing constraints.

Although the division is sympathetic to the problem, the division cannot support this proposal, which has the potential for severe threat to the public safety.

The division would not oppose the recognition in statute of practice of naturopathy, especially if that will lend credence to naturopaths in their effort to define the allowable practices of naturopaths. Although there are few naturopaths in the state, there is strong support for naturopathy as an alternative health service which should be acknowledged.

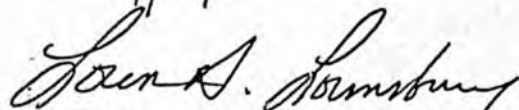
However, it is important to understand that recognition of naturopaths is likely to be interpreted incorrectly by the general public as regulation or licensing of naturopaths. In fact, it is clear that this is the understanding from literature being distributed by supporters of the bill. This bill would not regulate or license naturopaths, and passage may, instead, provide a false sense of security that the state is checking the credentials of naturopaths before practice and revoking licenses where naturopaths do not meet the educational standards in the bill. This is not correct. As written, the bill would provide authority to the division to respond only to complaints that a naturopath is practicing medicine without an exemption from the Medical Practice Act.



Nancy Dunn, Director, 465-2534
Division of Occupational
Licensing

Date: _____

4/25/86



Loren H. Lounsbury, Commissioner
Department of Commerce and
Economic Development

Date: _____

4/29/86

SB 297: "An Act relating to the licensing of practitioners of naturopathic medicine and providing for an effective date."

The Department of Commerce and Economic Development and the Division of Occupational Licensing would support this legislation with proposed amendments.

One objective of licensing in Alaska is to ensure that practitioners providing services to consumers are competent and qualified in order to protect the health, welfare and safety of the public. The division is concerned that this legislation proposes licensing a group whose scope of practice encompasses that of other licensed professions, but whose educational level is not comparatively equivalent to practitioners of those occupations.

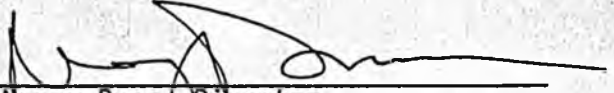
Information from other naturopathic licensing jurisdictions indicates that the education level of naturopathic practitioners is comparatively lower than that of medical doctors. Most licensing jurisdictions require a naturopath to have undertaken two years of undergraduate studies and to be a graduate of a four-year naturopathic college. By comparison, most medical colleges require a four-year degree prior to entry into a four-year medical program and one to three years of residency internship depending on specialty area. In addition to minor surgery, Section 08.45.160 also authorizes the scope of naturopathic practice to include aspects of the practices of psychology, physical therapy, and medicine.

The following amendments are proposed:

Section 08.45.150. FEES, should be amended to reference AS 08.01.065 to allow licensing fees to be set in regulations. Standard language used in other licensing areas states "The department shall set fees under AS 08.01.065 for each of the following: (1) application fee; (2) examination fee; (3) initial license fee; (4) renewal license fee." This amendment will allow examination costs to be included as part of the total costs of the licensing function. Note that the present fiscal note reflects only an estimate of the costs for examinations since we have not yet located an available naturopathic licensing exam.

Section 08.45.160. SCOPE OF NATUROPATHIC MEDICINE, would authorize a new licensing group to provide services that are traditionally medical (minor surgery, sutures, acupuncture, to draw blood, etc.). Of the seven states which license naturopathic medicine, we are aware that two states (Oregon and Utah) allow "minor surgery" to be performed. We recommend that "minor surgery" be defined extensively or eliminated from the scope of practice.

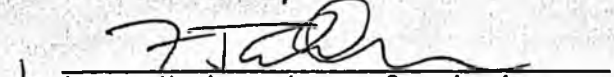
Section 08.45.170. RENEWAL, should be amended to require that licenses be renewed biennially on a date set by the department. The division suggests the following language be incorporated into Section 08.45.170 "(a) A license issued under this section shall be renewed biennially on a date set by the department." This amendment is consistent with AS 08.01.100 and would simplify administrative processing of license renewals.



Nancy Dunn, Director
Division of Occupational Licensing

Date: _____

3/15/86



Loren H. Lounsbury, Commissioner
Department of Commerce & Economic
Development

Date: _____

3/17/86



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

CSSSSB 297(L&C): Sectional Analysis

- Section 1) Expands the Board of Chiropractic Examiners to include "naturopathy", increases the membership from 5 to 6 members, and states that there will be one nonvoting ex officio member.
- Section 2) Provides that the ex officio member of the board shall be a licensed practitioner of naturopathy.
- Section 3) Technical change
- Section 4) Technical change
- Section 5) Technical change
- Section 6) Establishes naturopath licensure criteria; i.e. degree from a 4 year accredited college and a degree from a school of naturopathy that required 4 years of attendance.
- Section 7) Technical change
- Section 8) Disclosure requirements for naturopath's patients, and restrictions placed on naturopathic practitioner. Naturopath may not give or recommend prescription drugs, controlled substances, poisons, or engage in the practice of surgery, or use the word "physician" in title.
- Section 9) Technical change
- Section 10) Technical change
- Section 11) Technical change
- Section 12) Technical change
- Section 13) Technical change
- Section 14) Technical change

- Section 15) Definitions under AS 08. This section also defines the practice of "naturopathy" in (3).
- Section 16) Technical changes
- Section 17) Technical changes
- Section 18) Additional definitions necessary under AS 09
- Section 19) Technical changes
- Section 20) Definitions under AS 47;
- Section 21) Immediate effective date

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 297 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the practice of naturopathy; and
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 08.20.010 is amended to read:

10 Sec. 08.20.010. CREATION AND MEMBERSHIP OF BOARD OF CHIROPRACTIC
11 AND NATUROPATHY EXAMINERS. There is created the Board of Chiropractic
12 and Naturopathy Examiners consisting of six [FIVE] members appointed
13 by the governor, including one nonvoting ex officio member.

14 * Sec. 2. AS 08.20.020 is amended to read:

15 Sec. 08.20.020. MEMBERS OF BOARD. Four members of the board
16 shall be licensed chiropractic physicians who have practiced chiro-
17 practic in this state not less than two years. One member of the
18 board shall be a person with no direct financial interest in the
19 health care industry. The ex officio member shall be a person who is
20 licensed under this chapter to practice naturopathy. Each member
21 serves without pay but is entitled to per diem and travel expenses
22 allowed by law.

23 * Sec. 3. AS 08.20.100 is amended to read:

24 Sec. 08.20.100. PRACTICE OF CHIROPRACTIC OR NATUROPATHY WITHOUT
25 LICENSE PROHIBITED. A person may not practice chiropractic or naturo-
26 pathy in the state without a license.

27 * Sec. 4. AS 08.20.110 is amended to read:

28 Sec. 08.20.110. APPLICATION FOR LICENSE. A person desiring to
29 practice chiropractic or naturopathy shall apply in writing to the

1 board.

2 * Sec. 5. AS 08.20.120(b) is amended to read:

3 (b) The board may issue a license to practice chiropractic
4 without examination to an applicant under AS 08.20.140.

5 * Sec. 6. AS 08.20.120 is amended by adding a new subsection to read:

6 (c) An applicant shall be issued a license to practice naturo-
7 pathy if the applicant provides proof satisfactory to the board that
8 the applicant has a degree from

9 *consider* (1) an accredited 4-year college or university; and

10 (2) a school of naturopathy that required four years of
11 attendance at the school.

12 * Sec. 7. AS 08.20.140 is amended to read:
pass in exam *(national board)*

13 Sec. 08.20.140. LICENSURE BY CREDENTIALS. The board may issue a
14 license without examination to an applicant for a license to practice
15 chiropractic if the applicant presents [PRESENTING] satisfactory proof
16 of the possession of a license or certificate of registration in good
17 standing in a state or territory of the United States, or a foreign
18 country, if the requirements for registration at the date of the
19 applicant's license were essentially equivalent to those in this
20 chapter for a license to practice chiropractic.

21 * Sec. 8. AS 08.20 is amended by adding new sections to read:

22 Sec. 08.20.145. DISCLOSURES REQUIRED BY PERSON WHO PRACTICES
23 NATUROPATHY. (a) A person who practices naturopathy shall clearly
24 disclose that the person's training and practice is in naturopathy

25 (1) to each patient; and

26 (2) on all material used in the practice of naturopathy and
27 made available to patients or to the public.

28 (b) A person who practices naturopathy without being covered by
29 malpractice insurance shall disclose to each patient that the person

1 does not have the insurance.

2 Sec. 08.20.147. RESTRICTIONS ON PRACTICE OF NATUROPATHY. A
3 person who practices naturopathy may not

4 (1) give, prescribe, or recommend in the practice

5 (A) a prescription drug;

6 (B) a controlled substance;

7 (C) a poison;

8 (2) engage in surgery;

9 (3) use the word "physician" in the person's title.

10 * Sec. 9. AS 08.20.160 is amended to read:

11 Sec. 08.20.160. TEMPORARY PERMITS. Temporary permits to prac-
12 tice chiropractic may be issued to persons apparently qualified until
13 the next regular meeting of the board.

14 * Sec. 10. AS 08.20.175(a) is amended to read:

15 (a) When it finds that a licensee under this chapter [CHIROPRAC-
16 TOR] is guilty of an offense under AS 08.20.170, the board may impose
17 the following sanctions singly or in combination:

18 (1) permanently revoke the [CHIROPRACTOR'S] license to
19 practice;

20 (2) suspend the [CHIROPRACTOR'S] license for a determinate
21 period of time;

22 (3) censure the licensee [CHIROPRACTOR];

23 (4) issue a letter of reprimand to the licensee [CHIROPRAC-
24 TOR];

25 (5) place the licensee [CHIROPRACTOR] on probationary
26 status and require the licensee [CHIROPRACTOR] to

27 (A) report regularly to the board upon matters involv-
28 ing the basis of probation;

29 (B) limit practice to those areas prescribed;

1 (C) continue professional education until a satisfac-
2 tory degree of skill has been attained in areas determined by the
3 board to need improvement;

4 (6) impose limitations or conditions on the practice of the
5 licensee [CHIROPRACTOR].

6 * Sec. 11. AS 08.20.175(b) is amended to read:

7 (b) The board may withdraw probationary status of a licensee
8 [CHIROPRACTOR] if it finds that the deficiencies which required the
9 sanction have been remedied.

10 * Sec. 12. AS 08.20.175(c) is amended to read:

11 (c) The board may summarily suspend a [CHIROPRACTOR'S] license
12 before final hearing or during the appeals process if the board finds
13 that the licensee [CHIROPRACTOR] poses a clear and immediate danger to
14 the public health and safety if the licensee [CHIROPRACTOR] continues
15 to practice. A licensee [CHIROPRACTOR] whose license is suspended
16 under this section is entitled to a hearing by the board no later than
17 seven days after the effective date of the order. The licensee
18 [CHIROPRACTOR] may appeal the suspension after a hearing to a court of
19 competent jurisdiction.

20 * Sec. 13. AS 08.20.200 is amended to read:

21 Sec. 08.20.200. UNLICENSED PRACTICE A MISDEMEANOR. A person who
22 practices chiropractic or naturopathy in the state without a license
23 in violation of AS 08.20.100 is guilty of a misdemeanor, and upon
24 conviction is punishable by a fine of not more than \$1,000. or by
25 imprisonment for not more than a year, or by both. [IN PROSECUTIONS
26 UNDER THIS SECTION, EVIDENCE THAT THE DEFENDANT HAS FAILED TO FILE THE
27 DEFENDANT'S CERTIFICATE OF REGISTRATION WITH THE BOARD IS PRIMA FACIE
28 EVIDENCE THAT THE DEFENDANT IS NOT A LICENSED CHIROPRACTOR.]

29 * Sec. 14. AS 08.20.210 is amended to read:

1 Sec. 08.20.210. FRAUDULENT CERTIFICATES. A [ANY] person who
2 obtains or attempts to obtain a chiropractic or naturopathic certifi-
3 cate by dishonest or fraudulent means, or who forges, counterfeits, or
4 fraudulently alters a [ANY SUCH] certificate is punishable by a fine
5 of not more than \$500, or by imprisonment for not more than six
6 months, or by both.

7 * Sec. 15. AS 08.20.220 is amended to read:

8 Sec. 08.20.220. DEFINITIONS [CHIROPRACTIC DEFINED]. In this
9 chapter,

10 (1) "chiropractic" means [CHIROPRACTIC IS] the science of
11 locating and correcting interference with nerve energy transmission
12 and expression within the human body, and the employment and practice
13 of drugless therapeutics, including physiotherapy, hydrotherapy,
14 mechanotherapy, phytotherapy, electrotherapy, chromotherapy,
15 thermotherapy, thalmotherapy, correcting and orthopedic gymnastics,
16 and dietetics which includes the use of foods and those biochemical
17 tissue building products and cell salts found within the normal human
18 body, without the use of drugs or surgery;

19 (2) "controlled substance" has the meaning given in AS 11.-
20 71.900;

21 (3) "naturopathy" means the use of hydrotherapy, dietetics,
22 electrotherapy, sanitation, suggestion, mechanical and manual manipu-
23 lation for the stimulation of physiological and psychological action
24 to establish a normal condition of mind and body

25 * Sec. 16. AS 08.01.010(2) is amended to read:

26 (2) Board of Chiropractic and Naturopathy Examiners
27 (AS 08.20.010);

28 * Sec. 17. AS 08.03.010(c)(2) is amended to read:

29 (2) Board of Chiropractic and Naturopathy Examiners

1 (AS 08.20.010) -- June 30, 1988.

2 * Sec. 18. AS 09.55.560 is amended to read:

3 Sec. 09.55.560. DEFINITIONS. In AS 09.55.530 - 09.55.560

4 (1) "health care provider" means a chiropractor licensed
5 under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist
6 licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing
7 optician licensed under AS 08.71; a naturopath licensed under
8 AS 08.20; an optometrist licensed under AS 08.72; a pharmacist
9 licensed under AS 08.80; a physical therapist licensed under AS 08.84;
10 a physician licensed under AS 08.64; a podiatrist; a psychologist and
11 a psychological associate licensed under AS 08.86; and a hospital as
12 defined in AS 18.20.130, including a governmentally owned or operated
13 hospital; a corporate entity covered under AS 21.88.050(b)(12); and an
14 employee of a health care provider acting within the course and scope
15 of employment;

16 (2) "board" means an arbitration board established under
17 AS 09.55.535;

18 (3) "panel" means an expert advisory panel established
19 under AS 09.55.536.

20 * Sec. 19. AS 47.08.050 is amended to read:

21 Sec. 47.08.050. SERVICES EXCLUDED FROM COVERAGE. Annually, the
22 committee shall determine in light of appropriated funds and expected
23 need the medical expenses reimbursable under this chapter, except that
24 the following are not reimbursable:

25 (1) dentistry and optometry unless prescribed by a licensed
26 dentist or physician as medically necessary as the result of the
27 injury or illness;

28 (2) elective medical or surgical procedures;

29 (3) drugs and medications not prescribed by a licensed

1 physician;

2 (4) services received as a result of a pregnancy or birth
3 without unusual complications;

4 (5) private psychological or psychiatric treatment or
5 private alcoholism treatment, unless not available from public
6 agencies or programs;

7 (6) chiropractic services and services provided by a person
8 who practices naturopathy;

9 (7) services not of a medical nature;

10 (8) medical services currently provided to persons in the
11 custody of the Department of Corrections;

12 (9) costs incurred before July 1976.

13 * Sec. 20. AS 47.17.070 is amended to read:

14 Sec. 47.17.070. DEFINITIONS. In this chapter

15 (1) "child" means a person under 18 years of age;

16 (2) "child abuse or neglect" means the physical injury or
17 neglect, sexual abuse, sexual exploitation, or maltreatment of a child
18 under the age of 18 by a person who is responsible for the child's
19 welfare under circumstances which indicate that the child's health or
20 welfare is harmed or threatened thereby;

21 (3) "child care provider" means an adult individual, or an
22 employee of an organization, who provides care and supervision to a
23 child for compensation;

24 (4) "department" means the Department of Health and Social
25 Services;

26 (5) "institution" means a private or public hospital or
27 other facility providing medical diagnosis, treatment, or care;

28 (6) "neglect" means the failure to provide necessary food,
29 care, clothing, shelter, or medical attention for a child;

1 (7) "organization" means a group or entity that provides
2 care and supervision for compensation to a child not related to the
3 caregiver, and includes a child care facility, pre-elementary school,
4 head start center, child foster home, residential child care facility,
5 recreation program, children's camp, and children's club;

6 (8) "person responsible for the child's welfare" means the
7 child's parent, guardian, foster parent, a person responsible for the
8 child's care at the time of the alleged child abuse or neglect, or a
9 person responsible for the child's welfare in a public or private
10 residential agency or institution;

11 (9) "practitioner of the healing arts" includes chiroprac-
12 tors, dental hygienists, dentists, health aides, nurses, nurse practi-
13 tioners, optometrists, osteopaths, naturopaths, physical therapists,
14 physicians, physician's assistants, psychiatrists, psychologists,
15 psychological associates, religious healing practitioners, and
16 surgeons;

17 (10) "sexual exploitation" means

18 (A) permission or encouragement to a child for pros-
19 titution prohibited by AS 11.66.100 - 11.66.150 by a person
20 responsible for the child's welfare;

21 (B) permission, encouragement, or activity involved
22 in the unlawful exploitation of a minor prohibited by AS 11.41.-
23 455 by a person responsible for the minor's welfare.

24 * Sec. 21. This Act takes effect immediately in accordance with AS 01.-
25 10.070(c).

Introduced: 4/23/85
Referred: Labor & Commerce,
Health, Education & Social Services
and Finance

1 IN THE SENATE

BY ABOOD

2

SENATE BILL NO.297

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the licensing of practitioners of
7 naturopathic medicine; and providing for an effective
8 date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 08.01.010 is amended by adding a new paragraph to read:
11 (26) regulation of naturopathy or naturopathic medicine
12 under AS 08.45.

13 * Sec. 2. AS 08 is amended by adding a new chapter to read:

14 CHAPTER 45. NATUROPATHS.

15 ARTICLE 1. REGULATION OF NATUROPATHY.

16 Sec. 08.45.010. DUTIES AND POWERS. The department shall

17 (1) evaluate the qualifications of applicants for licenses
18 under this chapter;

19 (2) conduct hearings and keep records necessary to carry
20 out the purposes of this chapter; and

21 (3) license naturopaths and renew licenses in accordance
22 with AS 08.45.100 - 08.45.170.

23 ARTICLE 2. LICENSING OF NATUROPATHS.

24 Sec. 08.45.100. LICENSE REQUIRED. A person may not engage in
25 the practice of naturopathy or naturopathic medicine unless that
26 person has a valid license issued under this chapter.

27 Sec. 08.45.110. REQUIREMENTS FOR A LICENSE. To be eligible for
28 a license to practice naturopathy or naturopathic medicine, an appli-
29 cant must have the following qualifications:

- 1 (1) a high school diploma or its equivalent;
- 2 (2) completion of three full years of postsecondary educa-
3 tion at an accredited college or university;
- 4 (3) graduation from a school of naturopathy or naturopathic
5 medicine that requires for graduation the successful completion of a
6 course of resident instruction as follows:
- 7 (A) nine or more months of attendance a year for four
8 years;
- 9 (B) successful completion of a course of instruction
10 totaling 4,000 hours or more; the course of instruction must
11 include 1,500 hours of clinical experience, and the following
12 subjects: anatomy, physiology, histology and embryology; micro-
13 biology; pathology; immunology; public health; physical,
14 clinical, and x-ray diagnosis; first aid and emergency medicine;
15 obstetrics and gynecology; orthopedics; minor surgery and
16 proctology; otolaryngology; physiotherapy and manipulative
17 techniques; dietetics and clinical nutrition; botanical medicine;
18 naturopathic theory; therapeutics and clinical practice; and
19 jurisprudence;
- 20 (4) successful completion of an examination given by the
21 department; the department may waive the examination if the applicant
22 has successfully passed a similar examination in another state or in
23 Canada;
- 24 (5) no history of suspension or revocation for disciplinary
25 reasons of a license to practice naturopathy issued by another state
26 or a province of Canada;
- 27 (6) United States citizenship or lawful admission as a
28 permanent resident to this country; and
- 29 (7) good moral character.

1 Sec. 08.45.120. EXAMINATION. (a) The department shall hold an
2 examination for a license to practice naturopathy or naturopathic
3 medicine at a time, place, and manner determined by the department.
4 The department shall hold the examination at least twice a year if the
5 demand exists. The department shall limit the examination to the
6 subjects listed in AS 08.45.110(3). Each of the subjects listed in
7 AS 08.45.110(3) constitutes a separate examination section. The
8 examination must be objective and written, but the department may
9 supplement the written examination with oral examinations and demon-
10 strations or other practical tests.

11 (b) A passing grade on the examination is an average of 75
12 percent for the entire examination with a score below 70 percent for
13 no more than two sections.

14 Sec. 08.45.130. RECIPROCITY. The department may license a
15 person to practice naturopathy or naturopathic medicine if the person
16 is currently licensed to practice naturopathy or naturopathic medicine
17 in another state or a province of Canada and

18 (1) that state or province maintains professional licensing
19 standards equivalent to or higher than those in this chapter;

20 (2) that state or province extends the same licensing
21 privilege to those holding a license to practice naturopathy or
22 naturopathic medicine in this state; and

23 (3) the person demonstrates to the satisfaction of the
24 department qualifications equal to those required of a person licensed
25 under this chapter.

26 Sec. 08.45.140. DENIAL OF RENEWAL, SUSPENSION OR REVOCATION OF
27 LICENSE. The department may, to the extent necessary to protect the
28 public, reprimand or prescribe rehabilitation or education for, or
29 suspend, revoke, or decline to renew the license of, a licensee who

1 (1) has obtained a license under this chapter by fraud or
2 deceit;

3 (2) wilfully violates a provision of this chapter or a
4 regulation adopted under this chapter;

5 (3) habitually overuses alcoholic beverages;

6 (4) unlawfully uses a controlled substance;

7 (5) impersonates a medical doctor;

8 (6) practices naturopathy or naturopathic medicine under an
9 assumed name;

10 (7) is incompetent;

11 (8) engages in dishonest or misleading business practices;

12 or

13 (9) is convicted of a crime involving moral turpitude,
14 including murder, sexual assault, robbery, kidnapping, incest, arson,
15 burglary, theft, and forgery.

16 Sec. 08.45.150. FEES. The department shall charge the following
17 fees:

18 (1) application for examination \$100

19 (2) license issuance or biennial renewal 200

20 Sec. 08.45.160. SCOPE OF NATUROPATHIC PRACTICE. (a) A naturo-
21 path may

22 (1) perform physical examinations, write prescriptions for
23 substances authorized by this chapter, and sign birth and death cer-
24 tificates;

25 (2) use systems of diagnosis for which the naturopathic
26 physician has been trained under AS 08.45.110(3);

27 (3) treat patients by physiological, nutritional, psycho-
28 logical, mechanical, electrical, manual, hydrotherapeutic, or phyto-
29 therapeutic methods, that are recognized naturopathic methods,

1 including acupuncture and the use of mineral and organic substances
2 and agencies;

3 (4) draw blood for laboratory purposes, and use electrical
4 or other methods for the repair and care of superficial lacerations
5 and abrasions, benign superficial lesions, and the removal of foreign
6 bodies located in superficial structures; and

7 (5) practice natural childbirth, including related minor
8 surgical procedures.

9 (b) A naturopath may not

10 (1) except as provided under (a)(5) of this section, per-
11 form surgery;

12 (2) use controlled substances;

13 (3) use radiation therapy; or

14 (4) use drugs, except local anesthetics, minerals, and
15 extracts, compounds or concentrates obtained from plants or animals.

16 Sec. 08.45.170. RENEWAL. (a) A license issued under this
17 section is valid for two years from the date of issuance.

18 (b) Before the department renews a license issued under this
19 chapter, the licensee shall submit to the department evidence that the
20 licensee has completed 20 hours of continuing education.

21 (c) The department may exempt a licensee from the continuing
22 education requirement of (b) of this section if a licensee submits an
23 application setting out extenuating circumstances that justify grant-
24 ing the exemption. The department may not give to a licensee more
25 than one exemption under this subsection in a five-year period.

26 (d) The department shall prescribe by regulation the courses
27 that will satisfy the continuing education requirements of this sec-
28 tion.

29 ARTICLE 3. GENERAL PROVISIONS.

1 Sec. 08.45.200. TITLES AND ABBREVIATIONS. (a) A person li-
2 censed under this chapter may use the following titles: "Naturopath,"
3 "Naturopathic Physician" or its abbreviation, "N.P.," "Doctor of
4 Naturopathy" or its abbreviation, "N.D." A person licensed under this
5 chapter may not use a title in a manner that suggests that the person
6 practices a form of medicine or a healing art other than naturopathy
7 or naturopathic medicine.

8 (b) A person may not use a title or abbreviation listed in (a)
9 of this section unless the person is licensed under this chapter.

10 Sec. 08.45.205. VIOLATIONS. (a) Except as provided in (b) of
11 this section, a person is guilty of a class B misdemeanor if the
12 person

13 (1) fraudulently obtains or furnishes a license, renewal,
14 or record required by this chapter;

15 (2) wilfully violates a provision of this chapter or a
16 regulation adopted under this chapter.

17 (b) A person who practices naturopathy or naturopathic medicine
18 without a valid license issued under this chapter is guilty of a
19 class A misdemeanor.

20 Sec. 08.45.220. DEFINITIONS. In this chapter

21 (1) "controlled substance" has the meaning given in AS 11.-
22 71.900;

23 (2) "department" means the Department of Commerce and
24 Economic Development;

25 (3) "naturopath" means a person who practices naturopathy
26 or naturopathic medicine;

27 (4) "naturopathy" or "naturopathic medicine" means a system
28 of healing the human body that involves diagnosis and treatment
29 through the use of natural agencies, forces, processes, and products,

1 with an emphasis on the response of the individual to the disease
2 rather than treatment of the disease in isolation.

3 * Sec. 3. Notwithstanding AS 08.45.110 as enacted in sec. 2 of this
4 Act, a person may apply for and receive a license to practice naturopathy
5 if the person

6 (1) is a resident of the state;

7 (2) is practicing naturopathy in the state on the effective date
8 of this Act;

9 (3) has a valid license to practice naturopathy issued, after
10 examination, by another state or a province of Canada;

11 (4) has graduated from a school of naturopathy that satisfies
12 the requirements of AS 08.45.110(3) as enacted in sec. 2 of this Act; and

13 (5) applies for the license within 30 days of the effective date
14 of this Act.

15 * Sec. 4. This Act takes effect July 1, 1986.

CHAIRMAN'S INFORMATION: CSSSSB 297(L&C)

*Scott
Jamison
Paul
Doyle*

1) BILL TITLE: "An act relating to the practice of naturopathy; and providing for an effective date."

a) Introduced: Sen Abood

b) Co-sponsors:

2) INTENT: This measure provides for the licensure of "naturopathic" practitioners, and would place them under the Board of Chiropractic Examiners. It provides for the expansion of the Board including the appointment of a nonvoting "ex officio" naturopath.

The bill also limits the practice of naturopathy to prevent the use of prescription drugs, controlled substances, poisons, the practice of surgery, and the use of the word physician in the person's title.

FISCAL NOTE: 0 for the original bill

3) ADDITIONAL REFERRALS: HESS, Finance , Rules

4) PUBLIC HEARINGS:

a) Sponsor:

b) Public Witnesses:

5) BILL ACTION:

a) Hold in committee?

b) Assign to sub committee for further review?

c) Move from committee?

d) Close public hearings?

6) COMMITTEE ACTION?

a) amendments?

b) CS adoption? Need to adopt the Senate L&C CS

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*
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

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3900

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 *tb*
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
Page 2
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

**STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 297
Title: Licensing of naturopaths

Sponsor: Abood
Requestor: _____
Date of Request: 4-26-85

FISCAL DETAIL

Agency Affected: Dept. Health & Social Serv.
Program Category Affected: Public Health

BRU, Program or Subprogram(s) Affected: State Health Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS	0	0	0	0	0	0
800 MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert I. Fraser, M.D. ^{RI/DB} Phone: 465-3090
Division: Public Health Date: _____

Approved by Commissioner: John R. Pugh ^{JRP} Date: 4-30-85 ^{JCC}
Agency: Department of Health & Social Services