

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

10756 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

How does a Power of Attorney differ from a Guardianship?

A Power of Attorney is power granted to an attorney-in-fact to conduct any business which to client could do himself, such as banking, real estate, taxes, business transactions, or any other issue generally time-limited. The client must be capacitated and there is no court oversight. A guardianship occurs when the client can not make decision for himself and has the court reviewing the situation. The guardianship generally superseeds the POA.

What is a Durable Power of Attorney?

When a person executes a POA, which will become or remain effective in the event the client later becomes disabled. It may include conservator powers and authority to make medical decisions.

What is an Advance Directive?

A document that stating exactly which measures to be followed in the event of an incapacity or terminal illness.

What is a Living Will?

A document by which an individual, while competent, may specify that in the event there is no reasonable expectation that he/she will recover from a terminal illness or vegetative state, no extraordinary or heroic measures are to be used to prolong the act of dying; is only employed to prevent the use of life sustaining procedures.

These questions and answers came from a column in the Alaska State Association for Guardianship and Advocacy's newsletter The ASAGA Voice from 1993-1995 called "Ask Dorcas!"

The Guardian / Conservator Petitioning Process

11/20/01dj

Decide that the person may need a guardian or conservator

- Review Video, then
- Hire a Family Law Attorney, or
- Get Alaska Psychiatric Institute or Div of Senior Services to file through the AG's for their own clients, or
- Get packet and complete yourself.

Petition is filed

- \$50 filing fee, can be waived
- may sign at court

Then, Probate Court will

- Review petition
- Set a hearing date (within 120 days)
- Appoint a court visitor
- If a guardianship, appoint an attorney for respondent and
Appoint a medical expert to determine capacity or have court visitor designate

Before the hearing

- Court Visitor will investigate and prepare a report to the court
(visit respondent, talk with petitioner, family, professionals, and get the medical expert's report. Inform respondent of their rights, make a recommendation about alternatives, what is needed, and who should perform.)(file 10 days prior to court)
- Attorney will visit with respondent

Court Hearing

- Before a Probate Court Judge or Master
- Closed hearing (not open to general public)
- Persons present may include judge, court clerk, respondent, their attorney, petitioner, court visitor, proposed guardian/conservator, involved persons that the court or respondent allows.

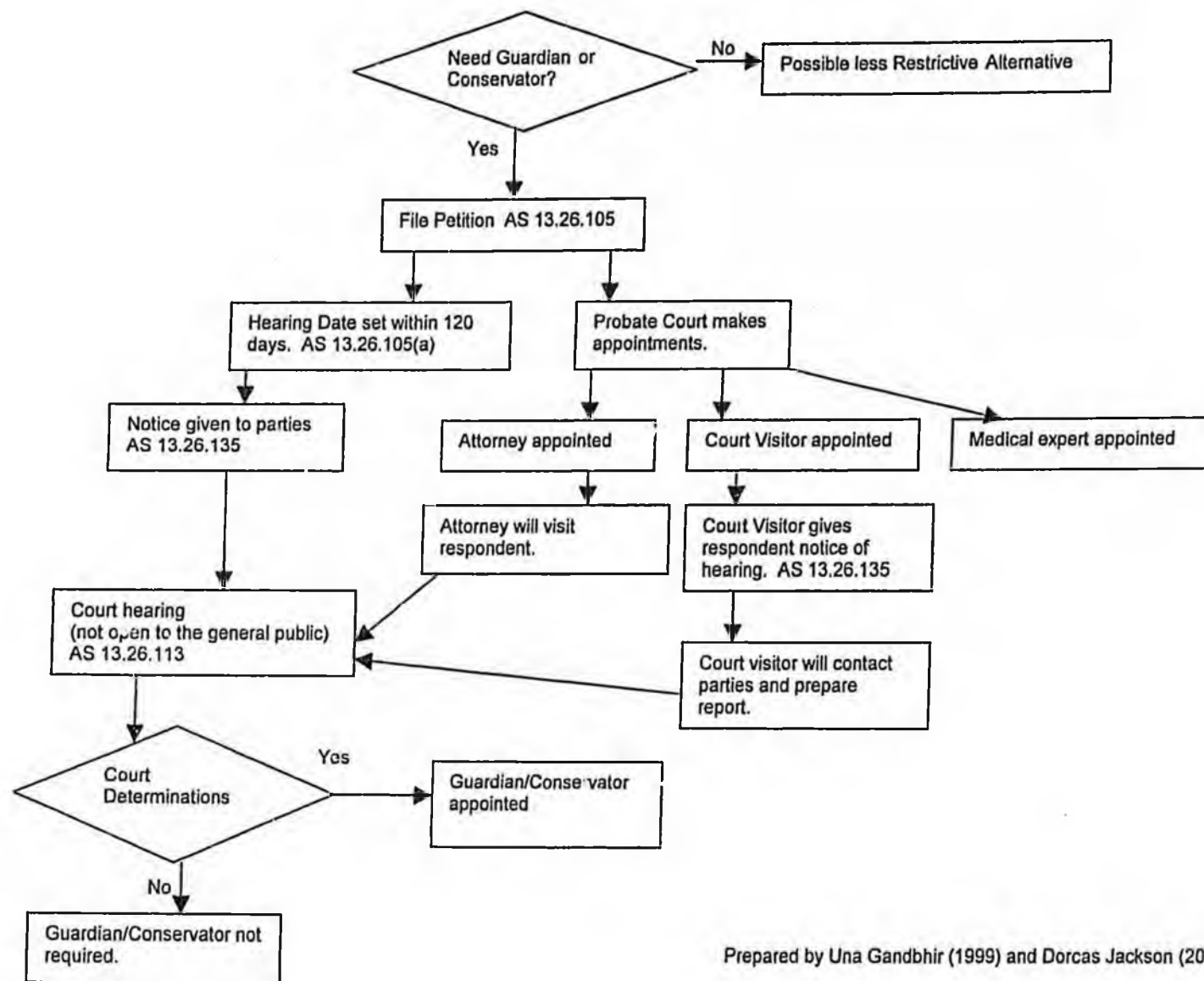
Generally at the end of the hearing the judge will determine

- Jurisdiction
- Incapacity
- What type of G/C the respondent needs
- Who should be the G/C
 1. Family / friend
 2. Private Guardian Service Provider
 3. Public Guardian (only last resort)

On-going Guardian/Conservator responsibilities

- Make decisions allowed in Court Order
- Complete 90 days report
- Complete annual reports

The Guardianship Process



Prepared by Una Gandhir (1999) and Dorcas Jackson (2001 & 2002)



THE ALASKA STATE ASSOCIATION FOR GUARDIANSHIP AND ADVOCACY

Enclosed you will find a draft bill for Guardianship Reform prepared by an ASAGA (Alaska State Association for Guardianship and Advocacy) with the assistance of Senator Gary Wilken. ASAGA is committed to preventing the exploitation and mistreatment of vulnerable adults. In addition to the bill, you will find a packet of educational information to help you understand adult guardianship issues and the reason for considering guardianship reform.

In 2003, at least 14 states passed a total of 19 adult guardianship bills, as compared to ten bills in ten states in 2002. In 2001, 16 states passed a total of 26 bills and in 2000, 15 states passed a total of 24 bills. ASAGA believes that Alaska's guardianship statutes are ripe for reform.

ASAGA's efforts with respect to guardianship reform began with two open forums at the annual conference in 1997. Several dedicated members worked on projects which later dovetailed with the recommendations from the McDowell Study. Following the incident in 2002 where a private agency filed bankruptcy, ASAGA has renewed its efforts for recommendations for statute reform. These along with the previous recommendations in the 2002 SB 190 should be introduced this session.

These are items that ASAGA hopes to have happen with its reform efforts.

- Clarify and improve current law AS 13.26.005 – 13.26.410
- Create a mechanism for regulating private agencies that offer guardianship services
- Develop regulations for governing private professional guardianship agencies
- Adopt National Guardianship Association Model Code of Ethics and Standards for professional guardians
- Assure that professional guardians in Alaska are certified and meet minimum established criteria

- Mandate training for both professional and family guardians

ASAGA believes that all professional guardians and their agencies should be both registered (approved to do business by the Division of Occupational Licensing) and certified (tested on guardianship standards by a central authority such as the National Guardianship Foundation).

In Alaska, professional guardians, both private and public, and family guardians provide services to approximately 2500 disabled, vulnerable adults. The Office of Public Advocacy accommodates the Public Guardian program and employs 14 public guardians in three locations across the state. They serve over 831 vulnerable adults. Twelve of the public guardians are certified with the National Guardianship Foundation and four are classified as Master Guardians.

There are six private professional agencies in the state that accept protective order appointments. Only two accept guardianship appointments at this time, however of the seven associates working for these two private agencies, six are certified guardians with the National Guardianship Foundation and one is classified as a Master Guardian.

Of the 21 professional guardians practicing in Alaska, 86% are certified with the National Guardianship Foundation. Several more have taken the test for registered guardian or master guardian and are awaiting the results. The Court Visitor Coordinator is also certified as a registered guardian.

While Alaska is fortunate to have a strong public agency to meet guardianship needs for indigent citizens, we do have needs in other areas. Many states have enacted measures to strengthen the monitoring capacity of the court. ASAGA believes that is ultimately up to the court to monitor the guardianships that they grant. Therefore, ASAGA believes that a two-prong approach is necessary. Not only do we need to have legislative changes, we need to have the courts embrace their duty to monitor the existing guardianships.

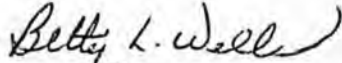
Alaska does very well with respect to due process and pre-investigation of guardianship cases. Respondents have a multitude of rights including a right to an attorney, the right to be present in court and the right to have a court visitor appointed to

do an independent investigation. As with other states, Alaska needs to address deficiencies in the monitoring and accountability.

We hope this packet assists you in understanding the guardianship process so that you can make informed choices when the reform efforts come your way.

For more information, you can reach me at the numbers below.

Sincerely,



Betty L. Wells
Court Visitor
Chair/ASAGA Legislative Committee
And Guardianship Reform Taskforce

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DEFINITIONS OF TERMS USED IN GUARDIANSHIP/CONSERVATORSHIP PROCEEDINGS

PETITION: A document filed by an individual or agency who wishes the Court to appoint a guardian or conservator for an individual believed to be incapacitated. This document identifies the circumstances of the individual's condition and sets the guardianship and/or conservatorship process in motion.

RESPONDENT: The person for whom guardianship and/or conservatorship is being sought.

PETITIONER: The person or agency who petitions the Court for a finding of incapacity or the need for a protective order, and the appointment of a guardian and/or conservator for an individual.

RESPONDENT'S ATTORNEY: The attorney appointed by the Court to represent the respondent's wishes throughout the guardianship and/or conservatorship proceeding. An attorney for the respondent is automatically appointed in a guardianship proceeding. Alternatively, the respondent may elect to utilize an attorney of his/her own choosing. In conservatorship proceedings, a respondent may choose to represent himself or herself, or may request the Court to appoint one on his/her behalf. The visitor may also request an appointment of an attorney for a respondent in a conservatorship proceeding if he/she deems it appropriate.

PETITIONER'S ATTORNEY: The attorney retained by the petitioner to represent his/her interests in the guardianship and/or conservatorship proceeding. The petitioner may elect to retain an attorney, but is not required to do so.

GUARDIAN AD LITEM (GAL): A special temporary guardian appointed by the Court to represent the best interests and rights of the ward or respondent in the proceedings. A GAL is appointed if the Court decides the respondent cannot determine or express his or her own interests because of impaired ability. An attorney for the respondent may ask the Court to change his/her appointment to that of a GAL if he/she believes the respondent is unable to express his/her wishes.

COURT VISITOR: A neutral person trained or experienced in law, medicine or medical health care, education, rehabilitation or social work, etc. who is appointed by the Court to make a thorough investigation and evaluation of all information relevant to the respondent's case. The Court Visitor has no special interest in the proceedings. The Court Visitor's appointment is vacated after the appointment of a guardian and/or conservator, but is reappointed if there is an order to review the guardianship or conservatorship.

PROBATE MASTER: An officer of the Court who hears and recommends a ruling to the judge on guardianship and/or conservatorship proceedings.

EXPERT: A professional from the medical or psychological community who is aware of the respondent's physical and/or mental functioning and provides a report to the Court documenting the respondents capacity.

CONSERVATOR: One who is appointed to manage the business and financial affairs of a person unable to do so for themselves. A judicial finding of incompetence is not required for conservatorship to take effect.

GUARDIAN: One who lawfully has the general care and control of the person of the ward. Guardians make medical and placement decisions on behalf of their ward.

WARD: A person who has had a guardian appointed by the Court.

PROTECTED PERSON: A person who has had a conservator appointed by the Court.

PUBLIC GUARDIAN: One employed by the state to act as guardian and or conservator, used as last resort when no private person or agency is able or available to act in this capacity.

PROFESSIONAL GUARDIAN: An individual, agency or organization that provides guardian/conservatorship services to individuals, and receives compensation for this service.

FAMILY GUARDIAN: A family member or friend of the ward who provides guardian/conservator services to the ward.

REPRESENTATIVE PAYEE: a person or agency who receives federal funds on behalf of another if the recipient is unable to manage their own finances. The Social Security Administration makes this determination, and a court order is not required for the appointment of a representative payee.

CASE MANAGER OR CARE COORDINATOR: A person, usually, but not always, affiliated with an agency, who oversees, arranges and coordinates the care of an individual. The case manager does not provide direct care, but arranges for needed services and monitors those services.

CARE PROVIDER: An individual or institution that provides direct care or assistance to an individual. This may include meals, assistance with activities of daily living, transportation, monitoring of medications, recreation, etc.

SPECIAL ADVOCATE: An individual designated by the Court who is entitled to receive information about a ward's or protected person's financial, medical and housing arrangements, but retains no decision making responsibility or authority. This appointment is usually made when a guardian or conservator is appointed.

INTERESTED PARTIES: Individuals or institutions including heirs, children, spouses, creditors, beneficiaries and any others having a right to, or claim against the estate of a ward or protected person that may be affected by the proceedings.

REVIEW HEARING: This hearing is conducted when an established guardianship and/or conservatorship may need to be revised, changed or terminated. Any interested party may request such a hearing if they have concerns about the guardianship/conservatorship. In addition, any other person who has knowledge or contact with the ward or protected person, such as a case manager, physician, care provider or social worker, may request such a hearing.

90 DAY IMPLEMENTATION REPORT: A report submitted by the guardian and /or conservator to the Court 90 days after his/her appointment. Forms for this report are provided by the Court. It outlines the current health, residence and financial status of the ward or protected person.

ANNUAL REPORTS: A report submitted by the guardian and/or conservator to the Court on an annual basis. Forms for this report are provided by the Court, and include information pertaining to the ward or protected person's general state of health, residence and financial status.

THREE YEAR REVIEWS: A report prepared every three years by the court visitor outlining the status of the guardianship/conservatorship. This includes information about any changes in the capacity of the ward, his/her financial situation, and whether the existing orders need to be modified. Based on the findings of the visitor, a hearing on the guardianship and/or conservatorship may be scheduled.

Comparison of Guardianship and Conservatorship		
	Guardianship	Conservatorship
Basic Difference	Wellbeing of person	Conserve Finances
Who starts it	Petitioner	Petitioner
Venue (which court)	Where person lives	Where person or assets are
Person before the hearing is called a	Respondent	Respondent
Appointments	Court Visitor (always) Expert (Medical)(always) Attorney for respondent (always)	Court Visitor (generally appointed) No expert usually needed Attorney (may be appointed)
Findings	Incapacity	Assets wasted or dissipated
The person after hearing	Ward	Protected Person
Who is appointed	Guardian	Conservator
Responsibilities	Medical & Informed Consent Placement (housing) Services Things that affect well-being, quality of life	Receive Income Pay expenses Protect Assets Liabilities Taxes Benefit Applications
Reports Due	G Implementation (90 days) G Annual (every year) G Final	C Inventory (90 days) C Annual (every year) C Final
Documents	G Order Letters of Acceptance G Plan	C Order Letters of Acceptance
Bonding	May be required in Full G that includes the conservatorship	Required unless Judge/Master chooses not to require
Fees	Must be authorized by Judge/Master	Must be authorized by Judge/Master
Ends	At death or when changed by court	At death or when changed by court

Professional Guardian Services Corporation

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FAX COVER / MESSAGE SHEET

Date: 4/5/04 Number of pages: 5 (including cover page)

Message From: "B" Jarvi
NAME TITLE

Professional Guardian Services Corporation
Fax No.: (907) 458-8860 Phone No.: (907) 458-8850

Message To: Peggy Wilson
NAME TITLE

COMPANY / AGENCY NAME DEPT/REGION

(907) 465-2646 ()
FAX NO. PHONE NO.

Message:

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TO: Peggy Wilson

RE: Unfinished Testimony HB 427

BY: "B" Jarvi

With regard to HB 427 formulated by ASAGA (90% membership composed of OPA employees) OPA staff and directors, court visitors (OPA contractors) and a few others, I do affirm that I was not invited to join in the development of the draft of the bill. This is the second time they submitted a self-serving bill. Senator Gary Wilken was approached to sponsor the former bill; when he found that assurances had been made to him then too and the committee that were not based on fact, he refused to sponsor the bill.

I again affirm that I have no objection to stringent licensing and certification procedures that include criminal checks. However, I do object that only private professional guardians are singled out for these licensing requirements. I want to see that guardians hired by the Office of Public Advocacy be required to meet the same requirements and that they also have to absorb the cost of licensing and certification prior to their being hired by the state agency. These conditions and requirements for liability insurance and criminal checks should apply to OPA employees and contractors as well.

References were made to the fact that CAPA went bankrupt and that the OPA is still dealing with the fallout of that situation. CAPA's director reported the problems on her own when she discovered the irregularities which had occurred during the directorship of the former director. Somehow, the OPA which is charged with the oversight of private guardians had remained in the dark about the situation for some time. Court visitors did not recognize the problems until they were pointed out to them. It is my understanding that CAPA had sufficient insurance coverage to protect all of the clients but OPA attorneys failed to file the necessary claims despite being informed of the fact. The former director of CAPA was told in a recent case by the probate master that in all evidence submitted to the Master for review, the Master could find no evidence that the director had done anything wrong.

OPA's court visitors need to meet stringent requirements and the background and educational checks as well. There is no way they can review the work of a licensed guardian or conservator unless they meet the criteria themselves. It is my belief that all court visitors should be qualified to meet the requirements for the RG or MG exam. They should all serve an internship under the direction of a qualified guardian or in a guardianship agency. OPA should not intern its own court visitors.

Complaints about OPA case management, lost assets, making partial guardianships full when transferred to OPA, without petition or hearing or notification of spouses or family members, lack of sensitivity to cultural and ethnic norms and customs, failure to exercise the duties of a guardian or conservator are commonplace. OPA has been subjected to

four legislative audits and the conflict of interest it has with private agencies by virtue of being both a regulator and competitor were mentioned in all of them.

The conflict of interest issue and the lack of training exhibited by OPA's court visitors was also the subject of an Elders Issues Task Force forum to which Interior legislators were invited. The recommendations recommended that OPA's own work be reviewed on the same basis as that of private professional agencies and that could only be achieved by moving the court visitors away from the OPA. Other recommendations included a request that court appointed attorney contracts be abolished and that attorneys to represent respondents be drawn from a list of attorneys willing to handle the cases, or in the alternative, have a GAL other than the sole contractor attorney appointed in every case; that public guardians not be allowed to give Powers of Attorney on behalf of their wards to other private non-profit agencies who provide services to the ward; that OPA be required to account for all assets and their disposition. There were others.

Now, on to the unfinished testimony:

Article 3 Practices Sec. 08.26.110

How can the fee schedule of a private professional entity show a maximum amount that the ward or protected person? I would prefer that it be amended to read that "The fee schedule.....and will agree that the entity will not charge the ward in excess of an amount that represents OPA's costs to provide the necessary services" In court OPAs' attorneys represent that OPA charges \$40 per month, therefore, the contract attorney/GAL argues that it is in the ward's best interest to have OPA serve as guardian/conservator. What they do not represent to the court is that private entities have to pay their own overhead and benefits and other costs of doing business. For instance, I know of no other guardians who are paid \$35 per hour with a full benefit package other than at OPA. The last study made on the subject two years ago placed the cost to the state at \$1,742. Per month per ward to provide guardianship/conservatorship services. Price fixing becomes something that buries private entities. Another problem is that an OPA attorney will call for hearing after hearing just to get a private agency to cave in. We cannot appear in court without an attorney at our expense; OPA's court appointed attorneys are at state expense. In a recent case, where PGSC offered to do a case for free at no cost to the state, the court appointed attorney and the court visitor called for a number of hearings. Because PGSC was not being paid for its work due to a complete lack of funds above and beyond the cost of care, we could not afford to pay an attorney to fight for the case. We gave up...the state now had an additional \$1,742 to pay in OPA costs as opposed to having a vulnerable person in a nursing home being cared for at no cost to the state for the guardianship and conservatorship.

Page 10, Sec. 13.26.001 Adoption of standards of practice.

(8) Why is the "department" allowed to be present only when a private professional guardian or a private professional conservator is involved in the proceeding? Why does this not include OPA and private family guardians?

Page 11 Sec. 13.26.025 Appointment of a guardian ad litem.

Why this section? It appears to assure the court appointed OPA attorney a guarantee of being on the state payroll indefinitely. An attorney is appointed for the guardianship/conservatorship proceeding and his role ends with the appointment of a guardian or conservator as the case may be. He then is to take his direction from the appointed guardian or conservator rather than the incapacitated ward. Keeping him on as guardian ad litem will assure his continued control of the guardianship for OPA.

Further, if OPA competes with the private sector for appointments, it is a serious conflict of interest for them to also be allowed to serve as guardian ad litem for wards in the private sector. OPA should not be allowed to regulate and compete with the private sector. They need to either be a regulator and overseer or a service provider but not both.

Page 15 Sec 12 . Sec 13.26.12(a) amended to read or on the court's own motion, should not be allowed. If OPA is charged with oversight and regulation, then this is yet "one more threat without recourse" to professional guardians who are not affiliated with OPA. It sounds as though there is no recourse or due process here.

Page 23 Sec. 24 AS13.26.285(e)

Needs to be qualified. Many times families who do not live in Alaska and who have little or no contact with a ward or protected person will ask the conservator to take care of all burial arrangements and to close out the case without the family's involvement. I would like to see something in the statutes that families can authorize a conservator to proceed as a personal representative would as long as there is a stipulation or sort of power of attorney given to the conservator either prior to death of the ward or protected person or immediately after death by heirs and or family members.

Page 24 Sec. 26 AS13.26.380(b)

Should be left as is or modified to reflect that the public guardian must report on its efforts to find a suitable entity or person to serve as guardian and/or conservator. The proposed change asking only for information on the availability of a private guardian or conservator is dangerous. OPA should be required to report on such availability when they appear for the permanent hearing or when they file the guardianship implementation plan, 90 days after permanent appointment. IN a recent case OPA spent down a client from CAPA (whose case OPA was supposed to be looking over for irregularities before transferring the case to a private entity) in an alarming manner during OPA's temporary appointment. He went to OPA with \$110,000, less than 6 months later, OPA had spent him down to \$25,000 with a use for that, too. It is too long a time for OPA to have a client for one year before trying to find an alternate guardian or conservator. Besides at the current time, OPA's conservatorships are not being reviewed by court visitors

because "we have a conflict of interest because we contract with OPA and there are too many OPA cases."

In closing I would like to state that the Native groups and organizations were not asked for input. Furthermore, the Real Systems Task Force is working on changes that might impact Alaska's guardianship and conservatorship system.

There has been much attention focused on guardians and their ignorance of ADA and independent living advocacy and the issues involving that. . . Accountability of all guardians is a hot topic right now, not just the professional guardians; in fact the majority of complaints about guardians center around the state agencies that provide such services.

This is a self-serving bill that is designed to assure the perpetuity of a state agency that not at all regulated but is allowed to function both as competitor and regulator of private agencies that must bear their own costs of business. This bill amounts to unfair trade practices, discriminatory regulation and in some aspects denies due process to the agency's public sector competitors.



"B" Jarvi

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April 5, 2004

The Honorable Peggy Wilson, Chair
House Health, Education and Social Services Committee
Alaska Capitol, Room 104
Juneau, Alaska 99801-1182

RE: HB 427 (Anderson)—Support

Dear Chair Wilson:

On behalf of the AARP members in Alaska, we recommend that you and your colleagues on the House Health, Education and Social Services Committee support HB 427, authored by Representative Tom Anderson.

AARP believes that all states should enact guardianship and conservatorship laws that incorporate procedural and legal due process safeguards for persons in need of protective measures.

Alaska should:

- require all guardians to receive adequate training and information about their responsibilities and requirements;
- mandate certification of guardians who serve multiple, unrelated incapacitated people (certification programs should include training, testing and accountability requirements);
- make guardians' financial exploitation of wards a criminal offense and hold guardians personally liable to wards for misappropriated funds or assets;
- address state courts' authority to make guardianship determinations when potential wards have ties to more than one state; and
- codify, simplify and clarify trust laws by modeling them on the Uniform Trusts Code promulgated by the National Conference of Commissioners on Uniform State Laws.

HB 427 represents the best current thinking of many organizations concerned with establishing the "best practices" of guardianship into state statute. It is a complex area that has long warranted attention by the Legislature.

AARP recommends an "AYE" vote on HB 427.

Should you have any questions about our position, please feel free to contact Marie Darlin (907.586.3637), Coordinator of the AARP Capital City Task Force; Patrick Luby (907.762.3314), AARP Legislative Representative; or me (907.245.5259).

Thank you for your consideration.

Sincerely,

Marguerite Stetson

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April 6, 2004

The Honorable Peggy Wilson, Chairwoman
House Committee on Health,
Education & Social Services
Alaska State Legislature

RE: House Bill 427, An Act relating to guardianships and conservatorships

Dear Representative Wilson,

Thank you for hearing House Bill 427 in the HESS committee. It is my firm belief that this legislation is critical to ensuring the safety and well being of vulnerable adults under the supervision of guardians and conservators. It is my further belief that this legislation is a prerequisite to the establishment of private guardians and conservators in Alaska to serve our State's growing population of vulnerable and incapacitated adults. Again, thank you for addressing this legislation.

Having said that, I need to address certain comments and testimony given at the last committee meeting that may have led to some misunderstandings.

First, this legislation would result in the regulation of professional guardians and conservators – those who are in the *business* of providing guardianship and conservatorship services. It would not impact family members who are performing this role for their disabled family members. It would also exempt financial institutions who are performing this role, since they are sufficiently regulated under current law. The only provision in this legislation that imposes a new requirement on family guardians is proposed AS 13.26.145(c), which states that when appointing a relative or friend as guardian the court shall require that the proposed guardian complete one hour of mandatory education on the basics of guardianship. OPA would provide this training at no cost to that individual.

There were also several comments made about the Public Guardian section of the Office of Public Advocacy (OPA) that must be corrected. OPA does not charge \$40 an hour for guardianship services as was represented by a witness from Fairbanks. OPA charges monthly fees for conservatorship and guardianship services which are set forth in regulation and are based upon the total value of a client's liquid assets. Forty dollars (\$40) per month is charged to clients who have liquid assets of less than \$10,000. Above that, a sliding scale is applied. In no case shall the monthly fee exceed \$145. The great majority of OPA's public guardian clients have

The Honorable Peggy Wilson
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extremely limited resources and are either charged \$40 per month for our services or receive fee deferrals and/or fee waivers as a result of financial hardship.

It was also suggested that OPA's public guardians should fall within the coverage of this legislation. This suggestion ignores the fact the OPA's public guardians are State employees and are regulated by the processes of State government. OPA's guardians are subject to oversight by the Public Advocate, who reports to the Commissioner of Administration. Both the commissioner and myself serve at the pleasure of the governor. We are also subject to oversight by the Legislature. Moreover, assuming for purposes of argument that a public guardian were to take financial advantage of a client, that client would be protected and the risk management function of the Department of Law would indemnify all client losses. Finally, and most importantly, OPA's guardians have demonstrated their proficiency and expertise in providing services to our clients. The legislation before the committee would require all private guardians to register with the National Guardianship Foundation which requires the passage of a written guardian exam. Currently, all public guardians have passed this exam and are registered with the National Guardianship Foundation. Four public guardians have achieved advanced certification by passing the National Guardianship Foundations' master guardian exam. In short, OPA's guardians currently meet the professional registration requirements called for in this legislation, and OPA's clients have the financial protections imposed by the bill on private guardians.

The witness from Fairbanks also stated that the court visitors should be included in the coverage of this legislation. This statement evidences a lack of understanding of the role of the court visitor. In short, the court visitor is an uninterested third-party who provides an objective analysis to the court on whether a guardianship should be approved. The court visitor is responsible for arranging evaluations of the person subjected to a guardianship petition (the respondent). In addition, the visitor is charged with interviewing the petitioner and the respondent, friends, family, care providers, and others who may have information on the abilities and or disabilities of the respondent. The court visitor then prepares a written report with recommendations to the court in advance of the scheduled court hearing. Most importantly, however, while the court visitor has access to the respondent's financial records as provided in the court order, they do not have access to the financial resources of the protected person. Therefore, there is no reason to impose a bonding requirement as was suggested by the witness from Fairbanks. Finally, while the Legislature chose to transfer the court visitor function from the court system to OPA, court visitors are independent contractors and are not employees of OPA or any other state agency. I would not object to this function being returned to the court system.

It was implied that the OPA is in league with the court visitors to steer cases towards the public Guardians. This is not the case. The public guardians at OPA have high caseloads and OPA has no incentive to increase the number of cases they are now carrying. Cases are regularly reviewed - as required by statute - to determine if there is a family member, friend, or private

OPA's guardians do not currently undergo criminal background checks as called for in the legislation. However, upon applying with the State, applicants must identify and explain any criminal history. OPA is currently considering imposing criminal background checks on its public guardians.

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organization who can assume the role of guardian or conservator. OPA is guardianship resource and appointment of last resort. To the extent our clients can be served by family or private entities, OPA aggressively seeks these alternatives.

It was also suggested that OPA regulates private guardians. This is not accurate. OPA provides public guardians where no alternative is available. We have no regulatory authority over private guardians. Having said that, OPA does have an obligation to ensure that persons of competence and training serve our clients and other vulnerable Alaskans.² This goal would be served by passage of House Bill 427.

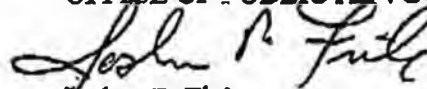
Finally, the private guardian from Fairbanks also made representations regarding the process by which this bill was drafted. While no doubt well-intentioned, her comments demonstrate a misunderstanding of that process. This legislation resulted from the collaborative participation from a number of individuals and agencies concerned about guardianship reform. They included Adult Protective Services, The Alaska Trust Company, the Alaska Court System, the Office of the Long Term Care Ombudsmen, the Office of Public Advocacy, the Disability Law Center, private attorneys, court visitors, and private professionals providing guardianship and conservatorship services. Mr. Dave Shady, the principal at FGSC, was also invited to participate.

In closing, I would only state that it is not possible to respond in this letter to all of the verbal and written comments made by the witness from Fairbanks. I am happy to make staff and myself available to address any concerns or issues committee members may have regarding her testimony, or any other concern with this legislation.

Thank you again for hearing this important legislation.

Sincerely,

OFFICE OF PUBLIC ADVOCACY


Joshua P. Fink
Public Advocate

² To this end it is also accurate to state that the former director at OPA had a hand in pointing out to the court concerns about suspected irregularities and mismanagement at CAPA, a private guardian, who is now the subject of ongoing litigation. As such, I would prefer not to comment. However, I will make myself available to legislators who may wish to discuss this matter, and would note that the case was covered extensively in both Anchorage and Fairbanks' newspapers.

STATE OF ALASKA

OFFICE OF PUBLIC ADVOCACY

FRANK MURKOWSKI, GOVERNOR

900 W. 5TH AVE., SUITE 523
ANCHORAGE, ALASKA 99501
PHONE: (907) 269-3500
FAX: (907) 269-3533

April 6, 2004

The Honorable Peggy Wilson, Chairwoman
House Committee on Health,
Education & Social Services
Alaska State Legislature

RE: House Bill 427, An Act relating to guardianships and conservatorships

Dear Representative Wilson,

Thank you for hearing House Bill 427 in the HESS committee. It is my firm belief that this legislation is critical to ensuring the safety and well being of vulnerable adults under the supervision of guardians and conservators. It is my further belief that this legislation is a prerequisite to the establishment of private guardians and conservators in Alaska to serve our State's growing population of vulnerable and incapacitated adults. Again, thank you for addressing this legislation.

Having said that, I need to address certain comments and testimony given at the last committee meeting that may have led to some misunderstandings.

First, this legislation would result in the regulation of professional guardians and conservators – those who are in the *business* of providing guardianship and conservatorship services. It would not impact family members who are performing this role for their disabled family members. It would also exempt financial institutions who are performing this role, since they are sufficiently regulated under current law. The only provision in this legislation that imposes a new requirement on family guardians is proposed AS 13.26.145(c), which states that when appointing a relative or friend as guardian the court shall require that the proposed guardian complete one hour of mandatory education on the basics of guardianship. OPA would provide this training at no cost to that individual.

There were also several comments made about the Public Guardian section of the Office of Public Advocacy (OPA) that must be corrected. OPA does not charge \$40 an hour for guardianship services as was represented by a witness from Fairbanks. OPA charges monthly fees for conservatorship and guardianship services which are set forth in regulation and are based upon the total value of a client's liquid assets. Forty dollars (\$40) per month is charged to clients who have liquid assets of less than \$10,000. Above that, a sliding scale is applied. In no case shall the monthly fee exceed \$145. The great majority of OPA's public guardian clients have

The Honorable Peggy Wilson
April 6, 2004
Page 2

extremely limited resources and are either charged \$40 per month for our services or receive fee deferrals and/or fee waivers as a result of financial hardship.

It was also suggested that OPA's public guardians should fall within the coverage of this legislation. This suggestion ignores the fact the OPA's public guardians are State employees and are regulated by the processes of State government. OPA's guardians are subject to oversight by the Public Advocate, who reports to the Commissioner of Administration. Both the commissioner and myself serve at the pleasure of the governor. We are also subject to oversight by the Legislature. Moreover, assuming for purposes of argument that a public guardian were to take financial advantage of a client, that client would be protected and the risk management function of the Department of Law would indemnify all client losses. Finally, and most importantly, OPA's guardians have demonstrated their proficiency and expertise in providing services to our clients. The legislation before the committee would require all private guardians to register with the National Guardianship Foundation which requires the passage of a written guardian exam. Currently, all public guardians have passed this exam and are registered with the National Guardianship Foundation. Four public guardians have achieved advanced certification by passing the National Guardianship Foundations' master guardian exam. In short, OPA's guardians currently meet the professional registration requirements called for in this legislation, and OPA's client's have the financial protections imposed by the bill on private guardians.

The witness from Fairbanks also stated that the court visitors should be included in the coverage of this legislation. This statement evidences a lack of understanding of the role of the court visitor. In short, the court visitor is an uninterested third-party who provides an objective analysis to the court on whether a guardianship should be approved. The court visitor is responsible for arranging evaluations of the person subjected to a guardianship petition (the respondent). In addition, the visitor is charged with interviewing the petitioner and the respondent, friends, family, care providers, and others who may have information on the abilities and or disabilities of the respondent. The court visitor then prepares a written report with recommendations to the court in advance of the scheduled court hearing. Most importantly, however, while the court visitor has access to the respondent's financial records as provided in the court order, they do not have access to the financial resources of the protected person. Therefore, there is no reason to impose a bonding requirement as was suggested by the witness from Fairbanks. Finally, while the Legislature chose to transfer the court visitor function from the court system to OPA, court visitors are independent contractors and are not employees of OPA or any other state agency. I would not object to this function being returned to the court system.

It was implied that the OPA is in league with the court visitors to steer cases towards the public Guardians. This is not the case. The public guardians at OPA have high caseloads and OPA has no incentive to increase the number of cases they are now carrying. Cases are regularly reviewed - as required by statute - to determine if there is a family member, friend, or private

OPA's guardians do not currently undergo criminal background checks as called for in the legislation. However, upon applying with the State, applicants must identify and explain any criminal history. OPA is currently considering imposing criminal background checks on its public guardians.

The Honorable Peggy Wilson
April 6, 2004
Page 3

organization who can assume the role of guardian or conservator. OPA is guardianship resource and appointment of last resort. To the extent our clients can be served by family or private entities, OPA aggressively seeks these alternatives.

It was also suggested that OPA regulates private guardians. This is not accurate. OPA provides public guardians where no alternative is available. We have no regulatory authority over private guardians. Having said that, OPA does have an obligation to ensure that persons of competence and training serve our clients and other vulnerable Alaskans.² This goal would be served by passage of House Bill 427.

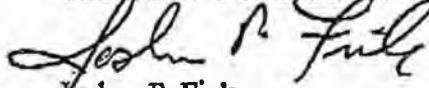
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In closing, I would only state that it is not possible to respond in this letter to all of the verbal and written comments made by the witness from Fairbanks. I am happy to make staff and myself available to address any concerns or issues committee members may have regarding her testimony, or any other concern with this legislation.

Thank you again for hearing this important legislation.

Sincerely,

OFFICE OF PUBLIC ADVOCACY


Joshua P. Fink
Public Advocate

² To this end it is also accurate to state that the former director at OPA had a hand in pointing out to the court concerns about suspected irregularities and mismanagement at CAPA, a private guardian, who is now the subject of ongoing litigation. As such, I would prefer not to comment. However, I will make myself available to legislators who may wish to discuss this matter, and would note that the case was covered extensively in both Anchorage and Fairbanks' newspapers.

TESTIMONY PRESENTED BEFORE THE
ALASKA STATE LEGISLATURE

HOUSE
HEALTH, EDUCATION AND SOCIAL SERVICES
COMMITTEE

In the matter of

HB 427

**"AN ACT RELATING TO GUARDIANSHIPS AND
CONSERVATORSHIPS..."**

Testimony of
Robert P. Penzenik
Anchorage, Alaska

April 6, 2004

1 Mr. Chairman, members of the Committee, my name is Robert Penzenik, and I
2 would like to express my appreciation for the opportunity to speak this
3 afternoon. I currently am a resident of Anchorage and have lived in Alaska since
4 1964.

5
6 I am speaking today in support of HB 427, a bill I believe to be vitally important
7 to a small but important group of Alaskan's that are, I'm afraid, least able to
8 represent themselves, minors and those adults that the courts have found to be in
9 need of protection, some without families in Alaska.

10
11 I have been involved with Alaska's system of guardians and conservators both as
12 a provider of services and a user of those services. My most recent experience in
13 this area has been with my daughter, when she was found to be in need of a
14 Guardian/Conservator. In order to allow a more comfortable family relationship
15 it was decided to utilize the services of a paid, professional guardian and
16 conservator rather than a family member. We could not be more pleased with
17 the outcome. However, it should be noted that, in our situation, my daughter still
18 has an active support system in Alaska that is involved on a regular basis with
19 the Guardian/Conservator and is able to track such things as safety, financial
20 planning and the appropriate use of finances.

21
22 My primary reason for taking part in today's hearing is concern for those
23 individual's requiring services that do not have an operating support system in
24 place.

25

1 Some years ago, as a conservator for a number of minors that had lost their father
2 in a plane accident, I became aware of how easy it would be for someone acting
3 as a Guardian/Conservator to inappropriately utilize funds belonging to others.
4 While my experience in this area goes back to the seventies, I don't believe the
5 situation has changed that much.

6 2

7 The more recent situation in Fairbanks with the Community Action Agency of
8 Alaska is a case in point. If HB 427 had been in place prior to CAPA's
9 bankruptcy, their clients would have been in a much better position. Under this
10 bill, the financial viability of a company operating as Guardian/Conservator
11 would be available to both the Court and the licensing authority. It should be
12 noted that since current practice requires that the Court look at each case
13 separately. Although CAPA had already been removed from seven cases they
14 were still allowed to operate. Under HB 427, the yearly financial report and the
15 first case of the Court removing CAPA from a position of Guardian/Conservator
16 would have alerted the state to a possible problem.

17

18 There are a number of weaknesses in the present system that would be
19 addressed by HB 427;

20 1 - Currently there is no requirement that prospective Guardians/
21 Conservators have any kind of criminal record check, the danger
22 here is obvious;

23 2 - No system currently exists that allows judges to determine if a
24 prospective Guardian/Conservator has been found by another
25 Alaskan judge to be unqualified or for some reason had been
26 removed from a case;

1 3 - There is no requirement under the current system that requires any
2 training or appropriate experience prior to being appointed to a
3 private professional Guardianship/Conservator ship.

4 One final point that in this time of financial turmoil takes on special significance,
5 cost to the tax payers of Alaska. It is expected that no more than 10 to 15 licenses
6 would be applied for under this bill and the legislation has been designed to
7 make implementation fully self supporting. All cost to the state under this bill
8 would be covered by the required application fee.

9

10 Once again let me thank the Chairman and the Committee for this opportunity to
11 speak this afternoon in support of HB 427. I believe this is necessary, responsible
12 legislation that will help to keep our most vulnerable individuals safe.

13

14 Thank you.

HB

434

STATE OF ALASKA



Interim:

119 North Cushman, Rm. 205
Fairbanks, Alaska 99701
(907) 456-7423
Fax: (907) 451-9293

Session:

State Capitol Building
Juneau, Alaska 99801
(907) 465-3466
Fax: (907) 465-2937

REPRESENTATIVE JIM HOLM DISTRICT 9

Sponsor Statement

HB 434, An Act Relating to Naturopathic Physicians

21/6/4

It is important that Alaska laws governing the practice of naturopathic medicine reflect the high quality of education that naturopathic physicians receive. This legislation serves to enhance the accessibility, quality, and safety of comprehensive health care for Alaskans. The passage of similar legislation in fourteen other states has already demonstrated this.

The practice of naturopathic medicine was licensed in Alaska seventeen years ago. The standards outlined in the state statute must be updated to ensure that the practice of naturopathic medicine is commensurate with the education naturopathic physicians receive. It is also essential that practicing naturopathic doctors maintain not only the high standards of the profession, but also remain current in scope of practice by completing a continuing education requirement.

Like allopathic physicians (medical doctors), naturopathic physicians undergo four years of undergraduate pre-professional training followed by an intensive four-year doctoral program emphasizing both academic and clinical studies within the scope of primary care.

Key elements of this legislation include:

- 1) Safeguarding Alaskan citizens who use naturopathic medicine, by assuring the highest quality care possible from licensed, well trained, and professionally examined naturopathic physicians. This is accomplished by updating current licensure statutes as enforced by the Division of Occupational Licensing.
- 2) Mandating continuing education requirements in pharmacology and related practice, to ensure high standards and integrity for the profession, and to continue oversight and authorization by the Division Of Occupational Licensing to investigate complaints.

- 3) Instituting a scope of practice in Alaska for naturopathic physicians commensurate with their medical education and qualifications. This scope would include the use of natural substances; homeopathic medicine; dietary, nutritional, and health counseling, minor surgery, all necessary diagnostic and imaging studies; prescription medicines by those naturopathic physicians who apply for a Controlled Substance Registration Certificate by the Federal Drug Enforcement Agency (DEA Registration).
- 4) Providing at zero cost to state, and self-funded by the profession, a qualified trade association of naturopathic physicians that will work with the Division of Occupational Licensing to implement regulations requiring specific State and Federal examinations and requirements for licensure.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 16, 2004

SUBJECT: Naturopaths (HB 434)
TO: Representative Jim Holm
FROM: Jean M. Mischel
Legislative Counsel



You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Changes the term "naturopathy" to "naturopathic medicine." This name change is carried throughout the bill and specifically necessitated sections 3, 5, 12, and 14.

Section 2. Changes name as in sec. 1 and allows use of certain titles for licensed naturopaths, including "doctor of naturopathy", "naturopath," and "naturopathic physician."

Section 3. See sec. 1.

Section 4. Rewrites application procedure for naturopaths and removes 1987 distinction from original licensing provision.

Section 5. See sec. 1.

Section 6. Modifies restrictions on practice of naturopathic medicine. Allows for performing of minor surgery and prescribing of drugs and controlled substances that were previously prohibited. Licensee must have appropriate education or training.

Section 7. Adds the authority to deny a person a naturopathic medicine license on disciplinary grounds and clarifies certain grounds for denial and disciplinary action.

Section 8. Removes a reference to a section repealed by this bill and adds a reference to a new section for purposes of issuing sanctions against a licensee.

Representative Jim Holm
February 16, 2004
Page 2

Section 9. Adds use of titles listed in sec. 2 of the bill to misdemeanor provisions and rewords the misdemeanor section.

Section 10. Adds a new section requiring the department to adopt regulations pertaining to education, continuing education and certificates for specialty practice. The department is required to consider regulations prepared by the division in collaboration with a trade association.

Section 11. Adds new sections pertaining to continuing education standards, authorized activities, and fees.

Section 12. See sec. 1.

Section 13. Adds definitions of "approved naturopathic college or program," "department," and "minor surgery".

Section 14. See sec. 1.

Section 15. Repeals AS 08.45.040, pertaining to required disclosures to a patient.

Section 16. Specifies that changes to licensing sections in this bill do not apply to persons licensed prior to February 28, 2005 except that disciplinary provisions apply.

Section 17. Provides a delayed effective date of January 1, 2007 for sec. 11.

Section 18. Provides an effective date of March 1, 2005, except as provided in sec. 17.

JMM:lmb
04-042.lmb

STATE OF ALASKA
HOUSE OF REPRESENTATIVES
Representative Jim Holm



119 N. Cushman
Fairbanks, AK 99701
TEL 456-7423, FAX 451-9293

State Capitol
Juneau, AK 99801
TEL 465-3466, FAX 465-2937

HB 434
Sectional Analysis

CSHB434(L&C)
4/13/4

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23-LS1574U
Mischel
5/3/04

CS FOR HOUSE BILL NO. 434(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES HOLM, Gruenberg, Wolf, Guttenberg

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the practice of naturopathic medicine; and providing for an effective
2 date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * Section 1. AS 08.01.010(26) is amended to read:

5 (26) regulation of the practice of naturopathic medicine
6 [NATUROPATHY] under AS 08.45;

7 * Sec. 2. AS 08.45.010 is amended to read:

8 **Sec. 08.45.010. Practice of naturopathic medicine [NATUROPATHY]**
9 **without license prohibited. A person who does not hold a license issued under this**
10 **chapter may not**

11 **(1) practice naturopathic medicine [NATUROPATHY] in the state;**

12 **or**

13 **(2) use any of the following titles: "doctor of naturopathy,"**
14 **"naturopath," or "naturopathic physician" [WITHOUT A LICENSE].**

1 * Sec. 3. AS 08.45.020 is amended to read:

2 **Sec. 08.45.020. Application for license.** A person desiring to practice
3 naturopathic medicine [NATUROPATHY] shall apply in writing to the division of
4 occupational licensing of the Department of Community and Economic Development.

5 * Sec. 4. AS 08.45.030 is repealed and reenacted to read:

6 **Sec. 08.45.030. Issuance of license.** The division shall issue a license to
7 practice naturopathic medicine on receipt of

8 (1) an application on a form acceptable to the division;

9 (2) documentation satisfactory to the division that the applicant

10 (A) is a graduate of an approved naturopathic medical college
11 or program; and

12 (B) has passed the naturopathic physicians licensing
13 examination approved by the division with a score that meets the requirements
14 established in regulation; and

15 (3) all applicable fees.

16 * Sec. 5. AS 08.45.050 is repealed and reenacted to read:

17 **Sec. 08.45.050. Restrictions on practice of naturopathic medicine.** (a) A
18 person who practices naturopathic medicine may not engage in surgery except that a
19 person who practices naturopathic medicine may perform minor surgery under
20 AS 08.45.120(a)(6).

21 (b) Notwithstanding that a specific act is within the definition of "naturopathic
22 medicine" or is described as an activity authorized under AS 08.45.120, a person
23 licensed under this chapter may not perform the act if the person lacks appropriate
24 education or training related to the act.

25 * Sec. 6. AS 08.45.060 is amended to read:

26 **Sec. 08.45.060. Grounds for suspension, revocation, or refusal to issue a**
27 **license.** The division may deny a license to an applicant under this chapter or,
28 after a hearing, impose a disciplinary sanction authorized under AS 08.45.070 on a
29 person licensed under this chapter when the division finds that the applicant or
30 licensee

31 (1) secured, or attempted to secure, a license through deceit, fraud, or

1 intentional misrepresentation;

2 (2) engaged in deceit, fraud, or intentional misrepresentation in the
3 course of providing professional services or engaging in professional activities;

4 (3) advertised professional services in a false or misleading manner;

5 (4) has been convicted of a felony or other crime that affects the
6 applicant's or licensee's ability [TO CONTINUE] to practice competently and safely;

7 (5) failed to comply with this chapter, with a regulation adopted under
8 this chapter, or with an order of the division;

9 (6) is [CONTINUED TO PRACTICE AFTER BECOMING] unfit to
10 practice naturopathic medicine due to

11 (A) professional incompetence;

12 (B) addiction or severe dependency on alcohol or a drug that
13 impairs the applicant's or licensee's ability to practice safely; or

14 (C) physical or mental disability; or

15 (7) engaged in lewd or immoral conduct in connection with the
16 delivery of professional service to patients.

17 * Sec. 7. AS 08.45.070(a) is amended to read:

18 (a) When it finds that a licensee under this chapter has violated AS 08.45.050
19 or 08.45.120 [AS 08.45.040 - 08.45.050] or is guilty of an offense under
20 AS 08.45.060, the division may impose the following sanctions singly or in
21 combination:

22 (1) permanently revoke the license to practice;

23 (2) suspend the license for a determinate period of time;

24 (3) censure the licensee;

25 (4) issue a letter of reprimand to the licensee;

26 (5) place the licensee on probationary status and require the licensee to

27 (A) report regularly to the division upon matters involving the
28 basis of probation;

29 (B) limit practice to those areas prescribed;

30 (C) continue professional education until a satisfactory degree
31 of skill has been attained in areas determined by the division to need

1 improvement;

2 (6) impose limitations or conditions on the practice of the licensee.

3 * Sec. 8. AS 08.45.080 is amended to read:

4 Sec. 08.45.080. Unlicensed practice or use of title a misdemeanor. A
5 person who violates [PRACTICES NATUROPATHY IN THE STATE WITHOUT A
6 LICENSE IN VIOLATION OF] AS 08.45.010 is guilty of a misdemeanor and upon
7 conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not
8 more than a year, or by both.

9 * Sec. 9. AS 08.45.100 is amended by adding new subsections to read:

10 (b) After consideration of draft regulations, if any, prepared by the division in
11 collaboration with a qualified trade association of naturopathic physicians, the
12 department may adopt regulations to

13 (1) establish the standards the division will use to approve naturopathic
14 medical colleges or programs for satisfaction of the requirements of
15 AS 08.45.030(2)(A), 08.45.120(a)(4), 08.45.120(a)(6), and 08.45.120(a)(8); the
16 standards must require, at a minimum, that the college or program include a four-year,
17 full-time resident program of academic and clinical study of naturopathic medicine;

18 (2) implement the peer review process under (c) of this section;

19 (3) implement the continuing education requirement of AS 08.45.110;

20 and

21 (4) establish the standards under which the division may issue
22 certificates of specialty practice for a person licensed under this chapter.

23 (c) The division shall establish a naturopathic peer review committee
24 consisting of three members appointed annually from a list of nominees presented to
25 the division by an approved qualified trade association for naturopathic physicians.
26 The committee members serve without compensation for their work on the committee.
27 The committee shall meet to review complaints filed with the division under this
28 chapter. Attendance and participation at meetings of the committee may be by
29 teleconferencing or other two-way communication method. The committee shall
30 make written recommendations to the division as to whether grounds for disciplinary
31 action exist under AS 08.45.060 and as to appropriate disciplinary sanctions under

1 AS 08.45.070 in each case under review. If the division approves the
2 recommendations of the committee, the licensee may either accept the
3 recommendations of the committee or request a hearing before the division.

4 * **Sec. 10.** AS 08.45 is amended by adding new sections to read:

5 **Sec. 08.45.110. Continuing education requirement.** Before a license may
6 be renewed, the licensee shall document to the division's satisfaction that the licensee
7 has received at least 45 hours of continuing education in naturopathic medicine in the
8 previous two years, at least 15 hours of which was instruction in pharmacology or
9 pharmacotherapeutics presented by a licensed pharmacist or another professional
10 approved by the division.

11 **Sec. 08.45.120. Authorized activities; use of titles.** (a) A person licensed
12 under this chapter may

13 (1) prescribe or administer for preventive and therapeutic purposes the
14 following: food, extracts of food, vitamins, minerals, enzymes, whole gland
15 substances, botanical medicines, and homeopathic preparations;

16 (2) prescribe or administer intravenous botanicals, substances,
17 vitamins, and minerals;

18 (3) administer health care counseling, nutritional counseling and
19 dietary therapy, naturopathic physical applications, therapeutic devices, and
20 nonprescription drugs;

21 (4) if authorized under regulations of the department, prescribe
22 schedules IIIA, IVA, and VA controlled substances as described under AS 11.71.160,
23 11.71.170, and 11.71.180 if the person has

24 (A) registered with the federal Drug Enforcement
25 Administration;

26 (B) successfully completed pharmacology training from an
27 approved naturopathic medical college; and

28 (C) entered into a collaborative agreement as described under
29 AS 08.45.125 with a person or persons licensed to practice medicine under
30 AS 08.64;

31 (5) prescribe and implement barrier devices for contraception;

1 (6) perform minor surgery after providing proof satisfactory to the
2 division of successful completion of training in minor surgery from an approved
3 naturopathic medical college;

4 (7) perform or order for diagnostic purposes a physical or orificial
5 examination, ultrasound, phlebotomy, clinical laboratory test or examination,
6 physiological function test, and other diagnostic procedures commonly used by a
7 person licensed to practice medicine under AS 08.64.230(a); and

8 (8) if authorized under regulations of the department, prescribe legend
9 drugs or prescription drugs if the person has

10 (A) successfully completed pharmacology training from an
11 approved naturopathic medical college; and

12 (B) entered into a collaborative agreement as described under
13 AS 08.45.125 with a person or persons licensed to practice medicine under
14 AS 08.64; and

15 (9) use the title of "doctor of naturopathy," "naturopath," "naturopathic
16 physician," or their abbreviations.

17 (b) In this section, "legend drug" and "prescription drug" have the meanings
18 given in AS 08.80.480.

19 **Sec. 08.45.125. Collaborative agreements for drugs.** (a) A collaborative
20 agreement required under AS 08.45.120(a)(4) and (a)(8) must be in writing in a form
21 approved by the department and include

22 (1) a commitment of at least one collaborating physician licensed to
23 practice medicine under AS 08.64 able to comply with the terms of the agreement;

24 (2) a formulary of controlled substances and legend drugs or
25 prescription drugs that

26 (A) are authorized under AS 08.45.120(a)(4) and (a)(8) and
27 regulations adopted under that section that describes the standard protocols and
28 practices that must be used;

29 (B) are approved by the collaborating physician to be
30 prescribed or dispensed by the person licensed under this chapter; and

31 (C) include standard protocols and practices that describe the

1 circumstances under which each drug on the formulary may be prescribed or
2 dispensed, the extent of supervision required of the collaborating physician, if
3 any, and a periodic review of the licensee's competence and standard practices;

4 (3) a requirement that the licensee consult with and have a patient
5 protocol approved by a collaborating physician before prescribing a schedule IIIA
6 controlled substance for each patient; and

7 (4) a requirement that the licensee review the formulary, including the
8 standard practices under (2) of this subsection, with a collaborating physician before
9 executing a collaborative agreement, six months after executing the agreement, and
10 every 12 months thereafter.

11 (b) The licensee shall post the name of the collaborating physician under (a) of
12 this section in a conspicuous location visible to patients of the licensee.

13 (c) Upon request, the licensee shall provide a copy of the standard practices
14 under (a)(2) of this section to a pharmacist licensed in the state.

15 (d) The licensee shall include the name of the collaborating physician under
16 (a) of this section on each prescription written under AS 08.45.120(a)(4) or (a)(8) by
17 the licensee.

18 **Sec. 08.45.130. Fees.** The division shall set fees under AS 08.01.065 for each
19 of the following:

20 (1) a license issued under this chapter;

21 (2) renewal of a license issued under this chapter.

22 * **Sec. 11.** AS 08.45.200(3) is amended to read:

23 (3) "naturopathic medicine" ["NATUROPATHY"] means the use of
24 hydrotherapy, dietetics, electrotherapy, sanitation, suggestion, mechanical and manual
25 manipulation for the stimulation of physiological and psychological action to establish
26 a normal condition of mind and body; in this paragraph, "dietetics" includes herbal
27 and homeopathic remedies.

28 * **Sec. 12.** AS 08.45.200 is amended by adding new paragraphs to read:

29 (4) "approved naturopathic medical college or program" means a
30 college or program that grants a degree of doctor of naturopathy or doctor of
31 naturopathic medicine and that

1 (A) is accredited by the Council on Naturopathic Medical
2 Education or another accrediting agency recognized by the United States
3 Department of Education;

4 (B) has the status of candidate for accreditation by an entity
5 described in (A) of this paragraph; or

6 (C) has been approved under a regulation adopted by the
7 department under this chapter;

8 (5) "department" means the Department of Community and Economic
9 Development;

10 (6) "minor surgery"

11 (A) means the use of

12 (i) operative, electrical, or other methods for surgical
13 repair and care incidental to superficial lacerations and abrasions or
14 superficial lesions, and the removal of foreign bodies located in
15 superficial tissues; and

16 (ii) antiseptics and local anesthetics in connection with
17 methods authorized under (i) of this subparagraph;

18 (B) does not include use of general or spinal anesthetics, major
19 surgery, surgery of the body cavities, or specialized surgery, such as plastic
20 surgery, surgery involving the eyes, or surgery involving tendons, ligaments,
21 nerves, or blood vessels.

22 * **Sec. 13.** AS 47.08.050 is amended to read:

23 **Sec. 47.08.050. Services excluded from coverage.** Annually, the committee
24 shall determine in light of appropriated funds and expected need the medical expenses
25 reimbursable under AS 47.08.010 - 47.08.140, except that the following are not
26 reimbursable:

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

29 (2) elective medical or surgical procedures;

30 (3) drugs and medications not prescribed by a licensed physician;

31 (4) services received as a result of a pregnancy or birth without

1 unusual complications;

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

4 (6) chiropractic services and services provided by a person who
5 practices naturopathic medicine [NATUROPATHY];

6 (7) services not of a medical nature;

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

9 (9) costs incurred before July 1976.

10 * **Sec. 14.** AS 08.45.035 and 08.45.040 are repealed.

11 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section
12 to read:

13 LICENSE TO PRACTICE NATUROPATHY; TRANSITIONAL PROVISIONS. A
14 license to practice naturopathy issued under AS 08.45, including a temporary license, that is
15 in effect on February 28, 2005, remains in effect for the period for which the license was
16 issued and is considered to be a license to practice naturopathic medicine under AS 08.45, as
17 amended by this Act. However, a person who holds a license issued under AS 08.45 that is in
18 effect on February 28, 2005, is subject to the authority of the department in regard to acts of
19 the licensee that occurred on or before February 28, 2005, to impose a disciplinary sanction
20 under AS 08.45.070.

21 * **Sec. 16.** AS 08.45.110, as enacted by sec. 10 of this Act, takes effect January 1, 2007.

22 * **Sec. 17.** Except as provided in sec. 16 of this Act, this Act takes effect March 1, 2005.

23-LS1574\Q
Mischel
4/24/04

CS FOR HOUSE BILL NO. 434()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES HOLM, Gruenberg, Wolf, Guttenberg

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the practice of naturopathic medicine; and providing for an effective**
2 **date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 08.01.010(26) is amended to read:

5 (26) regulation of the practice of naturopathic medicine
6 [NATUROPATHY] under AS 08.45;

7 *** Sec. 2.** AS 08.45.010 is amended to read:

8 **Sec. 08.45.010. Practice of naturopathic medicine [NATUROPATHY]**
9 **without license prohibited. A person who does not hold a license issued under this**
10 **chapter may not**

11 (1) practice naturopathic medicine [NATUROPATHY] in the state;

12 **or**

13 (2) use any of the following titles: "doctor of naturopathy,"
14 "naturopath," or "naturopathic physician" [WITHOUT A LICENSE].

1 * **Sec. 3.** AS 08.45.020 is amended to read:

2 **Sec. 08.45.020. Application for license.** A person desiring to practice
3 naturopathic medicine [NATUROPATHY] shall apply in writing to the division of
4 occupational licensing of the Department of Community and Economic Development.

5 * **Sec. 4.** AS 08.45.030 is repealed and reenacted to read:

6 **Sec. 08.45.030. Issuance of license.** The division shall issue a license to
7 practice naturopathic medicine on receipt of

8 (1) an application on a form acceptable to the division;

9 (2) documentation satisfactory to the division that the applicant

10 (A) is a graduate of an approved naturopathic medical college
11 or program; and

12 (B) has passed the naturopathic physicians licensing
13 examination approved by the division with a score that meets the requirements
14 established in regulation; and

15 (3) all applicable fees.

16 * **Sec. 5.** AS 08.45.050 is repealed and reenacted to read:

17 **Sec. 08.45.050. Restrictions on practice of naturopathic medicine.** (a) A
18 person who practices naturopathic medicine may not engage in surgery except that a
19 person who practices naturopathic medicine may perform minor surgery under
20 AS 08.45.120(a)(6).

21 (b) Notwithstanding that a specific act is within the definition of "naturopathic
22 medicine" or is described as an activity authorized under AS 08.45.120, a person
23 licensed under this chapter may not perform the act if the person lacks appropriate
24 education or training related to the act.

25 * **Sec. 6.** AS 08.45.060 is amended to read:

26 **Sec. 08.45.060. Grounds for suspension, revocation, or refusal to issue a**
27 **license.** The division may deny a license to an applicant under this chapter or,
28 after a hearing, impose a disciplinary sanction authorized under AS 08.45.070 on a
29 person licensed under this chapter when the division finds that the applicant or
30 licensee

31 (1) secured, or attempted to secure, a license through deceit, fraud, or

1 intentional misrepresentation;

2 (2) engaged in deceit, fraud, or intentional misrepresentation in the
3 course of providing professional services or engaging in professional activities;

4 (3) advertised professional services in a false or misleading manner;

5 (4) has been convicted of a felony or other crime that affects the
6 applicant's or licensee's ability [TO CONTINUE] to practice competently and safely;

7 (5) failed to comply with this chapter, with a regulation adopted under
8 this chapter, or with an order of the division;

9 (6) is [CONTINUED TO PRACTICE AFTER BECOMING] unfit to
10 practice naturopathic medicine due to

11 (A) professional incompetence;

12 (B) addiction or severe dependency on alcohol or a drug that
13 impairs the applicant's or licensee's ability to practice safely; or

14 (C) physical or mental disability; or

15 (7) engaged in lewd or immoral conduct in connection with the
16 delivery of professional service to patients.

17 * Sec. 7. AS 08.45.070(a) is amended to read:

18 (a) When it finds that a licensee under this chapter has violated AS 08.45.050
19 or 08.45.120 [AS 08.45.040 - 08.45.050] or is guilty of an offense under
20 AS 08.45.060, the division may impose the following sanctions singly or in
21 combination:

22 (1) permanently revoke the license to practice;

23 (2) suspend the license for a determinate period of time;

24 (3) censure the licensee;

25 (4) issue a letter of reprimand to the licensee;

26 (5) place the licensee on probationary status and require the licensee to

27 (A) report regularly to the division upon matters involving the
28 basis of probation;

29 (B) limit practice to those areas prescribed;

30 (C) continue professional education until a satisfactory degree
31 of skill has been attained in areas determined by the division to need

1 improvement;

2 (6) impose limitations or conditions on the practice of the licensee.

3 * **Sec. 8.** AS 08.45.080 is amended to read:

4 **Sec. 08.45.080. Unlicensed practice or use of title a misdemeanor.** A
5 person who violates [PRACTICES NATUROPATHY IN THE STATE WITHOUT A
6 LICENSE IN VIOLATION OF] AS 08.45.010 is guilty of a misdemeanor and upon
7 conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not
8 more than a year, or by both.

9 * **Sec. 9.** AS 08.45.100 is amended by adding new subsections to read:

10 (b) After consideration of draft regulations, if any, prepared by the division in
11 collaboration with a qualified trade association of naturopathic physicians, the
12 department may adopt regulations to

13 (1) establish the standards the division will use to approve naturopathic
14 medical colleges or programs for satisfaction of the requirements of
15 AS 08.45.030(2)(A), 08.45.120(a)(4), 08.45.120(a)(6), and 08.45.120(a)(8); the
16 standards must require, at a minimum, that the college or program include a four-year,
17 full-time resident program of academic and clinical study of naturopathic medicine;

18 (2) implement the peer review process under (c) of this section;

19 (3) implement the continuing education requirement of AS 08.45.110;

20 and

21 (4) establish the standards under which the division may issue
22 certificates of specialty practice for a person licensed under this chapter.

23 (c) The division shall establish a naturopathic peer review committee
24 consisting of three members appointed annually from a list of nominees presented to
25 the division by an approved qualified trade association for naturopathic physicians.
26 The committee members serve without compensation for their work on the committee
27 but are entitled to the travel and per diem expenses authorized for boards and
28 commissions under AS 39.20.180. The committee shall meet quarterly to review
29 complaints filed with the division under this chapter. The committee shall make
30 written recommendations to the division as to whether grounds for disciplinary action
31 exist under AS 08.45.060 and as to appropriate disciplinary sanctions under

1 AS 08.45.070 in each case under review. If the division approves the
2 recommendations of the committee, the licensee may either accept the
3 recommendations of the committee or request a hearing before the division.

4 * **Sec. 10.** AS 08.45 is amended by adding new sections to read:

5 **Sec. 08.45.110. Continuing education requirement.** Before a license may
6 be renewed, the licensee shall document to the division's satisfaction that the licensee
7 has received at least 45 hours of continuing education in naturopathic medicine in the
8 previous two years, at least 15 hours of which was instruction in pharmacology or
9 pharmacotherapeutics presented by a licensed pharmacist or another professional
10 approved by the division.

11 **Sec. 08.45.120. Authorized activities; use of titles.** (a) A person licensed
12 under this chapter may

13 (1) prescribe or administer for preventive and therapeutic purposes the
14 following: food, extracts of food, vitamins, minerals, enzymes, whole gland
15 substances, botanical medicines, and homeopathic preparations;

16 (2) prescribe or administer intravenous botanicals, substances,
17 vitamins, and minerals;

18 (3) administer health care counseling, nutritional counseling and
19 dietary therapy, naturopathic physical applications, therapeutic devices, and
20 nonprescription drugs;

21 (4) if authorized under regulations of the department, prescribe
22 schedules IIIA, IVA, and VA controlled substances as described under AS 11.71.160,
23 11.71.170, and 11.71.180 if the person has

24 (A) registered with the federal Drug Enforcement
25 Administration;

26 (B) successfully completed pharmacology training from an
27 approved naturopathic medical college; and

28 (C) entered into a collaborative agreement as described under
29 AS 08.45.125 with a person or persons licensed to practice medicine under
30 AS 08.64;

31 (5) prescribe and implement barrier devices for contraception;

1 (6) perform minor surgery after providing proof satisfactory to the
2 division of successful completion of training in minor surgery from an approved
3 naturopathic medical college;

4 (7) perform or order for diagnostic purposes a physical or official
5 examination, ultrasound, phlebotomy, clinical laboratory test or examination,
6 physiological function test, and other diagnostic procedures commonly used by a
7 person licensed to practice medicine under AS 08.64.230(a); and

8 (8) if authorized under regulations of the department, prescribe legend
9 drugs or prescription drugs if the person has

10 (A) successfully completed pharmacology training from an
11 approved naturopathic medical college; and

12 (B) entered into a collaborative agreement as described under
13 AS 08.45.125 with a person or persons licensed to practice medicine under
14 AS 08.64; and

15 (9) use the title of "doctor of naturopathy," "naturopath," "naturopathic
16 physician," or their abbreviations.

17 (b) In this section, "legend drug" and "prescription drug" have the meanings
18 given in AS 08.80.480.

19 **Sec. 08.45.125. Collaborative agreements for drugs.** (a) A collaborative
20 agreement required under AS 08.45.120(a)(4) and (a)(8) must be in writing in a form
21 approved by the department and include

22 (1) a commitment of at least one collaborating physician licensed to
23 practice medicine under AS 08.64 able to comply with the terms of the agreement;

24 (2) a formulary of controlled substances and legend drugs or
25 prescription drugs that

26 (A) are authorized under AS 08.45.120(a)(4) and (a)(8) and
27 regulations adopted under that section that describes the standard protocols and
28 practices that must be used;

29 (B) are approved by the collaborating physician to be
30 prescribed or dispensed by the person licensed under this chapter; and

31 (C) include standard protocols and practices that describe the

1 circumstances under which each drug on the formulary may be prescribed or
2 dispensed, the extent of supervision required of the collaborating physician, if
3 any, and a periodic review of the licensee's competence and standard practices;

4 (3) a requirement that the licensee consult with and have a patient
5 protocol approved by a collaborating physician before prescribing a schedule IIIA
6 controlled substance for each patient; and

7 (4) a requirement that the licensee review the formulary, including the
8 standard practices under (2) of this subsection, with a collaborating physician before
9 executing a collaborative agreement, six months after executing the agreement, and
10 every 12 months thereafter.

11 (b) A collaborating physician licensed under AS 08.64 and a person licensed
12 to practice naturopathic medicine under this chapter are not liable for the actions or
13 inactions of the other as a result of a collaborative agreement entered into under this
14 section.

15 (c) The licensee shall post the name of the collaborating physician under (a) of
16 this section in a conspicuous location visible to patients of the licensee.

17 (d) Upon request, the licensee shall provide a copy of the standard practices
18 under (a)(2) of this section to a pharmacist licensed in the state.

19 (e) The licensee shall include the name of the collaborating physician under
20 (a) of this section on each prescription written under AS 08.45.120(a)(4) or (a)(8) by
21 the licensee.

22 **Sec. 08.45.130. Fees.** The division shall set fees under AS 08.01.065 for each
23 of the following:

- 24 (1) a license issued under this chapter;
25 (2) renewal of a license issued under this chapter.

26 * **Sec. 11.** AS 08.45.200(3) is amended to read:

27 (3) "naturopathic medicine" ["NATUROPATHY"] means the use of
28 hydrotherapy, dietetics, electrotherapy, sanitation, suggestion, mechanical and manual
29 manipulation for the stimulation of physiological and psychological action to establish
30 a normal condition of mind and body; in this paragraph, "dietetics" includes herbal
31 and homeopathic remedies.

1 * Sec. 12. AS 08.45.200 is amended by adding new paragraphs to read:

2 (4) "approved naturopathic medical college or program" means a
3 college or program that grants a degree of doctor of naturopathy or doctor of
4 naturopathic medicine and that

5 (A) is accredited by the Council on Naturopathic Medical
6 Education or another accrediting agency recognized by the United States
7 Department of Education;

8 (B) has the status of candidate for accreditation by an entity
9 described in (A) of this paragraph; or

10 (C) has been approved under a regulation adopted by the
11 department under this chapter;

12 (5) "department" means the Department of Community and Economic
13 Development;

14 (6) "minor surgery"

15 (A) means the use of

16 (i) operative, electrical, or other methods for surgical
17 repair and care incidental to superficial lacerations and abrasions or
18 superficial lesions, and the removal of foreign bodies located in
19 superficial tissues; and

20 (ii) antiseptics and local anesthetics in connection with
21 methods authorized under (i) of this subparagraph;

22 (B) does not include use of general or spinal anesthetics, major
23 surgery, surgery of the body cavities, or specialized surgery, such as plastic
24 surgery, surgery involving the eyes, or surgery involving tendons, ligaments,
25 nerves, or blood vessels.

26 * Sec. 13. AS 47.08.050 is amended to read:

27 **Sec. 47.08.050. Services excluded from coverage.** Annually, the committee
28 shall determine in light of appropriated funds and expected need the medical expenses
29 reimbursable under AS 47.08.010 - 47.08.140, except that the following are not
30 reimbursable:

31 (1) dentistry and optometry unless prescribed by a licensed dentist or

1 physician as medically necessary as the result of the injury or illness;

2 (2) elective medical or surgical procedures;

3 (3) drugs and medications not prescribed by a licensed physician;

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

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

8 (6) chiropractic services and services provided by a person who
9 practices naturopathic medicine [NATUROPATHY];

10 (7) services not of a medical nature;

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

13 (9) costs incurred before July 1976.

14 * Sec. 14. AS 08.45.035 and 08.45.040 are repealed.

15 * Sec. 15. AS 08.45.120(a)(4)(C), 08.45.120(a)(8)(B), and 08.45.125, as enacted by sec. 10
16 of this Act, are repealed July 1, 2009.

17 * Sec. 16. The uncodified law of the State of Alaska is amended by adding a new section
18 to read:

19 LICENSE TO PRACTICE NATUROPATHY; TRANSITIONAL PROVISIONS. A
20 license to practice naturopathy issued under AS 08.45, including a temporary license, that is
21 in effect on February 28, 2005, remains in effect for the period for which the license was
22 issued and is considered to be a license to practice naturopathic medicine under AS 08.45, as
23 amended by this Act. However, a person who holds a license issued under AS 08.45 that is in
24 effect on February 28, 2005, is subject to the authority of the department in regard to acts of
25 the licensee that occurred on or before February 28, 2005, to impose a disciplinary sanction
26 under AS 08.45.070.

27 * Sec. 17. AS 08.45.110, as enacted by sec. 10 of this Act, takes effect January 1, 2007.

28 * Sec. 18. Except as provided in sec. 17 of this Act, this Act takes effect March 1, 2005.

HB 434 – By Rep. Holm
Committee Hearing Packet

An Act relating to the practice of naturopathic medicine; and providing for an effective date”

Included: as provided by AkANP (Alaska Assoc. Naturopathic Physicians

Fact Sheet (1 page)

Journal of American Medical Association, 1998 Statement (1page)

Summary (1 page)

Comparison of Licensed Medical Professions – State of Alaska (1 page)

Comparison of Naturopathic Governance in Licensed States (1 page)

Education Comparison of Naturopathic and Major Medical Schools (1 page)

Comparison of Pharmacology Training – Allopathic (MD), Oseopathic (OD), Naturopathic (ND) (3 pages)

Definitions (1 page)

Included: as provided by Legislature & Administration

Zero Fiscal Note – Div. of Occupational Licensing (1 page)

Sectional Analysis – Legal Services (2 page)



Fact Sheet for Naturopathic Medical Legislation

Statements:

- 1) HB 434 will update a 17 year old Alaska State statute to reflect the quality of current and federally recognized naturopathic medical education. Alaska is the only state of 14 who has not embraced the primary scope of modern naturopathic medical practice.
- 2) HB 434 will safeguard Alaskans who use naturopathic medicine by assuring them access comprehensive primary care from licensed, qualified, regulated, well-trained and up to date naturopathic physicians.
- 3) HB 434 addresses the shortage of primary care providers in the state of Alaska, while at the same time providing complementary care and reducing health care costs to Alaskans.

Facts:

- 1) HB 434 will implement a 45 hour biennial requirement for continuing naturopathic medical education of which 15 hours must be in pharmacology or pharmacotherapeutics.
- 2) HB 434 will allow naturopathic physicians their complete scope of practice, (as is done in other states), part of which is access to prescription writing authority, and after registration with the Drug Enforcement Administration, access to Schedule II controlled substances.
- 3) HB 434 will allow naturopathic physicians to perform in-office minor surgery procedures.



Alaska Association of Naturopathic Physicians, Inc.
Dedicated to the preservation of quality naturopathic medicine for all Alaskans.

JAMA, 1998

The Journal of American Medical Association

“Naturopaths, like allopathic physicians, receive 4 years of post-baccalaureate education culminating in a doctoral degree. They are broadly trained in the pre-clinical sciences and the clinical disciplines, with an emphasis on health promotion, disease prevention, and treatment based on the stimulation or support of natural process. Their clinical education, which is entirely outpatient based, is designed to prepare them to be primary care providers.

**Oregon Office of Educational Policy and Planning,
1998**

“Naturopathic medical college prepares N.D.s with a biological and biomedical education of the same breadth and depth that prepares M.D.s to be primary care physicians.”

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Alaska Association of Naturopathic Physicians, Inc.

Summary of Naturopathic Medical Legislation

Naturopathic physicians have been licensed to practice in the State of Alaska since 1986. They are currently regulated by the Division of Occupational Licensing under state statute AS 08.45.

This legislation adds the following revisions, in statute, for the practice of naturopathic medicine in the State of Alaska:

- 1) The Division of Occupational Licensing, in collaboration with a qualified trade association, The Alaska Association of Naturopathic Physicians, Inc., shall update current regulations defining naturopathic medical practice in Alaska, to be commensurate with current standards of naturopathic medical education and training.

The current law is 17 years old and needs to be updated to allow naturopathic physicians to practice commensurate with their federally regulated education.

- 2) A graduate of a CNME¹ approved naturopathic medical college who has passed the federal Naturopathic Physicians Licensing Examination, (NPLEX) and has been approved by the Division of Occupational Licensing may use the title "Naturopathic Physician".

Current law is limited to the licensure of "naturopathy" and strictly prohibits the use of the title "Naturopathic Physician".

¹The Council of Naturopathic Medical Education (CNME) is the agency recognized by the U.S. Department of Education to serve as the accrediting agency for naturopathic medical programs.

- 3) Implement a requirement for at least 45 hours of continuing education in naturopathic medicine per year, of which 15 hours of instruction is in pharmacology or pharmacotherapeutics, and is presented by a licensed pharmacist (R.Ph.) or Pharm.D., or other professional as approved by the Division of Occupational Licensing and The Alaska Association of Naturopathic Physicians.

Current law does not include continuing education requirements.

- 4) Allow a naturopathic physician who has graduated from a CNME¹ approved naturopathic medical college, and has passed the pharmacology exam as administered by the federal Naturopathic Physicians Licensing Examination, (NPLEX), and is licensed by the State of Alaska to:

- a) Prescribe or administer legend or prescription substances and to

- b) Prescribe a controlled substance after becoming registered with the federal Drug Enforcement Administration (DEA)

Current law does not authorize any prescriptive rights whatsoever, or allow for DEA registration as is required in 14 other states.

- 5) Allow a naturopathic physician who has graduated from a CNME¹ approved naturopathic medical college, and has passed the minor surgery exam, as administered by the federal Naturopathic Physicians Licensing Examination, (NPLEX), and is licensed by the State of Alaska to perform minor surgery as defined in Section 13 (6) of this HB 434 and SB 306.

Current law does not allow a naturopathic physician to perform minor surgery in the State of Alaska, whereas 14 other states do.

Appendix C:
A Comparison of Licensed Medical Professions in The State of Alaska



Licensed Practical Nurse	9 months to 2 year practical nursing program, the 1 year program being the most common
Registered Nurse	One of the following: <ul style="list-style-type: none"> • A 2-yr. Associate's degree, or • A 3-yr. Diploma program, (hospital based), or • A 4-yr. Bachelor's degree in nursing, or • A 4-yr. Bachelor's degree in another discipline and a 3-yr. Master's degree in nursing, or • A 4-yr. Bachelor's degree in another discipline and a 4-yr. Nursing Doctorate program
Advanced Registered Nurse Practitioner	In addition to holding a license as a Registered Nurse, an A.R.N.P. completes one of the following: <ul style="list-style-type: none"> • A 9 month to 2 year certificate program in specialty, or • A 2 year Master's degree certified in specialty
Physician's Assistant (PA)	4-yr. Bachelor's degree and 18 to 24 months master's degree (must work under the supervision of a physician)
Allopathic Physician (MD)	4-yr. Bachelor's degree in pre-medical and 2 to 5 years of post-graduate training in allopathic medical school; internship, residency
Naturopathic Physician (ND)	4-yr Bachelor's degree with pre-medical/science emphasis and 4 to 5 years post-graduate training in naturopathic medical school; externship required for graduation; residency options becoming more available

Appendix D:
Comparison of Naturopathic Governance In Licensed States



State	Scope of Practice	Board Membership	Date of Inception
Alaska	No obstetrics No minor surgery No prescription rights No right to lab tests or diagnostic tests	No professional board Under supervision of Occupational Licensing Board No Naturopathic Members	At 1987
Arizona	Full prescription rights except schedule 1 prescription	3 naturopathic physicians 2 public members	Before 1940
California	Full practice rights All natural & synthetic hormones; epi for anaphylaxis Prescription under MD, DO (under 2 year study)	Zero cost bureau under DCA 3 Naturopathic Physicians 3 Medical Physicians 3 Public Members	January 1, 2004 Note: original law sunset
Connecticut	Full practice rights No prescription rights	2 naturopathic physicians 1 public member	Before 1949
Hawaii	Full practice rights Drug formulary	3 naturopathic physicians 2 public members	Before 1937
Maine	Full practice rights Drug formulary	Alternative medicine board combining acupuncturists and naturopathic physicians 2 naturopathic doctors 2 acupuncturists 1 allopathic physician (MD or DO) 1 pharmacist 1 public member	At 1996
Montana	Full practice rights Drug formulary	Complimentary Medical Board combining naturopathic physicians and midwives 2 naturopathic physicians 2 midwives 2 public members 1 MD obstetrician	At 1991
New Hampshire	Full practice rights Drug formulary	4 naturopathic physicians 1 public member	Before 1990
Oregon	Full practice rights Drug formulary	4 naturopathic physicians 1 public member	Before 1940
Utah	Full practice rights Drug formulary	3 naturopathic physicians 2 public members	At 1997
Vermont	Full practice rights Drug formulary	2 naturopathic physicians 1 administrator	At 1996
Washington	Full practice rights Drug formulary No cancer treatment	3 naturopathic physicians 2 public members	Before 1950

Appendix E:
Comparison of Naturopathic And Major Medical Schools



	National	Bastyr	Southwest	John Hopkins	Yale	Stanford
Basic and Clinical Sciences Anatomy, Cell Biology, Physiology, Pathology, Neuroscience, Clinical / Physical Diagnosis, Histology, Genetics Biochemistry, Pharmacology, Lab Diagnosis, Pharmacognosy, Public Health, History, Philosophy, Ethics, Research and other coursework.	1548	1639	1419	1771	1420	1383
Clerkships (1) and Allopathic Therapeutics Lecture and Clinical Instruction in Dermatology, Family Medicine, Psychiatry, Internal Medicine, Radiology, Pediatrics, Obstetrics, Gynecology, Neurology, Surgery (2), Ophthalmology, and Clinical Electives.	2244	1925	1920	3391	2891	3897
Advanced Naturopathic Therapeutics	—	44	20	—	—	—
Ayurvedic Medicine	—	22	20	—	—	—
Botanical Medicine	96	110	120	—	—	—
Counseling (4)	144	143	100	—	—	—
Homeopathy	144	88	140	—	—	—
Hydrotherapy	48	39	40	—	—	—
Naturopathic Case Analysis / Management (5)	—	66	120	—	—	—
Naturopathic Manipulative Therapy	156	176	180	—	—	—
Naturopathic Medicine						
Naturopathic Philosophy	72	55	60	—	—	—
Oriental Medicine	72	33	200	—	—	—
Therapeutic Nutrition (3)	144	132	130	—	—	—
Subtotals:	876	908	1130	0	0	0
Total Reported Hours:	4688	4472	4469	5162	(+ thesis) 4311	5280

1. Clerkships are estimated to be 40 hours of mixed lecture and clinical training.
2. Naturopathic Physicians study minor surgery only.
3. No dedicated coursework in therapeutic nutrition appears in the college catalogs of Hopkins, Yale or Stanford, although they indicate that the subject is addressed in other courses.
4. Totals for John Hopkins, Yale and Stanford are included in psychiatry coursework.
5. Hours which could also be allocated to this category may be included elsewhere for some institutions because of terminology differences in the course

Sources: 1996-97 *Curriculum Directory* of the American Association of American Medical Colleges
 1995-97 catalog of National College of Naturopathic Medicine
 1996-98 catalog of Bastyr University
 1996-97 catalog of Southwestern College of Naturopathic Medicine and Health Sciences

Comparison of Pharmacology Training

Just as biochemistry is biochemistry, pharmacology is pharmacology. Pharmacology, like biochemistry, is a basic science – usually taught in the first two years of medical school. Pharmacology training for naturopathic doctors is fundamentally the same as the training other primary care doctors receive.



Table 1 compares the total hours required of three medical disciplines in the basic sciences, including pharmacology.

Table 2 compares the total hours of clinical clerkships and therapeutics required by six different medical colleges, three naturopathic medical schools and three allopathic medical schools.

In the 13 states where naturopathic physicians have prescription rights

- ⇒ Naturopathic physicians must graduate from a CNME-approved naturopathic medical college
- ⇒ Pass the pharmacology exam as administered by NPLEX (Naturopathic Physicians Licensing Examination)
- ⇒ Be licensed by the state where they practice
- ⇒ Obtain a DEA registration number.
- ⇒ Remain current with continuing education required by the state

With these stringent requirements met, NDs in these states safely prescribe or administer prescription or controlled substances WHEN THEY NEED TO.

To further assure public safety in Alaska, our legislation requires a mandatory, 60-hour course taught by pharmacists (R.Ph.) and by Pharm.D.s (pharmacists who are also MDs) which focuses on pharmacotherapeutics (the therapeutic use of drugs). This will ensure that naturopathic doctors who graduated long ago will have their knowledge brought up to current provisions.

Table 1. Comparison of Average Number of Hours in Basic Science Instruction

	Allopathic ¹	Osteopathic ²	Naturopathic ³
Anatomy (gross and micro)	380	362	350
Physiology	125	126	250
Biochemistry	109	103	125
Pharmacology	114	108	100
Pathology	166	152	125
Microbiology/Immunology	185	125	175

Sources:

¹Ref. Association of American Medical Colleges Curriculum Directory, 1996-1997.

²Ref. 1996 Statistical Report. Chevy Chase, MD: American Association of Colleges of Osteopathic Medicine.

³Ref. State of Oregon. Oregon Administrative Rules, Oregon Board of Naturopathic Examiners, Chapter 850. Salem, OR.

Note: Allopathic (MD); Osteopathic (DO); Naturopathic (ND)

Used with Permission; *Common Paths in Medical Education*, Clyde B. Jensen, Ph.D., Alternative and Complementary Therapies; August 1997

Table 2: Comparison of major naturopathic and allopathic medical school clinical training

Clerkships and Clinical Therapeutics	National	Bastyr	Southwest	John Hopkins	Yale	Stanford
Total Hours	3120	2833	3050	3391	2891	3897

Sources:

American Association of American Medical Colleges, Curriculum director (1996-1997)

National College of Naturopathic Medicine catalogs (1995-1997)

Bastyr University of Naturopathic Medicine and Health Sciences catalogs (1996-98)

Southwest College of Naturopathic Medicine and Health Sciences catalogs (1996 - 1998)

Assuring Safe Naturopathic Medical Practices for Alaskans
Pharmacology Education Comparison:
Stanford to NCNM



Alaska Association of Naturopathic Physicians, Inc.

NCNM

National College of Naturopathic Medicine

CLS 516 Pharmacology I. (3 credit hours lecture) Prerequisites: BAS 425/432. (3 credit hours lecture). This course presents the principles of pharmacodynamics, including drug absorption, metabolism, distribution, excretion, and mechanism of action. Students are expected to classify and describe the pharmacodynamics, side effects, and therapeutic uses of drug prototypes from the contemporary drug classes. Special emphasis is given to drugs contained in the Oregon and other naturopathic formularies. Prerequisites: BAS 425/432. (National College of Naturopathic Medicine Course Catalog, pp. 61- 62)

Topics for Fall 2003

General Principles: pharmacokinetics, pharmacodynamics; **Autonomic Nervous System:** sympathomimetics, sympatholytics, parasympathomimetics, parasympatholytics muscle relaxants; **Central Nervous System:** anxiolytics and hypnotics antipsychotics, agents for affective disorders, anti-epileptic drugs, agents for neurodegenerative disorders, analgesic drugs, drugs of abuse, local anesthetics; **Respiratory Agents; Diuretics.** (National College of Naturopathic Medicine Course Information Form, T. Ann Blair, Ph.D., blaira@ohsu.edu)

CLS 526 Pharmacology II. (3 credit hours lecture). This course presents the principles of pharmacodynamics, including drug absorption, metabolism, distribution, excretion, and mechanism of action. Students are expected to classify and describe the pharmacodynamics, side effects, and therapeutic uses of drug prototypes from the contemporary drug classes. Special emphasis is given to drugs contained in the Oregon and other naturopathic formularies. Prerequisites: BAS 425/432.

Topics for Winter 2004

Cardiovascular: antihypertensive, anti-anginal, antilipemic agents, congestive heart failure, anti-arrhythmic agents, blood formation, hemostasis, thrombosis, gastrointestinal agents; **Endocrine:** thyroid hormones, male and female reproductive hormones, glycemic agents, adrenal steroids, vitamin D and A agents, autacid drugs, nsaid, dmards; **Chemotherapy:** antimicrobial, antiviral, antifungal, antiparasitic, cancer chemotherapy, anti-obesity agents, otc, drug interactions. (National College of Naturopathic Medicine Course Information Form, T. Ann Blair, Ph.D., blaira@ohsu.edu)

BOT 520/530/610 Botanical Materia Medica I, II, III (3 credit hours lecture winter, 2 credit hours lecture spring, 3 credit hours lecture fall) These sequential courses comprise a detailed survey of plants and plant preparations used in naturopathic practice, integrating traditional herbal knowledge with modern pharmacological research. The pharmacognosy, pharmacodynamics, toxicology, and therapeutics of each plant are considered. The coursework begins with an intensive on medicinal plant chemistry and follows with a focus on organ systems—the pathologies, the herbal treatments, and practical case presentation and workshops on case management and prescribing herbal formulas. Prerequisites: concurrent enrollment in CLS 520/530

Elective: CLS 640E Natural Pharmacology (2 credit hours lecture) This course offers an in-depth look at evidence-based therapeutic interventions, ranging from diet and nutrition to botanical therapies. Students will be exposed to the latest scientific evidence in the field of natural medicine and will learn how to adjust individual patient biochemistry in order to regain and sustain optimal wellness through maintenance of a physiologically balanced homeostasis. Prerequisites: third-year status.

(<http://www.ncnm.edu/b3pdfs/ncnm%20cat.pdf>)

Assuring Safe Naturopathic Medical Practices for Alaskans
Pharmacology Education Comparison:
Stanford to NCNM



Alaska Association of Naturopathic Physicians, Inc.

Stanford University

SCHOOL OF MEDICINE CATALOG

BOOK ONE

MPha 201. Pharmacology. Covers the principles of pharmacology and the major drug groups used in medicine. Major drug topics will include drug-receptor interaction, kinetic aspects of drug absorption, distribution and elimination, and drug metabolism. Major drug groups considered in this course include those affecting the Central Nervous System, the Autonomic Nervous System, and the Cardiovascular System. Peripherally acting drugs discussed include cholinergic/anticholinergics, adrenergics/antiadrenergics, antiarrhythmics, and vasodilators. Centrally acting drugs discussed include anticonvulsants, anesthetics, sedatives, analgesics, tranquilizers, and other psychoactive drugs. Problems of drug abuse are also considered. The emphasis of the course is on the mechanisms of action of drugs in man. A final exam will be given. Prerequisites: Mammalian physiology and biochemistry. Introductory neurobiology is recommended. 5 units. (J. Ferrell, staff - Department of Molecular Pharmacology)

MPha 202. Pharmacology. A continuation of Pharmacology 201. Major drug groups considered in this course include: chemotherapeutic agents, antibiotics; antiparasitic drugs; anticancer agents; thrombolytic agents; anti-inflammatory agents, and drugs regulating endocrine function. This course also includes discussion of toxicology. A final exam will be given. Prerequisites: Mammalian physiology, biochemistry and microbiology. Students who have not taken Pharmacology 201 (or equivalent) should consult the instructor. 5 units. (R. Roth, staff - Department of Molecular Pharmacology)

(http://med.stanford.edu/school/catalog/bookone/coursegrid_descriptions.html)

Definitions

Controlled Substances

A substance subject to the Controlled Substances Act (1970), which regulates the prescribing and dispensing, as well as the manufacturing, storage, sale, or distribution of substance's assigned to five schedules according to their 1) potential for or evidence of abuse, 2) potential for psychic or physiologic dependence, 3) contributing a public health risk, 4) harmful pharmacologic effect, or 5) role as a precursor of other controlled substances

Note: Controlled Substances in Schedules II -V have an accepted medical use in the United States, and Schedule 1 substances do not.

DEA Registration

The Drug Enforcement Administration (DEA) is the primary agency within the Federal Government responsible for the enforcement of the Controlled Substances Act (CSA) of 1971

A prescription order for a controlled substance may be issued only by a physician, dentist, podiatrist, veterinarian, mid-level practitioner or other registered practitioner who is:

1. Authorized to prescribe controlled substances by the jurisdiction in which he/she is licensed to practice;
- and
2. Registered with DEA or exempted from registration (i.e. Public Health Service and Bureau of Prison physicians)

Externship

Programs of training in medicine offered by outpatient clinics or private practices for graduates of medicine to meet the clinical requirements established by accrediting authorities.

Internship

Programs of training in medicine and medical specialties offered by hospitals for graduates of medicine to meet the requirements established by accrediting authorities.

Legend Drugs

A synonym for prescription drug. Legend drugs are required by federal law to have a prescription, or a physician's order to be dispensed by the pharmacy.

Minor Surgery

Minor surgery is the repair of superficial wounds, removal of foreign bodies, cysts, and superficial lesions. Local antiseptics and anesthetics are employed and sterile fields are maintained. These are the procedures that primary care physicians perform in their offices.

Note: Minor surgery DOES NOT include the use of general or spinal anesthetics, specialized surgical procedures (eye surgery, tendon repair, plastic surgery etc.) or the entrance into body cavities.

Pharmacognosy

A sub-field of pharmacology which studies natural drugs, including the study of their biological and chemical components, botanical sources, and other characteristics (economic, biochemical, biological, etc.).

Pharmacology

The medical science that deals with the discovery, chemistry, effects, uses and manufacture of drugs. The study of pharmacology includes drug absorption, metabolism, distribution, excretion and the mechanisms of drug action. It classifies and describes the actions, side effects and therapeutic uses of drug prototypes from the contemporary drug classes. (ex. Antihypertensives, Diuretics etc.)

Pharmacotherapeutics

Is the clinical study by which medical students learn to use drugs to treat medical conditions under the supervision of a physician.

Prescription

A written direction for the preparation and administration of a remedy. A prescription consists of the heading or superscription that is, the symbol R or the word Recipe, meaning take; the inscription, which contains the names and quantities of the ingredients; the subscription or directions for compounding and the signature, usually introduced by the sign s. For signa, mark, which gives the directions for the patient which are to be marked on the receptacle.

Prescription Drugs

A drug requiring a prescription, a physician's order. (By comparison with an over-the-counter drug.)

Primary Care

A primary care physician is trained to provide definitive care to the undifferentiated patient at the point of first contact. They are advocates for their patients and co-ordinate the use of the entire health care system. This includes educated referral for emergency intervention or to specialized providers.

Alaska State Medical Association

4107 Laurel Street • Anchorage, Alaska 99508 • (907) 562-0304 • (907) 561-2063 (fax)

April 27, 2004

Honorable Peggy Wilson
Chair, Health, House HESS Committee
Alaska House of Representatives
Juneau, AK 99801-1182

Re: HB 434 – Practice of Naturopathy

Dear Representative Wilson:

The Alaska State Medical Association (ASMA) represents physicians statewide and is primarily concerned that Alaskans receive high quality healthcare. ASMA urges the committee to not support HB 434. The expansion of naturopath's scope of practice as proposed in the bill would not enhance patient care nor would it improve access to care.

Training for naturopaths is less rigorous than that for medical doctors, in both length and depth of study. Its emphasis on natural healing does not allow sufficient time for its students to fully learn the accepted pathology, physiology and pharmacology necessary to treat most medical conditions. A list compiled by the American Association of Naturopaths (Attachment 1) shows the different treatment techniques studied by naturopaths. Such a broad curriculum simply doesn't provide the time needed to gain proficiency in the appropriate use of prescription drugs.

We are not convinced that the first two years of naturopath and medical schools are the same. But for any courses that actually did cover material in the same detail, medical students might still be expected to master the content better than naturopaths. This is because admission to medical school requires extensive undergraduate science background and then passing rigorous entrance exams. By comparison, there are no similar admission tests for naturopath schools and some don't even require a college degree for enrollment (Attachment 2).

More importantly, medical students spend at least an additional four years in school and residency before licensure. These "clinical years" emphasize the appropriate and safe use of medications, and are the backbone of all physicians' training. Naturopath programs do not require such residencies, and the last two years of their school focuses on alternative treatments.

Thus, while physicians are only licensed after completing six years of training, HB 434 proposes that naturopaths could prescribe after just four years, none of which primarily focus on the safe and effective use of prescription drugs. This could be unsafe for Alaskan patients.

Some have argued that naturopaths are more qualified to prescribe than physician assistants and others who may have fewer years of training. We disagree. PA's are only licensed after they've completed clinical internships that immerse them in the safe use of prescription drugs. It is not simply the numbers of years of training that qualifies one to prescribe, but rather the content and focus of training.

ASMA also does not believe naturopaths are qualified to perform minor surgery. Suturing lacerations and removing moles can be complex. The decisions involved with selecting optimal closure or biopsy type (and the associated risks of each) are not mastered after a short course of study. For example, while it may seem simple to biopsy a mole, it is much more complex to determine what type of biopsy is best for which lesions, or to assess which lesions could be cancerous and at higher risk of spreading if diagnosed or biopsied incorrectly. As surgeons are quick to point out: there is no such thing as "minor surgery" there are just minor surgeons....

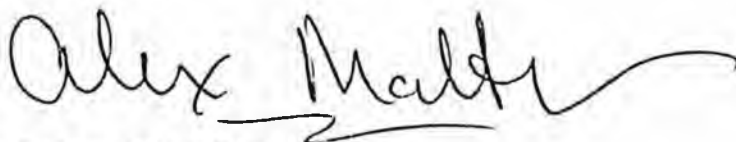
Beyond the question of whether naturopath's scope of practice should be expanded, some reviews even question the safety and efficacy of the field's current treatment methods. A comprehensive 2001 analysis for the Massachusetts Special Commission on Complementary and Alternative Medical Practice concluded "Naturopathy is a dangerous activity and no amount of regulation is likely to mitigate this fact".¹

Medicare has also expressed reservations about naturopathic practice (Attachment 3), and CMS generally does not reimburse for these services. While these conclusions may sound alarmist, I personally cared for a young woman who died unnecessarily because a naturopath treated her for three months for "chronic fatigue syndrome" and failed to diagnose her lymphoma while it was still at a treatable stage.

Finally, expanding the scope of practice for the 30 or so naturopaths in Alaska will not likely improve access to care in the state. We are not aware of many naturopaths practicing in those rural areas in which access issues are most critical. ASMA believes that Alaska would be better served if the Legislature worked to help Alaska attract appropriately trained physicians in sufficient numbers to provide care to our citizens.

In summary, ASMA believes it would be unwise and unsafe for the State of Alaska to effectively endorse the practice of naturopaths by granting them prescriptive privileges. ASMA urges you to vote no on HB434.

Sincerely,

A handwritten signature in cursive script that reads "Alex Malter". The signature is written in black ink and is positioned above the typed name and title.

Alex Malter, MD, MPH
President

1. KC Atwood, Naturopathy: A Monograph, For the Massachusetts Special Commission on Complementary and Alternative Medical Practitioners, Mass. Medical Society, April, 2001

Attachment 1: The Professional Scope of Practice for Naturopaths*

The professional scope of practice for naturopathic physicians is defined in the AANP guidelines below:

1. The scope of naturopathic physician's practice is eclectic and dynamic in nature.
2. Naturopathic physicians are trained to understand and utilize a wide variety of therapeutic modalities and to select the treatment that, in their opinion, best serves the patient's condition.
3. The types of therapeutics a physician may choose from include, but are not limited to:
 - a. Acupuncture
 - b. Botanical medicine
 - c. Clinical nutrition and nutritional counseling
 - d. Electrohydrotherapy
 - e. Homeopathy
 - f. Light and air therapy
 - g. Massage therapy/neuro-muscular technique
 - h. Natural childbirth
 - i. Naturopathic manipulative technique
 - j. Orthopedics
 - k. Physical medicine
 - l. Psychotherapy and counseling
 - m. Soft tissue manipulation
 - n. Surgery
 - o. Use of appropriate pharmacological agents

* From: American Association of Naturopathic Physicians. (1998) AANP Definition of Naturopathic Medicine: Adopted November 1989, Rippling River Convention, Seattle, WA. (HJ Hough, PhD, C Dower, JD, EH O'Neil, PhD. *Profile of a Profession: Naturopathic Practice*, Center for the Health Professions University of California, San Francisco. Sept 2001, pp 41-42)

TABLE 17. Nonexclusive list of schools providing education and training for naturopaths, 2000.

School	Prerequisites	Training	Residential or Distance Learning	Length of Program	Residency or Internship	Degree or Certification
Academy of Natural Therapies. www.powerhealth.net	High school graduate; completion of course requirements for Bachelor and Master of Science programs or equivalents taken at other schools	Courses include history of naturopathy, parasitology, advanced herbology, color and music therapy, advanced homeopathy, advanced natural therapies, alternative approaches to AIDS, lipid biochemistry, microbiology, and thesis or research project	Distance learning	NA	Yes; clinical externship with a health professional approved by the Academy (500 hours) Diploma as	Doctor of Naturopathy
American Institute of Holistic Theology, Youngstown, OH	High school graduate or completion of GED; accumulated life experience may qualify an older adult for admission	Courses include business and legal aspects of a health practice, introduction to business management, mind/body healing, herbology, natural health techniques, psychology, anatomy, chemistry, and biology	Distance Learning	(42 credits)	No	Diploma as Bachelor of Science in Naturology (naturopathy)
	Bachelor of Science plus specific coursework	Courses include nutrition, juicing, chelation, detoxification, mind development, brain power, fasting, studies of Edgar Cayce, and enzyme nutrition		(44 credits)	No	Diploma as Master of Science in Naturology (naturopathy)
	Bachelor of Science and Master of Science plus specific coursework	Courses include Jungian psychology, iridology, acupuncture, religion, prayer, theology, herbology, homeopathy, legal aspects of a holistic health practice; completion of a holistic health project		(60 credits)	No	Diploma as Doctor of Naturology (naturopathy)
	Bachelor of Science, Master of Science and Doctor of Naturology plus specific coursework	Courses include growing herbs, meditation/physical fitness, reflexology, healing power, healing practitioner, history of healing, Ayurveda, alternative approaches, and psychodietetics		(63 credits)	No, but required reading project and dissertation for degree completion	Diploma as Doctor of Philosophy in Naturology (naturopathy)

TABLE 17. (continued)

School	Prerequisites	Training	Residential or Distance Learning	Length of Program	Residency or Internship	Degree or Certification
California Naturopathic College, Del Mar, CA	Successful completion of Massage Technician program	Courses include anatomy, physiology, human body systems, immunity and neurohormonal regulation, circulatory and cardiovascular concerns, health throughout the life cycle, body/mind integration techniques, practitioner development tools, energetic healing, somatic/body therapies, nutrition/botanical medicine, homeopathy, and holistic animal care (400 hours)		2 years	No, but clinical practicum and research project Certificate as	Holistic Health Practitioner
	Successful completion of Massage Technician and Holistic Health Practitioner programs	Courses include pharmacology, human pathology, human body systems, nutrition therapy, herbology/ayurveda, homeopathy, health psychology, vibrational healing, and body therapies/exercise (900-hour minimum)		2 - 2 1/2 years (1200-hour minimum)	Yes; 300-500 hours of a clinical practicum (300-hour minimum)	Certificate as Naturopathic Physician (NP)
Clayton College of Natural Health, Birmingham, AL	None if applicant chooses to enter Bachelor of Natural Health Studies program; otherwise, a bachelor's degree is required for entry into ND program and the following courses: basic nutrition, biology, herbology, and homeopathy, anatomy, and physiology	Courses include history of naturopathy, nutrition, iridology, body awareness and physical movement, alternative approaches to arthritis, massage, reflexology, acupuncture, building a consulting practice, client-practitioner relationship	Distance learning and plans to offer Internet class in 2001		Yes, consulting practicum in naturopathy	Diploma as Doctor of Naturopathy (ND)

TABLE 17 (continued)

School	Prerequisites	Training	Residential or Distance Learning	Length of Program	Residency or Internship	Degree or Certification
Hallmark Naturopath College, Sulphur, OK (continued)	Completion of Naturopathic Counselor Program	Courses include biologic ionization theory, hormones, body energies, nutrition, bioelectric impedance analysis, inflammatory disorders, genetic expression in aging, herbology, reflexology, office procedure, and insurance basics (2435 hours)		Open	No	Certified Naturopath
International College of Naturopathy, Santa Barbara, CA		Courses include homeopathy, herbology, nutrition, toxicology, anatomy and physiology, magnet therapy, etc.	Residential but also offers some Internet classes	15 months	No; lab where one takes a 'case history' and uses learned testing protocols	Certificate and diploma as Naturopathic Practitioner/ Naturopathic Physician
Le College des Medicines Douces du Quebec (College of Alternative Medicine), Montreal, Quebec, Canada	Prerequisites include completion of several levels of training: Health Counselor, Health Educator, Health Technician, and Health Practitioner	Courses include vital hygiene, nutrition, medications, tests, emergencies, biotherapies, regenerative cures, phyto-energetics, oligotherapy, chronic affections, homeopathy, human energy regulation and therapy		15-18 months (36 credits)	No, but a final assignment must be submitted to complete training as a Naturopath	Diploma as Naturopath
Natural Healing Institute, Encinitas, CA	None	Herbology, nutrition, anatomy, physiology, pathology, massage therapy, communication skills, iridology, rayid, and kinesiology			Yes; 20 hours of a supervised practicum	
Trinity School of Natural Health, Warsaw, IN	The prospect that the candidate can successfully complete the course of study	Program includes anatomy, anthropology, physiology, nutrition, iridology, acupuncture, botanical studies, medical jurisprudence	Residential and distance learning	Open	None	Diploma as Doctor of Naturopathy (ND) or Doctor of Naturopathy Ministry (DNM)

TABLE 17. (continued)

School	Prerequisites	Training	Residential or Distance Learning	Length of Program	Residency or Internship	Degree or Certification
University of Natural Medicine, Santa Fe, NM		Courses include anatomy and physiology, clinical biochemistry, nutrition, botanical medicine, homeopathy, embryology, histology, pathology, tissue mineral & hair analysis, blood chemistry & urine analysis, toxicology, gastroenterology, naturopathic practice, microbiology, epidemiology, immunology, iridology, cell nutrition, Bach flower remedies, jurisprudence, midwifery, medical massage, pharmacology, business practices, emergency medicine, ethics, and microscopy (194 credits)	Distance learning	3-4 years	Yes; clinical externship (80 credits or 1200 hours)	Diploma as Doctor of Naturopathy (ND)
Yamuni Institute of Healing Arts, Lafayette, LA	Minimum two years of undergraduate studies or the equivalent that must include anatomy and physiology	Courses include genetics and metabolism, eticopathology, clinical nutrition, bioenergetic medicine, psycho-spiritual health, medical chemistry, laboratory analysis, legal aspects of practice, botanical medicine, physical medicine, and traditional medical systems (Ayurveda, Chinese, Tibetan, etc.) (75 hours video instruction and 264 hours of lecture)		(1039 hours)	Yes; clinical internship with qualified naturopath and research project case studies (700 hours)	Diploma as Certified Naturopathic Practitioner/ Doctor of Naturopathy

Attachment 3: Conclusion of Medicare's Report on Naturopaths*

Conclusions:

Naturopathic theory and practice are not based on the body of basic knowledge related to health, disease, and health care which has been widely accepted by the scientific community. Moreover, irrespective of its theory, the scope and quality of naturopathic education do not prepare the practitioner to make an adequate diagnosis and provide appropriate treatment.

* Department of Health, Education, and Welfare, *Independent Practitioners under Medicare* – December, 1968

Subject: Re: HB 434

Date: Mon, 3 May 2004 21:54:15 -0800

From: Cathy Giessel <cgiessel@mac.com>

To: Linda Miller <Linda_Miller@Legis.state.ak.us>

Linda,

Please pass on my comments on the H-HESS HB 434 work draft to Representative Wilson.

Page 4 sec 9,(b) (1) - I see some other statutes were added - I have not looked them up so can't comment but I will look them up in the next day or so.

Page 4 Sec 9 (c) - I do not feel that a "peer review committee" is adequate! How can other naturopaths evaluate the appropriateness of their colleagues as they undertake to practice conventional medicine? There should be at least 2 MDs and 1 ANP, as well as a pharmacist, on that "committee".

Page 5 Sec 10, new section Sec 08.45.110 - the 15 hours of pharmacology should be provided by a SPECIFIED "professional approved by the division". Will another naturopath suffice? How about a chiropractor? I believe it should be specified as an MD or DO with expertise in clinical management of drug therapy. Where does it specify that license renewal is every 2 years? It is implied in this section; is that sufficient legally?

Pg 5 Section 08.45.120 (2) - the administration of intravenous "substances" is very vague. It could mean anything. That item should be deleted.

(4) The category of controlled substances here are:

Schedule III - moderate to low physical dependence or high psychological dependence, prescriptions will be in effect only 6 months and will need to be rewritten every 6 months. Examples: hydrocodone, fiorinal, testosterone and other anabolic steroids, vicodin.

Schedule IV - low abuse potential but may lead to limited physical or psychological dependence, prescriptions will be in effect only 6 months and will need to be rewritten every 6 months. Examples: darvon, darvocet, midrin, librium, xanax, valium, sonata, ambien

Schedule V - low abuse potential and may or may not require a prescription. Examples: robitussin with codeine, kaolin pectin, lomotil.

It is not appropriate for naturopaths to be authorized to prescribe hydrocodone, one of the most abused drugs. These are seriously dangerous drugs, which is why the prescriptions require review and renewal every 6 months. I remind you of Dr. Compton's testimony. Drug abusers and drug seekers will have new, naive targets for obtaining these addictive drugs. Xanax is highly addictive as are several of the schedule IV drugs. The naturopaths are really wanting the authority to prescribe the testosterone. But they are being set loose with a lot more prescribing authority.

Naturopaths have FAR LESS TRAINING than any conventional providers in use of these drugs. ANPs must have one year of experience prescribing legend drugs before being granted authorization for controlled (12 AAC 44.445(2)). It is absurd to require so little of naturopaths. Naturopaths are not comparable to ANPs or medical doctors.

Pg 6 (9) I strenuously object to authorizing them to use the term "physician". This gives them far more credibility than is appropriate, and misleading the public by authorizing that term's use. Again I refer to Dr. Compton's testimony.

Pg7 (3) Why are schedule 3 drugs specified to require consultation when naturopaths have no training in Schedule 4 either, which includes Xanax, Valium and Ambien? If they need a consult for one category of controlled substances, then all should be included. Remember, this is a group that is not trained in use of

conventional drugs - as Dr. Compton clearly stated.

Representative Wilson, thank you for the opportunity to comment on this draft. I appreciate your work on this bill and your concern for the safety of healthcare in Alaska. As Dr. Compton said, the Legislature is charged with the protection of the public.

If there is a way that you could prevent this Legislation from passing, I believe it will be in the best interest of Alaska healthcare.

Respectfully,

Cathy

Cathy Giessel, MS, FNP-CS
cgiessel@mac.com

12701 Ridgewood Road
Anchorage, AK 99516
907 345 5470

To: Members of the Alaska Legislature
From: Physicians of the Alaska Heart Institute—Anchorage, Alaska
Re: HB 434/SB 306

As practicing cardiologists, we are profoundly alarmed by the introduction of HB 434, providing for medical prescriptive authority for naturopathic physicians. We feel strongly and unequivocally that this bill poses a serious threat to public health.

You can learn about the dangers of naturopathy at www.quackwatch.com. Here is our take on the subject:

NO SCIENCE

The success of conventional (allopathic) medicine is based upon rigorous application of the scientific method. With this approach, new therapies can be rigorously tested for effectiveness. Thanks to controlled clinical trials, our field (cardiology) has seen profound improvements in quality of life and survival for patients with coronary heart disease, congestive heart failure, arrhythmias, and congenital heart disease. Our record stands in stark contrast to mainstream naturopathy, which is based upon irrational beliefs and practices. You won't see media reports of rigorous, controlled naturopathy trials because they are simply not performed! Research performed at naturopathic colleges is lacking in scientific rigor and has not even investigated common naturopathic claims. A naturopath may treat your stroke with a mustard paste footbath, but you will have better luck going to a physician who can open up your closed cerebral artery.

Unscientific naturopathic beliefs threaten proven public health measures, most notably childhood immunizations. When is the last time you had a family member die of diphtheria, tetanus, or pertussis? These diseases used to be common killers in the US, and continue to cause profound human suffering in parts of the third world where vaccination is unavailable. Mainstream naturopaths do not support childhood vaccination.

Naturopathy is both potentially and actually injurious when practiced according to the accepted standards of the profession, due to the failure of the naturopath to recommend appropriate medical treatment. Naturopathy involves many nonsensical diagnostic practices that mainstream medicine considers quackery but naturopaths consider standard. Paradoxically, if medical doctors were to engage in the same practices they would be subject to discipline and malpractice suits — and rightly so.

NO TRAINING

There is no standard curriculum for a naturopath degree. You can get a PhD in Naturopathy from Progressive Universal Life Church for \$250 and "life experience" with no coursework. You can go to the International College of Naturopathy and get a diploma after 15 months of home study and a dozen weekend seminars.

The duration and setting of naturopathic clinical training, even overlooking its content, is inadequate for producing competent primary care physicians. This is clear from a comparison of the training of medical doctors to that of naturopaths. Just as a newly graduated medical doctor, no matter how well-intentioned, would not be allowed

to assume the role of a primary care physician, neither should this be allowed for a naturopath whose training is clearly inferior.

Naturopaths will point to their four years of naturopath training, and compare this to medical school. They neglect to mention having missed the additional three to seven years of internship, residency, and fellowship training that MDs obtain AFTER medical school. These post-medical school years are actually the formative training period for physicians. What is alarming is that the naturopaths are ignorant of their ignorance. Imagine a pilot learning to fly an ultralight, then volunteering to captain your 747 to Europe.

Why is this dangerous? Prescription medications can hurt and kill people. Certain antibiotics, rhythm, anti-nausea, or psychiatric can cause sudden death if used too aggressively. Other medications can cause your liver or kidneys to shut down. A commonly used heart drug can cause irreversible blindness. Try calling a naturopath to see whether they can name ANY of these medications.

The bill's sponsors claim that most states allow some prescriptive rights for naturopaths. The truth is that a handful of states allow naturopaths to prescribe medications, but only under MD supervision.

OTHER GOVERNMENT REVIEWS:

HEW report, 1968

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. Moreover, irrespective of its theory, the scope and quality of naturopathic education do not prepare the practitioner to make an adequate diagnosis and provide appropriate treatment.

Massachusetts Special Commission on Complementary and Alternative Medical Practitioners April, 2001 (15 month study)

For an occupation with little semblance of objective, scientific, and ethical bases, licensure legitimizes an otherwise illegitimate and dangerous activity. This monograph demonstrates, unequivocally and with extensive documentation, that naturopathy is a dangerous activity, and that no amount of regulation is likely to mitigate this fact. It is the opinion of the Massachusetts Medical Society that it would be irresponsible and unconscionable for the Commission to recommend the licensure of naturopathy in the Commonwealth of Massachusetts.

SUMMARY:

Naturopathy has no scientific basis. To paraphrase the Massachusetts Commission, conferring prescriptive authority upon naturopaths legitimizes an otherwise illegitimate and dangerous activity. We call on the members of the legislature to actually learn about naturopathy before casting votes.

Feel free to contact any of us at 907-561-3211.

Steve Compton MD, FACC, FACP

Paul A. Peterson MD, FACC

Ally Sheple MD, FACC

James Kramer MD FACC

John C. Bradley MD

Donald Brundage MD, FACC

C. Meyer MD, FACC, FACP

Mark W. Howell MD FACC

Walter Kuntz, MD FACC

Southcentral Foundation

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Fax

To: Peggy Wilson From: Douglas Eby, MD MPH
 Fax: 907-465-3175 Pages: 2
 Phone: _____ Date: 5/6/04
 Re: _____ CC: _____

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Comments:

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Southcentral Foundation

SCF is very interested in the integration of allopathic and other health professionals as much as possible. To this point we have integrated allopaths, osteopaths, chiropractors, massage therapists, acupuncturists, and Native Traditional Healers. We also employ a naturopath presently and are exploring ways to incorporate their skills and knowledge into our system. How that will ultimately look remains very much in discussion. We feel that they do add additional value to our spectrum of services we offer, but the details are still worked out. With regards to the question of prescriptive authority we do not have a position at present. We think that the discussion is an important one and are very interested in becoming part of the conversation. However, we do not have a position on the issue at present and do not feel we will be able to arrive at one in the immediate future. We would ask that any decision be delayed to allow for more thorough evaluation of the various possible options and for more medical and community input to be obtained. We look forward to participating in this important conversation.



5/6/04

Douglas Eby M.D. MPH
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Fax

To: Chairwoman Peggy Wilson **From:** Camille Soleil - Executive Director

Fax: **Date:** 5/6/04

Phone: **Pages:** 2 (including cover)

Re: SB 306 - Naturopaths **CC:**

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

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May 6, 2004

Honorable Peggy Wilson
Chair, House Health, Education and Social Services Committee
Alaska State Legislature
State Capitol (MS3100)
Juneau, AK 99801-1182

306

RE: Concerns relating to SB 368, "An Act relating to the practice of naturopathic medicine"

Dear Chairwoman Wilson;

The Alaska Nurses Association is concerned about the current version of SB 306, "An Act relating to the practice of naturopathic medicine." We are concerned that the bill does not thoroughly provide for patient safety and will not support its passage until such protections are put into place.

First, prescriptive power and expansion of scope of practice under an existing license should be limited to licensees who are overseen by a regulatory board. Such Boards should include public members and the appropriate licensed professional to ensure safe practice by oversight and prevent abuse. Although cost will always be a concern, the board should be self supporting, through licensing fees.

Second, we oppose the blanket approval of prescriptive authority being granted over controlled substances, specifically over schedules IIIA and IVA. Proscriptive authority should be limited to the appropriate drugs to which the naturopaths have received extensive training and are in line with the type of medicine that they normally practice. Such limitations will limit patients' exposure to harm, focus the training for initial licensing and continuing competence, and limit potential abuse.

Finally, although AaNA continues to be concerned about the access to medical care for patients in the state, it is imperative that any expansion of the naturopaths' practice be done in a comprehensive way that accounts for patient safety, oversight of the practice, and is appropriate given the accredited standards for training naturopaths. AaNA encourages the House Health, Education and Social Services Committee to delay passage of this bill until all questions are adequately answered. If this bill needs to be revisited next session, we look forward to supporting it once thorough considerations for patient safety and safe expansion of practice have been addressed.

Sincerely,

Camille Soleil, JD
Executive Director

434
Subject: hh434

Date: Tue, 04 May 2004 15:20:59 -0800

From: "Joe Klejka" <Joe_Klejka@ykhc.org>

To: Representative_Mary_Kapsner@legis.state.ak.us

Representative Kapsner (Hi Mary),

Hopefully I will have been able to testify requiring HB 434 this afternoon. While waiting for testimony to start I thought I would send you this brief note.

I am concerned about HB 434 giving Naturopaths prescriptive authority in the State of Alaska. In recent years national concern has been raised regarding patient safety in the healthcare industry. Much of the morbidity and mortality described has specifically been linked to prescription drugs.

To grant prescriptive authority to individuals less well trained regarding risks and contradictions for those medications would be an abrogation of the duty of the state to protect its constituents. At a time in this country when we are trying to improve patient safety, it would not be prudent to expand prescriptive authority to individuals whose main focus is non-traditional alternatives to healthcare and who receive far less training and experience in the use of prescription pharmaceuticals.

I would urge you to oppose granting prescriptive authority to Naturopaths in the State of Alaska.

thank you.

Sincerely,

Joseph A. Klejka, MD
Medical Director
Yukon-Kuskokwim Health Corporation
P.O.Box 528
Bethel, AK 99559
ph 907 543 6028 or 6027
fax 907 543 6091 or 6006

Joe Klejka
Mary Kapsner

Subject: House Bill #434

Date: Tue, 4 May 2004 12:32:02 -0700 (PDT)

From: Mehran Mosley <mehranmosley@yahoo.com>

To: representative_mary_kapsner@legis.state.ak.us

Dear Representative Kapsner:

During our medical staff meeting there was a mention of House Bill 434 allowing naturopath to prescribe medications. As a pediatrician I was horrified at this prospect.

I was trained at Penn State College of Medicine where I took two years of Pharmacology. This was one of the most difficult subjects in medical school and for this reason medical student spent a great deal of time on the subject. We learned about every medication in the market, its mode of activity, side effects, etc.

During my pediatric residency and fellowship training at Tufts and Harvard medical schools I spent an enormous amount time learning about these "poisons" that we were putting into our children with the aim of healing their body. These medications are designed to be poisons to be used under very strict supervision. Even after all my training, my orders were often checked by my superiors during my residency training. It took more than 4 years of medical schools and three years of training for me to feel somewhat comfortable to prescribe medication to children. I often check my texts to make sure I am giving the right med at the right dose to children.

I absolutely oppose this bill, and urge you to oppose it. I oppose it because it is a part of my job to protect children and I have decided to devote my life to this task.

Sincerely,

Mehran Mosley, MD

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Subject: House Bill 434 - Naturopaths

Date: Tue, 04 May 2004 09:40:22 -0800

From: "Elizabeth Roll" <Elizabeth_Roll@ykhc.org>

To: representative_mary_kapsner@legis.state.ak.us, pat_jackson@legis.state.ak.us

Dear Representative Kapsner,
My name is Elizabeth Roll and I am a physician at YKHC. I have met you several times with Janelle at various Bethel functions. Thank you so much for all the your hard work in Juneau. We really appreciate you representing us. Sorry it has taken me this long to email you about a legislative issue - it is nice to be able to voice our interests by using email.

I am writing to tell you I am very concerned about Bill 434. Considering licensing naturopaths may a good way to keep track and monitor them more closely - but DO NOT GIVE THEM PRESCRIPTIVE AUTHORITY OF ANY KIND!!! They have four years of schooling - but no actual training in pharmacology or prescribing. They have no residency training of any type - and do not the education, knowledge or experience to be prescribing medication. The areas of pharmacology are vast and the possibility of errors is also vast. Allowing people with no training to prescribe is a grave mistake. In prescribing medication for children you have to take into account their weights and carefully calculate dosages - it is very easy to over medicate a child and cause serious harm or death. Giving the wrong medications to a pregnant woman can cause severe birth defects or death to the unborn child.

Please vote this bill down in committee. I have talked with several of my medical colleagues and they will be emailing you as well. Joe Klejka MD, our corporate medical director will be testifying this afternoon at your committee. Thanks for listening. Please email me any questions you have. I will send a similiar letter to your committee.

Elizabeth Roll, MD
President of Medical Staff
Chairperson of Medical Staff Quality Committee
Message Phone 907-543-6415
elizabeth_roll@ykhc.org