

Effective March 3, 2005



Protecting, maintaining and improving the health of all Minnesotans

February 25, 2005

Mr. Harold Johnson



RE: Determination affecting your naturopathic practice.

Dear Mr. Johnson:

Based on my review of the facts and law in this matter, I have determined that you have illegally taken clients' blood, made medical diagnoses, used the title "Dr.", and failed to provide a Client Bill of Rights in your practice as a naturopath in Minnesota in violation of Minnesota Statutes, sections 146A.01, subd. 4(b) and (d), 146A.08, subd. 1(e), (r), (w), and 146A.11. Therefore, I am ordering that you immediately cease taking clients' blood, making medical diagnoses, using the title "Dr" and that you revise your Client Bill of Rights according to staff direction. This action is authorized under Minnesota Statutes, section 146A.09.

You have the right to challenge this decision in a contested-case hearing as provided under Minnesota Statutes, chapter 14. Requests for hearing should be made in writing and include specific grounds for challenging the Department's decision. If you wish to request a hearing, please send, deliver, or fax a written hearing request within 30 days of your receipt of this letter to:

Susan Winkelmann, Investigations and Enforcement Manager
Minnesota Department of Health
85 East Seventh Place, Suite 300
P.O. Box 64882
St. Paul, MN 55164-0882
Fax (651) 282-3839

If you have any questions about this matter, contact Ms. Susan Winkelmann, at (651) 282-5623. You will still be required to request a hearing in writing with the grounds for challenging the Department's decision.

Sincerely,

A handwritten signature in cursive script that reads "David J. Giese".

David J. Giese, Director
Health Policy, Information and Compliance Monitoring Division

cc: Tom Hiendlmayr, Director of Health Occupations Program
Susan Winkelmann, Investigations and Enforcement Manager

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of Harold Johnson
Unlicensed Complementary and Alternative Health Care Practitioner**

AUTHORITY

1. Minnesota Statutes, section 146A.09, subd. 1, provides that the Office of Unlicensed Complementary and Alternative Health Care Practice (hereinafter "OCAP") within the Minnesota Department of Health (hereinafter "Department") has the authority to revoke, suspend, censure, reprimand or impose limitations or conditions on an unlicensed complementary and alternative health care practitioner when there is a violation of law as defined in Minnesota Statutes, section 146.08, subd. 1. Further the Department has the authority to impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed as to deprive the practitioner of any economic advantage gained by reason of the violation or to reimburse the office for all costs of the investigation and proceeding (Minnesota Statutes, section 146A.09, subd.1(4)), or to impose a fee on the practitioner to reimburse the office for all or part of the cost of the proceedings resulting in disciplinary action including, but not limited to, the amount paid by the office for services from the office of administrative hearings, attorney fees, court reports, witnesses, reproduction of records, staff time, and expense incurred by the Department. (Minnesota Statutes, section 146A.09, subd. 1(7)).
2. Pursuant to Minnesota Statutes, section 146A.01, subd. 4, complementary and alternative health care practices include the broad domain of complementary and alternative healing methods and treatments, including but not limited to: (11) healing practices utilizing food, food supplements, nutrients, and the physical forces of heat, cold, water, and light; (14) herbology or herbalism; (15) homeopathy; and (20) naturopathy.
3. Minnesota Statutes, Section 146A.01, subd. 4 (b) and (d) prohibits unlicensed complementary and alternative health care practitioners from performing practices that invade the human body by puncture of the skin, or providing medical diagnoses.
4. Minnesota Statutes, Section 146A.08 subd. 1 (w) prohibits unlicensed complementary and alternative health care practitioners from using the titles "doctor," "Dr.," or "physician" alone or in combination with other words, letters or insignia to describe his or her practices.
5. Minnesota Statutes, sections 146A.11 and 146A.08, subd. 1 (r) require all OCAP practitioners to provide a client bill of rights containing information about the

practitioner's credentials, fees, client rights, and how to file a complaint with the Department.

6. Minnesota Statutes, section 146A.08, subd. 1(e) prohibits advertising that is false or misleading.

FINDINGS OF FACT

1. Practitioner has been practicing as a Naturopathic practitioner in Minnesota for over 30 years. Practitioner is owner and sole proprietor of both "Whole Health Center" and "Laboratory Research Associates", which are two names for the same business. The business address is [REDACTED].
2. Practitioner graduated from college in 1951 with a major in Chemistry and took other courses in pharmacy, medical technology, microbiology, and nutrition. Practitioner obtained a Naturopathy degree from Bernadean University, Las Vegas, Nevada, in 1972. Practitioner reported he was elected a fellow of the American Association for the Advancement of Science in 1966, and elected a fellow of the American Institute of Chemists in 1973.
3. Practitioner reported he was certified as a Clinical Laboratory Scientist by the National Certification Agency in 1978.
4. Practitioner has regularly taken blood from clients by syringe or with a finger prick, and has made diagnoses for his clients. Practitioner sends blood (serum samples), saliva and stool samples to a laboratory for testing and results. After Practitioner receives the results back, Practitioner reviews the results with his clients and makes diagnoses of medical conditions and recommends treatments utilizing Functional Medicine, which Practitioner describes as an advanced type of nutritional therapy.
5. Practitioner stated that he explains the meaning of test results when they are not within normal ranges. Practitioner stated he does also refer some clients to licensed physicians or other health care providers.
6. Practitioner stated during an in-person interview with the Department on May 27, 2003 that clients might come to see him for a "general checkup" or they may come due to being dissatisfied with their medical doctor because the doctor could not determine what was wrong with them. On practitioner's "2002 Catalog of Services", practitioner lists one of his services as a "Comprehensive (3 hour) General Checkup", at a cost of \$390.00. Practitioner also discusses the client's current concerns, medical history, and family medical history.

7. Practitioner conducts exams for fibromyalgia, prostate concerns, cataracts, and carpal tunnel syndrome.
8. Practitioner examines a client's eyes for cataracts using an ophthalmoscope. Practitioner looks for "black spots" which indicate the presence of cataracts. If practitioner observes "very little" cataracts, he might recommend "appropriate sunglasses and nutritional therapy for halting cataract formation". If a client's cataracts were extensive, practitioner would refer them for lens surgery.
9. Practitioner uses the title "Dr." in front of his name on both his business card and letterhead.
10. Prior to October 2002, Practitioner did not use a Client Bill of Rights as required by state law.

CONCLUSION

Practitioner did not comply with the requirements under Minnesota Statutes, sections 146A.01, subd. 4 (b) and (d), 146A.08, subd. 1(e), (w), (r), and 146A.11:

DETERMINATION

1. Practitioner shall immediately cease his activities related to taking blood from clients and making diagnoses for clients.
2. Practitioner shall immediately cease using the title "Dr" as his title in any form.
3. Practitioner will revise his Client Bill of Rights in accordance with Department staff's directions and submit that within fourteen days of the effective date of this Order.
4. Practitioner will pay a civil penalty in the amount of \$817 representing the costs of investigations in these proceedings, to date. Practitioner can pay the civil penalty in three monthly installments, the first payment being due within fourteen days of the effective date of the Determination. Each check must be made payable to "State of Minnesota, Treasurer". Practitioner shall mail the civil penalty to Alan Ditsworth, Investigator, Health Occupations Program, Minnesota Department of Health, P.O. Box 64882, St. Paul, MN 55164-0882. Should Practitioner fail to pay the civil penalty, the Department will refer the matter for collection to the Minnesota Collection Enterprise (MCE) in the Minnesota Department of Revenue, or another source for collection. MCE is authorized by Minnesota Statutes, section 16D.17 to obtain a judgment against Practitioner without further notice or proceedings.