

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

H**D**

HOUSE DRH70245-LN-52A (2/3)

Short Title: Consumer Health Freedom Act. (Public)

Sponsors: Representatives Parmon, Harrison, Johnson, and Fisher (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE CONSUMER HEALTH FREEDOM ACT FOR COMPLEMENTARY AND ALTERNATIVE FORMS OF HEALTH CARE SERVICES AND TO FACILITATE ACCESS TO ALTERNATIVE HEALTH CARE SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding the following new Chapter to read:

"Chapter 90E.

"The Consumer Health Freedom Act.

"§ 90E-1. Title.

This Chapter shall be known and may be cited as 'The Consumer Health Freedom Act.'

"§ 90E-2. Legislative findings and intent.

The General Assembly finds that:

- (1) As many as 3,300,000 North Carolinians presently receive a substantial volume of health care services from complementary and alternative health care providers.
- (2) Currently the State does not issue licenses to many practitioners who provide these services in North Carolina, and while the General Assembly has enacted licensing laws that establish respective licensing boards for health care professions, there are many complementary and alternative health care modalities in widespread use by the population that do not require licenses.
- (3) Notwithstanding the relative safety and widespread use of complementary and alternative health care services by North Carolinians, the provision of many of these services may be in violation of G.S. 90-18, and as such, North Carolinians who are clients of these practitioners could lose access to the health care services of their choice.
- (4) North Carolina residents make a conscious choice in seeking complementary and alternative health care services for their health care. Their concern is to have continued and improved access to these services and the availability of practitioners of homeopathy, naturopathy, herbalism, and many other alternative healing modalities.
- (5) Therefore, by establishing this act, the General Assembly intends to remove the restriction on, and facilitate access of, North Carolina residents to complementary and alternative health care practitioners who are providing health care services not currently covered by existing medical licensing laws as these complementary and alternative health care services do not pose an undue risk to the health of North Carolina residents and restricting access to these services due to technical violations of the existing medical licensing laws is not warranted.

"§ 90E-3. Definitions.

The following definitions shall apply in this Chapter:

- (1) Complementary or alternative health care service. - Health care services that include, but are not limited to: acupressure; aromatherapy; ayurveda; biofield therapy; cranial sacral therapy; culturally-based traditional healing practices; dance, music, and art therapy; energetic

modalities; folk practices; practices utilizing food and dietary supplements; individual biological therapies, such as bee pollen, nutrients, and the physical forces of heat, cold, water, touch, and light; herbology or herbalism; homeopathy; therapeutic touch or bodywork; mind-body therapeutic practices; Native American medicine; naturopathy; polarity therapy; reiki; traditional Tibetan practices; and Qigong.

- (2) Complementary and alternative health care services provided by unlicensed practitioners. - The broad domain of health care and healing therapies and methods that are not prohibited by G.S. 90E-4 and are provided by a person who is not licensed, certified, or registered as a health care practitioner in this State.

"§ 90E-4. Prohibited acts.

A person who provides complementary and alternative health care services in accordance with this Chapter, but does not hold a license, permit, certification, or registration under Article 1 of Chapter 90 of the General Statutes, shall not be in violation of G.S. 90-18(c) for unlicensed practice or any other allied health occupation law for unlicensed practice unless the person engages in any of the following:

- (1) Performs surgery or any other procedure that harmfully punctures the skin of a person except finger pricking for screening purposes.
- (2) Prescribes or administers X-ray radiation to any person.
- (3) Prescribes or administers a legend drug, a legend device, or controlled substance to any person.
- (4) Performs a chiropractic adjustment of an articulation of the spine.
- (5) Performs massage therapy, except for a practice already exempt from massage therapy violations.
- (6) Provides to a person a diagnosis or treatment of a health condition and as a result of these services willfully causes that person recognizable and imminent risk of significant physical or mental harm.
- (7) Holds himself or herself out, states, indicates, advertises, or implies to any person that the person is a physician, surgeon, or medical doctor or that he or she is licensed, certified, or registered by this State to practice a health care profession.

"§ 90E-5. Disclosure.

(a) Any person providing health care services under the provisions of this Chapter who is advertising or charging a fee for those services shall, before providing the services, disclose to the client in a plainly worded written statement all of the following information:

- (1) The practitioner's name, business address, and telephone number.
- (2) That he or she is not a physician, surgeon, medical doctor, or other licensed health care professional and that he or she is not licensed, certified, or registered by the State of North Carolina.
- (3) The nature of the health care services to be provided.
- (4) The degrees, training, experience, credentials, or other qualifications of the practitioner regarding the health care services being provided.

(b) Before a practitioner provides health care services to a client for the first time, the practitioner shall obtain a written acknowledgment from the client stating that the client has been provided with the information described in subsection (a) of this section. The practitioner shall provide the client with a copy of this written acknowledgment, and the person providing the services shall maintain a copy of the acknowledgment for a period of two years. If the disclosure information changes, the practitioner has a duty to repeat the initial requirements of this section if a client obtains services after the change.

"§ 90E-6. Exemptions.

(a) This Chapter does not affect the scope of practice or prevent any activities of a licensed physician or surgeon or any other licensed health care professional.

(b) This Chapter does not apply to, control, or prevent any health care practice from being practiced if it is already exempt from professional practice acts or State law.

(c) This Chapter does not apply to, control, or prevent a person from providing health care services if the individual is already exempt from professional practice acts under State law.

"§ 90E-7. Remedies.

Nothing in this Chapter shall limit the right of any person to seek relief for negligence or any other civil remedy against a person providing services under the provisions of this Chapter."

SECTION 2. This act becomes effective June 1, 2009.