

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1303

Short Title: Consumer Health Freedom Act. (Public)

Sponsors: Representatives Luebke; Fisher, Harrison, Insko, Parmon, and Womble.

Referred to: Health.

April 20, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE CONSUMER HEALTH FREEDOM ACT FOR
3 COMPLEMENTARY AND ALTERNATIVE FORMS OF MEDICINE.

4 The General Assembly of North Carolina enacts:

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

7 "Chapter 90E.

8 "The Consumer Health Freedom Act.

9 "§ 90E-1. Title.

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

12 "§ 90E-2. Legislative findings and intent.

13 The General Assembly finds that:

- 14 (1) As many as 3,300,000 North Carolinians presently receive a
15 substantial volume of health care services from complementary and
16 alternative health care providers.
- 17 (2) Currently the State does not issue licenses to many practitioners who
18 provide these services in North Carolina, and while the General
19 Assembly has enacted licensing laws that establish respective licensing
20 boards for health care professions, there are many complementary and
21 alternative health care modalities in widespread use by the population
22 that do not require licenses.
- 23 (3) Notwithstanding the relative safety and widespread use of
24 complementary and alternative health care services by North
25 Carolinians, the provision of many of these services may be in
26 violation of G.S. 90-18, and as such, North Carolinians who are clients
27 of these practitioners could lose access to the health care services of
28 their choice.

- 1 (4) North Carolina residents make a conscious choice in seeking
2 complementary and alternative health care services for their health
3 care. Their concern is to have continued and improved access to these
4 services and the availability of practitioners of homeopathy,
5 naturopathy, herbalism, and many other alternative healing modalities.
6 (5) Therefore, by establishing this Act, the General Assembly intends to
7 remove the restriction on and facilitate access of North Carolina
8 residents to complementary and alternative health care practitioners
9 who are providing health care services not currently covered by
10 existing medical licensing laws as these complementary and
11 alternative health care services do not pose an undue risk to the health
12 of North Carolina residents and restricting access to these services due
13 to technical violations of the existing medical licensing laws is not
14 warranted.

15 **§ 90E-3. Definitions.**

16 The following definitions shall apply in this Chapter:

- 17 (1) Complementary or alternative health care service. – Health care
18 services that include, but are not limited to: acupressure;
19 aromatherapy; ayurveda; biofield therapy; cranial sacral therapy;
20 culturally-based traditional healing practices; dance, music, and art
21 therapy; energetic modalities; folk practices; practices utilizing food
22 and dietary supplements; individual biological therapies, such as bee
23 pollen, nutrients, and the physical forces of heat, cold, water, touch,
24 and light; herbology or herbalism; homeopathy; therapeutic touch or
25 bodywork; mind-body therapeutic practices; Native American
26 medicine; naturopathy; polarity therapy; reiki; traditional Tibetan
27 practices; and Qigong.
28 (2) Complementary and alternative health care services provided by
29 unlicensed practitioners. – The broad domain of health care and
30 healing therapies and methods that are not prohibited by G.S. 90E-4
31 and are provided by a person who is not licensed, certified, or
32 registered as a health care practitioner in this State.

33 **§ 90E-4. Prohibited acts.**

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

- 39 (1) Performs surgery or any other procedure that harmfully punctures the
40 skin of a person except finger pricking for screening purposes.
41 (2) Prescribes or administers X-ray radiation to any person.
42 (3) Prescribes or administers a legend drug, a legend device, or controlled
43 substance to any person.
44 (4) Performs a chiropractic adjustment of an articulation of the spine.

- 1 (5) Performs massage therapy, except for a practice already exempt from
2 massage therapy violations.
- 3 (6) Provides to a person a diagnosis or treatment of a health condition and
4 as a result of these services willfully causes that person recognizable
5 and imminent risk of significant physical or mental harm.
- 6 (7) Holds himself or herself out, states, indicates, advertises, or implies to
7 any person that the person is a physician, surgeon, or medical doctor or
8 that he or she is licensed, certified, or registered by this State to
9 practice a health care profession.

10 **"§ 90E-5. Disclosure.**

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

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

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

29 **"§ 90E-6. Exemptions.**

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

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

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

37 **"§ 90E-7. Remedies.**

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

41 **SECTION 2.** This act becomes effective June 1, 2005.