

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 842

Short Title: Consumer Health Freedom Act. (Public)

Sponsors: Representatives Parmon, Harrison, Johnson, Fisher (Primary Sponsors); Bell, Blackwood, Coates, E. Floyd, Insko, Lucas, Luebke, Weiss, Womble, and Wray.

Referred to: Health, if favorable, Judiciary I.

March 30, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE CONSUMER HEALTH FREEDOM ACT FOR
3 COMPLEMENTARY AND ALTERNATIVE FORMS OF HEALTH CARE SERVICES
4 AND TO FACILITATE ACCESS TO ALTERNATIVE HEALTH CARE SERVICES.

5 The General Assembly of North Carolina enacts:

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

8 "Chapter 90E.

9 "The Consumer Health Freedom Act.

10 **"§ 90E-1. Title.**

11 This Chapter shall be known and may be cited as 'The Consumer Health Freedom 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 substantial
15 volume of health care services from complementary and alternative health
16 care providers.
- 17 (2) Currently the State does not issue licenses to many practitioners who provide
18 these services in North Carolina, and while the General Assembly has
19 enacted licensing laws that establish respective licensing boards for health
20 care professions, there are many complementary and alternative health care
21 modalities in widespread use by the population that do not require licenses.
- 22 (3) Notwithstanding the relative safety and widespread use of complementary
23 and alternative health care services by North Carolinians, the provision of
24 many of these services may be in violation of G.S. 90-18, and as such, North
25 Carolinians who are clients of these practitioners could lose access to the
26 health care services of their choice.
- 27 (4) North Carolina residents make a conscious choice in seeking complementary
28 and alternative health care services for their health care. Their concern is to
29 have continued and improved access to these services and the availability of
30 practitioners of homeopathy, naturopathy, herbalism, and many other
31 alternative healing modalities.
- 32 (5) Therefore, by establishing this act, the General Assembly intends to remove
33 the restriction on, and facilitate access of, North Carolina residents to
34 complementary and alternative health care practitioners who are providing
35 health care services not currently covered by existing medical licensing laws
36 as these complementary and alternative health care services do not pose an



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1 undue risk to the health of North Carolina residents and restricting access to
2 these services due to technical violations of the existing medical licensing
3 laws is not warranted.

4 **"§ 90E-3. Definitions.**

5 The following definitions shall apply in this Chapter:

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

21 **"§ 90E-4. Prohibited acts.**

22 A person who provides complementary and alternative health care services in accordance
23 with this Chapter, but does not hold a license, permit, certification, or registration under Article
24 1 of Chapter 90 of the General Statutes, shall not be in violation of G.S. 90-18(c) for unlicensed
25 practice or any other allied health occupation law for unlicensed practice unless the person
26 engages in any of the following:

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

42 **"§ 90E-5. Disclosure.**

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

- 46 (1) The practitioner's name, business address, and telephone number.
- 47 (2) That he or she is not a physician, surgeon, medical doctor, or other licensed
48 health care professional and that he or she is not licensed, certified, or
49 registered by the State of North Carolina.
- 50 (3) The nature of the health care services to be provided.

1 (4) The degrees, training, experience, credentials, or other qualifications of the
2 practitioner regarding the health care services being provided.

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

10 **"§ 90E-6. Exemptions.**

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

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

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

17 **"§ 90E-7. Remedies.**

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

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