

HB3389



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB3389

Introduced 2/26/2007, by Rep. Linda Chapa LaVia

SYNOPSIS AS INTRODUCED:

New Act

Creates the Consumer Access to Health Care Services Act to regulate the practices of those persons who provide complementary or alternative health care services and who are not licensed, registered, or certified to practice as health care practitioners under the laws of this State. Sets forth provisions concerning applicability; prohibited acts; disclosure; and exemptions from the Act. Grants rulemaking authority to the Department of Financial and Professional Regulation.

LRB095 10659 RAS 30890 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Consumer Access to Health Care Services Act.

6 Section 5. Findings; purpose.

7 (a) The General Assembly finds and declares each of the
8 following:

9 (1) Based upon a comprehensive report by the National
10 Institute of Health, a study published by the New England
11 Journal of Medicine, and other research data, it is evident
12 that hundreds of thousands of individuals in this State are
13 presently receiving a substantial volume of health care
14 services from unlicensed complementary and alternative
15 health care practitioners. Those studies further indicate
16 that individuals from a wide variety of age, ethnic,
17 socioeconomic, and other demographic categories receive
18 these complementary and alternative health care services.

19 (2) Notwithstanding the widespread use of these
20 complementary and alternative health care services by
21 Illinois residents, the provision of these services may be
22 in technical violation of the professional practice Acts
23 that govern licensed health care practitioners in this

1 State. As a result, a complementary or alternative health
2 care practitioner who is not licensed, registered, or
3 certified as a health care practitioner under the laws of
4 this State may be subject to fines, penalties, and the
5 restriction of his or her practice, even though there is no
6 demonstration that their practices are harmful to the
7 public.

8 (b) Because the General Assembly finds that, in general,
9 complementary and alternative health care services do not pose
10 a known risk to the health and safety of the public and, in
11 order to maximize and protect consumer options in health care
12 and for the public's health and welfare, the purpose of this
13 Act is to remove unwarranted barriers to public access to
14 unlicensed complementary and alternative health care
15 practitioners with appropriate consumer protections, as set
16 forth in this Act.

17 Section 10. Definitions. In this Act:

18 "Complementary or alternative health care services" means
19 health care and healing therapies and methods, the practice of
20 which are not prohibited by persons who are not licensed,
21 registered, or certified under the laws of this State.
22 "complementary or alternative health care services" includes
23 without limitation acupuncture; aromatherapy; ayurveda;
24 biofield therapy; cranial sacral therapy; culturally-based
25 traditional healing practices; dance, music, and art therapy;

1 energetic modalities; folk practices; practices using food and
2 dietary supplements; individual biological therapies and the
3 physical forces of heat, cold, water, touch, and light;
4 herbology or herbalism; homeopathy; mind and body therapeutic
5 practices; Native American medicine; naturopathy; polarity
6 therapy; traditional Tibetan practices; and Qigong.

7 "Department" means the Department of Financial and
8 Professional Regulation.

9 "Health care practitioner" means any physician,
10 chiropractor, osteopath, podiatrist, dentist, advanced
11 practice nurse, practical nurse, registered nurse, physician
12 assistant, physical therapist, or other person licensed,
13 registered, or certified to provide health care services under
14 the laws of this State.

15 Section 15. Applicability.

16 (a) This Act applies to persons who provide complementary
17 or alternative health care services and who are not licensed,
18 registered, or certified to practice as health care
19 practitioners under the laws of this State.

20 (b) Nothing in this Act shall be construed to:

21 (1) limit the right of any person to seek relief for
22 negligence or any other civil remedy against a person
23 providing complementary or alternative health care
24 services subject to the provisions of this Act;

25 (2) control, prevent, or restrict the practice,

1 service, or activity of lawfully marketing or distributing
2 food products, including without limitation dietary
3 supplements, educating customers about such products, or
4 explaining the uses of such products;

5 (3) restrict the ability of a local welfare agency,
6 local law enforcement agency, or the State to take action
7 regarding the maltreatment of minors under Illinois law; or

8 (4) relieve a parent or guardian who obtains
9 complementary or alternative health care services for his
10 or her minor child from the duty to seek necessary medical
11 care consistent with his or her obligations under Illinois
12 law.

13 Section 20. Prohibited acts. Notwithstanding any other
14 provision of law, a person who provides complementary or
15 alternative health care services in accordance with this Act
16 and who is not licensed, registered, or certified under the
17 laws of this State as a health care practitioner shall not be
18 in violation of the law based on the unlicensed practice of
19 health care services or a health care profession, unless that
20 person does any of the following activities:

21 (1) Performs surgery or any other procedure that
22 harmfully punctures the skin, except for finger-pricking
23 screening purposes.

24 (2) Prescribes or administers X-ray radiation to any
25 person.

1 (3) Prescribes or administers a legend drug, a legend
2 device, or any controlled substance to any person.

3 (4) Performs a chiropractic adjustment of the
4 articulations of joints or the spine.

5 (5) Holds himself or herself out as a licensed massage
6 therapist while providing massage therapy.

7 (6) Willfully diagnoses and treats a person's health
8 condition in a manner that causes that person significant
9 and discernable physical or mental harm.

10 (7) Holds out, states, indicates, advertises, or
11 implies to any person that he or she is a health care
12 practitioner of any kind licensed, registered, or
13 certified under the laws of this State.

14 Section 25. Disclosure.

15 (a) Any person providing complementary or alternative
16 health care services under this Act who is advertising or
17 charging a fee for those services, must, prior to providing
18 such services, disclose all of the following information to the
19 client in a language that the client or the client's authorized
20 agent understands and in a plainly worded written statement:

21 (1) The complementary or alternative health care
22 practitioner's name, business address, and telephone
23 number.

24 (2) The fact that the complementary or alternative
25 health care practitioner is not licensed, registered, or

1 certified as a health care practitioner under the laws of
2 this State.

3 (3) The nature of the health care services that the
4 complementary or alternative health care practitioner
5 provides.

6 (4) The degrees, training, experience, credentials, or
7 other qualifications held by the complementary or
8 alternative health care practitioner as they relate to the
9 complementary or alternative health care services that he
10 or she provides, followed by the following statement in
11 bold print:

12 "THE STATE OF ILLINOIS HAS NOT ADOPTED ANY EDUCATIONAL
13 OR TRAINING STANDARDS FOR UNLICENSED COMPLEMENTARY OR
14 ALTERNATIVE HEALTH CARE PRACTITIONERS. THIS DISCLOSURE IS
15 FOR INFORMATIONAL PURPOSES ONLY.

16 Under Illinois law, an unlicensed complementary or
17 alternative health care practitioner may not provide a
18 medical diagnosis, nor recommend discontinuance of
19 medically prescribed treatments. If a client desires a
20 medical diagnosis from a licensed physician, chiropractor,
21 or acupuncturist or services from a physician,
22 chiropractor, dentist, nurse, osteopath, physical or
23 occupational therapist or massage therapist, dietitian,
24 acupuncturist, athletic trainer, or any other type of
25 licensed, registered, or certified health care
26 practitioner, the client may seek such services from those

1 health care practitioners at any time.".

2 (b) Prior to the provision of complementary or alternative
3 health care services to a client for the first time, a
4 complementary or alternative health care practitioner must
5 obtain a written acknowledgement from the client stating that
6 the client has been provided with the information set forth in
7 subsection (a) of this Section. The client must be provided
8 with a copy of the written acknowledgement and the
9 acknowledgement must be maintained by the complementary or
10 alternative health care practitioner for at least 2 years as a
11 confidential health document. If, at any time, the disclosure
12 information required in subsection (a) of this Section changes,
13 the complementary or alternative health care practitioner must
14 update that information in an expedient manner, issue a revised
15 disclosure to all returning clients, and obtain a new written
16 acknowledgement from the client.

17 (c) Any advertisement for the provision of complementary or
18 alternative health care services by a complementary or
19 alternative health care practitioner must include a disclosure
20 of the fact that he or she is not licensed, registered, or
21 certified as a health care practitioner under the laws of this
22 State.

23 Section 30. Exemptions.

24 (a) This Act does not apply to, control, or prevent any
25 health care practice by a person regulated by the laws of this

1 State.

2 (b) This Act does not apply to, control, or prevent any
3 health care practice from being practiced if it is already
4 exempt from a governing State law, nor does it apply to,
5 control, or prevent a person from providing health care
6 services who is already exempt from a governing State law.

7 Section 35. Rulemaking. The Department may adopt all rules
8 necessary for the implementation and administration of this
9 Act.