

As Introduced

**127th General Assembly
Regular Session
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H. B. No. 580

Representative Adams

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A B I L L

To amend section 4759.02 and to enact sections 1
4783.01 to 4783.06 of the Revised Code regarding 2
the provision of complementary or alternative 3
health care services. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4759.02 be amended and sections 5
4783.01, 4783.02, 4783.03, 4783.04, 4783.05, and 4783.06 of the 6
Revised Code be enacted to read as follows: 7

Sec. 4759.02. (A) Except as otherwise provided in this 8
section or in section 4759.10 of the Revised Code, no person shall 9
practice, offer to practice, or hold ~~himself~~ the person's self 10
forth to practice dietetics unless ~~he~~ the person has been licensed 11
under section 4759.06 of the Revised Code. 12

(B) Except for a licensed dietitian holding an inactive 13
license who does not practice or offer to practice dietetics, or a 14
person licensed under section 4759.06 of the Revised Code, or as 15
otherwise provided in this section or in section 4759.10 of the 16
Revised Code: 17

~~(1) No, no~~ person shall use the title "dietitian"; ~~and~~ 18

~~(2) No person except for a person licensed under Chapters~~ 19

~~4701. to 4755. of the Revised Code, when acting within the scope
of their practice, shall use any other title, designation, words,
letters, abbreviation, or insignia or combination of any title,
designation, words, letters, abbreviation, or insignia tending to
indicate that the person is practicing dietetics."~~

(C) Notwithstanding division (B) of this section, a person
who is a dietitian registered by the commission on dietetic
registration and who does not violate division (A) of this section
may use the designation "registered dietitian" and the
abbreviation "R.D."

(D) Division (A) of this section does not apply to:

(1) A student enrolled in an academic program that is in
compliance with division (A)(5) of section 4759.06 of the Revised
Code who is engaging in the practice of dietetics under the
supervision of a dietitian licensed under section 4759.06 of the
Revised Code or a dietitian registered by the commission on
dietetic registration, as part of the academic program;

(2) A person participating in the pre-professional experience
required by division (A)(6) of section 4759.06 of the Revised
Code;

(3) A person holding a limited permit under division (F) of
section 4759.06 of the Revised Code.

(E) Divisions (A) and (B) of this section do not apply to a
person who performs no more than fifteen days of dietetic practice
in the state and who meets at least one of the following
requirements:

(1) The Ohio board of dietetics determines that he the person
is licensed in another state with licensure requirements
equivalent to or more stringent than those set forth in this
chapter;

(2) ~~He~~ The person is a dietitian registered by the commission 50
on dietetic registration and resides in another state that either 51
has no dietitian licensure requirements or has licensure 52
requirements less stringent than those set forth in this chapter. 53

Sec. 4783.01. As used in this chapter: 54

(A) "Complementary or alternative health care practitioner" 55
means an individual who provides complementary or alternative 56
health care services to a client and who either is not a licensed 57
health care professional or, if an individual is a licensed health 58
care professional, the individual is not holding the individual's 59
self out as a licensed health care professional when providing 60
services. 61

(B) "Complementary or alternative health care services" means 62
the broad domain of health care and healing practices that does 63
not include any of the prohibited activities described in division 64
(A) of section 4783.03 of the Revised Code and that may or may not 65
be provided in addition to or in place of prevailing or 66
conventional treatment options. 67

(C) "Dangerous drug," "drug," and "licensed health 68
professional authorized to prescribe drugs" have the same meanings 69
as in section 4729.01 of the Revised Code. 70

(D) "Homeopathic remedy" means any substance that is labeled 71
as being homeopathic and to which either of the following applies: 72

(1) The substance is listed in the homeopathic pharmacopoeia 73
of the United States or an addendum or supplement to it. 74

(2) The substance is defined as a drug under the federal 75
"Food and Drug Cosmetic Act," 21 U.S.C. 321(q)(1)(A), and is 76
regulated pursuant to that federal act. 77

(E) "Licensed health care professional" means an individual 78
who holds a current, valid license or certificate issued under 79

Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 80
4755., 4759., 4762., or 4779. of the Revised Code. 81

(F) "Board" means the state dental board; board of nursing; 82
state board of optometry; state board of pharmacy; state medical 83
board; state board of psychology; state chiropractic board; Ohio 84
occupational therapy, physical therapy, and athletic trainers 85
board; Ohio board of dietetics; or state board of orthotics, 86
prosthetics, and pedorthics. 87

Sec. 4783.02. It is hereby declared to be the public policy 88
of the state that the provision of complementary or alternative 89
health care services enhances the health and welfare of the 90
residents of this state. 91

Sec. 4783.03. (A) No complementary or alternative health care 92
practitioner shall do any of the following: 93

(1) Perform surgery or any other procedure that punctures the 94
skin, except for pricking a finger for screening purposes; 95

(2) Perform any adjustment of the articulation of the joints 96
or spine of any individual; 97

(3) Use or recommend any procedure involving ionizing 98
radiation as defined in section 4773.01 of the Revised Code; 99

(4) Knowingly provide a medical diagnosis of a disease; 100

(5) Provide diagnosis or treatment of a physical or mental 101
health condition of an individual knowing that the diagnosis or 102
treatment directly poses to that individual a recognizable and 103
imminent risk of significant and discernible physical or mental 104
harm; 105

(6) Knowingly counsel any individual to disregard the 106
instruction or counsel of a licensed health care professional; 107

(7) Knowingly counsel any individual to discontinue use of 108

<u>any dangerous drug, drug, or therapeutic device prescribed to the</u>	109
<u>individual by a licensed health professional authorized to</u>	110
<u>prescribe drugs;</u>	111
<u>(8) Administer or prescribe any dangerous drug except</u>	112
<u>homeopathic remedies, device that requires a prescription from a</u>	113
<u>licensed health professional authorized to prescribe drugs to</u>	114
<u>obtain, or medical oxygen;</u>	115
<u>(9) Hold out, state, indicate, advertise, or otherwise imply</u>	116
<u>to any person that the practitioner is licensed by this state to</u>	117
<u>practice as a licensed health care professional unless the</u>	118
<u>practitioner is licensed;</u>	119
<u>(10) Perform or provide enteral or parenteral nutrition;</u>	120
<u>(11) Promise a cure;</u>	121
<u>(12) Set a fracture of a bone;</u>	122
<u>(13) Provide or perform an abortion;</u>	123
<u>(14) Insert intrauterine devices;</u>	124
<u>(15) Provide complementary or alternative health care</u>	125
<u>services to either of the following persons unless the</u>	126
<u>practitioner has the consent of the person's parent or legal</u>	127
<u>guardian:</u>	128
<u>(a) Any person who is less than eighteen years of age and who</u>	129
<u>is not emancipated;</u>	130
<u>(b) Any person that the practitioner knows to be mentally</u>	131
<u>incompetent.</u>	132
<u>(B) Notwithstanding any provision of the Revised Code to the</u>	133
<u>contrary, a complementary or alternative health care practitioner</u>	134
<u>may refer to the practitioner's self using a title or</u>	135
<u>qualification conferred on the practitioner by virtue of degrees,</u>	136
<u>training, experience, credentials, or other qualifications</u>	137
<u>attained by the practitioner.</u>	138

Sec. 4783.04. A complementary or alternative health care practitioner shall do all of the following: 139
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(A) Prior to providing complementary or alternative health care services to an individual for the first time, provide a plainly worded, written document to the recipient of the services that discloses all of the following information: 141
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(1) The nature of the treatment to be provided; 145

(2) The degrees, training, experience, credentials, or other qualifications held by the practitioner with regard to the services to be provided; 146
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(3) If the practitioner is not a licensed health care professional, the following statement, printed clearly in not less than eleven-point font, that reads verbatim: 149
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"I AM NOT LICENSED BY THE STATE OF OHIO AS A HEALTH CARE PROFESSIONAL. I AM NOT A DOCTOR OR PHYSICIAN. THE STATE HAS NOT ADOPTED ANY EDUCATIONAL OR TRAINING REQUIREMENTS FOR UNLICENSED COMPLEMENTARY OR ALTERNATIVE HEALTH CARE PRACTITIONERS." 152
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(4) If the practitioner also is a licensed health care professional, the following statement, printed clearly in not less than eleven-point font, that reads: 156
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"I HOLD THE FOLLOWING LICENSES AND CERTIFICATIONS ISSUED BY THE STATE OF OHIO: (list of licenses and certificates). HOWEVER, I AM PROVIDING MY SERVICES TO YOU AS A COMPLEMENTARY OR ALTERNATIVE HEALTH CARE PRACTITIONER AND I AM NOT PROVIDING SERVICES AS A LICENSED HEALTH CARE PROFESSIONAL. THE STATE HAS NOT ADOPTED ANY EDUCATION OR TRAINING REQUIREMENTS FOR UNLICENSED COMPLEMENTARY OR ALTERNATIVE HEALTH CARE PRACTITIONERS." 159
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(5) A statement that describes the following: 166

(a) Any agreement or other arrangement between the practitioner and another complementary or alternative health care 167
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practitioner or between the practitioner and a licensed health care professional whereby that practitioner derives a financial or other benefit; 169
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(b) The nature of any benefit resulting from an agreement or arrangement described in division (A)(5)(a) of this section. 172
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(B) Obtain from the recipient of the services a written acknowledgment that the recipient has been provided a document disclosing all the information required to be disclosed pursuant to division (A) of this section; 174
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(C) Provide the recipient of the services with a copy of the acknowledgment described in division (B) of this section; 178
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(D) Maintain the acknowledgment described in division (B) of this section from every recipient of the practitioner's services for at least two years after the date that a recipient receives services from the practitioner for the final time. 180
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Sec. 4783.05. (A) Notwithstanding any provision of the Revised Code to the contrary, a complementary or alternative health care practitioner is not considered to have violated a provision of this chapter or Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 4755., 4759., 4762., or 4779. of the Revised Code unless the individual commits an act described in division (A) of section 4783.03 of the Revised Code or fails to comply with section 4783.04 of the Revised Code. 184
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(B) A board that receives a complaint against a practitioner shall do both of the following: 192
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(1) If the board determines that the subject matter of the complaint falls under the jurisdiction of another board, refer the complaint to the appropriate board. 194
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(2) If the board determines that the subject matter of the complaint falls under the board's jurisdiction, conduct a 197
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preliminary investigation of the complaint to determine whether 199
the practitioner who is the subject of the complaint violated 200
division (A) of section 4783.03 or failed to comply with section 201
4783.04 of the Revised Code. 202

(C) If the preliminary investigation conducted by a board 203
pursuant to division (B) of this section reveals no significant 204
evidence that a violation or failure to comply occurred, the board 205
shall not pursue the matter further. 206

(D) If the preliminary investigation conducted by a board 207
pursuant to division (B) of this section regarding an alleged 208
violation of section 4783.04 of the Revised Code by a practitioner 209
reveals significant evidence that a practitioner has violated that 210
section, the board shall notify the practitioner of the finding of 211
the board and request the practitioner to comply with the 212
requirements specified in that section. 213

(E) If the preliminary investigation conducted by a board 214
pursuant to division (B) of this section regarding an alleged 215
violation of section 4783.03 of the Revised Code by a practitioner 216
reveals significant evidence that the practitioner has engaged in 217
an activity specified in that section, or if a practitioner fails 218
to comply with a board's request issued under division (D) of this 219
section, the board shall address the matter in the same manner the 220
board addresses a matter involving an individual who engages in an 221
activity for which the individual must have a license or 222
certificate, including referring the matter to the appropriate 223
prosecutorial authority. 224

Sec. 4783.06. Nothing in this chapter modifies or changes the 225
scope of practice of any licensee or certificate holder under 226
Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 227
4755., 4759., 4762., or 4779. of the Revised Code, nor does it 228
alter in any way the provisions of those chapters that prohibit 229

fraud and the exploitation of patients and that require licensees 230
and certificate holders to practice within their respective 231
standards of care. 232

This chapter does not apply to a person who is exempt from 233
the requirement to obtain a license or certificate pursuant to 234
Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 235
4755., 4759., 4762., or 4779. of the Revised Code and by that 236
exemption is permitted to engage in the activities in which the 237
person wishes to engage. 238

This chapter does not apply to an individual authorized to 239
practice medicine and surgery or osteopathic medicine and surgery 240
under Chapter 4731. of the Revised Code who is engaging in 241
activities specified in section 4731.227 of the Revised Code in 242
accordance with that section. 243

Section 2. That existing section 4759.02 of the Revised Code 244
is hereby repealed. 245

Section 3. (A) This act shall be known as the "Ohio Consumer 246
Health Freedom Act." 247

(B) The General Assembly of the State of Ohio finds the 248
following: 249

(1) Based upon studies, research, and public policy 250
declarations by state governments, including a proclamation issued 251
by the Governor of Florida, and laws enacted by the states of 252
California, Idaho, Minnesota, and Rhode Island, it is evident that 253
millions of Americans and hundreds of thousands of Ohioans 254
presently receive a substantial amount of their health care from 255
providers of complementary or alternative health care services. 256

(2) Numerous studies -- including a comprehensive report by 257
the National Institutes of Medicine and a study published by the 258
New England Journal of Medicine -- demonstrate that individuals 259

who utilize complementary or alternative health care services vary 260
widely in age, ethnicity, socioeconomic status, and other 261
demographic categories. 262

(3) Notwithstanding the widespread use of complementary or 263
alternative health care services, for Ohioans, access to such 264
services has been hampered and the flow of information about such 265
services inhibited. 266

(4) Ohio has failed to openly acknowledge the existence of 267
health care therapies and methods that are not suitable for 268
regulation or licensure under the state's policing power. As a 269
result, the providers of such services, who are not licensed by 270
the state as health care professionals, cannot openly offer their 271
services for fear of fines, penalties, or the restriction of their 272
practice based on charges that such providers are in violation of 273
Ohio's professional licensing laws, notwithstanding that the 274
delivery of health care services by such providers has not been 275
shown to pose a recognizable and imminent risk of significant and 276
discernible harm to the public's health, safety, or welfare. 277

(5) Ohio's failure to acknowledge complementary or 278
alternative health care services impedes the beneficial exchange 279
of health care information between a complementary or alternative 280
health care practitioner and the practitioner's clients and 281
between a complementary or alternative health care practitioner 282
and a licensed health care professional with regard to their 283
mutual patients and clients. 284
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(6) The practice of complementary or alternative health care 286
services is suitable and desirable for the public health and 287
welfare. 288

(C) The General Assembly hereby acknowledges Ohioans' desire 289
for broader access to complementary or alternative health care 290

therapies. The General Assembly recognizes that the public health 291
and welfare will be enhanced by a public policy that declares that 292
a profession or occupation is not subject to regulation by the 293
state unless, and then only to the extent that, the profession or 294
occupation has been shown to pose a recognizable and imminent risk 295
of significant and discernible harm to the health, safety, or 296
welfare of the public. 297

(D) The General Assembly hereby declares, based on the 298
findings of this section, its intent to allow and protect the 299
performance and delivery of, and public access to, complementary 300
or alternative health care services in Ohio, subject only to the 301
limitations and restrictions provided in this act. 302