

As Introduced

**129th General Assembly
Regular Session
2011-2012**

H. B. No. 259

Representatives Adams, J., Yuko

**Cosponsors: Representatives Wachtmann, Buchy, Antonio, Hall, Goodwin,
Hagan, R.**

—

A B I L L

To amend section 4759.02 and to enact sections 1
4783.01 to 4783.05 of the Revised Code regarding 2
the provision of complementary or alternative 3
health 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, and 4783.05 of the Revised 6
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 20
of their practice, shall use any other title, designation, words, 21
letters, abbreviation, or insignia or combination of any title, 22
designation, words, letters, abbreviation, or insignia tending to 23
indicate that the person is practicing dietetics." 24~~

(C) Notwithstanding division (B) of this section, a person 25
who is a dietitian registered by the commission on dietetic 26
registration and who does not violate division (A) of this section 27
may use the designation "registered dietitian" and the 28
abbreviation "R.D." 29

(D) Division (A) of this section does not apply to: 30

(1) A student enrolled in an academic program that is in 31
compliance with division (A)(5) of section 4759.06 of the Revised 32
Code who is engaging in the practice of dietetics under the 33
supervision of a dietitian licensed under section 4759.06 of the 34
Revised Code or a dietitian registered by the commission on 35
dietetic registration, as part of the academic program; 36

(2) A person participating in the pre-professional experience 37
required by division (A)(6) of section 4759.06 of the Revised 38
Code; 39

(3) A person holding a limited permit under division (F) of 40
section 4759.06 of the Revised Code. 41

(E) Divisions (A) and (B) of this section do not apply to a 42
person who performs no more than fifteen days of dietetic practice 43
in the state and who meets at least one of the following 44
requirements: 45

(1) The Ohio board of dietetics determines that ~~he~~ the person 46
is licensed in another state with licensure requirements 47
equivalent to or more stringent than those set forth in this 48
chapter; 49

(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) "Bodywork" means any of the following: 55

(1) The practice of manually massaging only the hands, feet, 56
or ears; 57

(2) Reflexology; 58

(3) Cranial sacral therapy; 59

(4) Ortho-bionomy; 60

(5) The use of touch, words, or directed movement to deepen 61
awareness of existing patterns of body movement, or to suggest new 62
possibilities of movement, including the Feldenkrais method of 63
somatic education, the Rolf institute's Rolf movement integration, 64
and the Trager approach; 65

(6) The use of touch to affect the body's energy systems, 66
acupoints, or qi meridians, including Asian bodywork therapy, 67
acupressure, jin shin do, reiki, qigong, shiatsu, touch for 68
health, and tui na. 69

(B) "Complementary or alternative health care practitioner" 70
means an individual who provides complementary or alternative 71
health care services to a client and who is either of the 72
following: 73

(1) An individual who is not a licensed health care 74
professional; 75

(2) An individual who is a licensed health care professional 76
but does not hold the individual's self out as a licensed health 77
care professional when providing the services. 78

<u>(C) "Complementary or alternative health care services" means</u>	79
<u>the broad domain of health care and healing practices that may or</u>	80
<u>may not be provided in addition to or in place of prevailing or</u>	81
<u>conventional treatment options, as long as those health care and</u>	82
<u>healing practices do not include any of the activities prohibited</u>	83
<u>under section 4783.02 of the Revised Code. "Complementary or</u>	84
<u>alternative health care services" includes, but is not limited to,</u>	85
<u>all of the following:</u>	86
<u>(1) Anthroposophy;</u>	87
<u>(2) Aromatherapy;</u>	88
<u>(3) Ayurveda;</u>	89
<u>(4) Culturally traditional healing practices and healing</u>	90
<u>traditions, including such practices and traditions that employ</u>	91
<u>the use of plant medicines and foods, prayer, ceremony, or song;</u>	92
<u>(5) Detoxification practices and therapies;</u>	93
<u>(6) Energetic healing;</u>	94
<u>(7) Folk practices;</u>	95
<u>(8) Gerson therapy;</u>	96
<u>(9) Colostrum therapy;</u>	97
<u>(10) Healing practices utilizing food, dietary supplements,</u>	98
<u>nutrients, and the physical forces of heat, cold, water, touch,</u>	99
<u>and light;</u>	100
<u>(11) Healing touch;</u>	101
<u>(12) Herbology or herbalism;</u>	102
<u>(13) Homeopathy;</u>	103
<u>(14) Meditation;</u>	104
<u>(15) Mind-body healing practices;</u>	105
<u>(16) Naturopathy;</u>	106

<u>(17) Iridology;</u>	107
<u>(18) Noninvasive instrumentalities;</u>	108
<u>(19) Polarity, polarity therapy, or polarity bodywork therapy;</u>	109 110
<u>(20) Holistic kinesiology and other muscle testing techniques;</u>	111 112
<u>(21) Bodywork.</u>	113
<u>(D) "Dangerous drug," "drug," and "licensed health professional authorized to prescribe drugs" have the same meanings as in section 4729.01 of the Revised Code.</u>	114 115 116
<u>(E) "Licensed health care professional" means an individual who holds a current, valid license or certificate issued under Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 4755., 4759., 4762., or 4779. of the Revised Code.</u>	117 118 119 120
<u>(F) "Executive agency" means a board, commission, agency, department, or similar entity that is part of the executive branch of state government.</u>	121 122 123
<u>Sec. 4783.02. No complementary or alternative health care practitioner shall do any of the following:</u>	124 125
<u>(A) Perform surgery or any other procedure that punctures the skin;</u>	126 127
<u>(B) Perform any adjustment of the articulation of the joints or spine of any individual;</u>	128 129
<u>(C) Use or recommend any procedure involving ionizing radiation as defined in section 4773.01 of the Revised Code;</u>	130 131
<u>(D) Provide a medical diagnosis of a disease;</u>	132
<u>(E) Provide diagnosis or treatment of a physical or mental health condition of an individual if the diagnosis or treatment</u>	133 134

<u>poses to that individual a recognizable and imminent risk of</u>	135
<u>significant and discernible direct physical or mental harm;</u>	136
<u>(F) Recommend that an individual discontinue any of the</u>	137
<u>following:</u>	138
<u>(1) Medical care;</u>	139
<u>(2) Medical treatment;</u>	140
<u>(3) Use of any dangerous drug, drug, or therapeutic device</u>	141
<u>prescribed to the individual by a licensed health professional</u>	142
<u>authorized to prescribe drugs.</u>	143
<u>(G) Administer or prescribe any dangerous drug;</u>	144
<u>(H) Hold out, state, indicate, advertise, or otherwise imply</u>	145
<u>to any person that the practitioner is licensed by this state to</u>	146
<u>practice as a licensed health care professional unless the</u>	147
<u>practitioner is a licensed health care professional;</u>	148
<u>(I) Perform or provide enteral or parenteral nutrition;</u>	149
<u>(J) Promise a cure;</u>	150
<u>(K) Set a fracture of a bone;</u>	151
<u>(L) Perform bodywork or similar complementary or alternative</u>	152
<u>health care services in a manner that would constitute the</u>	153
<u>practice of massage therapy as regulated by the state medical</u>	154
<u>board under section 4731.15 of the Revised Code;</u>	155
<u>(M) Provide or perform an abortion;</u>	156
<u>(N) Insert intrauterine devices;</u>	157
<u>(O) Provide complementary or alternative health care services</u>	158
<u>to an individual who is less than eighteen years of age without</u>	159
<u>the consent of the individual's parent or legal guardian, except</u>	160
<u>when the individual who is less than eighteen years of age is</u>	161
<u>emancipated.</u>	162

Sec. 4783.03. (A) Before providing complementary or alternative health care services to an individual for the first time, a complementary or alternative health care practitioner shall provide a plainly worded, written document to the recipient of the services that discloses all of the following information:

(1) The nature of services to be provided;

(2) The degrees, training, experience, credentials, or other qualifications held by the practitioner with regard to the services to be provided;

(3) If the practitioner is not a licensed health care professional, a statement, printed clearly in not less than eleven-point font, that reads as follows:

"THE STATE OF OHIO HAS NOT ADOPTED ANY EDUCATIONAL OR TRAINING REQUIREMENTS FOR UNLICENSED COMPLEMENTARY OR ALTERNATIVE HEALTH CARE PRACTITIONERS. UNDER OHIO LAW, AN UNLICENSED COMPLEMENTARY OR ALTERNATIVE HEALTH CARE PRACTITIONER MAY NOT PROVIDE A MEDICAL DIAGNOSIS OR RECOMMEND THAT A PERSON DISCONTINUE A MEDICALLY PRESCRIBED TREATMENT."

(4) If the practitioner is a licensed health care professional, a statement, printed clearly in not less than eleven-point font, that reads as follows:

"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."

(5) A statement that describes the following:

(a) Any agreement or other arrangement between the practitioner and another complementary or alternative health care practitioner or between the practitioner and a licensed health care professional whereby that practitioner derives a financial or other benefit; 193
194
195
196
197

(b) The nature of any benefit resulting from an agreement or arrangement described in division (A)(5)(a) of this section. 198
199

(B) After providing the written document required by division (A) of this section to an individual who is to receive complementary or alternative health care services, the complementary or alternative health care practitioner shall do all of the following: 200
201
202
203
204

(1) Obtain from the individual a written acknowledgment that the individual has been provided a document disclosing all the information required to be disclosed pursuant to division (A) of this section; 205
206
207
208

(2) Provide the individual with a copy of the acknowledgment described in division (B)(1) of this section; 209
210

(3) Maintain the acknowledgment described in division (B)(1) of this section for at least two years after the date that the individual receives services from the practitioner for the final time. 211
212
213
214

Sec. 4783.04. (A) Notwithstanding any provision of the Revised Code to the contrary, including, but not limited to, any provision of Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 4755., 4759., 4762., or 4779. of the Revised Code, 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 practitioner 215
216
217
218
219
220
221
222

commits an act described in section 4783.02 of the Revised Code or 223
fails to comply with section 4783.03 of the Revised Code. 224

(B) An executive agency that receives a complaint against a 225
practitioner shall do both of the following: 226

(1) If it determines that the subject matter of the complaint 227
falls under the jurisdiction of another executive agency, refer 228
the complaint to the appropriate executive agency. 229

(2) If it determines that the subject matter of the complaint 230
falls under its jurisdiction, conduct a preliminary investigation 231
of the complaint to determine whether the practitioner who is the 232
subject of the complaint violated section 4783.02 of the Revised 233
Code or failed to comply with section 4783.03 of the Revised Code. 234

(C) If the preliminary investigation conducted pursuant to 235
division (B) of this section does not reveal that a violation or 236
failure to comply occurred, the executive agency shall not pursue 237
the matter further. 238

(D) If the preliminary investigation conducted pursuant to 239
division (B) of this section regarding an alleged failure of a 240
practitioner to comply with section 4783.03 of the Revised Code 241
reveals that the practitioner has failed to comply with that 242
section, the executive agency shall notify the practitioner of its 243
finding and request that the practitioner comply with the 244
requirements specified in that section. 245

(E) If the preliminary investigation conducted pursuant to 246
division (B) of this section regarding an alleged violation of 247
section 4783.02 of the Revised Code by a practitioner reveals that 248
the practitioner has engaged in an activity specified in that 249
section, or if a practitioner fails to comply with a request made 250
under division (D) of this section, the executive agency shall 251
address the matter in the same manner it addresses a matter 252

involving an individual who engages in an activity for which the 253
individual must have a license or certificate, including referring 254
the matter to the appropriate prosecutorial authority. 255

Sec. 4783.05. Nothing in this chapter modifies or changes the 256
scope of practice of any licensee or certificate holder under 257
Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 258
4755., 4759., 4762., or 4779. of the Revised Code, nor does it 259
alter in any way the provisions of those chapters that prohibit 260
fraud and the exploitation of patients and that require licensees 261
and certificate holders to practice within their respective 262
standards of care. 263

This chapter does not apply to an individual who is exempt 264
from the requirement to obtain a license or certificate pursuant 265
to Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 266
4755., 4759., 4762., or 4779. of the Revised Code and by that 267
exemption is permitted to engage in the activities in which the 268
individual wishes to engage. 269

This chapter does not apply to an individual authorized to 270
practice medicine and surgery or osteopathic medicine and surgery 271
under Chapter 4731. of the Revised Code who is engaging in 272
activities specified in section 4731.227 of the Revised Code in 273
accordance with that section. 274

This chapter does not apply to the delivery of babies or 275
performance of post-delivery repairs. 276

Section 2. That existing section 4759.02 of the Revised Code 277
is hereby repealed. 278