



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 259

129th General Assembly  
(As Reported by H. Health & Aging)

**Reps.** J. Adams and Yuko, Wachtmann, Buchy, Antonio, Hall, Goodwin, R. Hagan

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## BILL SUMMARY

- Permits a complementary or alternative health care practitioner to provide certain services without being in violation of health care professional licensing laws.
- Specifies activities a complementary or alternative health care practitioner cannot engage in unless the practitioner is a licensed health care professional.
- Establishes disclosure requirements for a complementary or alternative health care practitioner.
- Establishes an investigatory process for a complementary or alternative health care practitioner alleged to have violated the bill.
- Eliminates a provision that prohibits a person who is not a licensed health care professional from using any designation indicating that the person is practicing dietetics.

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## CONTENT AND OPERATION

### Complementary or alternative health care practitioners

Generally, the bill permits a complementary or alternative health care practitioner to provide certain services without being in violation of health care professional licensing laws if the practitioner does not engage in activities prohibited by the bill or fail to comply with the bill's disclosure requirements.<sup>1</sup> The bill defines a complementary or alternative health care practitioner as an individual who provides

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<sup>1</sup> R.C. 4783.04(A).

complementary or alternative health care services to a client and is either of the following:

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

(2) An individual who is a licensed health care professional but does not hold the individual's self out as a licensed health care professional when providing the services.<sup>2</sup>

A licensed health care professional is an individual who holds a current, valid license or certificate issued under Ohio law regulating dentists and dental hygienists; nurses; optometrists and dispensing opticians; pharmacists; physician assistants; physicians and limited practitioners; psychologists; chiropractors; occupational therapists, physical therapists, and athletic trainers; dietitians; acupuncturists; and practitioners of orthotics, prosthetics, or pedorthics.<sup>3</sup> Limited practitioners of medicine are regulated by the State Medical Board and consist of massage therapists, cosmetic therapists, and certain practitioners of mechanotherapy and naprapathy.<sup>4</sup>

The term "complementary or alternative health care services" is defined by the bill as the broad domain of health care and healing practices that may or may not be provided in addition to, or in place of, prevailing or conventional treatment options, as long as those health care and healing practices do not include any of the activities prohibited under the bill. Complementary or alternative health care services include the following:<sup>5</sup>

(1) Anthroposophy – a 20th century religious system growing out of theosophy (teaching about God and the world based on mystical insight) and centering on human development;<sup>6</sup>

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<sup>2</sup> R.C. 4783.01(B).

<sup>3</sup> R.C. 4783.01(E).

<sup>4</sup> R.C. 4731.15 (not in the bill).

<sup>5</sup> R.C. 4783.01(C).

<sup>6</sup> Merriam-Webster, *Definition of Anthroposophy* (last visited May 24, 2012), available at <<http://www.merriam-webster.com/dictionary/anthroposophy>>; Merriam-Webster, *Definition of Theosophy* (last visited May 24, 2012), available at <<http://www.merriam-webster.com/dictionary/theosophy>>.

(2) Aromatherapy – the massage of the body and especially of the face with a preparation of fragrant essential oils extracted from herbs, flowers, and fruits;<sup>7</sup>

(3) Ayurveda – the form of holistic alternative medicine that is the traditional system of medicine of India;<sup>8</sup>

(4) Culturally traditional healing practices and healing traditions, including such practices and traditions that employ the use of plant medicines and foods, prayer, ceremony, or song;

(5) Detoxification practices and therapies;

(6) Energetic healing;

(7) Folk practices;

(8) Gerson therapy – a therapy that uses an organic vegetarian diet, raw juices, coffee enemas, and natural supplements to activate the body's ability to heal itself;<sup>9</sup>

(9) Colostrum therapy – a therapy that uses the milk secreted for a few days after parturition (giving birth), characterized by high protein and antibody content;<sup>10</sup>

(10) Healing practices utilizing food, dietary supplements, nutrients, and the physical forces of heat, cold, water, touch, and light;

(11) Healing touch;

(12) Herbology or herbalism;

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<sup>7</sup> Merriam-Webster, *Definition of Aromatherapy* (last visited May 24, 2012), available at <<http://www.merriam-webster.com/dictionary/aromatherapy>>.

<sup>8</sup> Merriam-Webster, *Definition of Ayurveda* (last visited May 24, 2012), available at <<http://www.merriam-webster.com/dictionary/ayurveda>>.

<sup>9</sup> The Gerson Institute, *The Gerson Institute – Alternative Cancer Treatment* (last visited May 24, 2012), available at <<http://www.gerson.org/>>.

<sup>10</sup> Merriam-Webster, *Definition of Colostrum* (last visited May 24, 2012), available at <<http://www.merriam-webster.com/dictionary/colostrum>>; Merriam-Webster, *Definition of Paraturation* (last visited May 24, 2012), available at <<http://www.merriam-webster.com/dictionary/parturition>>.

(13) Homeopathy – a system of medical practice that treats a disease especially by the administration of minute doses of a remedy that would in larger amounts produce symptoms in healthy persons;<sup>11</sup>

(14) Meditation;

(15) Mind-body healing practices;

(16) Naturopathy – a system of treatment of disease that avoids drugs and surgery and emphasizes the use of natural agents (as air, water, and herbs) and physical means (as tissue manipulation and electrotherapy);<sup>12</sup>

(17) Iridology – the study of the iris of the eye for indications of bodily health and disease;<sup>13</sup>

(18) Noninvasive instrumentalities;

(19) Polarity, polarity therapy, or polarity bodywork therapy. Polarity therapy is a comprehensive health system involving energy-based bodywork, diet, exercise, and self-awareness that works with the Human Energy Field (electromagnetic patterns expressed in mental, emotional, and physical experience).<sup>14</sup>

(20) Holistic kinesiology and other muscle testing techniques. Kinesiology is the study of the principles of mechanics and anatomy in relation to human movement.<sup>15</sup>

(21) Bodywork, which is defined by the bill as any of the following:

(a) The practice of manually massaging only the hands, feet, or ears;

(b) Reflexology;

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<sup>11</sup> Merriam-Webster, *Definition of Homeopathy* (last visited May 24, 2012), available at <<http://www.merriam-webster.com/dictionary/homeopathy>>.

<sup>12</sup> Merriam-Webster, *Definition of Naturopathy* (last visited May 24, 2012), available at <<http://www.merriam-webster.com/dictionary/naturopathy>>.

<sup>13</sup> Merriam-Webster, *Definition of Iridology* (last visited May 24, 2012), available at <<http://www.merriam-webster.com/dictionary/iridology>>.

<sup>14</sup> American Polarity Therapy Association, *What is Polarity Therapy* (last visited May 24, 2012), available at <[http://www.polaritytherapy.org/index.php?option=com\\_content&view=article&id=32&Itemid=18](http://www.polaritytherapy.org/index.php?option=com_content&view=article&id=32&Itemid=18)>.

<sup>15</sup> Merriam-Webster, *Definition of Kinesiology* (last visited May 24, 2012), available at <<http://www.merriam-webster.com/dictionary/kinesiology>>.

(c) Cranial sacral therapy;

(d) Ortho-bionomy;

(e) The use of touch, words, or directed movement to deepen awareness of existing patterns of body movement, or to suggest new possibilities of movement, including the Feldenkrais method of somatic education, the Rolf Institute's Rolf movement integration, and the Trager approach;

(f) The use of touch to affect the body's energy systems, acupoints, or qi meridians, including Asian bodywork therapy, acupressure, jin shin do, reiki, qigong, shiatsu, touch for health, and tui na.<sup>16</sup>

### **Prohibited activities**

The bill prohibits a complementary or alternative health care practitioner from doing any of the following:

(1) Performing surgery or any other procedure that punctures the skin;

(2) Performing any adjustment of the articulation of the joints or spine of any individual;

(3) Using or recommending any procedure involving ionizing radiation (any electromagnetic or particulate radiation that interacts with atoms to produce ionization in matter, including x-rays, gamma rays, alpha and beta particles, high speed electrons, neutrons, and other nuclear particles);<sup>17</sup>

(4) Providing a medical diagnosis of a disease;

(5) Providing diagnosis or treatment of a physical or mental health condition of an individual if the diagnosis or treatment poses to that individual a recognizable and imminent risk of significant and discernible direct physical or mental harm;

(6) Recommending that an individual discontinue any of the following: (a) medical care, (b) medical treatment, or (c) use of any dangerous drug, drug, or therapeutic device prescribed to the individual by a licensed health professional authorized to prescribe drugs. "Dangerous drug," "drug," and "licensed health

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<sup>16</sup> R.C. 4783.01(A).

<sup>17</sup> R.C. 4783.02(C), by reference to R.C. 4773.01(C) (not in the bill).

professional authorized to prescribe drugs" all have the same meanings as in existing law related to the practice of pharmacy.<sup>18</sup>

(7) Administering or prescribing any dangerous drug;

(8) Holding out, stating, indicating, advertising, or otherwise implying to any person that the practitioner is licensed in Ohio to practice as a licensed health care professional unless the practitioner is a licensed health care professional;

(9) Performing or providing enteral nutrition (a way of providing nutrition to a patient via tube feedings into the digestive tract) or parenteral nutrition (a way of providing nutrition to a patient via an intravenous solution into the veins);<sup>19</sup>

(10) Promising a cure;

(11) Setting a fracture of a bone;

(12) Performing bodywork or similar complementary or alternative health care services in a manner that would constitute the practice of massage therapy as regulated by the State Medical Board;

(13) Providing or performing an abortion;

(14) Inserting intrauterine devices.<sup>20</sup>

The bill also prohibits a complementary or alternative health care practitioner from providing services to an individual less than 18 years of age without the consent of a parent or legal guardian. This prohibition, however, does not apply in the case of a minor who is emancipated.<sup>21</sup>

### **Information disclosure**

Before providing complementary or alternative health care services to an individual for the first time, the bill requires a complementary or alternative health care

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<sup>18</sup> R.C. 4783.01(D), by reference to R.C. 4729.01 (not in the bill).

<sup>19</sup> American Society for Parenteral and Enteral Nutrition, *What is Nutrition Support Therapy?* (last visited May 24, 2012), available at <[http://www.nutritioncare.org/About\\_ASPEN/What\\_is\\_Nutrition\\_Support/What\\_is\\_Nutrition\\_Support/](http://www.nutritioncare.org/About_ASPEN/What_is_Nutrition_Support/What_is_Nutrition_Support/)>.

<sup>20</sup> R.C. 4783.02(A) to (N).

<sup>21</sup> R.C. 4783.02(O).

practitioner to provide to the individual a plainly worded, written document that discloses the following:

(1) The nature of the 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) A statement that describes 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 the practitioner derives a financial or other benefit, and the nature of the benefit;

(4) One of the following statements (as applicable), printed clearly in not less than 11-point font:

(a) If the practitioner is not a licensed health care professional:

"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."

(b) If the practitioner is a licensed health care professional:

"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."<sup>22</sup>

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<sup>22</sup> R.C. 4783.03(A).

After the document has been provided to the individual, the bill requires the complementary or alternative health care practitioner to obtain from the individual a written acknowledgment that the individual has been provided a written document disclosing all the information listed above. The practitioner must provide a copy of the acknowledgement to the individual. The practitioner must maintain each acknowledgment for at least two years after the date the individual receives services from the practitioner for the final time.<sup>23</sup>

### **Investigations**

Under the bill, an agency within the executive branch of state government that receives a complaint against a complementary or alternative health care practitioner and determines that the subject matter of the complaint falls under the jurisdiction of another agency must refer the complaint to the appropriate agency. If the agency determines that the subject matter of the complaint falls under its jurisdiction, the agency must conduct a preliminary investigation to determine whether the practitioner is alleged to have committed an act that is prohibited under the bill or failed to comply with the bill's disclosure requirements.<sup>24</sup>

If the preliminary investigation does not reveal that a violation or failure to comply occurred, the bill prohibits the agency from pursuing the matter further. However, if the preliminary investigation reveals that a violation of the disclosure requirements occurred, the agency must notify the practitioner of the finding and request that the practitioner comply with the requirements. If the preliminary investigation reveals that the practitioner has engaged in activities prohibited under the bill, or the practitioner failed to comply with an agency's request to comply with the disclosure requirements, the agency must address the matter in the manner it addresses a matter involving an individual who engages in an activity for which the individual must have a license or certificate, including referring the matter to the appropriate prosecutorial authority.<sup>25</sup>

### **Exemptions from the bill's requirements**

The bill specifies that it does not do any of the following with respect to a licensed or certified dentist; dental hygienist; nurse; optometrist; dispensing optician; pharmacist; physician assistant; physician; podiatrist; massage therapist; cosmetic therapist; mechanotherapist; napropath; psychologist; chiropractor; occupational

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<sup>23</sup> R.C. 4783.03(B) to (D).

<sup>24</sup> R.C. 4783.01(F) and 4783.04(B).

<sup>25</sup> R.C. 4783.04(C) to (E).



therapist; physical therapist; athletic trainer; dietitian; acupuncturist; or practitioner of orthotics, prosthetics, or pedorthics:

(1) Modify or change the scope of practice of the license or certificate holder;

(2) Alter in any way the law prohibiting the license or certificate holder from committing fraud or exploiting patients;

(3) Alter in any way the law requiring license and certificate holders to practice within their respective standards of care;

(4) Apply to any person who is exempt from being required to obtain such a license or certificate and by that exemption is permitted to engage in the activities in which the person wishes to engage.

The bill also does not apply to (1) a physician authorized by the State Medical Board to provide alternative medical treatments, or (2) the delivery of babies or the performance of post-delivery repairs.<sup>26</sup>

### **Dietetics titles**

The bill eliminates a provision of current law that prohibits any person, except a person licensed by the Ohio Board of Dietetics or another state board and acting within the scope of that person's practice, from using any title, designation, words, letters, abbreviations, or insignia or combination of those, tending to indicate that the person is practicing dietetics. It retains the provision prohibiting any person other than a licensed dietitian from using the title "dietitian."<sup>27</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	06-14-11
Reported, H. Health & Aging	05-23-12

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<sup>26</sup> R.C. 4783.05.

<sup>27</sup> R.C. 4759.02(A) and (B).

