

SENATE BILL NO. 296—SENATOR WASHINGTON (BY REQUEST)

MARCH 16, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Enacts provisions relating to complementary and alternative health care practices. (BDR 54-671)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: No.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to healing arts; providing for certain disclosures by providers of complementary and alternative health care; limiting the scope of services which may be performed by providers of complementary and alternative health care; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 **Section 4** of this bill establishes the Consumer Access to Health Care Services
2 Act, defines “health care services,” sets forth acts that are prohibited to be
3 performed by unlicensed practitioners, mandates certain disclosures, provides a
4 penalty and specifies the applicability of the Act.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 629 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2, 3 and 4 of this act.

- 3 **Sec. 2. *The Legislature hereby finds and declares that:***

- 4 ***1. Based upon a comprehensive report by the National***
5 ***Institutes of Health, a study published by The New England***
6 ***Journal of Medicine and other research data, it is evident that***
7 ***thousands of persons in this State are presently receiving a***
8 ***substantial amount of health care from practitioners of health***
9 ***care services who are not licensed or certified by this State.***



2. Reports, studies and research data also show that persons from a wide variety of age, ethnic, socioeconomic and other demographic categories utilize these health services, often referred to as complementary and alternative health care practices or natural healing therapies and modalities.

3. Notwithstanding the widespread utilization of these health care services by residents of this State, the provision of such services may be in technical violation of the professional practice laws governing licensed providers of health care.

4. As a result, a practitioner of the healing arts who is not licensed by this State as a provider of health care could be subject to fines, penalties and the restriction of his practice, although his practice does not cross the threshold of State regulatory concern for the public.

5. As this State finds that the unlicensed practice of health care services is desirable under certain circumstances and in order to maximize and protect consumer options in health care and for the public's health and welfare, the Legislature intends to remove barriers to the public's access to unlicensed practitioners providing health care services with appropriate consumer protections.

Sec. 3. Sections 2, 3 and 4 of this act may be cited as the Consumer Access to Health Care Services Act.

Sec. 4. 1. Notwithstanding any other provision of law, a person who provides health care services in accordance with this section, but who is not licensed, certified or registered by this State as a health care professional or practitioner, is not in violation of any law based on the unlicensed practice of health care services or a health care profession unless the person:

(a) Performs surgery or any other procedure that harmfully punctures the skin of a person except for the purposes of screening by finger-pricking;

(b) Prescribes or administers X-ray radiation to any person;

(c) Prescribes or administers a legend drug, a legend device or a controlled substance to any person;

(d) Performs a chiropractic adjustment of the articulations of joints or the spine;

(e) Diagnoses or treats a person's health condition in a manner that intentionally causes that person recognizable and imminent risk of significant and discernable physical or mental harm; or

(f) Holds out, states, indicates, advertises or implies to any person that he is a health care practitioner licensed, certified or registered by this State.



2. Any person providing health care services who is not licensed, certified or registered by this State as a health care practitioner and who is advertising or charging a fee for those services shall, prior to providing those services, disclose to the client in a plainly worded written statement:

(a) The practitioner's name, business address and telephone number;

(b) The fact that he is not licensed, certified or registered as a health care practitioner by this State;

(c) The nature of the health care services to be provided; and

(d) The degrees, training, experience, credentials and other qualifications of the practitioner regarding the health care services to be provided.

3. A written copy of the statement required by subsection 2 must be posted in a prominent place in the treatment location of the practitioner providing the services in at least 12-point font. Reasonable accommodations must be made for clients who:

(a) Cannot read;

(b) Are unable to see;

(c) Have communication impairments; or

(d) Are unable to read or speak English or the language of the providing practitioner.

4. Any advertisement for health care services authorized pursuant to this section must disclose that the provider of those services is not licensed, certified or registered as a health care practitioner by this State.

5. A person who violates the provisions of this section is guilty of a misdemeanor. Before a criminal proceeding is commenced against a person for a violation of the provisions of this section, a notification, educational or mediative approach must be utilized by the agency enforcing the provisions of this section to bring the person into compliance with the provisions of this section.

6. This act does not apply to or control:

(a) Any health care practice by a person regulated by the professional practice laws of this State, or prevent such a health care practice from being performed.

(b) Any health care practice if the practice is exempt from the professional practice laws of this State, or prevent such a health care practice from being performed.

(c) A person who provides health care services if the person is exempt from the professional practice laws of this State, or prevent the person from performing such a health care service.



- 1 7. *As used in this section, “health care services” means*
2 *health care and healing therapies and methods which are not*
3 *prohibited by subsection 1.*
4 **Sec. 5.** This act becomes effective on July 1, 2009.

