

Amendment No. 618

Assembly Amendment to Assembly Bill No. 295 (BDR 54-698)

Proposed by: Assembly Committee on Commerce and Labor

Amendment Box: Replaces Amendment No. 242.

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____		Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____		Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____		Receded	<input type="checkbox"/>	Not <input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) **orange double underlining** is deleted language in the original bill proposed to be retained in this amendment.

JMM/MSN



Date: 4/17/2015

A.B. No. 295—Revises provisions relating to the provision of certain health care services. (BDR 54-698)



ASSEMBLY BILL NO. 295—ASSEMBLYMAN
KIRNER (BY REQUEST)

MARCH 13, 2015

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to the provision of certain ~~health care~~ wellness services. (BDR 54-698)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; limiting the scope of services which may be performed by providers of ~~complementary and alternative health care~~ wellness services; requiring certain disclosures by such providers; defining “wellness services”; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law regulates the licensing, certification and registration of various providers of health care, including, without limitation, physicians, homeopathic physicians, osteopathic physicians, chiropractic physicians, doctors of Oriental medicine and podiatric physicians. (Chapters 630, 630A, 633, 634, 643A and 635 of NRS) ~~However, section 2 of this bill finds that there are numerous practitioners of healing arts, commonly referred to as alternative medicine, complementary medicine or natural healing, doing business in this State who are not regulated by the State.~~ Section 3 of this bill limits the scope of ~~these practitioners~~ **services which may be performed by a provider of wellness services, which are not regulated by this State,** by prohibiting ~~such practitioners~~ **those providers of wellness services** from providing certain services which may only be provided by a licensed provider of health care. **The term “wellness services” is defined in section 3 to mean certain therapies and practices and the provision of certain products based on certain complementary health treatment approaches.** Section 3 also requires ~~these practitioners~~ **providers of wellness services** to make certain disclosures to their clients ~~and retain copies of signed disclosures for a period of not less than 5 years.~~

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

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

Sec. 2. ~~The Legislature hereby finds and declares that:~~

1 ~~1. A July 2009 report from the National Institutes of Health, which was~~
2 ~~based on 2007 survey data, 38 percent of adults in the United States used~~
3 ~~complementary and alternative medicine. The report also stated that almost \$34~~
4 ~~billion was spent out of pocket for these services. Although many complementary~~
5 ~~and alternative medicine practitioners are not licensed, registered or certified by~~
6 ~~this State, it is evident from this data, that thousands of persons are presently~~
7 ~~receiving a substantial amount of health care from such practitioners.~~

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

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

16 ~~4. As a result, a practitioner of the healing arts who is not licensed by this~~
17 ~~State as a provider of health care could be subject to fines, penalties and the~~
18 ~~restriction of his or her practice, although his or her practice may not cross the~~
19 ~~threshold of State regulatory concern for the public. (Deleted by amendment.)~~

20 Sec. 3. 1. ~~(Notwithstanding any other provision of law, of~~ A person who
21 provides health care, wellness services in accordance with this section, but who
22 is not licensed, certified or registered in this State as a provider of health care, is
23 not in violation of any law based on the unlicensed practice of health care
24 services or a health care profession unless the person:

25 (a) Performs surgery or any other procedure which punctures the skin of any
26 person;

27 (b) Sets a fracture of any bone of any person;

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

29 (d) Prescribes or administers a prescription drug or device or a controlled
30 substance to any person;

31 (e) Recommends to a client that he or she discontinue or in any manner alter
32 current medical treatment prescribed by a provider of health care licensed,
33 certified or registered in this State;

34 (f) Makes a diagnosis of a medical disease of any person;

35 (g) Performs a manipulation or a chiropractic adjustment of the
36 articulations of joints or the spine of any person;

37 (h) ~~(Diagnoses or treats)~~ Treats a person's health condition in a manner that
38 intentionally or recklessly causes that person recognizable and imminent risk of
39 significant and discernable serious or permanent physical or mental harm; for

40 (i) Holds out, states, indicates, advertises or implies to any person that he or
41 she is a provider of health care ~~licensed, certified or registered in this State.;~~

42 (j) Engages in the practice of medicine in violation of chapter 630 or 633 of
43 NRS, unless otherwise expressly authorized by this section;

44 (k) Performs massage therapy as that term is defined in NRS 640C.060; or

45 (l) Provides mental health services that are exclusive to the scope of practice
46 of a psychiatrist licensed pursuant to chapter 630 or 633 of NRS, or a
47 psychologist licensed pursuant to chapter 641 of NRS.

48 2. Any person providing ~~health care~~ wellness services in this State who is
49 not licensed, certified or registered in this State as a provider of health care and
50 who is advertising or charging a fee for ~~health care~~ wellness services shall,
51 before providing those services, disclose to each client in a plainly worded written
52 statement:

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

(b) The fact that he or she is not licensed, certified or registered as a provider of health care in this State;

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

(d) The degrees, training, experience, credentials and other qualifications of the person regarding the ~~health care~~ wellness services to be provided; and

(e) A statement recommending that the client notify his or her ~~other~~ providers of health care of the ~~health care~~ wellness services he or she is to receive.

↪ A person who provides wellness services shall obtain from each client a signed copy of the statement required by this subsection, provide the client with a copy of the signed statement at the time of service and retain a copy of the signed statement for a period of not less than 5 years.

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

(a) Are unable to read;

(b) Are blind or visually impaired;

(c) Have communication impairments; or

(d) Do not read or speak English or any other language in which the statement is written.

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

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

6. This section does not apply to or control:

(a) Any health care practice by a provider of health care pursuant to 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.

(d) A medical assistant as that term is defined in NRS 630.0129 and 633.075.

7. As used in this section, ~~“health care”~~ “wellness services” means ~~health care and~~ healing arts therapies and practices, and ~~methods~~ the provision of products, that are based on the following complementary ~~and alternative medicine~~ health treatment approaches and which are not prohibited by subsection 1 ~~††~~:

(a) Anthrosposophy.

(b) Aromatherapy.

(c) Traditional cultural healing practices.

(d) Detoxification practices and therapies.

(e) Energetic healing.

(f) Folk practices.

(g) Gerson therapy and colostrum therapy.

1 (h) Healing practices using food, dietary supplements, nutrients and the
2 physical forces of heat, cold, water and light.

3 (i) Herbology and herbalism.

4 (j) Reflexology and Reiki.

5 (k) Mind-body healing practices.

6 (l) Nondiagnostic iridology.

7 (m) Noninvasive instrumentalities.

8 (n) Holistic kinesiology.

9 **Sec. 4.** This act becomes effective on July 1, 2015.