

By: _____ .B. No. _____

Substitute the following for .B. No. _____:

By: _____ C.S..B. No. _____

A BILL TO BE ENTITLED

1 AN ACT

2 relating to regulations on certain complementary and alternative
3 health care services.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle M, Title 3, Occupations Code, is
6 amended by adding Chapter 704 to read as follows:

7 CHAPTER 704. COMPLEMENTARY AND ALTERNATIVE HEALTH CARE SERVICES

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 704.001. DEFINITION. In this chapter, "complementary
10 and alternative health care services" means the broad domain of
11 complementary and alternative healing methods, healing therapies,
12 treatments, and services that:

13 (1) are provided by persons who are not licensed,
14 certified, or registered as health care practitioners or
15 professionals by an occupational regulatory agency of this state;
16 and

17 (2) are not prohibited by Section 704.051.

18 Sec. 704.002. GENERAL APPLICABILITY. (a) This chapter
19 applies to a person who provides a complementary and alternative
20 health care service.

21 (b) This chapter does not apply to:

22 (1) massage therapy, as defined by Section 455.001; or

23 (2) health care in which treatment is provided solely
24 by prayer or spiritual means.

1 (c) This chapter does not:

2 (1) limit the right of a person to obtain a civil
3 remedy, including a remedy for negligence, against a person who
4 provides a complementary and alternative health care service; or

5 (2) control, prevent, or restrict a person from
6 marketing or distributing a lawful food product, including a
7 dietary supplement.

8 Sec. 704.003. APPLICABILITY OF OTHER LAW. Notwithstanding
9 any other law, a person who provides complementary and alternative
10 health care services in compliance with Sections 704.051 and
11 704.052 is not practicing medicine under Subtitle B and does not
12 violate Subtitle B or another law of this state that requires a
13 person to obtain an occupational license, registration, or
14 certificate.

15 [Sections 704.004-704.050 reserved for expansion]

16 SUBCHAPTER B. REGULATION OF COMPLEMENTARY AND ALTERNATIVE HEALTH
17 CARE SERVICES

18 Sec. 704.051. PROHIBITED ACTS. A person may not in
19 connection with providing a complementary and alternative health
20 care service:

21 (1) conduct surgery or any other procedure that
22 punctures the skin or that harmfully invades the body, other than
23 pricking a finger to obtain a small amount of blood for screening
24 purposes;

25 (2) administer to or prescribe for another person
26 x-ray radiation;

27 (3) administer to or prescribe for another person

1 legend drugs, dangerous drugs, or controlled substances;

2 (4) recommend that a person discontinue medical care
3 or a medical treatment prescribed by a licensed health care
4 practitioner;

5 (5) provide a conventional medical disease diagnosis;

6 (6) perform a chiropractic adjustment of an
7 articulation of the spine; or

8 (7) represent, state, indicate, advertise, or imply
9 that the person is a physician, surgeon, or medical doctor or that
10 the person is licensed, certified, or registered by this state to
11 practice a health care profession.

12 Sec. 704.052. REQUIRED DISCLOSURE. (a) Before providing a
13 complementary and alternative health care service, a person must:

14 (1) provide to the client a written statement in plain
15 language:

16 (A) stating that the person is not licensed by
17 this state as a health care or healing arts practitioner;

18 (B) describing the nature of the services to be
19 provided and the theory of treatment on which the services are
20 based;

21 (C) detailing the education, training,
22 experience, or other qualifications of the person with regard to
23 the service being provided and stating whether any degree disclosed
24 by the person is recognized by this state; and

25 (D) containing the following statement in bold
26 print:

27 "THE STATE OF TEXAS HAS NOT ADOPTED ANY EDUCATIONAL OR

1 TRAINING STANDARDS FOR UNLICENSED COMPLEMENTARY AND
2 ALTERNATIVE HEALTH CARE PRACTITIONERS. THIS
3 DISCLOSURE IS FOR INFORMATIONAL PURPOSES ONLY.

4 Under Texas law, an unlicensed complementary and
5 alternative health care practitioner may not provide a
6 medical diagnosis or recommend that a person
7 discontinue a medically prescribed treatment. A client
8 may seek at any time a diagnosis from a licensed
9 physician, chiropractor, or acupuncture practitioner
10 or a service from a physician, chiropractor, dentist,
11 nurse, osteopath, physical therapist, occupational
12 therapist, massage therapist, dietitian, midwife,
13 acupuncture practitioner, athletic trainer, or any
14 other type of licensed health care practitioner.";

15 (2) obtain a signed acknowledgment from the client
16 that the client has been provided a copy of the statement required
17 by Subdivision (1); and

18 (3) provide a copy of the statement and signed
19 acknowledgment to the client.

20 (b) The complementary and alternative health care service
21 provider shall retain a copy of the signed acknowledgment under
22 Subsection (a)(2) until the second anniversary of the date the
23 statement is signed.

24 Sec. 704.053. REBUTTABLE PRESUMPTION. It is a rebuttable
25 presumption that a person who provides the statement required by
26 Section 704.052(a)(1) is not practicing medicine under Subtitle B.

27 Sec. 704.054. DEFENSE. It is a defense to prosecution

1 under Section 32.52, Penal Code, that the person:

2 (1) disclosed information to a client about a degree
3 lawfully obtained by the person from a school inside or outside the
4 United States; and

5 (2) stated whether the degree is recognized by this
6 state as required by Section 704.052(a)(1)(C).

7 SECTION 2. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2011.