

By: Corte

H.B. No. 40

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Subtitle M, Title 3, Occupations Code, is amended by adding Chapter 703 to read as follows:

CHAPTER 703. COMPLEMENTARY AND ALTERNATIVE HEALTH CARE SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 703.001. COMPLEMENTARY AND ALTERNATIVE HEALTH CARE SERVICES. (a) In this chapter, "complementary and alternative health care services" means the broad domain of complementary and alternative healing methods, healing therapies, treatments, and services that:

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

(2) are not prohibited by Section 703.051.

(b) Complementary and alternative health care services include:

(1) acupressure;

(2) anthroposophy;

(3) aromatherapy;

(4) Ayurveda;

- 1 (5) cranial sacral therapy;
- 2 (6) culturally traditional healing practices;
- 3 (7) detoxification practices and therapies;
- 4 (8) energetic healing;
- 5 (9) polarity therapy;
- 6 (10) folk practices;
- 7 (11) healing practices using food, food supplements,
- 8 nutrients, and the physical forces of heat, cold, water, touch, and
- 9 light;
- 10 (12) Gerson therapy;
- 11 (13) colostrum therapy;
- 12 (14) healing touch;
- 13 (15) herbology or herbalism;
- 14 (16) homeopathy;
- 15 (17) nondiagnostic iridology;
- 16 (18) bodywork;
- 17 (19) meditation;
- 18 (20) mind-body healing practices;
- 19 (21) naturopathy;
- 20 (22) noninvasive instrumentalities; and
- 21 (23) traditional Oriental practices, such as qigong
- 22 energy healing.

23 Sec. 703.002. GENERAL APPLICABILITY. (a) This chapter

24 applies to a person who provides a complementary and alternative

25 health care service.

26 (b) This chapter does not:

- 27 (1) limit the right of a person to obtain a civil

1 remedy, including a remedy for negligence, against a person who
2 provides a complementary and alternative health care service; or

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

6 Sec. 703.003. APPLICABILITY OF OTHER LAW. Notwithstanding
7 any other law, a person who provides complementary and alternative
8 health care services in compliance with Sections 703.051 and
9 703.052 is not practicing medicine under Subtitle B and does not
10 violate Subtitle B or another law of this state that requires a
11 person to obtain an occupational license, registration, or
12 certificate.

13 [Sections 703.004-703.050 reserved for expansion]

14 SUBCHAPTER B. REGULATION OF COMPLEMENTARY AND ALTERNATIVE HEALTH
15 CARE SERVICES

16 Sec. 703.051. PROHIBITED ACTS. A person may not in
17 connection with providing a complementary and alternative health
18 care service:

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

23 (2) administer to or prescribe for another person
24 x-ray radiation;

25 (3) administer to or prescribe for another person
26 legend drugs, dangerous drugs, or controlled substances;

27 (4) recommend that a person discontinue medical care

1 or a medical treatment prescribed by a licensed health care
2 practitioner;

3 (5) provide a conventional medical disease diagnosis;

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

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

10 Sec. 703.052. REQUIRED DISCLOSURE. (a) Before providing a
11 complementary and alternative health care service, a person must:

12 (1) provide to the client a written statement in plain
13 language:

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

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

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

23 (D) containing the following statement in bold
24 print:

25 "THE STATE OF TEXAS HAS NOT ADOPTED ANY EDUCATIONAL OR
26 TRAINING STANDARDS FOR UNLICENSED COMPLEMENTARY AND
27 ALTERNATIVE HEALTH CARE PRACTITIONERS. THIS

1 DISCLOSURE IS FOR INFORMATIONAL PURPOSES ONLY.

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

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

16 (3) provide a copy of the statement and signed
17 acknowledgment to the client.

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

22 Sec. 703.053. REBUTTABLE PRESUMPTION. It is a rebuttable
23 presumption that a person who provides the statement required by
24 Section 703.052(a)(1) is not practicing medicine under Subtitle B.

25 Sec. 703.054. DEFENSE. It is a defense to prosecution
26 under Section 32.52, Penal Code, that the person:

27 (1) disclosed information to a client about a degree

1 lawfully obtained by the person from a school inside or outside the
2 United States; and

3 (2) stated whether the degree is recognized by this
4 state as required by Section 703.052(a)(1)(C).

5 SECTION 2. This Act takes effect June 1, 2009, if it
6 receives a vote of two-thirds of all the members elected to each
7 house, as provided by Section 39, Article III, Texas Constitution.
8 If this Act does not receive the vote necessary for effect on that
9 date, this Act takes effect September 1, 2009.