



HB 1301

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1 A bill to be entitled

2 An act relating to complementary or alternative health
3 care services; creating s. 456.42, F.S.; providing a
4 popular name; providing findings and intent; authorizing
5 persons who are not health care practitioners licensed by
6 this state to provide certain complementary or alternative
7 health care services; prohibiting certain acts; requiring
8 certain disclosure and consent; providing penalties;
9 amending s. 456.065, F.S., relating to unlicensed practice
10 of a health care profession, to conform; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Section 456.42, Florida Statutes, is created to
16 read:

17 456.42 Complementary or alternative health care services
18 by unlicensed persons.--

19 (1) POPULAR NAME.--This section shall be known by the
20 popular name "The Consumer Health Freedom Act."

21 (2) FINDINGS AND INTENT.--

22 (a) Based upon a comprehensive report by the National
23 Institute of Health, a study published by the New England
24 Journal of Medicine, and other research data, it is evident that
25 hundreds of thousands of Floridians are presently receiving a
26 substantial amount of health care from providers of
27 complementary or alternative health care services. Those studies
28 further indicate that individuals from a wide variety of age,
29 ethnic, socioeconomic, and other demographic categories utilize
30 complementary or alternative health care services.



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31 (b) Notwithstanding the widespread utilization of
32 complementary or alternative health care services by residents
33 of this state, the provision of such services may be in
34 technical violation of the professional practice acts governing
35 the licensed health care practitioners specified in s.
36 456.001(4). As a result, a provider of complementary or
37 alternative health care services who is not licensed by this
38 state as a health care practitioner as defined in s. 456.001(4)
39 could be subject to fines, penalties, and the restriction of his
40 or her practice under this chapter, although there is no
41 demonstration that such practice poses an imminent risk of
42 significant harm to the public's health and safety.

43 (c) Because it finds that the unlicensed practice of
44 complementary or alternative health care services is not harmful
45 to the public's health and safety, the Legislature intends to
46 allow and to protect public access to complementary or
47 alternative health care services as provided in this section.

48 (3) PROHIBITED ACTS.--

49 (a) Notwithstanding any other provision of law, a person
50 who provides complementary or alternative health care services
51 in accordance with this section, but who is not licensed by this
52 state as a health care practitioner as defined in s. 456.001(4),
53 shall not be in violation of s. 456.065 or any other health care
54 professional practice act, unless the person:

55 1. Performs surgery or any other procedure that punctures
56 the skin of any person;

57 2. Prescribes or administers X-ray radiation to any
58 person;

59 3. Prescribes or administers a legend drug or controlled
60 substance to any person;



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61 4. Recommends to any person the discontinuance of a legend
62 drug or controlled substance prescribed by a licensed health
63 care practitioner;

64 5. Willfully diagnoses or treats a physical or mental
65 health condition of any person which causes an imminent risk of
66 significant bodily injury, significant physical or mental
67 illness, or death; or

68 6. Holds out, states, indicates, advertises, or implies to
69 any person that he or she is a health care practitioner licensed
70 by this state.

71 (b) A person who violates any provision of this subsection
72 is subject to the administrative, civil, and criminal penalties
73 specified in s. 456.065(2)(a)-(d), including, but not limited
74 to, court costs, reasonable attorney's fees, and the reasonable
75 costs of investigation and prosecution.

76 (4) DISCLOSURE AND CONSENT.--

77 (a) Any person providing complementary or alternative
78 health care services who is not licensed by this state as a
79 health care practitioner as defined in s. 456.001(4) shall,
80 prior to providing such services, disclose to the client in a
81 plainly worded written statement:

82 1. The fact that he or she is not licensed as a health
83 care practitioner by this state.

84 2. The nature of the services to be provided and the
85 theory upon which the services are based.

86 3. The degrees, training, experience, credentials, or
87 other qualifications of the practitioner regarding the
88 complementary or alternative health care services being
89 provided.



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90 (b) Any person providing complementary or alternative
91 health care services who is not licensed by this state as a
92 health care practitioner as defined in s. 456.001(4) shall:

93 1. Obtain a written acknowledgment from the client stating
94 that he or she has been provided with the information described
95 in this subsection, which must be maintained for 2 years by the
96 person providing the services. The client shall be provided with
97 a copy of this written acknowledgment.

98 2. State in any advertisement for such services that he or
99 she is not licensed by this state as a health care practitioner.

100 (c) A person who violates any provision of this subsection
101 is subject to the administrative and civil penalties specified
102 in s. 456.065(2)(a)-(c), including, but not limited to, court
103 costs, reasonable attorney's fees, and the reasonable costs of
104 investigation and prosecution.

105 Section 2. Subsection (4) of section 456.065, Florida
106 Statutes, is amended to read:

107 456.065 Unlicensed practice of a health care profession;
108 intent; cease and desist notice; penalties; enforcement;
109 citations; fees; allocation and disposition of moneys
110 collected.--

111 (4) The provisions of this section apply only to health
112 care professional practice acts administered by the department
113 and shall not be construed to prohibit the provision of
114 complementary or alternative health care services pursuant to s.
115 456.42 by persons who are not licensed by this state as health
116 care practitioners.

117 Section 3. This act shall take effect July 1, 2003.