

Ohio:

Notes: Introduced 4/12/2007 and is in process.
Minnesota Category

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 148

Representative Wachtmann

**Cosponsors: Representatives Fessler, Adams, Hughes, Aslanides,
Wolpert, Setzer, Peterson, Blessing, McGregor, J.**

A BILL

To amend section 4759.02 and to enact sections 4783.01, 4783.02, 4783.03, 4783.04, 4783.05, 4783.06, 4783.07, 4783.08, 4783.09, 4783.10, 4783.11, 4783.12, 4783.13, 4783.14, and 4783.15 of the Revised Code regarding the provision of complementary or alternative health care services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4759.02 be amended and sections 4783.01, 4783.02, 4783.03, 4783.04, 4783.05, 4783.06, 4783.07, 4783.08, 4783.09, 4783.10, 4783.11, 4783.12, 4783.13, 4783.14, and 4783.15 of the Revised Code be enacted to read as follows:

Sec. 4759.02. (A) Except as otherwise provided in this section or in section 4759.10 of the Revised Code, no person shall practice, offer to practice, or hold ~~himself~~ the person's self forth to practice dietetics unless ~~he~~ the person has been licensed under section 4759.06 of the Revised Code.

(B) Except for a licensed dietitian holding an inactive license who does not practice or offer to practice dietetics, or a person licensed under section 4759.06 of the Revised Code, or as otherwise provided in this section or in section 4759.10 of the Revised Code:

~~(1) No, no~~ person shall use the title "dietitian", and

~~(2) No person except for a person licensed under Chapters 4701. to 4755. of the Revised Code, when acting within the scope of their practice, shall use any other title, designation, words, letters, abbreviation, or insignia or combination of any title, designation, words, letters, abbreviation, or insignia tending to indicate that the person is practicing dietetics."~~

(C) Notwithstanding division (B) of this section, a person who is a dietitian registered by the commission on dietetic registration and who does not violate division (A) of this section may use the designation "registered dietitian" and the abbreviation "R.D."

(D) Division (A) of this section does not apply to:

(1) A student enrolled in an academic program that is in compliance with division (A)(5) of section 4759.06 of the Revised Code who is engaging in the practice of dietetics under the supervision of a dietitian licensed under section 4759.06 of the Revised Code or a dietitian registered by the commission on dietetic registration, as part of the academic program;

(2) A person participating in the pre-professional experience required by division (A)(6) of section 4759.06 of the Revised Code;

(3) A person holding a limited permit under division (F) of section 4759.06 of the Revised Code.

(E) Divisions (A) and (B) of this section do not apply to a person who performs no more than fifteen days of dietetic practice in the state and who meets at least one of the following requirements:

(1) The Ohio board of dietetics determines that ~~he~~ the person is licensed in another state with licensure requirements equivalent to or more stringent than those set forth in this chapter;

(2) ~~He~~ The person is a dietitian registered by the commission on dietetic registration and resides in another state that either has no dietitian licensure requirements or has licensure requirements less stringent than those set forth in this chapter.

Sec. 4783.01. As used in this chapter:

(A) "Complementary or alternative health care service" means the provision of any complementary or alternative health care treatment to a patient by an individual who is not a licensed health care professional or, if an individual is a licensed health care professional, that individual is not acting as a licensed health care professional when providing treatment.

(B) "Complementary or alternative health care treatment" means a method of treating an individual's health condition that is designed to be an alternative to prevailing or conventional methods used to treat the health condition. Complementary or alternative health care treatment may be provided in addition to or in place of other treatment options.

(C) "Dangerous drug," "drug," "licensed health professional authorized to prescribe drugs," and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

(D) "Licensed health care professional" means an individual who holds a current, valid license or certificate issued under Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 4755., 4759., 4762., or 4779. of the Revised Code.

(E) "Board" means the state dental board; board of nursing; state board of optometry; state board of pharmacy; state medical board; state board of psychology; state chiropractic board; Ohio occupational therapy, physical therapy, and athletic trainers board; Ohio board of dietetics; or state board of orthotics, prosthetics, and pedorthics.

(F) "Registrant" means an individual who is registered under section 4783.06 of the Revised Code.

Sec. 4783.02. It is hereby declared to be the public policy of the state that the provision of complementary or alternative health care services enhances the health and welfare of the residents of this state.

Sec. 4783.03. No individual shall provide complementary or alternative health care services unless that individual is registered with the office of complementary or alternative health care practices in accordance with section 4783.06 of the Revised Code.

Sec. 4783.04. There is hereby created the office of complementary or alternative health care practices in the department of commerce. The office

shall process all applications for registration received under section 4783.06 of the Revised Code and investigate all complaints received under sections 4783.11 and 4783.12 of the Revised Code. The office also shall serve as a clearinghouse of information regarding complementary or alternative health care treatments and individuals who provide complementary or alternative health care services through the development and performance of public education activities, including outreach.

Sec. 4783.05. The director of commerce shall do all of the following:

(A) Prescribe an application form to register individuals who wish to provide complementary or alternative health care services that requests all of the following information from the applicant:

(1) The applicant's name, home and business addresses, telephone numbers, gender, and date and location of birth;

(2) The modalities the applicant practices;

(3) The training and education the applicant has received;

(4) Whether the applicant has been convicted of or pleaded guilty to a violation of section 2907.06, 2907.08, 2907.09, 2907.24, 2907.241, 2907.25, 2907.31, 2907.311, or 2907.33 of the Revised Code or a felony, and if the applicant has been convicted of or pleaded guilty to a felony, if that felony was subject to a procedure described in division (D) of section 4783.06 of the Revised Code;

(5) Any license or certificate the applicant holds that was issued pursuant to Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 4755., 4759., 4762., or 4779. of the Revised Code or was issued by another state that permits the applicant to engage in the practice of a health care profession similar to those for which licenses or certificates are issued under those chapters;

(6) Whether the applicant voluntarily surrendered a license or certificate issued by a board in this state after civil or criminal charges were filed against that applicant in this state or another jurisdiction;

(7) Any medical or physical conditions that may impair the applicant from providing complementary or alternative health care services;

(8) Any treatment for alcohol abuse, controlled substance abuse, prescription drug abuse, or illegal drug abuse that the applicant has received during the ten years immediately preceding the date the applicant submits the application;

(9) Any disciplinary action taken against the applicant by a state agency in a state that allows individuals to provide complementary or alternative health care services;

(10) Any current investigations involving the applicant conducted in a state that allows individuals to provide complementary or alternative health care services;

(11) Whether the applicant employs licensed health care professionals or works under the supervision of a licensed health care professional and, if so, the names and business information of those professionals.

(B) Include all of the following in the application form the director prescribes under division (A) of this section:

(1) The following statement:

"I hereby attest that the information given in this application, including all writings and exhibits attached hereto, is true and complete to the best of my knowledge. I understand that the making of a false statement on this application and in all writings and exhibits attached is punishable by criminal penalties."

(2) The following agreement form:

"I, (name of applicant), hereby submit my application to become registered to provide complementary or alternative health care services in the State of Ohio, and agree to all of the following:

(a) To provide each recipient of my services with a copy of the disclosure form required by section 4783.09 of the Revised Code and to obtain a signed copy of that form prior to providing the services.

(b) To retain a copy of each signed disclosure form and all records of a recipient of my services for a period of five years after the last visit by the recipient.

(c) To refrain from engaging in the activities specified in division (A) of section 4783.08 of the Revised Code."

(3) A place for the applicant's notarized signature.

(C) Maintain a list of all registrants and a list of all disciplinary actions taken against registrants and provide public access to both lists.

Sec. 4783.06. (A) To register with the office of complementary or alternative health care practices, an applicant shall satisfy all of the following criteria:

(1) Be at least eighteen years of age;

(2) Provide to the office evidence of graduation from the twelfth grade or evidence of having an education equivalent to the twelfth grade;

(3) Complete the application form prescribed by the director of commerce and submit the form to the office;

(4) Provide to the office documentation listing the education and training the applicant has received;

(5) If applicable, provide documentation that the applicant's felony was the subject of a procedure specified in division (D) of this section;

(6) Pay the fee for registration specified in section 4783.14 of the Revised Code to the office.

(B) The office shall register an applicant who meets all of the requirements specified in division (A) of this section.

(C) Except as provided in divisions (D) to (F) of this section, the office shall not register an applicant if either of the following applies:

(1) The applicant has been convicted of or pleaded guilty to a misdemeanor under section 2907.06, 2907.08, 2907.09, 2907.24, 2907.241, 2907.25, 2907.31, 2907.311, or 2907.33 of the Revised Code or any felony.

(2) The applicant's license or certificate issued under Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 4755., 4759., 4762., or 4779. of the Revised Code was suspended, placed on probation, or revoked by the board that administers and enforces the law under which the applicant was licensed or certified.

(D) If an applicant has been convicted of or pleaded guilty to a felony, the office shall not use that conviction or plea to deny registration of the applicant if the applicant's conviction or plea is pardoned, annulled, reversed on appeal, or set aside, or the record of the conviction or the plea is sealed or expunged, or, if the conviction or plea was in a jurisdiction other than this state, the conviction or plea was subject to any procedure performed in that jurisdiction that is similar to pardoning, annulling, reversing on appeal, or setting aside an applicant's conviction or plea, or sealing or expunging the record of an applicant's conviction or plea as performed in this state.

(E) If an applicant has been convicted of or pleaded guilty to a felony for violating section 4715.09, 4715.52, 4723.03, 4723.44, 4723.73, 4730.02,

4731.41, 4731.43, 4731.60, 4734.14, or 4762.02 of the Revised Code because the applicant engaged in activities specified in those sections without a valid license or certificate as required under those sections, the office may register the applicant if the actions that constituted the offense are permitted under this chapter.

(F) If an applicant held a license or certificate issued under Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 4755., 4759., 4762., or 4779. of the Revised Code that was suspended, placed on probation, or revoked, the office may register the applicant if that license or certificate was suspended, placed on probation, or revoked because the applicant engaged in practices that are permitted under this chapter.

(G) Notwithstanding any provision of the Revised Code to the contrary, a registrant may refer to the registrant's self using a title or qualification conferred on the registrant by virtue of degrees, training, experience, credentials, or other qualifications attained by the registrant.

Sec. 4783.07. A registration issued under this chapter is valid for one year. The director of commerce shall adopt rules to determine the date on which the one-year period begins and ends and to prorate that time period for initial registrations. A registrant may renew the registrant's registration by submitting the renewal fee established in section 4783.14 of the Revised Code to the office of complementary or alternative health care practices within thirty days prior to the registration's expiration.

Sec. 4783.08. (A) In accordance with Chapter 119. of the Revised Code and except as limited by division (D) of this section, the director of commerce, upon receiving the results of an investigation conducted under section 4783.11 of the Revised Code, may suspend or revoke a registration, impose restrictions upon a registrant's practice, impose a fine in accordance with division (C) of this section, censure or reprimand a registrant, impose a fee to cover the costs of an investigation, or take any other action justified if a registrant does any of the following:

- (1) Performs surgery or any other procedure that punctures the skin;
- (2) Performs any adjustment of the articulation of the joints or spine of any individual;
- (3) Uses or recommends any procedure involving ionizing radiation as defined in section 4773.01 of the Revised Code;
- (4) Provides diagnosis of a disease;
- (5) Provides diagnosis or treatment of a physical or mental health condition of any individual that proximately causes physical or mental harm;
- (6) Counsels any individual to disregard the instruction or counsel of a licensed health care professional or to discontinue any treatment prescribed or recommended by a licensed health care professional;
- (7) Counsels any individual to discontinue use of any dangerous drug, drug, or therapeutic device prescribed to the individual by a licensed health professional authorized to prescribe drugs;
- (8) Administers, prescribes, possesses for sale, sells, or dispenses any drug or medical oxygen;
- (9) Holds out, states, indicates, advertises, or otherwise implies to any person that the registrant is licensed by this state to practice as a licensed health care professional;
- (10) Performs or provides enteral or parenteral nutrition;
- (11) Promises a cure;
- (12) Sets a fracture of a bone;
- (13) Delivers a baby;

(14) Provides or performs an abortion;

(15) Inserts intra uterine devices;

(16) Provides complementary or alternative health care services to either of the following persons unless the registrant has the consent of the person's parent or legal guardian:

(a) Any person who is less than eighteen years of age;

(b) Any person that the registrant knows to be mentally incompetent.

(17) Fails to comply with division (A) of section 4783.09 of the Revised Code.

(B) Any disciplinary action taken against a registrant for failure to comply with division (A) of section 4783.09 of the Revised Code shall be based on the number of times the registrant has been investigated for failure to provide the document, regardless of the number of persons to whom the registrant failed to provide the document.

(C) If the director elects to impose a fine against a registrant for engaging in any activity listed in divisions (A)(1) to (17) of this section, the director may impose a fine not exceeding ten thousand dollars for each prohibited activity in which the registrant engaged.

(D) The director shall not take any disciplinary action specified under division (A) of this section against a registrant who also is a licensed health care professional if at the time the registrant engaged in an activity prohibited under that division, the registrant was acting in the registrant's capacity as a licensed health care professional and was practicing within the appropriate scope of practice for that profession.

Sec. 4783.09. A registrant shall do all of the following:

(A) Prior to providing complementary or alternative health care services to an individual for the first time, provide a plainly-worded written document to the recipient of the services that discloses all of the following information:

(1) The nature of the services to be provided, the theory on which the services are based, a description of each modality the registrant practices, and a description of the scope of each modality the registrant practices;

(2) The degrees, training, experience, credentials, or other qualifications held by the registrant with regard to the services to be provided and addresses and phone numbers to allow the recipient to obtain information about the registrant's degrees, training, experience, credentials, or other qualifications;

(3) If the registrant is not a licensed health care professional, the following statement, placed at the beginning and end of the document, printed clearly in bold and in a font that is at least two points larger than the font used to disclose the other information required under this division, that reads verbatim:

"I AM NOT LICENSED BY THE STATE OF OHIO AS A HEALTH CARE PROFESSIONAL. I AM NOT A DOCTOR OR PHYSICIAN. THE STATE HAS NOT ADOPTED ANY EDUCATIONAL OR TRAINING REQUIREMENTS FOR UNLICENSED COMPLEMENTARY OR ALTERNATIVE HEALTH CARE SERVICE PROVIDERS."

(4) If the registrant also is a licensed health care professional, the following statement, placed at the beginning and the end of the document, printed clearly in bold and in a font that is at least two points larger than the font used to disclose the other information required under this division, that reads:

"I HOLD THE FOLLOWING LICENSES AND CERTIFICATIONS ISSUED BY THE STATE OF OHIO: (list of licenses and certificates). HOWEVER, I AM PROVIDING MY SERVICES TO YOU AS A REGISTRANT WITH THE OFFICE OF COMPLEMENTARY OR ALTERNATIVE HEALTH CARE PRACTICES AND I AM NOT PROVIDING THESE SERVICES AS A LICENSED HEALTH CARE PROFESSIONAL. THE STATE HAS NOT ADOPTED ANY EDUCATION OR TRAINING REQUIREMENTS FOR UNLICENSED COMPLEMENTARY OR ALTERNATIVE HEALTH CARE SERVICE PROVIDERS."

(5) A statement that describes the following:

(a) Any agreement or other arrangement between the registrant and another provider of complementary or alternative health care services or between the registrant and a licensed health care professional whereby that registrant derives a financial or other benefit;

(b) The nature of any benefit resulting from an agreement or arrangement described in division (A)(5)(a) of this section.

(6) A list of the prohibited activities specified in division (A) of section 4783.08 of the Revised Code;

(7) A list, by credentials only, of any licensed health care professional that the registrant employs;

(8) A recommendation that the recipient visit the recipient's appropriate licensed health care professional in addition to receiving complementary or alternative health care services from the registrant;

(9) A statement that the registrant will be available to consult with the recipient's appropriate licensed health care professional regarding the services the registrant provides to the recipient;

(10) A statement that the registrant shall not provide complementary or alternative health care services to either of the following persons unless the registrant has the consent of the person's parent or legal guardian:

(a) Any person who is less than eighteen years of age;

(b) Any person that the registrant knows to be mentally incompetent.

(11) A description of the procedure to file a complaint with the office of complementary or alternative health care practices regarding the services provided by the registrant.

(B) Obtain from the recipient of the services a written acknowledgement that the recipient has been provided a document disclosing all the information required to be disclosed pursuant to division (A) of this section;

(C) Provide the recipient of the services with a copy of the acknowledgement described in division (B) of this section;

(D) Maintain the acknowledgement described in division (B) of this section from every recipient of the registrant's services for at least five years after the date that a recipient receives services from the registrant for the final time;

(E) Create a record for each recipient of the registrant's services that consists of all of the following information:

(1) The recipient's name;

(2) The dates that the recipient receives services from the registrant;

(3) A description of the recipient's condition;

(4) The treatment or service the registrant provides to the recipient;

(5) Any financial arrangement between the registrant and the recipient, including any payment arrangements made with a third party.

(F) Maintain the records described in division (E) of this section for a minimum of five years after the date that a recipient receives services from the registrant for the final time;

(G) Consult with or refer a recipient of the registrant's services to an appropriate licensed health care professional if the registrant determines, based on reasonable evidence, that no substantial progress has been made with respect to that recipient during the thirty-day period immediately following the date of the recipient's initial visit with the registrant, unless either of the following applies:

(1) The evaluation, treatment, or services are being provided for fitness, wellness, or prevention purposes.

(2) The recipient was diagnosed with a disease or condition prior to the recipient's initial visit to the registrant and evaluation, treatment, or services are being provided by the registrant for problems or symptoms associated with one or more of those previously diagnosed diseases or conditions.

(H) Be available to consult with the appropriate licensed health care professional who provides treatment to a recipient of the registrant's services regarding the services the registrant provides to the recipient;

(I) Create a notice that includes only the applicable statement described in division (A)(3) or (A)(4) of this section and post that notice in a conspicuous place in the registrant's principal office or principal place of business.

Sec. 4783.10. (A) An individual who wishes to file a complaint with the office of complementary or alternative health care practices against a registrant or an individual providing complementary or alternative health care services without being registered shall submit the following form to the office:

"Ohio Department of Commerce
Office of Complementary or Alternative
Health Care Practices
COMPLAINT FORM

Information about the person making the complaint:

Your name: (first/middle/last)

Check one: Mr. Mrs. Ms. Dr.

Your address:

.....

This address is (check one) Home Business School Organization

Your telephone numbers:

Primary: ()

Secondary: ()

Your birth date:/...../.....

Is this complaint on your own behalf? Yes / No (Circle one)

If you answered "no" to the above question, please provide the following information concerning the recipient of the practitioner's services for whom you are filing this complaint:

Information about the Recipient:

Recipient name: (first/middle/last)

Check one: Mr. Mrs. Ms. Dr.

Recipient's address:

.....

This address is: (check one) Home Business

School Organization Residential facility

Recipient's telephone numbers:

Primary: ()

Secondary: ()

Recipient's birth date:/...../.....

Please check if you are:

..... **A recipient of the practitioner's services**

..... **Another professional reporting agency**

..... **Relative or friend**

..... **Practitioner self reporting**

..... **Practitioner's supervisor**

..... **Other**

Information about the practitioner who is the subject of the complaint:

Practitioner name: (first/middle/last)

Check one: Mr. Mrs. Ms. Dr.

Practitioner's address:

.....

This address is: (check one) Home Business

School Organization

Practitioner's telephone numbers:

Primary: ()

Secondary: ()

Practitioner gender: Male Female

Name of practitioner's organization or business:

.....

Address of practitioner's organization or business:

.....

Narrative description of your complaint: On separate sheets of paper, please describe the incident that occurred, where and when the incident transpired, and who was involved. Include in your narrative your relationship to the practitioner, where the practitioner was employed at the time of the incident, and any previous or subsequent encounters you may have had with the practitioner. If possible, please include the identities and phone numbers of anyone who may have either witnessed the incident or have additional information regarding either the incident or the practitioner. Please include copies of any supporting documents you may have. Please sign and date each page of the narrative.

What would you like to see happen to resolve this complaint?

.....

.....

.....

The information I have given is true and accurate to the best of my knowledge and may be used as stated in this form.

Signature:

Date:

Warning:

Pursuant to section 4783.11 of the Revised Code, information obtained pursuant to an active investigation against a person providing complementary or alternative health care services is not a public record and is not subject to discovery in a civil action.

The information you provide to the Office of Complementary or Alternative Health Care Practices as part of this complaint will be investigated and used as part of the investigation of the practitioner's conduct. In some circumstances, the information you provide the Office will be disclosed to certain other persons or entities, including health-related licensing boards.

law enforcement agencies, and any other government agency deemed necessary by the Office.

As a complainant, recipient of the practitioner's services, or both, you are not required to cooperate in an investigation by the Office, but not cooperating could hamper our ability to investigate the matter. An individual who is registered with the Office is required by law to cooperate with an investigation by the Office. If a practitioner refuses to cooperate in an investigation, the Director of Commerce may take disciplinary action against the practitioner.

Recipient Records Waiver Authorization:

(please complete, sign and date)

TO: (Recipient's physician, complementary or alternative health care practitioner, clinic, appropriate licensed health care professional, or third party payer)

I authorize the physician, practitioner, clinic, professional, or payer named above to furnish a copy of my records in the entity's possession, to allow those records to be inspected, copied, or both by the Office of Complementary or Alternative Health Care Practices, and any other appropriate state or government agencies. I further authorize the physician, clinic, professional, or payer named above to testify without limitation as to any and all of the entity's findings, treatment, or both referred to in these records. I release the Office and its agents from liability for so releasing these records or testifying, and I waive my privileges afforded me by section 2317.02 of the Revised Code or any other applicable law relating to the disclosure or introduction into evidence of health information.

This consent is subject to express revocation at any time except to the extent that action has been taken in reliance on this consent. Unless express revocation is made, this consent is revoked upon conclusion of the Office's investigation. A photocopy of this release shall be as valid as the original. I also agree to permit and hereby authorize the Office to use my name, records, or both in any legal proceeding arising out of this matter.

NAME: (please print)

DATE:

SIGNATURE authorizing release of information:

.....

If not signed by the recipient of the practitioner's services who was involved in the matter, what is your relationship to the recipient?

.....

Information specific to the practitioner and involved recipient

Please list any professional titles used by the practitioner listed on the complaint form:

.....

Please indicate the conditions or reasons for which the recipient of the practitioner's services who was involved in the incident sought services from the practitioner (check below any that apply):

..... Pain relief or treatment due to specific medical diagnosis (e.g. cancer, autoimmune conditions, arthritis, etc.)

Please identify the medical diagnosis:

..... Back, shoulder, neck pain

..... Headaches (If so, were these migraine headaches? Yes No)

..... Insomnia

..... Digestive problems

..... Anxiety or stress

..... Depression

..... Addiction (e.g. nicotine or gambling)

..... Other (please identify)

Was the recipient of the practitioner's services also seeing a licensed health care professional for any of the conditions above?

..... Yes No

If yes, name the licensed health care professional and reasons for seeing the licensed health care professional:

.....

Was the licensed health care professional involved in coordinating or communicating with this complementary or alternative health care practitioner?

..... Yes No

If yes, please describe:"

(B) The director of commerce may adopt rules to amend the complaint form to ask for additional information, except that the director shall not adopt a rule allowing an individual to submit a form anonymously.

(C) At the director's discretion, the office may accept an individual's complaint and investigate that complaint if the individual does not use the form specified in division (A) of this section but includes all of the information required in that form when submitting the complaint.

Sec. 4783.11. (A) Except as provided in division (F) of this section, upon the receipt of a complaint from an individual regarding a registrant, the office of complementary or alternative health care practices may investigate the complaint. A registrant shall cooperate with an investigation implemented by the office, and a registrant may be subject to disciplinary action under section 4783.08 of the Revised Code if the registrant fails to cooperate with an investigation, except that the failure to cooperate shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence at issue. The director of commerce, on behalf of the office, may issue a subpoena to compel attendance of a witness or a subpoena duces tecum to produce all necessary documents and other evidentiary material. The director shall narrowly tailor the subpoena issued to address only the subject matter specified in a complaint and shall consult with the attorney general prior to issuing a subpoena for medical information concerning the recipient of the registrant's services and for any record maintained by a registrant for services provided to that recipient. Before issuance of a subpoena for such information, the director shall determine whether there is probable cause to believe that a violation of this chapter or any rule adopted under it alleged in the complaint has occurred and whether the information sought is relevant to the alleged violation and material to the investigation. The subpoena shall apply only to records that cover a reasonable period of time surrounding the alleged violation that are maintained by the registrant who is the subject of the complaint and by any licensed health care professional listed on the complaint form. If a person fails to testify or comply with a subpoena issued by the director, the director may apply to the appropriate court of common pleas for an order compelling compliance with the director's subpoena. A subpoena for a hearing may be served upon the individual named in the manner provided in section 119.09 of the Revised Code.

A subpoena issued for an investigation by the director may be served by a sheriff, the sheriff's deputy, or an office employee designated by the office. Service of a subpoena issued by the director may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is a person whose practice is authorized by this chapter, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery. A sheriff's deputy who serves a subpoena shall receive the same fees for service as a sheriff. Each witness who appears before the office in obedience to a subpoena shall receive the fees and mileage provided for witnesses in civil cases in the courts of common pleas.

The director may administer oaths to witnesses.

(B) The first time the office contacts a registrant about a complaint, the office shall inform the registrant in writing of all of the following:

(1) That the registrant is the subject of an investigation.

(2) That the registrant is required to cooperate with the investigation and comply with any subpoenas issued.

(3) That the registrant has the right to seek legal counsel prior to providing any information or cooperating with the investigation.

(4) Information about compliance with laws that may affect compliance with a subpoena.

(C) Information received by the office pursuant to an investigation is not subject to section 149.43 of the Revised Code and is not subject to discovery in any civil action.

The office shall disclose to the individual who is the subject of the complaint the name of the individual who submitted the complaint to the office or if the complainant is not a recipient of the registrant's services, the name of the recipient specified in the complaint, but otherwise the office shall not disclose the name of the complainant or recipient to the general public without proper authorization from the complainant or recipient.

The office may share any information the office receives pursuant to an investigation, including medical information about the recipient of the registrant's services and records maintained by the registrant or a licensed health care professional for the recipient, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating violations of statutes or administrative rules alleged to have been committed by the registrant. If a complainant did not sign a waiver authorizing disclosure of the complainant's name to anyone other than the individual who is the subject of the complaint or a recipient did not sign a waiver authorizing disclosure of the recipient's identity and medical information, the office and any agency or board that receives related information or records shall take all measures necessary to protect the complainant's identity or the recipient's identity, medical information, and records, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information or records in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but a court shall require that appropriate measures are taken to ensure that any part of the information that contains names or other identifying information about a recipient or complainant whose identity was protected by the office when

the information was in the office's possession is protected during the proceeding. The measures the court may take to ensure that the identity of a complainant or recipient is not disclosed to the public include sealing its records or deleting specific information from its records.

(D) The office shall forward the results of an investigation of a complaint to the director and include any recommendations for disciplinary action if the registrant violated division (A) of section 4783.08 of the Revised Code. After a hearing held in accordance with Chapter 119. of the Revised Code in which the director finds that a violation of this chapter has occurred, the director may impose the disciplinary action recommended by the office or any other appropriate disciplinary action described in section 4783.08 of the Revised Code.

(E) In addition to referring the results of an investigation to the director, the office may refer those results to the appropriate board so that the board may investigate for a potential violation of section 4715.09, 4715.52, 4723.03, 4723.44, 4723.73, 4725.02, 4725.41, 4729.28, 4730.02, 4731.15, 4731.41, 4731.43, 4731.60, 4732.21, 4734.14, 4755.02, 4755.48, 4755.62, 4759.02, 4762.02, or 4779.02 of the Revised Code. A registrant may be subject to prosecution under those chapters in addition to any disciplinary action taken by the director.

(F) If the office receives a complaint regarding a registrant and the complaint indicates that the registrant was acting or presenting the person's self as a licensed health care professional at the time the registrant provided complementary or alternative health care services, the office shall refer the complaint to the appropriate board for investigation of the registrant's practices.

(G) Any civil penalties collected pursuant to this section shall be deposited in the complementary or alternative health care services fund created under section 4783.14 of the Revised Code.

Sec. 4783.12. (A) Upon the receipt of a complaint, the office of complementary or alternative health care practices may investigate any individual who allegedly has violated section 4783.03 of the Revised Code. The office shall follow the requirements for disclosing the identity of a complainant or recipient of the individual's services, disclosing the recipient's medical information and records, obtaining subpoenas, and conducting investigations specified in section 4783.11 of the Revised Code for investigations of a violation of this chapter committed by a registrant. If, after investigation, the office determines that reasonable evidence exists that the individual has violated section 4783.03 of the Revised Code, the office shall submit a written report to the director of commerce. The office shall include a recommendation in the report that the director should take one or more of the following actions against the individual:

(1) Impose a fine against the individual of not more than ten thousand dollars;

(2) Censure or reprimand the individual;

(3) Impose a fee to cover the costs of an investigation;

(4) Take any other action the director considers necessary.

(B) Prior to imposing a recommended disciplinary action, the director shall provide a notice and a hearing in the same manner as prescribed in Chapter 119. of the Revised Code. If the director finds after the conclusion of the hearing that the individual has violated section 4783.03 of the Revised Code, the director may take the recommended action or any other appropriate action described in division (A) of this section. Any civil

penalties collected pursuant to this section shall be deposited into the complementary or alternative health care services fund created under section 4783.14 of the Revised Code.

Sec. 4783.13. If a registrant is found to have engaged in an activity listed in divisions (A)(1) to (16) of section 4783.08 of the Revised Code, a recipient of that registrant's services who suffers harm as a result of the registrant engaging in that activity may file a claim to recover the fees that recipient paid to that registrant. The recipient may file the claim in the court of common pleas where the violation occurred. An action for the recovery of fees under this section shall be brought within one year after a recipient knows or should have known that the registrant engaged in a prohibited activity.

Sec. 4783.14. (A) The office of complementary or alternative health care practices shall charge the following fees:

(1) To register, a fee of fifty dollars;

(2) To renew a registration, a fee of fifty dollars.

(B) The director of commerce may adopt rules in accordance with Chapter 119. of the Revised Code to adjust the amount of the fees charged under this section to cover the costs of administering and enforcing this chapter.

(C) There is hereby created the complementary or alternative health care services fund in the state treasury. The director of commerce and the office of complementary or alternative health care practices shall deposit all moneys received pursuant to this chapter into the fund. Money in the fund shall be used to pay the administrative expenses of the office and costs for the enforcement of this chapter and to assist in the payment of the costs of prosecution for a crime committed by a registrant in the course of the registrant's practice. If, at the end of a fiscal year, the director determines that excess moneys exist in the fund, the director may coordinate with the director of budget and management to transfer the excess funds to the division of administration fund created under section 121.08 of the Revised Code.

If a registrant commits a crime in the course of the registrant's practice, a prosecutor may apply to the director of commerce to receive money from the fund to pay for the prosecution of that crime. The prosecutor shall specify the name of the registrant, the alleged crime committed by the registrant, and the amount the prosecutor wishes to receive from the fund. The director of commerce shall distribute funds at the director's discretion and to the extent that funds are available. If a prosecutor receives court costs from the prosecution, the prosecutor shall use those court costs to repay the director of commerce the amount the prosecutor received from the fund. The director of commerce shall deposit the amount received from a prosecutor into the fund.

Sec. 4783.15. Nothing in this chapter modifies or changes the scope of practice of any licensee or certificate holder under Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 4755., 4759., 4762., or 4779. of the Revised Code, nor does it alter in any way the provisions of those chapters that prohibit fraud and the exploitation of patients and that require licensees and certificate holders to practice within their respective standards of care.

This chapter does not apply to a person who provides care in accordance with the creed or tenets of any recognized church or religious denomination to patients who rely upon treatment by prayer or spiritual means.

Section 2. That existing section 4759.02 of the Revised Code is hereby repealed.

Section 3. (A) This act shall be known as the "Ohio Consumer Health Freedom Act."

(B) The General Assembly of the State of Ohio finds the following:

(1) Based upon studies, research, and public policy declarations by state governments, including a Proclamation issued by the Governor of Florida, and laws enacted by the states of California, Idaho, Minnesota, and Rhode Island, it is evident that millions of Americans and hundreds of thousands of Ohioans presently receive a substantial amount of their health care from providers of complementary or alternative health care services.

(2) Numerous studies – including a comprehensive report by the National Institutes of Medicine and a study published by the New England Journal of Medicine – demonstrate that individuals who utilize complementary or alternative health care services vary widely in age, ethnicity, socioeconomic status, and other demographic categories.

(3) Notwithstanding the widespread use of complementary or alternative health care services, for Ohioans, access to these services has been hampered and the flow of information about these services inhibited.

(4) Ohio has failed to openly acknowledge the existence of health care therapies and methods that fall outside the conventional realm of health care. As a result, the providers of these services, who are not licensed by the state as health care professionals, cannot openly offer their services for fear of fines, penalties, or the restriction of their practice based on charges that such providers are in violation of Ohio's professional licensing laws, notwithstanding that the delivery of health care services by such providers has not been shown to pose a recognizable and imminent risk of significant and discernable harm to the public's health, safety, or welfare.

(5) Ohio's failure to acknowledge complementary or alternative health care services impedes the beneficial exchange of health care information between a complementary or alternative health care service provider and the provider's clients and between a complementary or alternative health care service provider and a licensed health care professional with regard to their mutual patients.

(C) The General Assembly hereby acknowledges Ohioans' desire for broader access to complementary or alternative health care therapies.

(D) The General Assembly hereby declares, based on the findings of this section, its intent to allow and protect the performance and delivery of, and public access to complementary or alternative health care services in Ohio, subject only to the limitations and restrictions provided in this act.

Section 4. Section 4783.03 of the Revised Code, as enacted by this act, shall take effect one year after the effective date of this act.