

## Illinois:

**Notes:** Introduced 2/26/2007 and is still in process. California model, with an more detailed disclosure. – a possible model to look at.

## 95TH GENERAL ASSEMBLY

### State of Illinois

### 2007 and 2008

#### HB3389

Introduced 2/26/2007, by Rep. Linda Chapa LaVia

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Consumer Access to Health Care Services Act to regulate the practices of those persons who provide complementary or alternative health care services and who are not licensed, registered, or certified to practice as health care practitioners under the laws of this State. Sets forth provisions concerning applicability; prohibited acts; disclosure; and exemptions from the Act. Grants rulemaking authority to the Department of Financial and Professional Regulation.

LRB095 10659 RAS 30890 b

FISCAL NOTE ACT

MAY APPLY

A BILL FOR

## HB3389 \*LRB09510659RAS30890b\*

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois, represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Consumer Access to Health Care Services Act.

Section 5. Findings; purpose.

(a) The General Assembly finds and declares each of the following:

(1) Based upon a comprehensive report by the National Institute of Health, a study published by the New England Journal of Medicine, and other research data, it is evident that hundreds of thousands of individuals in this State are presently receiving a substantial volume of health care services from unlicensed complementary and alternative health care practitioners. Those studies further indicate that individuals from a wide variety of age, ethnic, socioeconomic, and other demographic categories receive these complementary and alternative health care services.

(2) Notwithstanding the widespread use of these complementary and alternative health care services by

Illinois residents, the provision of these services may be in technical violation of the professional practice Acts that govern licensed health care practitioners in this

State. As a result, a complementary or alternative health care practitioner who is not licensed, registered, or certified as a health care practitioner under the laws of this State may be subject to fines, penalties, and the restriction of his or her practice, even though there is no demonstration that their practices are harmful to the public.

(b) Because the General Assembly finds that, in general, complementary and alternative health care services do not pose a known risk to the health and safety of the public and, in order to maximize and protect consumer options in health care and for the public's health and welfare, the purpose of this Act is to remove unwarranted barriers to public access to unlicensed complementary and alternative health care practitioners with appropriate consumer protections, as set forth in this Act.

Section 10. Definitions. In this Act:

"Complementary or alternative health care services" means health care and healing therapies and methods, the practice of which are not prohibited by persons who are not licensed, registered, or certified under the laws of this State.

"complementary or alternative health care services" includes without limitation acupressure; aromatherapy; ayurveda; biofield therapy; cranial sacral therapy; culturally-based traditional healing practices; dance, music, and art therapy;

energetic modalities; folk practices; practices using food and dietary supplements; individual biological therapies and the physical forces of heat, cold, water, touch, and light; herbology or herbalism; homeopathy; mind and body therapeutic practices; Native American medicine; naturopathy; polarity therapy; traditional Tibetan practices; and Qigong.

"Department" means the Department of Financial and Professional Regulation.

"Health care practitioner" means any physician, chiropractor, osteopath, podiatrist, dentist, advanced practice nurse, practical nurse, registered nurse, physician assistant, physical therapist, or other person licensed, registered, or certified to provide health care services under the laws of this State.

Section 15. Applicability.

(a) This Act applies to persons who provide complementary

or alternative health care services and who are not licensed, registered, or certified to practice as health care practitioners under the laws of this State.

(b) Nothing in this Act shall be construed to:

- (1) limit the right of any person to seek relief for negligence or any other civil remedy against a person providing complementary or alternative health care services subject to the provisions of this Act;
- (2) control, prevent, or restrict the practice,

service, or activity of lawfully marketing or distributing food products, including without limitation dietary supplements, educating customers about such products, or explaining the uses of such products;

- (3) restrict the ability of a local welfare agency, local law enforcement agency, or the State to take action regarding the maltreatment of minors under Illinois law; or
- (4) relieve a parent or guardian who obtains complementary or alternative health care services for his or her minor child from the duty to seek necessary medical care consistent with his or her obligations under Illinois law.

Section 20. Prohibited acts. Notwithstanding any other provision of law, a person who provides complementary or alternative health care services in accordance with this Act and who is not licensed, registered, or certified under the laws of this State as a health care practitioner shall not be in violation of the law based on the unlicensed practice of health care services or a health care profession, unless that person does any of the following activities:

(1) Performs surgery or any other procedure that harmfully punctures the skin, except for finger-pricking screening purposes.

(2) Prescribes or administers X-ray radiation to any person.

(3) Prescribes or administers a legend drug, a legend device, or any controlled substance to any person.

(4) Performs a chiropractic adjustment of the articulations of joints or the spine.

(5) Holds himself or herself out as a licensed massage therapist while providing massage therapy.

(6) Willfully diagnoses and treats a person's health condition in a manner that causes that person significant and discernable physical or mental harm.

(7) Holds out, states, indicates, advertises, or implies to any person that he or she is a health care practitioner of any kind licensed, registered, or certified under the laws of this State.

Section 25. Disclosure.

(a) Any person providing complementary or alternative health care services under this Act who is advertising or charging a fee for those services, must, prior to providing such services, disclose all of the following information to the client in a language that the client or the client's authorized agent understands and in a plainly worded written statement:

(1) The complementary or alternative health care practitioner's name, business address, and telephone number.

(2) The fact that the complementary or alternative health care practitioner is not licensed, registered, or

certified as a health care practitioner under the laws of this State.

(3) The nature of the health care services that the complementary or alternative health care practitioner provides.

(4) The degrees, training, experience, credentials, or other qualifications held by the complementary or alternative health care practitioner as they relate to the complementary or alternative health care services that he or she provides, followed by the following statement in bold print:

**"THE STATE OF ILLINOIS HAS NOT ADOPTED ANY EDUCATIONAL OR TRAINING STANDARDS FOR UNLICENSED COMPLEMENTARY OR ALTERNATIVE HEALTH CARE PRACTITIONERS. THIS DISCLOSURE IS FOR INFORMATIONAL PURPOSES ONLY.**

Under Illinois law, an unlicensed complementary or alternative health care practitioner may not provide a medical diagnosis, nor recommend discontinuance of medically prescribed treatments. If a client desires a medical diagnosis from a licensed physician, chiropractor, or acupuncturist or services from a physician, chiropractor, dentist, nurse, osteopath, physical or occupational therapist or massage therapist, dietitian, acupuncturist, athletic trainer, or any other type of licensed, registered, or certified health care practitioner, the client may seek such services from those

health care practitioners at any time."

(b) Prior to the provision of complementary or alternative

health care services to a client for the first time, a complementary or alternative health care practitioner must obtain a written acknowledgement from the client stating that the client has been provided with the information set forth in subsection (a) of this Section. The client must be provided with a copy of the written acknowledgement and the acknowledgement must be maintained by the complementary or alternative health care practitioner for at least 2 years as a confidential health document. If, at any time, the disclosure information required in subsection (a) of this Section changes, the complementary or alternative health care practitioner must update that information in an expedient manner, issue a revised disclosure to all returning clients, and obtain a new written acknowledgement from the client.

(c) Any advertisement for the provision of complementary or alternative health care services by a complementary or alternative health care practitioner must include a disclosure of the fact that he or she is not licensed, registered, or certified as a health care practitioner under the laws of this State.

Section 30. Exemptions.

(a) This Act does not apply to, control, or prevent any health care practice by a person regulated by the laws of this

State.

(b) This Act does not apply to, control, or prevent any health care practice from being practiced if it is already exempt from a governing State law, nor does it apply to, control, or prevent a person from providing health care services who is already exempt from a governing State law.

Section 35. Rulemaking. The Department may adopt all rules necessary for the implementation and administration of this Act.