

Senate Bill 577 – California Health Freedom Act Bill

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Based upon a comprehensive report by the National Institute of Medicine and other studies, including a study published by the New England Journal of Medicine, it is evident that millions of Californians, perhaps more than five million, are presently receiving a substantial volume of health care services from complementary and alternative health care practitioners. Those studies further indicate that individuals utilizing complementary and alternative health care services cut across a wide variety of age, ethnic, socioeconomic, and other demographic categories.

(b) Notwithstanding the widespread utilization of complementary and alternative medical services by Californians, the provision of many of these services may be in technical violation of the Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code). Complementary and alternative health care practitioners could therefore be subject to fines, penalties, and the restriction of their practice under the Medical Practice Act even though there was no demonstration that their practices are harmful to the public.

(c) The Legislature intends, by enactment of this act, to allow access by Californian residents to complementary and alternative health care practitioners who are not providing services that require medical training and credentials. The Legislature further finds that these nonmedical complementary and alternative services do not pose a known risk to the health and safety of California residents, and that restricting access to those services due to technical violations of the Medical Practice Act is not warranted.

SECTION 2. Section 2053.5 is added to the Business and Professions Code, to read:

2053.5 (a) Notwithstanding any other provision of law, a person who discloses to a client that he or she is not a licensed physician shall not be in violation of Section 2051, 2052, or 2053 unless that person does any of the following:

- (1) Conducts surgery or any other procedure on another person that punctures the skin or harmfully invades the body.
- (2) Administers or prescribes x-ray radiation to another person.
- (3) Prescribes or administers legend drugs or controlled substances to another person.
- (4) Recommends the discontinuance of legend drugs or controlled substances prescribed by an appropriately licensed practitioner.
- (5) Willfully diagnoses and treats a physical or mental condition of any person under circumstances or conditions that cause or create risk of great bodily harm, serious physical or mental illness, or death.
- (6) Sets fractures

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(7) Treats lacerations or abrasions through electrotherapy

(8a) Holds out, states, indicates, advertises, or implies to a client or prospective client that he or she is a physician, a surgeon, or a physician and surgeon;

(b) A person who advertises services subject to this Section shall disclose in any such printed media or advertising that the person is not licensed by the state.

2053.55 (a) A person who provides services to a client that are not described in Section 2053.5 shall first do all of the following:

(1) Disclose to the client in plain written language understandable by the client that he or she is not a licensed physician, that the treatment is alternative or complementary to healing arts services licensed by the state; and that the services to be provided are not licensed by the state.

(2) Disclose to the client in plain written language understandable by the client the nature of the services to be provided; and the theory of treatment upon which the services are based;

(3) Disclose to the client in plain written language understandable by the client the person's educational and other training, experience, and other qualifications regarding service to be provided;

(4) Obtain a written acknowledgment from the client that he/she has been provided with the information described in subsections (1), (2), and (3) of this subdivision. The client shall be provided with a copy of the written acknowledgment, which shall be maintained by the person providing the service for (3) three years.

(b) Nothing in this Section 2053.55 or in Section 2053.5 shall be construed to affect the scope of practice of licensed physicians and surgeons.

(c) Nothing in this Section 2053.55 or in Section 2053.5 shall be construed to limit the right of any person to seek relief for negligence or any other civil remedy against a person providing services subject to the requirements of this Section.

Reference this bill at: http://www.leginfo.ca.gov/pub/01-02/bill/sen/sb_0551-0600/sb_577_bill_20020923_chaptered.html

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