

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0834.01 Christy Chase x2008

SENATE BILL 13-215

SENATE SPONSORSHIP

Jahn, Aguilar, Newell, Nicholson, Ulibarri, Crowder, Marble, Todd

HOUSE SPONSORSHIP

Ginal, Stephens

Senate Committees

Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING ALTERNATIVE HEALTH CARE PRACTITIONERS, AND, IN
102 CONNECTION THEREWITH, ENACTING THE "COLORADO
103 NATURAL HEALTH CONSUMER PROTECTION ACT" TO PROVIDE
104 AN EXEMPTION FROM STATE REGULATION FOR UNLICENSED
105 COMPLEMENTARY AND ALTERNATIVE HEALTH CARE
106 PRACTITIONERS, REQUIRE A PERSON PROVIDING
107 COMPLEMENTARY AND ALTERNATIVE HEALTH CARE SERVICES
108 TO DISCLOSE TO CLIENTS THE PERSON'S EDUCATIONAL
109 BACKGROUND AND THE NATURE OF THE SERVICES TO BE
110 PROVIDED, AND PROHIBIT COMPLEMENTARY AND ALTERNATIVE
111 HEALTH CARE PRACTITIONERS FROM ENGAGING IN SPECIFIED
112 ACTIVITIES THAT ONLY STATE-REGULATED HEALTH CARE

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Existing law regulates the practice of certain health care professions, including the practice of medicine. These laws prohibit unlicensed persons from engaging in certain activities constituting, among other practice areas, the practice of medicine. Current law does not specifically address, prohibit, or permit the practices of persons who provide traditional, cultural, complementary, or alternative healing arts therapies and services.

The bill provides that a person engaging in traditional, cultural, complementary, or alternative healing arts and health care treatments who makes specified written disclosures to a client and who does not engage in specifically prohibited acts is not violating the practice acts regulating licensed, certified, or registered health care professionals. Failure to make the required disclosures to clients, or performing a prohibited act, constitutes a deceptive trade practice under the "Colorado Consumer Protection Act". Additionally, if a complementary and alternative health care practitioner engages in a prohibited act, he or she is subject to penalties for the unauthorized practice of a regulated profession.

The bill exempts from the definition of "practice of medicine" the rendering of complementary and alternative health care services if performed consistent with the requirements of the bill.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 6-1-724 as
3 follows:

4 **6-1-724. Unlicensed alternative health care practitioners -**
5 **deceptive trade practices - short title - legislative declaration -**
6 **definitions.** (1) THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS
7 THE "COLORADO NATURAL HEALTH CONSUMER PROTECTION ACT".

1 (2) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

2 (a) ACCORDING TO A JULY 2009 REPORT FROM THE NATIONAL
3 INSTITUTE OF HEALTH'S NATIONAL CENTER FOR COMPLEMENTARY AND
4 ALTERNATIVE MEDICINE, WHICH WAS BASED ON 2007 SURVEY DATA:

5 (I) THIRTY-EIGHT PERCENT OF AMERICANS USE COMPLEMENTARY
6 AND ALTERNATIVE MEDICINE; AND

7 (II) AMERICANS SPENT NEARLY THIRTY-FOUR BILLION DOLLARS IN
8 OUT-OF-POCKET COSTS IN A TWELVE-MONTH PERIOD FOR
9 COMPLEMENTARY AND ALTERNATIVE MEDICINE;

10 (b) IT IS ESTIMATED THAT MORE THAN ONE MILLION FIVE HUNDRED
11 THOUSAND COLORADANS CURRENTLY RECEIVE A SUBSTANTIAL VOLUME
12 OF HEALTH CARE SERVICES FROM COMPLEMENTARY AND ALTERNATIVE
13 HEALTH CARE PRACTITIONERS;

14 (c) THOSE STUDIES FURTHER INDICATE THAT INDIVIDUALS WHO
15 USE COMPLEMENTARY AND ALTERNATIVE HEALTH CARE SERVICES
16 REPRESENT A WIDE VARIETY OF AGE, ETHNIC, SOCIOECONOMIC, AND
17 OTHER DEMOGRAPHIC CATEGORIES;

18 (d) ALTHOUGH COMPLEMENTARY AND ALTERNATIVE HEALTH CARE
19 PRACTITIONERS ARE NOT REGULATED BY THE STATE AND ARE NOT
20 REQUIRED TO OBTAIN A STATE-ISSUED LICENSE, CERTIFICATION, OR
21 REGISTRATION, THE PROVISION OF ALTERNATIVE HEALTH CARE SERVICES
22 IN SOME CIRCUMSTANCES MAY BE INTERPRETED AS THE PROVISION OF A
23 HEALTH CARE SERVICE THAT ONLY A PROFESSIONAL WHO IS LICENSED OR
24 OTHERWISE REGULATED BY THE STATE MAY PERFORM, THEREBY
25 SUBJECTING COMPLEMENTARY AND ALTERNATIVE HEALTH CARE
26 PRACTITIONERS TO POTENTIAL FINES, PENALTIES, AND RESTRICTIONS OF
27 THEIR PRACTICES EVEN THOUGH THEIR PRACTICES DO NOT POSE AN

1 IMMINENT AND DISCERNABLE RISK OF SIGNIFICANT HARM TO PUBLIC
2 HEALTH AND SAFETY;

3 (e) BECAUSE THE STATE RECOGNIZES AND VALUES THE FREEDOM
4 OF CONSUMERS TO CHOOSE THEIR HEALTH CARE PROVIDERS, INCLUDING
5 THE ABILITY TO CHOOSE A PERSON WHO IS NOT REGULATED BY THE STATE,
6 THE INTENT OF THIS SECTION IS TO PROTECT CONSUMER CHOICE AND, IN
7 CONSIDERATION OF THE PUBLIC'S HEALTH AND SAFETY, TO REMOVE
8 TECHNICAL BARRIERS TO ACCESS TO UNREGULATED HEALTH CARE
9 PRACTITIONERS AND INCLUDE APPROPRIATE CONSUMER PROTECTIONS AND
10 DISCLOSURES AS REQUIRED IN THIS SECTION; AND

11 (f) NOTHING IN THIS SECTION:

12 (I) REQUIRES A PERSON ENGAGED IN TRADITIONAL, RELIGIOUS,
13 CULTURAL, COMPLEMENTARY, INTEGRATIVE, OR ALTERNATIVE HEALTH
14 CARE TO OBTAIN A LICENSE, CERTIFICATION, OR REGISTRATION FROM THE
15 STATE AS LONG AS THE PERSON PRACTICES WITHIN THE PARAMETERS OF
16 THIS SECTION;

17 (II) LIMITS THE PUBLIC'S RIGHT TO ACCESS TRADITIONAL,
18 CULTURAL, COMPLEMENTARY, OR ALTERNATIVE HEALTH CARE
19 PRACTITIONERS OR THE RIGHT OF AN UNREGULATED COMPLEMENTARY
20 AND ALTERNATIVE HEALTH CARE PRACTITIONER TO PRACTICE.

21 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
22 REQUIRES:

23 (a) "COMPLEMENTARY AND ALTERNATIVE HEALTH CARE
24 PRACTITIONER" MEANS A PERSON WHO PROVIDES COMPLEMENTARY AND
25 ALTERNATIVE HEALTH CARE SERVICES IN ACCORDANCE WITH THIS SECTION
26 AND WHO IS NOT LICENSED, CERTIFIED, OR REGISTERED BY THE STATE AS
27 A HEALTH CARE PROFESSIONAL.

1 (b) (I) "COMPLEMENTARY AND ALTERNATIVE HEALTH CARE
2 SERVICES" MEANS ADVICE AND THERAPY SERVICES:

3 (A) WITHIN THE BROAD DOMAIN OF HEALTH CARE AND HEALING
4 ARTS THERAPIES AND METHODS THAT ARE BASED ON COMPLEMENTARY
5 AND ALTERNATIVE THEORIES OF HEALTH AND WELLNESS; AND

6 (B) THAT ARE NOT PROHIBITED BY SUBSECTION (6) OF THIS
7 SECTION.

8 (II) "COMPLEMENTARY AND ALTERNATIVE HEALTH CARE
9 SERVICES" INCLUDE HEALING PRACTICES USING FOOD; FOOD EXTRACTS;
10 DIETARY SUPPLEMENTS, INCLUDING VITAMINS, HERBS, MINERALS, AND
11 ENZYMES; NUTRIENTS; HOMEOPATHIC REMEDIES AND PREPARATIONS; THE
12 PHYSICAL FORCES OF HEAT, COLD, WATER, TOUCH, SOUND, AND LIGHT;
13 AND MIND-BODY AND ENERGETIC HEALING PRACTICES.

14 (c) "HEALTH CARE PROFESSIONAL" MEANS A PERSON ENGAGED IN
15 A HEALTH CARE PROFESSION FOR WHICH THE STATE REQUIRES THE PERSON
16 TO OBTAIN A LICENSE, CERTIFICATION, OR REGISTRATION UNDER TITLE 12,
17 C.R.S., IN ORDER TO ENGAGE IN THE HEALTH CARE PROFESSION.

18 (4) THIS SECTION APPLIES TO ANY PERSON WHO IS NOT LICENSED,
19 CERTIFIED, OR REGISTERED BY THE STATE AS A HEALTH CARE
20 PROFESSIONAL AND WHO IS PRACTICING COMPLEMENTARY AND
21 ALTERNATIVE HEALTH CARE SERVICES.

22 (5) (a) A PERSON WHO IS NOT LICENSED, CERTIFIED, OR
23 REGISTERED BY THE STATE AS A HEALTH CARE PROFESSIONAL AND WHO IS
24 PRACTICING COMPLEMENTARY AND ALTERNATIVE HEALTH CARE SERVICES
25 CONSISTENT WITH THIS SECTION DOES NOT VIOLATE ANY LAW RELATING
26 TO A HEALTH CARE PROFESSION OR PROFESSIONAL PRACTICE ACT UNLESS
27 THE PERSON:

1 (I) ENGAGES IN AN ACTIVITY PROHIBITED IN SUBSECTION (6) OF
2 THIS SECTION; OR

3 (II) FAILS TO FULFILL THE DISCLOSURE DUTIES SPECIFIED IN
4 SUBSECTION (7) OF THIS SECTION.

5 (b) A PERSON WHO ENGAGES IN AN ACTIVITY PROHIBITED BY
6 SUBSECTION (6) OF THIS SECTION IS SUBJECT TO THE ENFORCEMENT
7 PROVISIONS, CIVIL PENALTIES, AND DAMAGES SPECIFIED IN PART 1 OF THIS
8 ARTICLE, IS NO LONGER EXEMPT FROM LAWS REGULATING THE PRACTICE
9 OF HEALTH CARE PROFESSIONALS UNDER TITLE 12, C.R.S., AND MAY BE
10 SUBJECT TO PENALTIES FOR UNAUTHORIZED PRACTICE OF A
11 STATE-REGULATED HEALTH CARE PROFESSION.

12 (c) A PERSON WHO FAILS TO COMPLY WITH SUBSECTION (7) OF THIS
13 SECTION IS SUBJECT TO THE ENFORCEMENT PROVISIONS, CIVIL PENALTIES,
14 AND DAMAGES SPECIFIED IN PART 1 OF THIS ARTICLE.

15 (6) A COMPLEMENTARY AND ALTERNATIVE HEALTH CARE
16 PRACTITIONER PROVIDING COMPLEMENTARY AND ALTERNATIVE HEALTH
17 CARE SERVICES UNDER THIS SECTION WHO IS NOT LICENSED, CERTIFIED, OR
18 REGISTERED BY THE STATE SHALL NOT:

19 (a) PERFORM SURGERY OR ANY PROCEDURE THAT PUNCTURES A
20 PERSON'S SKIN;

21 (b) ADMINISTER OR PRESCRIBE X RAY RADIATION TO ANOTHER
22 PERSON;

23 (c) PRESCRIBE OR ADMINISTER PRESCRIPTION DRUGS, DEVICES, OR
24 CONTROLLED SUBSTANCES TO ANOTHER PERSON;

25 (d) PERFORM A CHIROPRACTIC ADJUSTMENT OF THE
26 ARTICULATIONS OF JOINTS OR THE SPINE OF ANOTHER PERSON;

27 (e) SET FRACTURES;

1 (f) PRACTICE OR REPRESENT THAT HE OR SHE IS PRACTICING
2 MASSAGE THERAPY, WHICH, FOR PURPOSES OF THIS SECTION:

3 (I) INCLUDES PRACTICES WHERE THE PRIMARY PURPOSE IS TO
4 PROVIDE DEEP STROKING MUSCLE TISSUE MASSAGE OF THE HUMAN BODY;
5 AND

6 (II) EXCLUDES:

7 (A) STROKING OF THE HANDS, FEET, OR EARS; OR

8 (B) THE USE OF TOUCH, WORDS, AND DIRECTED MOVEMENT OF A
9 HEALING ART WITHIN THE BODYWORK COMMUNITY, INCLUDING HEALING
10 TOUCH, MIND-BODY CENTERING, ORTHOBIONOMY, REFLEXOLOGY,
11 ROLFING, REIKI, QIGONG, AND PRACTICES WITH THE PRIMARY PURPOSE OF
12 AFFECTING ENERGY SYSTEMS OF THE HUMAN BODY;

13 (g) PROVIDE A CONVENTIONAL MEDICAL DISEASE DIAGNOSIS TO A
14 CLIENT;

15 (h) MAKE A RECOMMENDATION TO DISCONTINUE CURRENT
16 MEDICAL TREATMENT PRESCRIBED BY A LICENSED HEALTH CARE
17 PROFESSIONAL; OR

18 (i) HOLD ONESELF OUT AS, STATE, INDICATE, ADVERTISE, OR IMPLY
19 TO A CLIENT OR PROSPECTIVE CLIENT THAT HE OR SHE IS A PHYSICIAN,
20 SURGEON, OR BOTH, OR THAT HE OR SHE IS A HEALTH CARE PROFESSIONAL
21 WHO IS LICENSED, CERTIFIED, OR REGISTERED BY THE STATE.

22 (7) (a) ANY PERSON PROVIDING COMPLEMENTARY AND
23 ALTERNATIVE HEALTH CARE SERVICES IN THIS STATE WHO IS NOT
24 LICENSED, CERTIFIED, OR REGISTERED BY THE STATE AS A HEALTH CARE
25 PROFESSIONAL, IS NOT REGULATED BY A PROFESSIONAL BOARD OR THE
26 DIVISION OF PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF
27 REGULATORY AGENCIES PURSUANT TO TITLE 12, C.R.S., AND IS

1 ADVERTISING OR CHARGING A FEE FOR HEALTH CARE SERVICES SHALL
2 PROVIDE TO EACH CLIENT DURING THE INITIAL CLIENT CONTACT THE
3 FOLLOWING INFORMATION IN A PLAINLY WORDED WRITTEN STATEMENT:

4 (I) THE COMPLEMENTARY AND ALTERNATIVE HEALTH CARE
5 PRACTITIONER'S NAME, BUSINESS ADDRESS, TELEPHONE NUMBER, AND ANY
6 OTHER CONTACT INFORMATION FOR THE PRACTITIONER;

7 (II) THE FACT THAT THE COMPLEMENTARY AND ALTERNATIVE
8 HEALTH CARE PRACTITIONER IS NOT LICENSED, CERTIFIED, OR REGISTERED
9 BY THE STATE AS A HEALTH CARE PROFESSIONAL;

10 (III) THE NATURE OF THE COMPLEMENTARY AND ALTERNATIVE
11 HEALTH CARE SERVICES TO BE PROVIDED;

12 (IV) A LISTING OF ANY DEGREES, TRAINING, EXPERIENCE,
13 CREDENTIALS, OR OTHER QUALIFICATIONS THE PERSON HOLDS REGARDING
14 THE COMPLEMENTARY AND ALTERNATIVE HEALTH CARE SERVICES HE OR
15 SHE PROVIDES; AND

16 (V) A STATEMENT THAT THE CLIENT SHOULD DISCUSS ANY
17 RECOMMENDATIONS MADE BY THE COMPLEMENTARY AND ALTERNATIVE
18 HEALTH CARE PRACTITIONER WITH THE CLIENT'S PRIMARY CARE
19 PHYSICIAN.

20 (b) BEFORE A COMPLEMENTARY AND ALTERNATIVE HEALTH CARE
21 PRACTITIONER PROVIDES COMPLEMENTARY AND ALTERNATIVE HEALTH
22 CARE SERVICES FOR THE FIRST TIME TO A CLIENT, THE COMPLEMENTARY
23 AND ALTERNATIVE HEALTH CARE PRACTITIONER SHALL OBTAIN A
24 WRITTEN, SIGNED ACKNOWLEDGMENT FROM THE CLIENT STATING THAT
25 THE CLIENT HAS RECEIVED THE INFORMATION DESCRIBED IN PARAGRAPH
26 (a) OF THIS SUBSECTION (7). THE COMPLEMENTARY AND ALTERNATIVE
27 HEALTH CARE PRACTITIONER SHALL GIVE A COPY OF THE

1 ACKNOWLEDGMENT TO THE CLIENT AND SHALL RETAIN THE ORIGINAL OR
2 A COPY OF THE ACKNOWLEDGMENT FOR AT LEAST TWO YEARS AFTER THE
3 LAST DATE OF SERVICE.

4 (c) A PERSON WHO PROVIDES COMPLEMENTARY AND ALTERNATIVE
5 HEALTH CARE SERVICES PURSUANT TO EMPLOYMENT OR WHO IS ACTING
6 PURSUANT TO THE DIRECTION OF A LICENSED HEALTH CARE FACILITY OR
7 LICENSED HEALTH CARE PROFESSIONAL WHILE WORKING WITHIN THE
8 SCOPE OF THE EMPLOYMENT OR DIRECTION IS NOT REQUIRED TO PROVIDE
9 THE DISCLOSURES REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (7).

10 (d) A COMPLEMENTARY AND ALTERNATIVE HEALTH CARE
11 PRACTITIONER SHALL NOT REPRESENT IN ANY ADVERTISEMENT FOR
12 COMPLEMENTARY AND ALTERNATIVE HEALTH CARE SERVICES THAT THE
13 COMPLEMENTARY AND ALTERNATIVE HEALTH CARE PRACTITIONER IS
14 LICENSED, CERTIFIED, OR REGISTERED BY THE STATE AS A HEALTH CARE
15 PROFESSIONAL.

16 (8) THE FOLLOWING PERSONS SHALL NOT PROVIDE
17 COMPLEMENTARY AND ALTERNATIVE HEALTH CARE SERVICES PURSUANT
18 TO THIS SECTION:

19 (a) A HEALTH CARE PROFESSIONAL WHOSE STATE-ISSUED LICENSE,
20 CERTIFICATION, OR REGISTRATION HAS BEEN REVOKED OR SUSPENDED BY
21 THE STATE AND HAS NOT BEEN REINSTATED;

22 (b) A PERSON WHO HAS BEEN CONVICTED OF A FELONY FOR A
23 CRIME AGAINST A PERSON OR A FELONY RELATED TO HEALTH CARE AND
24 WHO HAS NOT SATISFIED THE TERMS OF THE SENTENCE IMPOSED FOR THE
25 CRIME. AS USED IN THIS PARAGRAPH (b), "CONVICTED" INCLUDES
26 ENTERING A PLEA OF GUILTY OR NOLO CONTENDERE OR THE IMPOSITION OF
27 A DEFERRED SENTENCE.

1 (c) A PERSON WHO HAS BEEN DEEMED MENTALLY INCOMPETENT
2 BY A COURT OF LAW.

3 (9) THIS SECTION DOES NOT APPLY TO OR PROHIBIT:

4 (a) ANY LICENSED, CERTIFIED, OR REGISTERED HEALTH CARE
5 PROFESSIONAL FROM PRACTICING HIS OR HER REGULATED PROFESSION;

6 (b) THE PRACTICE OF HEALTH CARE SERVICES THAT ARE EXEMPT
7 FROM STATE REGULATION OR THE PROVISION OF HEALTH CARE SERVICES
8 BY A PERSON WHO IS EXEMPT FROM STATE REGULATION; OR

9 (c) A PERSON FROM SELLING DIETARY SUPPLEMENTS AS
10 STIPULATED UNDER THE FEDERAL "DIETARY SUPPLEMENT HEALTH AND
11 EDUCATION ACT OF 1994", PUB.L. 103-417, OR OTHER NATURAL HEALTH
12 CARE PRODUCTS OR ADVISING, EDUCATING, OR COUNSELING ABOUT THE
13 STRUCTURE AND FUNCTION OF THE HUMAN BODY AND THE USE OF
14 NATURAL HEALTH CARE PRODUCTS TO SUPPORT HEALTH AND WELLNESS.

15 (10) THIS SECTION DOES NOT LIMIT THE RIGHT OF ANY PERSON TO
16 SEEK RELIEF UNDER THIS ARTICLE OR ANY OTHER AVAILABLE CIVIL
17 REMEDY FOR DAMAGES RESULTING FROM THE NEGLIGENCE OF A PERSON
18 PROVIDING COMPLEMENTARY AND ALTERNATIVE HEALTH CARE SERVICES.

19 (11) A VIOLATION OF THIS SECTION CONSTITUTES A DECEPTIVE
20 TRADE PRACTICE UNDER THIS ARTICLE.

21 **SECTION 2.** In Colorado Revised Statutes, 6-1-105, **amend** (1)
22 introductory portion; and **add** (1) (ddd) as follows:

23 **6-1-105. Deceptive trade practices.** (1) A person engages in a
24 deceptive trade practice when, in the course of ~~such~~ THE person's
25 business, vocation, or occupation, ~~such~~ THE person:

26 (ddd) VIOLATES SECTION 6-1-724.

27 **SECTION 3.** In Colorado Revised Statutes, 12-36-106, **add** (3)

1 (z) as follows:

2 **12-36-106. Practice of medicine defined - exemptions from**
3 **licensing requirements - unauthorized practice by physician**
4 **assistants and anesthesiologist assistants - penalties - rules.** (3) A
5 person may engage in, and is not required to obtain a license or a
6 physician training license under this article with respect to, any of the
7 following acts:

8 (z) RENDERING COMPLEMENTARY AND ALTERNATIVE HEALTH
9 CARE SERVICES CONSISTENT WITH SECTION 6-1-724, C.R.S.

10 **SECTION 4. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, and safety.