

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.**

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A B I L L

To amend section 4759.02 and to enact sections 1
4783.01, 4783.02, 4783.03, 4783.04, 4783.05, 2
4783.06, 4783.07, 4783.08, 4783.09, 4783.10, 3
4783.11, 4783.12, 4783.13, 4783.14, and 4783.15 of 4
the Revised Code regarding the provision of 5
complementary or alternative health care services. 6

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

Section 1. That section 4759.02 be amended and sections 7
4783.01, 4783.02, 4783.03, 4783.04, 4783.05, 4783.06, 4783.07, 8
4783.08, 4783.09, 4783.10, 4783.11, 4783.12, 4783.13, 4783.14, and 9
4783.15 of the Revised Code be enacted to read as follows: 10

Sec. 4759.02. (A) Except as otherwise provided in this 11
section or in section 4759.10 of the Revised Code, no person shall 12
practice, offer to practice, or hold ~~himself~~ the person's self 13
forth to practice dietetics unless ~~he~~ the person has been licensed 14
under section 4759.06 of the Revised Code. 15

(B) Except for a licensed dietitian holding an inactive 16
license who does not practice or offer to practice dietetics, or a 17
person licensed under section 4759.06 of the Revised Code, or as 18

otherwise provided in this section or in section 4759.10 of the Revised Code 19
20

~~(1) No, no person shall use the title "dietitian"; and 21~~

~~(2) No person except for a person licensed under Chapters 22
4701. to 4755. of the Revised Code, when acting within the scope 23
of their practice, shall use any other title, designation, words, 24
letters, abbreviation, or insignia or combination of any title, 25
designation, words, letters, abbreviation, or insignia tending to 26
indicate that the person is practicing dietetics." 27~~

(C) Notwithstanding division (B) of this section, a person 28
who is a dietitian registered by the commission on dietetic 29
registration and who does not violate division (A) of this section 30
may use the designation "registered dietitian" and the 31
abbreviation "R.D." 32

(D) Division (A) of this section does not apply to: 33

(1) A student enrolled in an academic program that is in 34
compliance with division (A)(5) of section 4759.06 of the Revised 35
Code who is engaging in the practice of dietetics under the 36
supervision of a dietitian licensed under section 4759.06 of the 37
Revised Code or a dietitian registered by the commission on 38
dietetic registration, as part of the academic program; 39

(2) A person participating in the pre-professional experience 40
required by division (A)(6) of section 4759.06 of the Revised 41
Code; 42

(3) A person holding a limited permit under division (F) of 43
section 4759.06 of the Revised Code. 44

(E) Divisions (A) and (B) of this section do not apply to a 45
person who performs no more than fifteen days of dietetic practice 46
in the state and who meets at least one of the following 47
requirements: 48

(1) The Ohio board of dietetics determines that ~~he~~ the person 49
is licensed in another state with licensure requirements 50
equivalent to or more stringent than those set forth in this 51
chapter; 52

(2) ~~He~~ The person is a dietitian registered by the commission 53
on dietetic registration and resides in another state that either 54
has no dietitian licensure requirements or has licensure 55
requirements less stringent than those set forth in this chapter. 56

Sec. 4783.01. As used in this chapter: 57

(A) "Complementary or alternative health care service" means 58
the provision of any complementary or alternative health care 59
treatment to a patient by an individual who is not a licensed 60
health care professional or, if an individual is a licensed health 61
care professional, that individual is not acting as a licensed 62
health care professional when providing treatment. 63

(B) "Complementary or alternative health care treatment" 64
means a method of treating an individual's health condition that 65
is designed to be an alternative to prevailing or conventional 66
methods used to treat the health condition. Complementary or 67
alternative health care treatment may be provided in addition to 68
or in place of other treatment options. 69

(C) "Dangerous drug," "drug," "licensed health professional 70
authorized to prescribe drugs," and "prescription" have the same 71
meanings as in section 4729.01 of the Revised Code. 72

(D) "Licensed health care professional" means an individual 73
who holds a current, valid license or certificate issued under 74
Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 75
4755., 4759., 4762., or 4779. of the Revised Code. 76

(E) "Board" means the state dental board; board of nursing; 77
state board of optometry; state board of pharmacy; state medical 78

board; state board of psychology; state chiropractic board; Ohio 79
occupational therapy, physical therapy, and athletic trainers 80
board; Ohio board of dietetics; or state board of orthotics, 81
prosthetics, and pedorthics. 82

(F) "Registrant" means an individual who is registered under 83
section 4783.06 of the Revised Code. 84

Sec. 4783.02. It is hereby declared to be the public policy 85
of the state that the provision of complementary or alternative 86
health care services enhances the health and welfare of the 87
residents of this state. 88

Sec. 4783.03. No individual shall provide complementary or 89
alternative health care services unless that individual is 90
registered with the office of complementary or alternative health 91
care practices in accordance with section 4783.06 of the Revised 92
Code. 93

Sec. 4783.04. There is hereby created the office of 94
complementary or alternative health care practices in the 95
department of commerce. The office shall process all applications 96
for registration received under section 4783.06 of the Revised 97
Code and investigate all complaints received under sections 98
4783.11 and 4783.12 of the Revised Code. The office also shall 99
serve as a clearinghouse of information regarding complementary or 100
alternative health care treatments and individuals who provide 101
complementary or alternative health care services through the 102
development and performance of public education activities, 103
including outreach. 104

Sec. 4783.05. The director of commerce shall do all of the 105
following: 106

(A) Prescribe an application form to register individuals who 107

<u>wish to provide complementary or alternative health care services</u>	108
<u>that requests all of the following information from the applicant:</u>	109
<u>(1) The applicant's name, home and business addresses,</u>	110
<u>telephone numbers, gender, and date and location of birth;</u>	111
<u>(2) The modalities the applicant practices;</u>	112
<u>(3) The training and education the applicant has received;</u>	113
<u>(4) Whether the applicant has been convicted of or pleaded</u>	114
<u>guilty to a violation of section 2907.06, 2907.08, 2907.09,</u>	115
<u>2907.24, 2907.241, 2907.25, 2907.31, 2907.311, or 2907.33 of the</u>	116
<u>Revised Code or a felony, and if the applicant has been convicted</u>	117
<u>of or pleaded guilty to a felony, if that felony was subject to a</u>	118
<u>procedure described in division (D) of section 4783.06 of the</u>	119
<u>Revised Code;</u>	120
<u>(5) Any license or certificate the applicant holds that was</u>	121
<u>issued pursuant to Chapter 4715., 4723., 4725., 4729., 4730.,</u>	122
<u>4731., 4732., 4734., 4755., 4759., 4762., or 4779. of the Revised</u>	123
<u>Code or was issued by another state that permits the applicant to</u>	124
<u>engage in the practice of a health care profession similar to</u>	125
<u>those for which licenses or certificates are issued under those</u>	126
<u>chapters;</u>	127
<u>(6) Whether the applicant voluntarily surrendered a license</u>	128
<u>or certificate issued by a board in this state after civil or</u>	129
<u>criminal charges were filed against that applicant in this state</u>	130
<u>or another jurisdiction;</u>	131
<u>(7) Any medical or physical conditions that may impair the</u>	132
<u>applicant from providing complementary or alternative health care</u>	133
<u>services;</u>	134
<u>(8) Any treatment for alcohol abuse, controlled substance</u>	135
<u>abuse, prescription drug abuse, or illegal drug abuse that the</u>	136
<u>applicant has received during the ten years immediately preceding</u>	137

<u>the date the applicant submits the application;</u>	138
<u>(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;</u>	139
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<u>(10) Any current investigations involving the applicant conducted in a state that allows individuals to provide complementary or alternative health care services;</u>	142
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<u>(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.</u>	145
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<u>(B) Include all of the following in the application form the director prescribes under division (A) of this section:</u>	149
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<u>(1) The following statement:</u>	151
<u>"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."</u>	152
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<u>(2) The following agreement form:</u>	158
<u>"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:</u>	159
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<u>(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.</u>	163
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<u>(b) To retain a copy of each signed disclosure form and all</u>	167

records of a recipient of my services for a period of five years 168
after the last visit by the recipient. 169

(c) To refrain from engaging in the activities specified in 170
division (A) of section 4783.08 of the Revised Code." 171

(3) A place for the applicant's notarized signature. 172

(C) Maintain a list of all registrants and a list of all 173
disciplinary actions taken against registrants and provide public 174
access to both lists. 175

Sec. 4783.06. (A) To register with the office of 176
complementary or alternative health care practices, an applicant 177
shall satisfy all of the following criteria: 178

(1) Be at least eighteen years of age; 179

(2) Provide to the office evidence of graduation from the 180
twelfth grade or evidence of having an education equivalent to the 181
twelfth grade; 182

(3) Complete the application form prescribed by the director 183
of commerce and submit the form to the office; 184

(4) Provide to the office documentation listing the education 185
and training the applicant has received; 186

(5) If applicable, provide documentation that the applicant's 187
felony was the subject of a procedure specified in division (D) of 188
this section; 189

(6) Pay the fee for registration specified in section 4783.14 190
of the Revised Code to the office. 191

(B) The office shall register an applicant who meets all of 192
the requirements specified in division (A) of this section. 193

(C) Except as provided in divisions (D) to (F) of this 194
section, the office shall not register an applicant if either of 195
the following applies: 196

(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 229
register the applicant if that license or certificate was 230
suspended, placed on probation, or revoked because the applicant 231
engaged in practices that are permitted under this chapter. 232

(G) Notwithstanding any provision of the Revised Code to the 233
contrary, a registrant may refer to the registrant's self using a 234
title or qualification conferred on the registrant by virtue of 235
degrees, training, experience, credentials, or other 236
qualifications attained by the registrant. 237

Sec. 4783.07. A registration issued under this chapter is 238
valid for one year. The director of commerce shall adopt rules to 239
determine the date on which the one-year period begins and ends 240
and to prorate that time period for initial registrations. A 241
registrant may renew the registrant's registration by submitting 242
the renewal fee established in section 4783.14 of the Revised Code 243
to the office of complementary or alternative health care 244
practices within thirty days prior to the registration's 245
expiration. 246

Sec. 4783.08. (A) In accordance with Chapter 119. of the 247
Revised Code and except as limited by division (D) of this 248
section, the director of commerce, upon receiving the results of 249
an investigation conducted under section 4783.11 of the Revised 250
Code, may suspend or revoke a registration, impose restrictions 251
upon a registrant's practice, impose a fine in accordance with 252
division (C) of this section, censure or reprimand a registrant, 253
impose a fee to cover the costs of an investigation, or take any 254
other action justified if a registrant does any of the following: 255

(1) Performs surgery or any other procedure that punctures 256
the skin; 257

(2) Performs any adjustment of the articulation of the joints 258

<u>or spine of any individual;</u>	259
<u>(3) Uses or recommends any procedure involving ionizing radiation as defined in section 4773.01 of the Revised Code;</u>	260
<u>(4) Provides diagnosis of a disease;</u>	261
<u>(5) Provides diagnosis or treatment of a physical or mental health condition of any individual that proximately causes physical or mental harm;</u>	262
<u>(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;</u>	263
<u>(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;</u>	264
<u>(8) Administers, prescribes, possesses for sale, sells, or dispenses any drug or medical oxygen;</u>	265
<u>(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;</u>	266
<u>(10) Performs or provides enteral or parenteral nutrition;</u>	267
<u>(11) Promises a cure;</u>	268
<u>(12) Sets a fracture of a bone;</u>	269
<u>(13) Delivers a baby;</u>	270
<u>(14) Provides or performs an abortion;</u>	271
<u>(15) Inserts intra uterine devices;</u>	272
<u>(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:</u>	273

<u>(a) Any person who is less than eighteen years of age;</u>	288
<u>(b) Any person that the registrant knows to be mentally incompetent.</u>	289 290
<u>(17) Fails to comply with division (A) of section 4783.09 of the Revised Code.</u>	291 292
<u>(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.</u>	293 294 295 296 297 298
<u>(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.</u>	299 300 301 302 303
<u>(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.</u>	304 305 306 307 308 309 310
<u>Sec. 4783.09.</u> A registrant shall do all of the following:	311
<u>(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:</u>	312 313 314 315
<u>(1) The nature of the services to be provided, the theory on which the services are based, a description of each modality the</u>	316 317

registrant practices, and a description of the scope of each 318
modality the registrant practices; 319

(2) The degrees, training, experience, credentials, or other 320
qualifications held by the registrant with regard to the services 321
to be provided and addresses and phone numbers to allow the 322
recipient to obtain information about the registrant's degrees, 323
training, experience, credentials, or other qualifications; 324

(3) If the registrant is not a licensed health care 325
professional, the following statement, placed at the beginning and 326
end of the document, printed clearly in bold and in a font that is 327
at least two points larger than the font used to disclose the 328
other information required under this division, that reads 329
verbatim: 330

"I AM NOT LICENSED BY THE STATE OF OHIO AS A HEALTH CARE 331
PROFESSIONAL. I AM NOT A DOCTOR OR PHYSICIAN. THE STATE HAS NOT 332
ADOPTED ANY EDUCATIONAL OR TRAINING REQUIREMENTS FOR UNLICENSED 333
COMPLEMENTARY OR ALTERNATIVE HEALTH CARE SERVICE PROVIDERS." 334

(4) If the registrant also is a licensed health care 335
professional, the following statement, placed at the beginning and 336
the end of the document, printed clearly in bold and in a font 337
that is at least two points larger than the font used to disclose 338
the other information required under this division, that reads: 339

"I HOLD THE FOLLOWING LICENSES AND CERTIFICATIONS ISSUED BY 340
THE STATE OF OHIO: (list of licenses and certificates). HOWEVER, I 341
AM PROVIDING MY SERVICES TO YOU AS A REGISTRANT WITH THE OFFICE OF 342
COMPLEMENTARY OR ALTERNATIVE HEALTH CARE PRACTICES AND I AM NOT 343
PROVIDING THESE SERVICES AS A LICENSED HEALTH CARE PROFESSIONAL. 344
THE STATE HAS NOT ADOPTED ANY EDUCATION OR TRAINING REQUIREMENTS 345
FOR UNLICENSED COMPLEMENTARY OR ALTERNATIVE HEALTH CARE SERVICE 346
PROVIDERS." 347

(5) A statement that describes the following: 348

<u>(a) Any agreement or other arrangement between the registrant</u>	349
<u>and another provider of complementary or alternative health care</u>	350
<u>services or between the registrant and a licensed health care</u>	351
<u>professional whereby that registrant derives a financial or other</u>	352
<u>benefit;</u>	353
<u>(b) The nature of any benefit resulting from an agreement or</u>	354
<u>arrangement described in division (A)(5)(a) of this section.</u>	355
<u>(6) A list of the prohibited activities specified in division</u>	356
<u>(A) of section 4783.08 of the Revised Code;</u>	357
<u>(7) A list, by credentials only, of any licensed health care</u>	358
<u>professional that the registrant employs;</u>	359
<u>(8) A recommendation that the recipient visit the recipient's</u>	360
<u>appropriate licensed health care professional in addition to</u>	361
<u>receiving complementary or alternative health care services from</u>	362
<u>the registrant;</u>	363
<u>(9) A statement that the registrant will be available to</u>	364
<u>consult with the recipient's appropriate licensed health care</u>	365
<u>professional regarding the services the registrant provides to the</u>	366
<u>recipient;</u>	367
<u>(10) A statement that the registrant shall not provide</u>	368
<u>complementary or alternative health care services to either of the</u>	369
<u>following persons unless the registrant has the consent of the</u>	370
<u>person's parent or legal guardian:</u>	371
<u>(a) Any person who is less than eighteen years of age;</u>	372
<u>(b) Any person that the registrant knows to be mentally</u>	373
<u>incompetent.</u>	374
<u>(11) A description of the procedure to file a complaint with</u>	375
<u>the office of complementary or alternative health care practices</u>	376
<u>regarding the services provided by the registrant.</u>	377
<u>(B) Obtain from the recipient of the services a written</u>	378

acknowledgement that the recipient has been provided a document 379
disclosing all the information required to be disclosed pursuant 380
to division (A) of this section; 381

(C) Provide the recipient of the services with a copy of the 382
acknowledgement described in division (B) of this section; 383

(D) Maintain the acknowledgement described in division (B) of 384
this section from every recipient of the registrant's services for 385
at least five years after the date that a recipient receives 386
services from the registrant for the final time; 387

(E) Create a record for each recipient of the registrant's 388
services that consists of all of the following information: 389

(1) The recipient's name; 390

(2) The dates that the recipient receives services from the 391
registrant; 392

(3) A description of the recipient's condition; 393

(4) The treatment or service the registrant provides to the 394
recipient; 395

(5) Any financial arrangement between the registrant and the 396
recipient, including any payment arrangements made with a third 397
party. 398

(F) Maintain the records described in division (E) of this 399
section for a minimum of five years after the date that a 400
recipient receives services from the registrant for the final 401
time; 402

(G) Consult with or refer a recipient of the registrant's 403
services to an appropriate licensed health care professional if 404
the registrant determines, based on reasonable evidence, that no 405
substantial progress has been made with respect to that recipient 406
during the thirty-day period immediately following the date of the 407
recipient's initial visit with the registrant, unless either of 408

the following applies: 409

(1) The evaluation, treatment, or services are being provided 410
for fitness, wellness, or prevention purposes. 411

(2) The recipient was diagnosed with a disease or condition 412
prior to the recipient's initial visit to the registrant and 413
evaluation, treatment, or services are being provided by the 414
registrant for problems or symptoms associated with one or more of 415
those previously diagnosed diseases or conditions. 416

(H) Be available to consult with the appropriate licensed 417
health care professional who provides treatment to a recipient of 418
the registrant's services regarding the services the registrant 419
provides to the recipient; 420

(I) Create a notice that includes only the applicable 421
statement described in division (A)(3) or (A)(4) of this section 422
and post that notice in a conspicuous place in the registrant's 423
principal office or principal place of business. 424

Sec. 4783.10. (A) An individual who wishes to file a 425
complaint with the office of complementary or alternative health 426
care practices against a registrant or an individual providing 427
complementary or alternative health care services without being 428
registered shall submit the following form to the office: 429

"Ohio Department of Commerce 430

Office of Complementary or Alternative 431

Health Care Practices 432

COMPLAINT FORM 433

Information about the person making the complaint: 434

Your name: (first/middle/last) 435

Check one: Mr. Mrs. Ms. Dr. 436

Your address: 437

.....	438
<u>This address is (check one) Home Business School</u>	439
<u>Organization</u>	440
<u>Your telephone numbers:</u>	441
<u>Primary: ()</u>	442
<u>Secondary: ()</u>	443
<u>Your birth date:/...../.....</u>	444
<u>Is this complaint on your own behalf? Yes / No (Circle one)</u>	445
<u>If you answered "no" to the above question, please provide the</u>	446
<u>following information concerning the recipient of the</u>	447
<u>practitioner's services for whom you are filing this complaint:</u>	448
<u>Information about the Recipient:</u>	449
<u>Recipient name: (first/middle/last)</u>	450
<u>Check one: Mr. Mrs. Ms. Dr.</u>	451
<u>Recipient's address:</u>	452
.....	453
<u>This address is: (check one) Home Business</u>	454
<u>School Organization Residential facility</u>	455
<u>Recipient's telephone numbers:</u>	456
<u>Primary: ()</u>	457
<u>Secondary: ()</u>	458
<u>Recipient's birth date:/...../.....</u>	459
<u>Please check if you are:</u>	460
<u>..... A recipient of the practitioner's services</u>	461
<u>..... Another professional reporting agency</u>	462
<u>..... Relative or friend</u>	463

<u>..... Practitioner self reporting</u>	464
<u>..... Practitioner's supervisor</u>	465
<u>..... Other</u>	466
<u>Information about the practitioner who is the subject of the</u>	467
<u>complaint:</u>	468
<u>Practitioner name: (first/middle/last)</u>	469
<u>Check one: Mr. Mrs. Ms. Dr.</u>	470
<u>Practitioner's address:</u>	471
<u>.....</u>	472
<u>This address is: (check one) Home Business</u>	473
<u>School Organization</u>	474
<u>Practitioner's telephone numbers:</u>	475
<u>Primary: ()</u>	476
<u>Secondary: ()</u>	477
<u>Practitioner gender: Male Female</u>	478
<u>Name of practitioner's organization or business:</u>	479
<u>.....</u>	480
<u>Address of practitioner's organization or business:</u>	481
<u>.....</u>	482
<u>Narrative description of your complaint: On separate sheets of</u>	483
<u>paper, please describe the incident that occurred, where and when</u>	484
<u>the incident transpired, and who was involved. Include in your</u>	485
<u>narrative your relationship to the practitioner, where the</u>	486
<u>practitioner was employed at the time of the incident, and any</u>	487
<u>previous or subsequent encounters you may have had with the</u>	488
<u>practitioner. If possible, please include the identities and phone</u>	489
<u>numbers of anyone who may have either witnessed the incident or</u>	490

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. 491
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What would you like to see happen to resolve this complaint? 494
..... 495
..... 496
..... 497

The information I have given is true and accurate to the best of my knowledge and may be used as stated in this form. 498
499

Signature: 500

Date: 501

Warning: 502

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. 503
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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. 507
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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 515
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investigation, the Director of Commerce may take disciplinary 521
action against the practitioner. 522

Recipient Records Waiver Authorization: 523

(please complete, sign and date) 524

TO: (Recipient's physician, complementary or alternative health 525
care practitioner, clinic, appropriate licensed health care 526
professional, or third party payer) 527

I authorize the physician, practitioner, clinic, 528
professional, or payer named above to furnish a copy of my records 529
in the entity's possession, to allow those records to be 530
inspected, copied, or both by the Office of Complementary or 531
Alternative Health Care Practices, and any other appropriate state 532
or government agencies. I further authorize the physician, clinic, 533
professional, or payer named above to testify without limitation 534
as to any and all of the entity's findings, treatment, or both 535
referred to in these records. I release the Office and its agents 536
from liability for so releasing these records or testifying, and I 537
waive my privileges afforded me by section 2317.02 of the Revised 538
Code or any other applicable law relating to the disclosure or 539
introduction into evidence of health information. 540

This consent is subject to express revocation at any time 541
except to the extent that action has been taken in reliance on 542
this consent. Unless express revocation is made, this consent is 543
revoked upon conclusion of the Office's investigation. A photocopy 544
of this release shall be as valid as the original. I also agree to 545
permit and hereby authorize the Office to use my name, records, or 546
both in any legal proceeding arising out of this matter. 547

NAME: (please print) 548

DATE: 549

SIGNATURE authorizing release of information: 550

.....	551
<u>If not signed by the recipient of the practitioner's services who</u>	552
<u>was involved in the matter, what is your relationship to the</u>	553
<u>recipient?</u>	554
.....	555
<u>Information specific to the practitioner and involved</u>	556
<u>recipient</u>	557
<u>Please list any professional titles used by the practitioner</u>	558
<u>listed on the complaint form:</u>	559
.....	560
<u>Please indicate the conditions or reasons for which the</u>	561
<u>recipient of the practitioner's services who was involved in the</u>	562
<u>incident sought services from the practitioner (check below any</u>	563
<u>that apply):</u>	564
<u>..... Pain relief or treatment due to specific medical diagnosis</u>	565
<u>(e.g. cancer, autoimmune conditions, arthritis, etc.)</u>	566
<u>Please identify the medical diagnosis:</u>	567
<u>..... Back, shoulder, neck pain</u>	568
<u>..... Headaches (If so, were these migraine headaches? Yes</u>	569
<u>..... No)</u>	570
<u>..... Insomnia</u>	571
<u>..... Digestive problems</u>	572
<u>..... Anxiety or stress</u>	573
<u>..... Depression</u>	574
<u>..... Addiction (e.g. nicotine or gambling)</u>	575
<u>..... Other (please identify)</u>	576
<u>Was the recipient of the practitioner's services also seeing a</u>	577
<u>licensed health care professional for any of the conditions above?</u>	578

<u>..... Yes No</u>	579
<u>If yes, name the licensed health care professional and reasons for seeing the licensed health care professional:</u>	580
<u>.....</u>	581
<u>.....</u>	582
<u>Was the licensed health care professional involved in coordinating or communicating with this complementary or alternative health care practitioner?</u>	583
<u>..... Yes No</u>	584
<u>..... Yes No</u>	585
<u>If yes, please describe:"</u>	586
<u>(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.</u>	587
<u>(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.</u>	588
<u>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.</u>	589
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The director of commerce, on behalf of the office, may issue 609
a subpoena to compel attendance of a witness or a subpoena duces 610
tecum to produce all necessary documents and other evidentiary 611
material. The director shall narrowly tailor the subpoena issued 612
to address only the subject matter specified in a complaint and 613
shall consult with the attorney general prior to issuing a 614
subpoena for medical information concerning the recipient of the 615
registrant's services and for any record maintained by a 616
registrant for services provided to that recipient. Before 617
issuance of a subpoena for such information, the director shall 618
determine whether there is probable cause to believe that a 619
violation of this chapter or any rule adopted under it alleged in 620
the complaint has occurred and whether the information sought is 621
relevant to the alleged violation and material to the 622
investigation. The subpoena shall apply only to records that cover 623
a reasonable period of time surrounding the alleged violation that 624
are maintained by the registrant who is the subject of the 625
complaint and by any licensed health care professional listed on 626
the complaint form. If a person fails to testify or comply with a 627
subpoena issued by the director, the director may apply to the 628
appropriate court of common pleas for an order compelling 629
compliance with the director's subpoena. A subpoena for a hearing 630
may be served upon the individual named in the manner provided in 631
section 119.09 of the Revised Code. 632

A subpoena issued for an investigation by the director may be 633
served by a sheriff, the sheriff's deputy, or an office employee 634
designated by the office. Service of a subpoena issued by the 635
director may be made by delivering a copy of the subpoena to the 636
person named therein, reading it to the person, or leaving it at 637
the person's usual place of residence. When the person being 638
served is a person whose practice is authorized by this chapter, 639
service of the subpoena may be made by certified mail, restricted 640
delivery, return receipt requested, and the subpoena shall be 641

deemed served on the date delivery is made or the date the person 642
refuses to accept delivery. 643

A sheriff's deputy who serves a subpoena shall receive the 644
same fees for service as a sheriff. Each witness who appears 645
before the office in obedience to a subpoena shall receive the 646
fees and mileage provided for witnesses in civil cases in the 647
courts of common pleas. 648

The director may administer oaths to witnesses. 649

(B) The first time the office contacts a registrant about a 650
complaint, the office shall inform the registrant in writing of 651
all of the following: 652

(1) That the registrant is the subject of an investigation. 653

(2) That the registrant is required to cooperate with the 654
investigation and comply with any subpoenas issued. 655

(3) That the registrant has the right to seek legal counsel 656
prior to providing any information or cooperating with the 657
investigation. 658

(4) Information about compliance with laws that may affect 659
compliance with a subpoena. 660

(C) Information received by the office pursuant to an 661
investigation is not subject to section 149.43 of the Revised Code 662
and is not subject to discovery in any civil action. 663

The office shall disclose to the individual who is the 664
subject of the complaint the name of the individual who submitted 665
the complaint to the office or if the complainant is not a 666
recipient of the registrant's services, the name of the recipient 667
specified in the complaint, but otherwise the office shall not 668
disclose the name of the complainant or recipient to the general 669
public without proper authorization from the complainant or 670
recipient. 671

The office may share any information the office receives 672
pursuant to an investigation, including medical information about 673
the recipient of the registrant's services and records maintained 674
by the registrant or a licensed health care professional for the 675
recipient, with law enforcement agencies, other licensing boards, 676
and other governmental agencies that are prosecuting, 677
adjudicating, or investigating violations of statutes or 678
administrative rules alleged to have been committed by the 679
registrant. If a complainant did not sign a waiver authorizing 680
disclosure of the complainant's name to anyone other than the 681
individual who is the subject of the complaint or a recipient did 682
not sign a waiver authorizing disclosure of the recipient's 683
identity and medical information, the office and any agency or 684
board that receives related information or records shall take all 685
measures necessary to protect the complainant's identity or the 686
recipient's identity, medical information, and records, 687
notwithstanding any conflicting provision of the Revised Code or 688
procedure of the agency or board that applies when it is dealing 689
with other information or records in its possession. In a judicial 690
proceeding, the information may be admitted into evidence only in 691
accordance with the Rules of Evidence, but a court shall require 692
that appropriate measures are taken to ensure that any part of the 693
information that contains names or other identifying information 694
about a recipient or complainant whose identity was protected by 695
the office when the information was in the office's possession is 696
protected during the proceeding. The measures the court may take 697
to ensure that the identity of a complainant or recipient is not 698
disclosed to the public include sealing its records or deleting 699
specific information from its records. 700

(D) The office shall forward the results of an investigation 701
of a complaint to the director and include any recommendations for 702
disciplinary action if the registrant violated division (A) of 703
section 4783.08 of the Revised Code. After a hearing held in 704

accordance with Chapter 119. of the Revised Code in which the 705
director finds that a violation of this chapter has occurred, the 706
director may impose the disciplinary action recommended by the 707
office or any other appropriate disciplinary action described in 708
section 4783.08 of the Revised Code. 709

(E) In addition to referring the results of an investigation 710
to the director, the office may refer those results to the 711
appropriate board so that the board may investigate for a 712
potential violation of section 4715.09, 4715.52, 4723.03, 4723.44, 713
4723.73, 4725.02, 4725.41, 4729.28, 4730.02, 4731.15, 4731.41, 714
4731.43, 4731.60, 4732.21, 4734.14, 4755.02, 4755.48, 4755.62, 715
4759.02, 4762.02, or 4779.02 of the Revised Code. A registrant may 716
be subject to prosecution under those chapters in addition to any 717
disciplinary action taken by the director. 718

(F) If the office receives a complaint regarding a registrant 719
and the complaint indicates that the registrant was acting or 720
presenting the person's self as a licensed health care 721
professional at the time the registrant provided complementary or 722
alternative health care services, the office shall refer the 723
complaint to the appropriate board for investigation of the 724
registrant's practices. 725

(G) Any civil penalties collected pursuant to this section 726
shall be deposited in the complementary or alternative health care 727
services fund created under section 4783.14 of the Revised Code. 728

Sec. 4783.12. (A) Upon the receipt of a complaint, the office 729
of complementary or alternative health care practices may 730
investigate any individual who allegedly has violated section 731
4783.03 of the Revised Code. The office shall follow the 732
requirements for disclosing the identity of a complainant or 733
recipient of the individual's services, disclosing the recipient's 734
medical information and records, obtaining subpoenas, and 735

conducting investigations specified in section 4783.11 of the 736
Revised Code for investigations of a violation of this chapter 737
committed by a registrant. If, after investigation, the office 738
determines that reasonable evidence exists that the individual has 739
violated section 4783.03 of the Revised Code, the office shall 740
submit a written report to the director of commerce. The office 741
shall include a recommendation in the report that the director 742
should take one or more of the following actions against the 743
individual: 744

(1) Impose a fine against the individual of not more than ten 745
thousand dollars; 746

(2) Censure or reprimand the individual; 747

(3) Impose a fee to cover the costs of an investigation; 748

(4) Take any other action the director considers necessary. 749

(B) Prior to imposing a recommended disciplinary action, the 750
director shall provide a notice and a hearing in the same manner 751
as prescribed in Chapter 119. of the Revised Code. If the director 752
finds after the conclusion of the hearing that the individual has 753
violated section 4783.03 of the Revised Code, the director may 754
take the recommended action or any other appropriate action 755
described in division (A) of this section. Any civil penalties 756
collected pursuant to this section shall be deposited into the 757
complementary or alternative health care services fund created 758
under section 4783.14 of the Revised Code. 759

Sec. 4783.13. If a registrant is found to have engaged in an 760
activity listed in divisions (A)(1) to (16) of section 4783.08 of 761
the Revised Code, a recipient of that registrant's services who 762
suffers harm as a result of the registrant engaging in that 763
activity may file a claim to recover the fees that recipient paid 764
to that registrant. The recipient may file the claim in the court 765

of common pleas where the violation occurred. An action for the 766
recovery of fees under this section shall be brought within one 767
year after a recipient knows or should have known that the 768
registrant engaged in a prohibited activity. 769

Sec. 4783.14. (A) The office of complementary or alternative 770
health care practices shall charge the following fees: 771

(1) To register, a fee of fifty dollars; 772

(2) To renew a registration, a fee of fifty dollars. 773

(B) The director of commerce may adopt rules in accordance 774
with Chapter 119. of the Revised Code to adjust the amount of the 775
fees charged under this section to cover the costs of 776
administering and enforcing this chapter. 777

(C) There is hereby created the complementary or alternative 778
health care services fund in the state treasury. The director of 779
commerce and the office of complementary or alternative health 780
care practices shall deposit all moneys received pursuant to this 781
chapter into the fund. Money in the fund shall be used to pay the 782
administrative expenses of the office and costs for the 783
enforcement of this chapter and to assist in the payment of the 784
costs of prosecution for a crime committed by a registrant in the 785
course of the registrant's practice. If, at the end of a fiscal 786
year, the director determines that excess moneys exist in the 787
fund, the director may coordinate with the director of budget and 788
management to transfer the excess funds to the division of 789
administration fund created under section 121.08 of the Revised 790
Code. 791

If a registrant commits a crime in the course of the 792
registrant's practice, a prosecutor may apply to the director of 793
commerce to receive money from the fund to pay for the prosecution 794
of that crime. The prosecutor shall specify the name of the 795

registrant, the alleged crime committed by the registrant, and the 796
amount the prosecutor wishes to receive from the fund. The 797
director of commerce shall distribute funds at the director's 798
discretion and to the extent that funds are available. If a 799
prosecutor receives court costs from the prosecution, the 800
prosecutor shall use those court costs to repay the director of 801
commerce the amount the prosecutor received from the fund. The 802
director of commerce shall deposit the amount received from a 803
prosecutor into the fund. 804

Sec. 4783.15. Nothing in this chapter modifies or changes the 805
scope of practice of any licensee or certificate holder under 806
Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 807
4755., 4759., 4762., or 4779. of the Revised Code, nor does it 808
alter in any way the provisions of those chapters that prohibit 809
fraud and the exploitation of patients and that require licensees 810
and certificate holders to practice within their respective 811
standards of care. 812

This chapter does not apply to a person who provides care in 813
accordance with the creed or tenets of any recognized church or 814
religious denomination to patients who rely upon treatment by 815
prayer or spiritual means. 816

Section 2. That existing section 4759.02 of the Revised Code 817
is hereby repealed. 818

Section 3. (A) This act shall be known as the "Ohio Consumer 819
Health Freedom Act." 820

(B) The General Assembly of the State of Ohio finds the 821
following: 822

(1) Based upon studies, research, and public policy 823
declarations by state governments, including a Proclamation issued 824

by the Governor of Florida, and laws enacted by the states of 825
California, Idaho, Minnesota, and Rhode Island, it is evident that 826
millions of Americans and hundreds of thousands of Ohioans 827
presently receive a substantial amount of their health care from 828
providers of complementary or alternative health care services. 829

(2) Numerous studies - including a comprehensive report by 830
the National Institutes of Medicine and a study published by the 831
New England Journal of Medicine - demonstrate that individuals who 832
utilize complementary or alternative health care services vary 833
widely in age, ethnicity, socioeconomic status, and other 834
demographic categories. 835

(3) Notwithstanding the widespread use of complementary or 836
alternative health care services, for Ohioans, access to these 837
services has been hampered and the flow of information about these 838
services inhibited. 839

(4) Ohio has failed to openly acknowledge the existence of 840
health care therapies and methods that fall outside the 841
conventional realm of health care. As a result, the providers of 842
these services, who are not licensed by the state as health care 843
professionals, cannot openly offer their services for fear of 844
fines, penalties, or the restriction of their practice based on 845
charges that such providers are in violation of Ohio's 846
professional licensing laws, notwithstanding that the delivery of 847
health care services by such providers has not been shown to pose 848
a recognizable and imminent risk of significant and discernable 849
harm to the public's health, safety, or welfare. 850

(5) Ohio's failure to acknowledge complementary or 851
alternative health care services impedes the beneficial exchange 852
of health care information between a complementary or alternative 853
health care service provider and the provider's clients and 854
between a complementary or alternative health care service 855
provider and a licensed health care professional with regard to 856

their mutual patients. 857

(C) The General Assembly hereby acknowledges Ohioans' desire 858
for broader access to complementary or alternative health care 859
therapies. 860

(D) The General Assembly hereby declares, based on the 861
findings of this section, its intent to allow and protect the 862
performance and delivery of, and public access to complementary or 863
alternative health care services in Ohio, subject only to the 864
limitations and restrictions provided in this act. 865

Section 4. Section 4783.03 of the Revised Code, as enacted by 866
this act, shall take effect one year after the effective date of 867
this act. 868