

As Introduced

**131st General Assembly
Regular Session
2015-2016**

S. B. No. 194

Senator Jordan

A BILL

To amend section 4759.02 and to enact sections 1
4785.01, 4785.02, 4785.03, 4785.04, and 4785.05 2
of the Revised Code regarding the provision of 3
complementary or alternative health services. 4

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

Section 1. That section 4759.02 be amended and sections 5
4785.01, 4785.02, 4785.03, 4785.04, and 4785.05 of the Revised 6
Code be enacted to read as follows: 7

Sec. 4759.02. (A) Except as otherwise provided in this 8
section or in section 4759.10 of the Revised Code, no person 9
shall practice, offer to practice, or hold himself the person's 10
self forth to practice dietetics unless he the person has been 11
licensed under section 4759.06 of the Revised Code. 12

(B) Except for a licensed dietitian holding an inactive 13
license who does not practice or offer to practice dietetics, or 14
a person licensed under section 4759.06 of the Revised Code, or 15
as otherwise provided in this section or in section 4759.10 of 16
the Revised Code: 17

~~(1) No, no person shall use the title "dietitian", and~~ 18

~~(2) No person except for a person licensed under Chapters 19
4701. to 4755. of the Revised Code, when acting within the scope 20
of their practice, shall use any other title, designation, 21
words, letters, abbreviation, or insignia or combination of any 22
title, designation, words, letters, abbreviation, or insignia 23
tending to indicate that the person is practicing dietetics." 24~~

(C) Notwithstanding division (B) of this section, a person 25
who is a dietitian registered by the commission on dietetic 26
registration and who does not violate division (A) of this 27
section may use the designation "registered dietitian" and the 28
abbreviation "R.D." 29

(D) Division (A) of this section does not apply to: 30

(1) A student enrolled in an academic program that is in 31
compliance with division (A) (5) of section 4759.06 of the 32
Revised Code who is engaging in the practice of dietetics under 33
the supervision of a dietitian licensed under section 4759.06 of 34
the Revised Code or a dietitian registered by the commission on 35
dietetic registration, as part of the academic program; 36

(2) A person participating in the pre-professional 37
experience required by division (A) (6) of section 4759.06 of the 38
Revised Code; 39

(3) A person holding a limited permit under division (F) 40
of section 4759.06 of the Revised Code. 41

(E) Divisions (A) and (B) of this section do not apply to 42
a person who performs no more than fifteen days of dietetic 43
practice in the state and who meets at least one of the 44
following requirements: 45

(1) The Ohio board of dietetics determines that he the 46
person is licensed in another state with licensure requirements 47

equivalent to or more stringent than those set forth in this 48
chapter; 49

(2) ~~He~~ The person is a dietitian registered by the 50
commission on dietetic registration and resides in another state 51
that either has no dietitian licensure requirements or has 52
licensure requirements less stringent than those set forth in 53
this chapter. 54

Sec. 4785.01. As used in this chapter: 55

(A) "Bodywork" means any of the following: 56

(1) The practice of manually massaging only the hands, 57
feet, or ears; 58

(2) Reflexology; 59

(3) Cranial sacral therapy; 60

(4) Ortho-bionomy; 61

(5) The use of touch, words, or directed movement to 62
deepen awareness of existing patterns of body movement, or to 63
suggest new possibilities of movement, including the Feldenkrais 64
method of somatic education, the Rolf institute's Rolf movement 65
integration, and the Trager approach; 66

(6) The use of touch to affect the body's energy systems, 67
acupoints, or qi meridians, including Asian bodywork therapy, 68
acupressure, jin shin do, reiki, qigong, shiatsu, touch for 69
health, and tui na. 70

(B) "Complementary or alternative health care 71
practitioner" means an individual who provides complementary or 72
alternative health care services to a client and who is either 73
of the following: 74

<u>(1) An individual who is not a licensed health care professional;</u>	75 76
<u>(2) An individual who is a licensed health care professional but does not hold the individual's self out as a licensed health care professional when providing the services.</u>	77 78 79
<u>(C) "Complementary or alternative health care services" means the broad domain of health care and healing practices that may or may not be provided in addition to or in place of prevailing or conventional treatment options, as long as those health care and healing practices do not include any of the activities prohibited under section 4785.02 of the Revised Code. "Complementary or alternative health care services" includes, but is not limited to, all of the following:</u>	80 81 82 83 84 85 86 87
<u>(1) Anthroposophy;</u>	88
<u>(2) Aromatherapy;</u>	89
<u>(3) Ayurveda;</u>	90
<u>(4) Culturally traditional healing practices and healing traditions, including such practices and traditions that employ the use of plant medicines and foods, prayer, ceremony, or song;</u>	91 92 93
<u>(5) Detoxification practices and therapies;</u>	94
<u>(6) Energetic healing;</u>	95
<u>(7) Folk practices;</u>	96
<u>(8) Gerson therapy;</u>	97
<u>(9) Colostrum therapy;</u>	98
<u>(10) Healing practices utilizing food, dietary supplements, nutrients, and the physical forces of heat, cold, water, touch, and light;</u>	99 100 101

<u>(11) Healing touch;</u>	102
<u>(12) Herbology or herbalism;</u>	103
<u>(13) Homeopathy;</u>	104
<u>(14) Meditation;</u>	105
<u>(15) Mind-body healing practices;</u>	106
<u>(16) Naturopathy;</u>	107
<u>(17) Iridology;</u>	108
<u>(18) Noninvasive instrumentalities;</u>	109
<u>(19) Polarity, polarity therapy, or polarity bodywork therapy;</u>	110 111
<u>(20) Holistic kinesiology and other muscle testing techniques;</u>	112 113
<u>(21) Bodywork.</u>	114
<u>(D) "Dangerous drug," "drug," and "licensed health professional authorized to prescribe drugs" have the same meanings as in section 4729.01 of the Revised Code.</u>	115 116 117
<u>(E) "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., 4779., or 4783. of the Revised Code.</u>	118 119 120 121 122
<u>(F) "Executive agency" means a board, commission, agency, department, or similar entity that is part of the executive branch of state government.</u>	123 124 125
<u>Sec. 4785.02. No complementary or alternative health care practitioner shall do any of the following:</u>	126 127

<u>(A) Perform surgery or any other procedure that punctures the skin;</u>	128 129
<u>(B) Perform any adjustment of the articulation of the joints or spine of any individual;</u>	130 131
<u>(C) Use or recommend any procedure involving ionizing radiation, as defined in section 4773.01 of the Revised Code;</u>	132 133
<u>(D) Provide a medical diagnosis of a disease;</u>	134
<u>(E) Provide diagnosis or treatment of a physical or mental health condition of an individual if the diagnosis or treatment poses to that individual a recognizable and imminent risk of significant and discernible direct physical or mental harm;</u>	135 136 137 138
<u>(F) Recommend that an individual discontinue any of the following:</u>	139 140
<u>(1) Medical care;</u>	141
<u>(2) Medical treatment;</u>	142
<u>(3) Use of any dangerous drug, drug, or therapeutic device prescribed to the individual by a licensed health care professional authorized to prescribe drugs.</u>	143 144 145
<u>(G) Administer or prescribe any dangerous drug;</u>	146
<u>(H) Hold out, state, indicate, advertise, or otherwise imply to any person that the practitioner is licensed by this state to practice as a licensed health care professional unless the practitioner is a licensed health care professional;</u>	147 148 149 150
<u>(I) Perform or provide enteral or parenteral nutrition;</u>	151
<u>(J) Promise a cure;</u>	152
<u>(K) Set a fracture of a bone;</u>	153

(L) Perform bodywork or similar complementary or 154
alternative health care services in a manner that would 155
constitute the practice of massage therapy, as regulated by the 156
state medical board under Chapter 4731. of the Revised Code; 157

(M) Provide or perform an abortion; 158

(N) Insert intrauterine devices; 159

(O) Provide complementary or alternative health care 160
services to an individual who is less than eighteen years of age 161
without the consent of the individual's parent, guardian, or 162
other person having care or charge of the individual, except 163
when the individual who is less than eighteen years of age is 164
emancipated. 165

Sec. 4785.03. (A) Before providing complementary or 166
alternative health care services to an individual for the first 167
time, a complementary or alternative health care practitioner 168
shall provide a plainly worded, written document to the 169
individual who is to receive the services that discloses all of 170
the following information: 171

(1) The nature of services to be provided; 172

(2) The degrees, training, experience, credentials, or 173
other qualifications held by the practitioner with regard to the 174
services to be provided; 175

(3) If the practitioner is not a licensed health care 176
professional, a statement, printed clearly in not less than 177
eleven-point font, that reads as follows: 178

"THE STATE OF OHIO HAS NOT ADOPTED ANY EDUCATIONAL OR 179
TRAINING REQUIREMENTS FOR UNLICENSED COMPLEMENTARY OR 180
ALTERNATIVE HEALTH CARE PRACTITIONERS. UNDER OHIO LAW, AN 181

UNLICENSED COMPLEMENTARY OR ALTERNATIVE HEALTH CARE PRACTITIONER 182
MAY NOT PROVIDE A MEDICAL DIAGNOSIS OR RECOMMEND THAT A PERSON 183
DISCONTINUE A MEDICALLY PRESCRIBED TREATMENT." 184

(4) If the practitioner is a licensed health care 185
professional, a statement, printed clearly in not less than 186
eleven-point font, that reads as follows: 187

"I HOLD THE FOLLOWING LICENSES AND CERTIFICATIONS ISSUED 188
BY THE STATE OF OHIO: (list of licenses and certificates). 189
HOWEVER, I AM PROVIDING MY SERVICES TO YOU AS A COMPLEMENTARY OR 190
ALTERNATIVE HEALTH CARE PRACTITIONER, AND I AM NOT PROVIDING 191
SERVICES AS A LICENSED HEALTH CARE PROFESSIONAL. THE STATE HAS 192
NOT ADOPTED ANY EDUCATION OR TRAINING REQUIREMENTS FOR 193
UNLICENSED COMPLEMENTARY OR ALTERNATIVE HEALTH CARE 194
PRACTITIONERS." 195

(5) A statement that describes the following: 196

(a) Any agreement or other arrangement between the 197
practitioner and another complementary or alternative health 198
care practitioner or between the practitioner and a licensed 199
health care professional whereby that practitioner derives a 200
financial or other benefit; 201

(b) The nature of any benefit resulting from an agreement 202
or arrangement described in division (A) (5) (a) of this section. 203

(B) After providing the written document required by 204
division (A) of this section to an individual who is to receive 205
complementary or alternative health care services, the 206
complementary or alternative health care practitioner shall do 207
all of the following: 208

(1) Obtain from the individual a written acknowledgment 209
that the individual has been provided a document disclosing all 210

of the information required to be disclosed pursuant to division 211
(A) of this section; 212

(2) Provide the individual with a copy of the 213
acknowledgment described in division (B)(1) of this section; 214

(3) Maintain the acknowledgment described in division (B) 215
(1) of this section for at least two years after the date that 216
the individual receives services from the practitioner for the 217
final time. 218

Sec. 4785.04. (A) Notwithstanding any provision of the 219
Revised Code to the contrary, including any provision of Chapter 220
4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 4755., 221
4759., 4762., 4779., or 4783. of the Revised Code, a 222
complementary or alternative health care practitioner is not 223
considered to have violated a provision of this chapter or 224
Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 225
4755., 4759., 4762., 4779., or 4783. of the Revised Code unless 226
the practitioner commits an act described in section 4785.02 of 227
the Revised Code or fails to comply with section 4785.03 of the 228
Revised Code. 229

(B) An executive agency that receives a complaint against 230
a practitioner shall do both of the following: 231

(1) If the agency determines that the subject matter of 232
the complaint falls under the jurisdiction of another executive 233
agency, refer the complaint to the appropriate executive agency. 234

(2) If the agency determines that the subject matter of 235
the complaint falls under its jurisdiction, conduct a 236
preliminary investigation of the complaint to determine whether 237
the practitioner who is the subject of the complaint violated 238
section 4785.02 of the Revised Code or failed to comply with 239

section 4785.03 of the Revised Code. 240

(C) With respect to a preliminary investigation conducted 241
pursuant to division (B) of this section, all of the following 242
apply: 243

(1) If the investigation does not reveal that a violation 244
or failure to comply occurred, the executive agency shall not 245
pursue the matter further. 246

(2) If the investigation pertains to an alleged failure of 247
a practitioner to comply with section 4785.03 of the Revised 248
Code and reveals that the practitioner has failed to comply with 249
that section, the executive agency shall notify the practitioner 250
of its finding and request that the practitioner comply with the 251
requirements specified in that section. 252

(3) If the investigation pertains to an alleged violation 253
of section 4785.02 of the Revised Code by a practitioner and 254
reveals that the practitioner has engaged in an activity 255
specified in that section, or if a practitioner fails to comply 256
with a request made under division (C) (2) of this section, the 257
executive agency shall address the matter in the same manner it 258
addresses a matter involving an individual who engages in an 259
activity for which the individual is required to hold a license 260
or certificate, including referring the matter to the 261
appropriate prosecutorial authority. 262

Sec. 4785.05. Nothing in this chapter modifies or changes 263
the scope of practice of any licensee or certificate holder 264
under Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 265
4734., 4755., 4759., 4762., 4779., or 4783. of the Revised Code, 266
nor does it alter in any way the provisions of those chapters 267
that prohibit fraud and the exploitation of patients and that 268

require licensees and certificate holders to practice within 269
their respective standards of care. 270

This chapter does not apply to an individual who is exempt 271
from the requirement to obtain a license or certificate pursuant 272
to Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 273
4734., 4755., 4759., 4762., 4779., or 4783. of the Revised Code 274
and by that exemption is permitted to engage in the activities 275
in which the individual wishes to engage. 276

This chapter does not apply to an individual authorized 277
under Chapter 4731. of the Revised Code to practice medicine and 278
surgery or osteopathic medicine and surgery who is engaging in 279
activities specified in section 4731.227 of the Revised Code in 280
accordance with that section. 281

This chapter does not apply to the delivery of babies or 282
performance of post-delivery repairs. 283

Section 2. That existing section 4759.02 of the Revised 284
Code is hereby repealed. 285