

SENATE BILL No. 122

By Health Care Reform Legislative Oversight Committee

1-24

AN ACT relating to health care; providing for regulation of alternative and complementary health care providers; and repealing K.S.A. 65-2872a.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) "Secretary" means the secretary of health and environment or the secretary's designee.

(b) "Complementary and alternative health care client" means an individual who receives services from an unlicensed complementary and alternative health care practitioner.

(c)(1) "Complementary and alternative health care practices" means the broad domain of complementary and alternative healing methods and treatments including, but not limited to, accupuncture.

(2) Complementary and alternative health care practices do not include surgery, x-ray radiation, administering or dispensing legend drugs and controlled substances, setting fractures, the use of medical devices, any practice included in the practice of dentistry as defined in K.S.A. 65-1422, and amendments thereto, the manipulation or adjustment of articulations of joints or the spine as described in K.S.A. 65-2871, and amendments thereto or practices that invade the human body by puncture of the skin, except accupuncture.

(3) Complementary and alternative health care practices do not include practices that are permitted under K.S.A. 65-2872, and amendments thereto.

(d) "Office of unlicensed complementary and alternative health care practice" or "office" means the office of unlicensed complementary and alternative health care practice established in section 2, and amendments thereto.

(e) "Unlicensed complementary and alternative health care practitioner" means a person who:

(1) Either:

(A) Is not licensed or registered by a health-related licensing board or the secretary; or

(B) is licensed or registered by the secretary or a health-related licensing board other than the board of healing arts or the Kansas dental

1 board but does not hold oneself out to the public as being licensed or
2 registered by the secretary or a health-related licensing board when en-
3 gaging in complementary and alternative health care;

4 (C) has not had a license or registration issued by a health-related
5 licensing board or the secretary revoked or has not been disciplined in
6 any manner at any time in the past, unless the right to engage in com-
7plementary and alternative health care practices has been established by
8 order of the secretary;

9 (D) is engaging in complementary and alternative health care prac-
10 tices; and

11 (E) is providing complementary and alternative health care services
12 for remuneration or is holding oneself out to the public as a practitioner
13 of complementary and alternative health care practices.

14 (f) A health care practitioner licensed or registered by the secretary
15 or a health-related licensing board who engages in complementary and
16 alternative health care while practicing under the practitioner's license or
17 registration shall be regulated by and be under the jurisdiction of the
18 applicable health-related licensing board with regard to the complemen-
19 tary and alternative health care practices.

20 Sec. 2. (a) The office of unlicensed complementary and alternative
21 health care practice is created in the department of health and environ-
22 ment to investigate complaints and take and enforce disciplinary actions
23 against all unlicensed complementary and alternative health care practi-
24 tioners for violations of prohibited conduct, as defined in this act. The
25 office shall also serve as a clearinghouse on complementary and alterna-
26 tive health care practices and unlicensed complementary and alternative
27 health care practitioners through the dissemination of objective infor-
28 mation to consumers and through the development and performance of
29 public education activities, including outreach, regarding the provision of
30 complementary and alternative health care practices and unlicensed com-
31plementary and alternative health care practitioners who provide these
32 services.

33 (b) The secretary shall adopt rules and regulations necessary to im-
34 plement, administer or enforce provisions of this act.

35 Sec. 3. This act does not apply to, control, prevent or restrict the
36 practice, service or activity of lawfully marketing or distributing food
37 products, including dietary supplements as defined in the federal dietary
38 supplement health and education act, educating customers about such
39 products or explaining the uses of such products.

40 Sec. 4. Nothing in this act shall restrict the authority of a public of-
41 ficial or a public agency to take action regarding the mistreatment of
42 minors under the Kansas code for care of children. A parent who obtains
43 complementary and alternative health care for the parent's minor child

1 is not relieved of the duty to seek necessary medical care as provided by
2 law. A complementary or alternative health care practitioner who is pro-
3 viding services to a child who is not receiving necessary medical care must
4 make a report under K.S.A. 39-1402, and amendments thereto. A com-
5plementary or alternative health care provider is a mandated reporter
6 under K.S.A. 39-1402, and amendments thereto.

7 Sec. 5. (a) A person who has knowledge of any conduct constituting
8 grounds for disciplinary action relating to complementary and alternative
9 health care practices under this act may report the violation to the office.

10 (b) A state agency, political subdivision, agency of a local unit of gov-
11 ernment, private agency, hospital, clinic, prepaid medical plan or other
12 health care institution or organization located in this state shall report to
13 the office any action taken by the agency, institution or organization or
14 any of its administrators or medical or other committees to revoke, sus-
15 pend, restrict or condition an unlicensed complementary and alternative
16 health care practitioner's privilege to practice or treat complementary and
17 alternative health care clients in the institution or, as part of the organi-
18 zation, any denial of privileges or any other disciplinary action for conduct
19 that might constitute grounds for disciplinary action by the office under
20 this act. The institution, organization or governmental entity shall also
21 report the resignation of any unlicensed complementary and alternative
22 health care practitioners prior to the conclusion of any disciplinary action
23 proceeding for conduct that might constitute grounds for disciplinary ac-
24 tion under this act or prior to the commencement of formal charges but
25 after the practitioner had knowledge that formal charges were contem-
26 plated or were being prepared.

27 (c) A state or local professional society for unlicensed complementary
28 and alternative health care practitioners shall report to the office any
29 termination, revocation or suspension of membership or any other dis-
30 ciplinary action taken against an unlicensed complementary and alterna-
31 tive health care practitioner. If the society has received a complaint that
32 might be grounds for discipline under this act against a member on which
33 it has not taken any disciplinary action, the society shall report the com-
34 plaint and the reason why it has not taken action on it or shall direct the
35 complaint to the office.

36 (d) A licensed health professional shall report to the office personal
37 knowledge of any conduct that the licensed health professional reasonably
38 believes constitutes grounds for disciplinary action under this act by any
39 unlicensed complementary and alternative health care practitioner, in-
40 cluding conduct indicating that the individual may be incompetent or may
41 be mentally or physically unable to engage safely in the provision of serv-
42 ices. If the information was obtained in the course of a client relationship,
43 the client is an unlicensed complementary and alternative health care

1 practitioner and the treating individual successfully counsels the other
2 practitioner to limit or withdraw from practice to the extent required by
3 the impairment, the office may deem this limitation of or withdrawal from
4 practice to be sufficient disciplinary action.

5 (e) The administrator of a district court or any other court of com-
6 petent jurisdiction shall report to the office any judgment or other de-
7 termination of the court that adjudges or includes a finding that an un-
8 licensed complementary and alternative health care practitioner is
9 mentally ill, mentally incompetent, guilty of a felony, guilty of a violation
10 of federal or state narcotics laws or controlled substances act or guilty of
11 abuse or fraud under medicare or medicaid or that appoints a guardian
12 for the unlicensed complementary and alternative health care practitioner
13 under article 30 of chapter 59 of the Kansas Statutes Annotated, and
14 amendments thereto, or commits to a treatment facility an unlicensed
15 complementary and alternative health care practitioner under the care
16 and treatment act for mentally ill persons.

17 (f) An unlicensed complementary and alternative health care practi-
18 tioner shall report to the office any personal action that would require
19 that a report be filed with the office by any person, health care facility,
20 business or organization pursuant to subsections (b) through (d). The
21 practitioner shall also report the revocation, suspension, restriction, lim-
22 itation or other disciplinary action against the practitioner's license, cer-
23 tificate, registration or right of practice in another state or jurisdiction for
24 offenses that would be subject to disciplinary action in this state and also
25 report the filing of charges regarding the practitioner's license, certificate,
26 registration or right to practice in another state or jurisdiction.

27 (g) Reports required by subsections (b) through (f) must be submit-
28 ted not later than 30 days after the reporter learns of the occurrence of
29 the reportable event or transaction. The office may provide forms for the
30 submission of reports required by this section, may require that reports
31 be submitted on the forms provided and may adopt rules and regulations
32 necessary to ensure prompt and accurate reporting.

33 Sec. 6. (a) Except as provided in this subsection, any person, other
34 than the unlicensed complementary and alternative health care practi-
35 tioner who committed the violation, health care facility, business or or-
36 ganization is immune from civil liability or criminal prosecution for sub-
37 mitting a report to the office or for otherwise reporting to the office
38 violations or alleged violations of this act or for cooperating with an in-
39 vestigation of a report. Any person who knowingly or recklessly makes a
40 false report is liable in a civil suit for any damages suffered by the person
41 or persons so reported and for any punitive damages set by the court or
42 jury. A cause of action requires clear and convincing evidence that the
43 defendant made the statement with knowledge of its falsity or with reck-

1 less disregard for its truth or falsity. The report or statement or any state-
2 ment made in cooperation with an investigation or as part of a disciplinary
3 proceeding is privileged except in an action brought under this
4 subsection.

5 (b) The secretary and employees of the department of health and
6 environment and other persons engaged in the investigation of violations
7 and in the preparation, presentation and management of and testimony
8 pertaining to charges of violations of this act are immune from civil lia-
9 bility and criminal prosecution for any actions, transactions or publications
10 in the execution of or relating to their duties under this act.

11 Sec. 7. Upon judicial review of any disciplinary action taken by the
12 secretary under this act, the reviewing court shall seal the portions of the
13 administrative record that contain data on a complementary and alter-
14 native health care client or a complaint under section 4, and amendments
15 thereto, and shall not make those portions of the administrative record
16 available to the public.

17 Sec. 8. (a) An unlicensed complementary and alternative health care
18 practitioner who is the subject of an investigation or who is questioned
19 in connection with an investigation by or on behalf of the office shall
20 cooperate fully with the investigation. Cooperation includes responding
21 fully and promptly to any question raised by or on behalf of the office
22 relating to the subject of the investigation whether tape recorded or not,
23 providing copies of client records as reasonably requested by the office
24 to assist the office in its investigation and appearing at conferences or
25 hearings scheduled by the secretary. If the office does not have a written
26 consent from a client permitting access to the client's records, the unli-
27 censed complementary and alternative health care practitioner shall de-
28 lete in the record any data that identifies the client before providing it to
29 the office. If an unlicensed complementary and alternative health care
30 practitioner refuses to give testimony or produce any documents, books,
31 records or correspondence on the basis of the fifth amendment to the
32 constitution of the United States, the secretary may compel the unli-
33 censed complementary and alternative health care practitioner to provide
34 the testimony or information. The testimony or evidence may not be used
35 against the practitioner in any criminal proceeding. Challenges to re-
36 quests of the office may be brought before the appropriate agency or
37 court.

38 (b)(1) Data relating to investigations of complaints and disciplinary
39 actions involving unlicensed complementary and alternative health care
40 practitioners are governed by this subsection. Data relating to investiga-
41 tions of complaints and disciplinary actions involving unlicensed comple-
42 mentary and alternative health care practitioners are public data, regard-
43 less of the outcome of any investigation, action or proceeding.

1 (2) The following data are private data on individuals:
2 (A) Data on a complementary and alternative health care client;
3 (B) data on a complainant under section 4, and amendments thereto;
4 and

5 (C) data on the nature or content of unsubstantiated complaints when
6 the information is not maintained in anticipation of legal action.

7 (3) The provisions of paragraph (2) of subsection (b) shall expire on
8 July 1, 2006, and shall be reviewed by the legislature before July 1, 2006,
9 in accordance with K.S.A. 45-229, and amendments thereto.

10 (c)(1) The office shall establish internal operating procedures for:

11 (A) Exchanging information with state agencies, health-related and
12 law enforcement facilities, departments responsible for licensing health-
13 related occupations, facilities and programs and law enforcement person-
14 nel in this and other states; and

15 (B) coordinating investigations involving matters within the jurisdic-
16 tion of more than one regulatory agency.

17 (2) The procedures for exchanging information must provide for the
18 forwarding to the entities described in paragraph (c)(1)(A) of information
19 and evidence including the results of investigations that are relevant to
20 matters within the regulatory jurisdiction of the organizations in para-
21 graph (c)(1)(A). Confidential information exchanged under this section
22 shall be treated as confidential by the agency receiving the data.

23 (3) The office shall establish procedures for exchanging information
24 with other states regarding disciplinary action against unlicensed comple-
25 mentary and alternative health care practitioners.

26 (4) The office shall forward to another governmental agency any com-
27 plaints received by the office that do not relate to the office's jurisdiction
28 but that relate to matters within the jurisdiction of the other governmental
29 agency. The agency to which a complaint is forwarded shall advise the
30 office of the disposition of the complaint. A complaint or other infor-
31 mation received by another governmental agency relating to a statute or
32 rule and regulation that the office is empowered to enforce must be for-
33 forwarded to the office to be processed in accordance with this section.

34 (5) The office shall furnish to a person who made a complaint a de-
35 scription of the actions of the office relating to the complaint.

36 Sec. 9. The office shall maintain and keep current a file containing
37 the reports and complaints filed against unlicensed complementary and
38 alternative health care practitioners within the secretary's jurisdiction.
39 Each complaint filed with the office must be investigated.

40 Sec. 10. (a) The secretary may impose disciplinary action as de-
41 scribed in section 10, and amendments thereto, against any unlicensed
42 complementary and alternative health care practitioner. The following
43 conduct is prohibited and is grounds for disciplinary action:

1 (1) Conviction of a crime or an admission of guilt or a no contest plea
2 in any court in Kansas or any other jurisdiction in the United States rea-
3 sonably related to engaging in complementary and alternative health care
4 practices. Conviction as used in this subsection includes a conviction of
5 an offense which if committed in this state would be deemed a felony or
6 misdemeanor without regard to its designation elsewhere or a criminal
7 proceeding where a finding or verdict of guilty is made or returned but
8 the adjudication of guilt is either withheld or not entered.

9 (2) Conviction of any crime against a person. For purposes of this
10 act, a crime against a person means a violation of article 34 of chapter 21
11 of the Kansas Statutes Annotated, and amendments thereto.

12 (3) Failure to comply with the self-reporting requirements of sub-
13 section (g) of section 4, and amendments thereto.

14 (4) Engaging in sexual contact with a complementary and alternative
15 health care client or former client, engaging in contact that may be rea-
16 sonably interpreted by a client as sexual, engaging in any verbal behavior
17 that is seductive or sexually demeaning to the patient or engaging in sexual
18 exploitation of a client or former client. For purposes of this subsection
19 “former client” means a person who has obtained services from the un-
20 licensed complementary and alternative health care practitioner within
21 the past two years.

22 (5) Advertising that is false, fraudulent, deceptive or misleading.

23 (6) Conduct likely to deceive, defraud or harm the public or which
24 demonstrates a willful or careless disregard for the health, welfare or
25 safety of a complementary and alternative health care client or any other
26 practice that may create danger to any client’s life, health or safety, in any
27 of which cases, proof of actual injury need not be established.

28 (7) Adjudication as being mentally incompetent or as a person who
29 is dangerous to oneself or adjudication pursuant to article 29 of chapter
30 59 of the Kansas Statutes Annotated, and amendments thereto, as being
31 chemically dependent, mentally ill, mentally retarded, mentally ill and
32 dangerous to the public, or as a sexual predator or sexually dangerous
33 person.

34 (8) Inability to engage in complementary and alternative health care
35 practices with reasonable safety to complementary and alternative health
36 care clients.

37 (9) The habitual overindulgence in the use of or the dependence on
38 intoxicating liquors.

39 (10) Improper or unauthorized personal or other use of any legend
40 drugs or controlled substance as defined in article 41 of chapter 65 of the
41 Kansas Statutes Annotated, and amendments thereto, or any chemicals
42 as defined in article 41 of chapter 65 of the Kansas Statutes Annotated,
43 and amendments thereto.

1 (11) Revealing a communication from, or relating to, a complemen-
2 tary and alternative health care client except when otherwise required or
3 permitted by law.

4 (12) Failure to comply with a complementary and alternative health
5 care client's request made consistent with the requirements of law or to
6 furnish a complementary and alternative health care client record or re-
7 port required by law.

8 (13) Splitting fees or promising to pay a portion of a fee to any other
9 professional other than for services rendered by the other professional to
10 the complementary and alternative health care client.

11 (14) Engaging in abusive or fraudulent billing practices including vi-
12 olations of the federal medicare and medicaid laws or state medical as-
13 sistance laws.

14 (15) Failure to make reports consistent with the requirements of law
15 or cooperate with an investigation of the office.

16 (16) Obtaining money, property or services from a complementary
17 and alternative health care client, other than reasonable fees for services
18 provided to the client, through the use of undue influence, harassment,
19 duress, deception or fraud.

20 (17) Undertaking or continuing a professional relationship with a
21 complementary and alternative health care client in which the objectivity
22 of the unlicensed complementary and alternative health care practitioner
23 would be impaired.

24 (18) Failure to provide a complementary and alternative health care
25 client with a copy of the client bill of rights or violation of any provision
26 of the client bill of rights.

27 (19) Violating any order issued by the secretary.

28 (20) Failure to comply with any provision of this act and any rules
29 and regulations adopted under this act.

30 (21) Failure to comply with any additional disciplinary grounds es-
31 tablished by the secretary by rules and regulations.

32 (22) Revocation, suspension, restriction, limitation or other discipli-
33 nary action against any health care license, certificate, registration or right
34 to practice of the unlicensed complementary and alternative health care
35 practitioner in this or another state or jurisdiction for offenses that would
36 be subject to disciplinary action in this state or failure to report to the
37 office that charges regarding the practitioner's license, certificate, regis-
38 tration or right of practice have been brought in this or another state or
39 jurisdiction.

40 (23) Use of the title "doctor," "Dr.," or "physician" alone or in com-
41 bination with any other words, letters or insignia to describe the comple-
42 mentary and alternative health care practices the practitioner provides.

43 (24) Failure to provide a complementary and alternative health care

1 client with a recommendation that the client see a health care provider
2 who is licensed or registered by a health related licensing board or the
3 secretary, if there is a reasonable likelihood that the client needs to be
4 seen by a licensed or registered health care provider.

5 (25) An unlicensed complementary and alternative health care prac-
6 titioner shall not provide a medical diagnosis or recommend discontinu-
7 ance of medically prescribed treatments.

8 (b) The fact that a complementary and alternative health care prac-
9 tice may be a less customary approach to health care shall not constitute
10 the basis of a disciplinary action per se.

11 (c) In disciplinary actions alleging a violation of paragraphs (1)
12 through (3) or (7) of subsection (a), a copy of the judgment or proceeding
13 under the seal of the court or of the administrative agency that entered
14 the same is admissible into evidence without further authentication and
15 constitutes prima facie evidence of its contents.

16 (d)(1) If the secretary has probable cause to believe that an unli-
17 censed complementary and alternative health care practitioner has en-
18 gaged in conduct prohibited by paragraphs (7) through (10) of subsection
19 (a), the secretary may issue an order directing the practitioner to submit
20 to a mental or physical examination or chemical dependency evaluation.
21 For the purpose of this subsection, every unlicensed complementary and
22 alternative health care practitioner is deemed to have consented to submit
23 to a mental or physical examination or chemical dependency evaluation
24 when ordered to do so in writing by the secretary and further to have
25 waived all objections to the admissibility of the testimony or examination
26 reports of the health care provider performing the examination or eval-
27 uation on the grounds that the same constitute a privileged communi-
28 cation. Failure of an unlicensed complementary and alternative health
29 care practitioner to submit to an examination or evaluation when ordered,
30 unless the failure was due to circumstances beyond the practitioner's con-
31 trol, constitutes an admission that the unlicensed complementary alter-
32 native health care practitioner violated paragraphs (7) through (10) of
33 subsection (a), based on the factual specifications in the examination or
34 evaluation order and may result in a default and final disciplinary order
35 being entered after a contested case hearing. An unlicensed complemen-
36 tary and alternative health care practitioner affected under this paragraph
37 shall at reasonable intervals be given an opportunity to demonstrate that
38 the practitioner can resume the provision of complementary and alter-
39 native health care practices with reasonable safety to clients. In any pro-
40 ceeding under this paragraph, neither the record of proceedings nor the
41 orders entered by the secretary shall be used against an unlicensed com-
42plementary and alternative health care practitioner in any other
43 proceeding.

1 (2) In addition to ordering a physical or mental examination or chem-
2 ical dependency evaluation, the secretary, consistent with the require-
3 ments of law, may limit access to medical or other health data, obtain
4 medical data and health records relating to an unlicensed complementary
5 and alternative health care practitioner without the practitioner's consent
6 if the secretary has probable cause to believe that a practitioner has en-
7 gaged in conduct prohibited by paragraphs (7) through (10) of subsection
8 (a). The medical data may be requested from a provider consistent with
9 the requirements of law, an insurance company or a government agency,
10 including the department of health and environment. A provider, insur-
11 ance company or government agency shall comply with any written re-
12 quest of the secretary under this subsection and is not liable in any action
13 for damages for releasing the data requested by the secretary if the data
14 are released pursuant to a written request under this subsection, unless
15 the information is false and the person or organization giving the infor-
16 mation knew or had reason to believe the information was false. Infor-
17 mation obtained under this subsection is confidential.

18 Sec. 11. (a) When the secretary determines that an unlicensed com-
19 complementary and alternative health care practitioner has violated any pro-
20 vision of this act, the secretary may take one or more of the following
21 actions, only against the individual practitioner:

- 22 (1) Revoke the right to practice;
- 23 (2) suspend the right to practice;
- 24 (3) impose limitations or conditions on the practitioner's provision of
25 complementary and alternative health care practices, impose rehabilita-
26 tion requirements or require practice under supervision;
- 27 (4) impose a civil penalty not exceeding \$10,000 for each separate
28 violation, the amount of the civil penalty to be fixed so as to deprive the
29 practitioner of any economic advantage gained by reason of the violation
30 charged or to reimburse the office for all costs of the investigation and
31 proceeding;
- 32 (5) censure or reprimand the practitioner;
- 33 (6) impose a fee on the practitioner to reimburse the office for all or
34 part of the cost of the proceedings resulting in disciplinary action includ-
35 ing, but not limited to, the amount paid by the office for services from
36 the office of administrative hearings, attorney fees, court reports, wit-
37 nesses, reproduction of records, staff time and expenses incurred by the
38 staff of the office of unlicensed complementary and alternative health
39 care practice; or
- 40 (7) any other action justified by the case.

41 (b) If the secretary has determined that the alternative health care
42 practitioner has been convicted of a crime under paragraphs (1) or (2) of
43 subsection (a) of section 9, and amendments thereto, then the secretary

1 must determine in accordance with this section whether the alternative
2 health care practitioner has been sufficiently rehabilitated to warrant the
3 public trust. The secretary, in making such a determination, shall consider
4 the following factors:

- 5 (1) The present moral fitness of the alternative health care provider;
- 6 (2) the demonstrated consciousness of the wrongful conduct and dis-
7 repute which the conduct has brought the profession;
- 8 (3) the extent of the alternative health care practitioner's
9 rehabilitation;
- 10 (4) the nature and seriousness of the original conduct;
- 11 (5) the conduct of the alternative health care provider subsequent to
12 being disciplined;
- 13 (6) the time elapsed since the original discipline;
- 14 (7) the alternative health care practitioner's character, maturity and
15 experience at the time of the original conduct;
- 16 (8) the alternative health care practitioner's present competence in
17 the skills of the profession; and
- 18 (9) such other factors as the secretary deems appropriate.

19 (c) In all matters relating to the lawful activities of the office, the
20 secretary may issue subpoenas and compel the attendance of witnesses
21 and the production of all necessary papers, books, records, documents
22 and other evidentiary material. Any person failing or refusing to appear
23 or testify regarding any matter about which the person may be lawfully
24 questioned or failing to produce any papers, books, records, documents
25 or other evidentiary materials in the matter to be heard, after having been
26 required by order of the secretary or by a subpoena of the secretary to
27 do so may, upon application to the district court in any district, be ordered
28 to comply with the order or subpoena. The secretary may administer oaths
29 to witnesses or take their affirmation. Depositions may be taken within
30 or without the state in the manner provided by law for the taking of
31 depositions in civil actions. A subpoena or other process may be served
32 upon a person anywhere within the state by an officer authorized to serve
33 subpoenas or other process in civil actions in the same manner as pre-
34 scribed by law for service of process issued by any district court of this
35 state.

36 (d) If the secretary proposes to take action against the practitioner as
37 described in subsection (a), the secretary must first notify the practitioner
38 against whom the action is proposed to be taken and provide the practi-
39 tioner with an opportunity to request a hearing under the Kansas admin-
40 istrative procedure act. If the practitioner does not request a hearing by
41 notifying the secretary within 30 days after service of the notice of the
42 proposed action, the secretary may proceed with the action without a
43 hearing.

1 (e) The secretary may at the secretary's discretion reinstate the right
2 to practice and may impose any disciplinary measure listed under sub-
3 section (a).

4 (f) In addition to any other remedy provided by law, the secretary
5 may, acting through a person to whom the secretary has delegated this
6 authority and without a hearing, temporarily suspend the right of an un-
7 licensed complementary and alternative health care practitioner to prac-
8 tice if the secretary's delegate finds that the practitioner has violated a
9 statute or rule and regulation that the secretary is empowered to enforce
10 and continued practice by the practitioner would create a serious risk of
11 harm to others. The suspension is in effect upon service of a written order
12 on the practitioner specifying the statute or rule and regulation violated.
13 The order remains in effect until the secretary issues a final order in the
14 matter after a hearing or upon agreement between the secretary and the
15 practitioner. Service of the order is effective if the order is served on the
16 practitioner or counsel of record personally or by first class mail. Within
17 10 days of service of the order, the secretary shall hold a hearing on the
18 sole issue of whether there is a reasonable basis to continue, modify or
19 lift the suspension. Evidence presented by the office or practitioner shall
20 be in affidavit form only. The practitioner or the counsel of record may
21 appear for oral argument. Within five working days after the hearing, the
22 secretary shall issue the secretary's order and, if the suspension is contin-
23 ued, schedule a hearing within 45 days after issuance of the order. The
24 administrative law judge shall issue a report within 30 days after closing
25 of the contested case hearing record. The secretary shall issue a final order
26 within 30 days after receipt of that report.

27 (g) The right of an unlicensed complementary and alternative health
28 care practitioner to practice is automatically suspended if (1) a guardian
29 of an unlicensed complementary and alternative health care practitioner
30 is appointed by order of a court under article 30 of chapter 59 of the
31 Kansas Statutes Annotated, and amendments thereto, or (2) the practi-
32 tioner is committed by order of a court pursuant to article 29 of chapter
33 59 of the Kansas Statutes Annotated, and amendments thereto. The right
34 to practice remains suspended until the practitioner is restored to capacity
35 by a court and, upon petition by the practitioner, the suspension is ter-
36 minated by the secretary after a hearing or upon agreement between the
37 secretary and the practitioner.

38 (h) If a practitioner investigated under this section is licensed or reg-
39 istered by the secretary or a health-related licensing board, and the sec-
40 retary determines that the practitioner has violated any provision of this
41 act, the secretary, in addition to taking disciplinary action under this
42 section:

43 (1) May, if the practitioner is licensed or regulated in another capacity

1 by the secretary, take further disciplinary action against the practitioner
2 in that capacity; or

3 (2) shall, if the practitioner is licensed or registered in another ca-
4 pacity by a health-related licensing board, report the secretary's findings
5 under this section, and may make a nonbinding recommendation that the
6 board take further action against the practitioner in that capacity.

7 Sec. 12. (a) In addition to any other remedy provided by law, the
8 secretary may in the secretary's own name bring an action in district court
9 for injunctive relief to restrain an unlicensed complementary and alter-
10 native health care practitioner from a violation or threatened violation of
11 any statute, rule and regulation or order which the secretary is empow-
12 ered to regulate, enforce or issue. A temporary restraining order must be
13 granted in the proceeding if continued activity by a practitioner would
14 create a serious risk of harm to others. The secretary need not show
15 irreparable harm. An injunction, restraining order or other order as may
16 be appropriate shall be granted by such court without bond.

17 (b) Injunctive relief granted under this section does not relieve a
18 practitioner from criminal prosecution by a competent authority or from
19 disciplinary action by the secretary.

20 Sec. 13. (a) All unlicensed complementary and alternative health
21 care practitioners shall provide to each complementary and alternative
22 health care client prior to providing treatment a written copy of the com-
23plementary and alternative health care client bill of rights. A copy must
24 also be posted in a prominent location in the office of the unlicensed
25 complementary and alternative health care practitioner. Reasonable ac-
26commodations shall be made for those clients who cannot read or who
27 have communication impairments and those who do not read or speak
28 English. The complementary and alternative health care client bill of
29 rights shall include the following:

30 (1) The name, complementary and alternative health care title, busi-
31ness address and telephone number of the unlicensed complementary
32 and alternative health care practitioner;

33 (2) the degrees, training, experience or other qualifications of the
34 practitioner regarding the complementary and alternative health care be-
35ing provided followed by the following statement in bold print:

36 **“THE STATE OF KANSAS HAS NOT ADOPTED ANY EDUCA-**
37 **TIONAL AND TRAINING STANDARDS FOR UNLICENSED COM-**
38 **PLEMENTARY AND ALTERNATIVE HEALTH CARE PRACTI-**
39 **TIONERS. THIS STATEMENT OF CREDENTIALS IS FOR**
40 **INFORMATION PURPOSES ONLY.**

41 **UNDER KANSAS LAW, AN UNLICENSED COMPLEMENTARY**
42 **AND ALTERNATIVE HEALTH CARE PRACTITIONER MAY NOT**
43 **PROVIDE A MEDICAL DIAGNOSIS OR RECOMMEND DISCON-**

1 TINUANCE OF MEDICALLY PRESCRIBED TREATMENTS. IF A
2 CLIENT DESIRES A DIAGNOSIS FROM A PERSON LICENSED
3 TO PRACTICE MEDICINE AND SURGERY, CHIROPRACTOR OR
4 SERVICES FROM A PHYSICIAN, CHIROPRACTOR, NURSE, OS-
5 TEOPATH, PHYSICAL THERAPIST, DIETITIAN, NUTRITIONIST,
6 ATHLETIC TRAINER OR ANY OTHER TYPE OF HEALTH CARE
7 PROVIDER, THE CLIENT MAY SEEK SUCH SERVICES AT ANY
8 TIME.”;

9 (3) the name, business address and telephone number of the practi-
10 tioner’s supervisor, if any;

11 (4) notice that a complementary and alternative health care client has
12 the right to file a complaint with the practitioner’s supervisor, if any, and
13 the procedure for filing complaints;

14 (5) the name, business address and telephone number of the office
15 of unlicensed complementary and alternative health care practice and
16 notice that a client may file complaints with the office;

17 (6) the practitioner’s fees per unit of service, the practitioner’s
18 method of billing for such fees, the names of any insurance companies
19 that have agreed to reimburse the practitioner or health maintenance
20 organizations with whom the practitioner contracts to provide service,
21 whether the practitioner accepts medicare, medical assistance or general
22 assistance medical care and whether the practitioner is willing to accept
23 partial payment, or to waive payment, and in what circumstances;

24 (7) a statement that the client has a right to reasonable notice of
25 changes in services or charges;

26 (8) a brief summary in plain language of the theoretical approach
27 used by the practitioner in providing services to clients;

28 (9) notice that the client has a right to complete and current infor-
29 mation concerning the practitioner’s assessment and recommended serv-
30 ice that is to be provided, including the expected duration of the service
31 to be provided;

32 (10) a statement that clients may expect courteous treatment and to
33 be free from verbal, physical or sexual abuse by the practitioner;

34 (11) a statement that client records and transactions with the prac-
35 titioner are confidential, unless release of these records is authorized in
36 writing by the client or otherwise provided by law;

37 (12) a statement of the client’s right to be allowed access to records
38 and written information from records consistent with the requirements
39 of law;

40 (13) a statement that other services may be available in the commu-
41 nity, including where information concerning services is available;

42 (14) a statement that the client has the right to choose freely among
43 available practitioners and to change practitioners after services have be-

1 gun, within the limits of health insurance, medical assistance or other
2 health programs;

3 (15) a statement that the client has a right to a coordinated transfer
4 when there will be a change in the provider of services;

5 (16) a statement that the client may refuse services or treatment; and

6 (17) a statement that the client may assert the client's rights without
7 retaliation.

8 (b) Prior to the provision of any service, a complementary and alter-
9 native health care client must sign a written statement attesting that the
10 client has received the complementary and alternative health care client
11 bill of rights.

12 Sec. 14. K.S.A. 65-2872a is hereby repealed.

13 Sec. 15. This act shall take effect and be in force from and after its
14 publication in the statute book.

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