

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 669

Short Title: Bd. of Alternative Medicine.

(Public)

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Sponsors: Representative Gamble.

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Referred to: Judiciary I.

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March 29, 1993

1 A BILL TO BE ENTITLED  
2 AN ACT TO REGULATE THE PRACTICE OF ALTERNATIVE MEDICINE.  
3 The General Assembly of North Carolina enacts:

4 Section 1. Chapter 90 of the General Statutes is amended by adding a new  
5 Article to read:

6 **"ARTICLE 29.**

7 **"BOARD OF ALTERNATIVE MEDICINE.**

8 **"§ 90-430. Short title.**

9 This Article shall be known as the North Carolina Alternative Medical Practices Act.

10 **"§ 90-431. Definitions.**

- 11 (1) 'Alternative medical practice' means one or more of the following  
12 practices: card reading, channeling, eclectic medicine, herbalism,  
13 holistic medicine, hypnosis, iridology, mystic healing, Native  
14 American medicine, palm reading, phrenology, psychic, and voodoo.  
15 (2) 'Alternative medical practitioner' means a person licensed pursuant to  
16 this Article to engage in an alternative medical practice.  
17 (3) 'Board' means the Board of Alternative Medicine.  
18 (4) 'Card reading' means a diagnostic system using a set of cards to  
19 determine the proper diagnosis and treatment of a patient's illness.  
20 (5) 'Channeling' means a system of practice utilizing communication with  
21 invisible beings, spirits, or psychic forces for the purpose of  
22 determining the cause of and cure for a patient's illness.

- 1           (6) 'Eclectic medicine' means a system of medicine that uses whatever  
2           seems best from various sources or schools of thought with particular  
3           emphasis on the use of botanical remedies in the treatment of disease.  
4           (7) 'Herbalism' means the practice of gathering and using medicinal herbs  
5           for the treatment of disease.  
6           (8) 'Holistic medicine' means a system of practice that emphasizes  
7           treatment of the patient's whole system of existence, including  
8           environmental and other influences, rather than the treatment of  
9           individual illnesses or disease processes.  
10          (9) 'Hypnosis' means a system that promotes the technique of mind over  
11          matter in the treatment of medical problems.  
12          (10) 'Iridology' means a system of practice utilizing an examination of the  
13          iris of the eye to make a medical diagnosis.  
14          (11) 'Mystic healing' means a system of healing predicated on an  
15          understanding of metaphysical entities that cause illness.  
16          (12) 'Native American medicine' means a system of medicine based on a  
17          collection of herbal, mystic, natural, or spiritual remedies used by  
18          native peoples of North and South America.  
19          (13) 'Palm reading' means a diagnostic system based on analysis of the  
20          contours in the palm of a patient's hand.  
21          (14) 'Phrenology' means a system of practice by which an analysis of the  
22          development of the faculties can be made by studying the shape and  
23          protuberances of the skull.  
24          (15) 'Psychic' means a method of diagnosis and treatment through the study  
25          of forces external to the body.  
26          (16) 'Voodoo' means a system of practice designed to affect another  
27          through the use of conjuration and the supernatural.

28 **"§ 90-431.1. Practice of alternative medicine; prohibition; exemptions.**

29        (a) It is unlawful for any person not licensed pursuant to the provisions of this  
30 Chapter to engage in the practice of alternative medicine or to hold himself or herself  
31 out or advertise as engaging in the practice of alternative medicine.

32        (b) This Article shall not apply to the practice of alternative medicine by a health  
33 care professional licensed, certified, or registered under this Chapter or Chapter 90C of  
34 the General Statutes, provided that the practice thereof is within the authorized scope of  
35 practice of the professional.

36 **"§ 90-432. Board of Alternative Medicine.**

37        (a) There is established a Board of Alternative Medicine which shall consist of  
38 five members. Four of the members shall be alternative medical practitioners appointed  
39 by the General Assembly, two upon the recommendation of the President Pro Tempore  
40 of the Senate and two upon the recommendation of the Speaker of the House of  
41 Representatives. The other member shall be a public member appointed by the  
42 Governor. Except as provided for initial appointments in subsection (b) of this section,  
43 the term of office of each board member is three years, ending on June 30.

1       **(b)** Of the initial appointments made by the General Assembly upon the  
2 recommendation of the President Pro Tempore of the Senate, one member shall serve a  
3 term expiring June 30, 1995, and the other shall serve a term expiring June 30, 1996.  
4 Of the initial appointments made by the General Assembly upon the recommendation of  
5 the Speaker of the House of Representatives, one member shall serve a term expiring  
6 June 30, 1995, and the other shall serve a term expiring June 30, 1996. The Governor's  
7 initial appointee shall serve a term expiring June 30, 1994. The initial appointees shall  
8 have experience in one of the alternative therapies or treatments regulated under this  
9 Article.

10       **(c)** Board members may be removed by the Governor for neglect of duty,  
11 malfeasance, or misfeasance. The Governor may fill vacancies in the public member's  
12 office. Vacancies in positions appointed by the General Assembly shall be filled in  
13 accordance with G.S. 120-122.

14 **"§ 90-433. Meetings; organization; compensation.**

15       **(a)** The Board shall meet annually and may meet at other times upon the call of a  
16 majority of the Board members.

17       **(b)** The Board shall annually elect a president and vice-president who shall serve  
18 until their successors are chosen.

19       **(c)** Each Board member is eligible to receive compensation pursuant to G.S.  
20 93B-5 for each day actually engaged in carrying out duties as an officer or member of  
21 the Board. Compensation and expenses shall be paid from the Board's funds.

22 **"§ 90-434. Powers and duties.**

23       **(a)** The Board is authorized to:

24           **(1)** Examine applicants for a license under this Article, issue licenses,  
25 conduct hearings, and discipline alternative medical practitioners.

26           **(2)** Collect and account for all fees under this Article and deposit same in  
27 a fund maintained by the Board; funds may be expended from  
28 revenues generated by fees and interest thereon for the administration  
29 of this Article.

30           **(3)** Maintain a record of its acts and proceedings, including, but not  
31 limited to, the issuance, refusal to issue, renewal, suspension, or  
32 revocation of licenses to practice according to this Article.

33           **(4)** Make and adopt rules and regulations necessary for the administration  
34 of this Article.

35           **(5)** Accredit educational institutions in this State which grant degrees  
36 toward licensing therapies which are regulated under this Article.

37           **(6)** Hire permanent or temporary personnel to carry out the purposes of  
38 this Article.

39           **(7)** Purchase, rent, lease, sell, or otherwise transfer office space,  
40 equipment, supplies, or other real or personal property for the  
41 administration of this Article.

42 **"§ 90-435. Exemptions.**

1        This Article shall not apply to other health care practitioners licensed under this  
2 Chapter to the extent their use of alternative medical treatments and therapies is within  
3 their recognized scope of practice.

4 **"§ 90-436. Qualifications of applicant; application; fees.**

5        To qualify for licensure as an alternative medical practitioner, the applicant shall:

- 6            (1) Be of good moral character;
- 7            (2) Successfully complete the Board-approved training for the particular  
8            alternative medical practice;
- 9            (3) Successfully complete an examination administered by or on behalf of  
10           the Board;
- 11           (4) Submit an application and examination fee to the Board, not to exceed  
12           twenty-five dollars (\$25.00).

13        Upon qualifying for a license, the applicant shall pay an additional seventy-five  
14 dollar (\$75.00) license fee.

15 **"§ 90-437. Examination; reexamination.**

16        (a) Examination for a license to practice under this Article shall include all  
17 subjects which are generally accepted as necessary for a thorough knowledge of the  
18 practice of the selected areas of alternative medicine. The Board shall prescribe rules  
19 and regulations for conducting the examinations and set the passing grade.

20        (b) Examinations shall be conducted at least twice annually at times and places to  
21 be designated by the Board. Written notice of the date and place of examination shall  
22 be mailed to all applicants at least 30 days prior to the date of the examination. A  
23 person failing to pass an examination may be reexamined within one year without  
24 payment of an additional fee.

25 **"§ 90-438. Renewal of license; failure to renew; reinstatement.**

26        (a) Each alternative medical practitioner holding a license under this Article shall  
27 renew it and pay a renewal fee not to exceed one hundred dollars (\$100.00) prior to  
28 January 1 each year. Failure to renew an active license as required by this section on or  
29 before February 1 requires an additional late payment fee of fifty dollars (\$50.00).  
30 Failure to renew an active license on or before April 1 shall result in the expiration of  
31 the active license.

32        (b) A person whose license has expired may reapply for a license to practice  
33 alternative medicine as provided in this Article.

34 **"§ 90-439. Suspension or revocation of license; unprofessional conduct hearing;**  
35 **decision of Board.**

36        (a) The Board may investigate any information which appears to show that an  
37 alternative medical practitioner is or may be guilty of unprofessional conduct or is or  
38 may be mentally or physically unable to engage safely in the practice of medicine. Any  
39 person who reports or provides information to the Board in good faith is not subject to  
40 an action for civil damages as a result thereof, and such person's name shall not be  
41 disclosed unless such person's testimony is essential to the disciplinary proceedings  
42 conducted pursuant to the section. It is an act of unprofessional conduct for any  
43 alternative medical practitioner to fail to report a known violation of this Article.

1       **(b)** If the Board has good reason to believe after its investigation that the  
2 alternative medical practitioner has violated the provisions of this Article, it may request  
3 an informal interview with the alternative medical practitioner. If the alternative  
4 medical practitioner refuses the invitation or if he accepts the invitation and if the results  
5 of the interview indicate suspension or revocation of his license might be in order, a  
6 formal complaint shall be issued and a formal hearing shall be conducted in accordance  
7 with the provisions of Chapter 150B of the General Statutes.

8       **(c)** 'Unprofessional conduct' includes the following acts, whether occurring in the  
9 State or elsewhere:

- 10       **(1)** Immoral or dishonorable conduct;
- 11       **(2)** Producing or attempting to produce an abortion contrary to law;
- 12       **(3)** Making false statements or representations to the Board, or willfully  
13 concealing from the Board material information in connection with his  
14 application for a license;
- 15       **(4)** Being unable to practice medicine with reasonable skill and safety to  
16 patients by reason of illness, drunkenness, excessive use of alcohol,  
17 drugs, chemicals, or any other type of material or by reason of any  
18 physical or mental abnormality. The Board is empowered and  
19 authorized to require a physician licensed by it to submit to a mental or  
20 physical examination by physicians designated by the Board before or  
21 after charges may be presented against him, and the results of  
22 examination shall be admissible in evidence in a hearing before the  
23 Board;
- 24       **(5)** Unprofessional conduct including, but not limited to, the committing  
25 of any act contrary to honesty, justice, or good morals, whether the  
26 same is committed in the course of his practice or otherwise, and  
27 whether committed within or without North Carolina;
- 28       **(6)** Conviction in any court of a crime involving moral turpitude, or the  
29 violation of a law involving the practice of medicine, or a conviction  
30 of a felony;
- 31       **(7)** By false representations obtaining or attempting to obtain practice,  
32 money, or anything of value;
- 33       **(8)** Advertising or publicly professing to treat human ailments under a  
34 system or school of treatment or practice other than that for which he  
35 has been educated;
- 36       **(9)** Adjudication of mental incompetency, which shall automatically  
37 suspend a license unless the Board orders otherwise;
- 38       **(10)** Lack of professional competence to practice medicine with a  
39 reasonable degree of skill and safety for patients. In this connection  
40 the Board may consider repeated acts of a physician indicating his  
41 failure to properly treat a patient and may require such physician to  
42 submit to inquiries or examinations, written or oral, by members of the  
43 Board or by other physicians licensed to practice medicine in this

- 1                   State, as the Board deems necessary to determine the professional  
2                   qualifications of such licensee;
- 3           (11) Promotion of the sale of drugs, devices, appliances, or goods for a  
4           patient, or providing services to a patient, in such a manner as to  
5           exploit the patient for financial gain of the physician; and upon a  
6           finding of the exploitation for financial gain, the Board may order  
7           restitution be made to the payer of the bill, whether the patient or the  
8           insurer, by the physician; provided that a determination of the amount  
9           of restitution shall be based on credible testimony in the record;
- 10          (12) Suspension or revocation of a license to practice medicine in any other  
11          state, or territory of the United States, or other country;
- 12          (13) The failure to respond, within a reasonable period of time and in a  
13          reasonable manner as determined by the Board, to inquiries from the  
14          Board concerning any matter affecting the license to practice  
15          medicine; and
- 16          (14) Sexual intimacies with a patient in the course of direct treatment.
- 17          (d) Patient records, including clinical records, medical reports, laboratory  
18          statements and reports, any file, film, any other report or oral statement relating to  
19          diagnostic findings or treatment of patients, any information from which a patient or his  
20          family might be identified, or information received and records kept by the Board as a  
21          result of investigation procedures shall not be available to the public. Hospital records,  
22          medical staff records, medical staff review committee records, and testimony  
23          concerning such records, and proceedings related to the creation of such records, are not  
24          available to the public, shall be kept confidential by the Board, and are subject to the  
25          same provisions concerning discovery and use in legal action as are the original records  
26          in the possession and control of hospitals, their medical staffs, and their medical staff  
27          review committees. The Board shall use such records and testimony during the course  
28          of investigations and proceedings pursuant to this Article.
- 29          "**§ 90-440. Violation; classification.**
- 30                It shall be unlawful for any person not licensed under nor exempted from the  
31                provisions of this Article to perform or engage in or to advertise or hold himself or  
32                herself out as performing or engaging in an alternative medical practice regulated under  
33                this Article. An offense under this section is a misdemeanor, punishable by up to a one  
34                thousand dollar (\$1,000) fine, six months imprisonment, or both.
- 35          "**§ 90-441. Third-party reimbursement.**
- 36                Nothing in this act shall require direct third party reimbursement to a provider  
37                licensed hereunder."
- 38                Sec. 2. G.S. 14-401.5 is repealed.
- 39                Sec. 3. This act becomes effective January 1, 1994, provided, that the Board's  
40                rule-making authority is effective upon ratification of this act.