

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 541 (Delegate Reznik, *et al.*)
Health and Government Operations

**Health Occupations - Wellness Practitioners - Exemption from Licensure as
Physicians**

This bill exempts wellness practitioners from licensure and other requirements of the Maryland Medical Practice Act if the wellness practitioner provides complementary and alternative health services in accordance with the bill's provisions.

The bill does not apply to health care practitioners who are licensed, certificated, or registered by a health occupations board in Maryland and who are practicing within their authorized scope of practice.

Fiscal Summary

State Effect: If the Consumer Protection Division of the Office of the Attorney General receives fewer than 50 complaints per year stemming from the bill, the additional workload can be handled with existing resources. No effect on revenues.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill defines "complementary and alternative health services" as advice and therapies that are based on alternative theories related to the functions of the human body. The bill allows a wellness practitioner to practice in the State if the practitioner has not:

- had a license suspended, restricted, or revoked by a health occupations board in Maryland that was not subsequently reinstated;
- been convicted of a felony related to the provision of complementary and alternative health services; or
- been adjudicated mentally incompetent.

In addition, a wellness practitioner may not conduct surgeries or procedures that puncture the skin or invade the body; prescribe or administer X-rays; prescribe controlled substances or prescription drugs; recommend the discontinuance of a prescription drug or controlled substance prescribed by a licensed practitioner; diagnose and treat a physical or mental condition that could cause risk of harm, illness, or death; set fractures; use electrotherapy to treat lacerations or abrasions; or indicate that the wellness practitioner is a surgeon and/or physician.

The wellness practitioner must develop a disclosure statement that has contact information, education, training, and other credentials of the practitioner. The disclosure statement must include language specifying that (1) the wellness practitioner is not a physician or a doctor of osteopathy; (2) Maryland does not have standardized education, training, or practice standards for wellness practitioners; and (3) contact information to file a complaint with the Consumer Protection Division of the Office of the Attorney General. Prior to treating an individual, a wellness practitioner must require the individual to sign and acknowledge these disclosures.

The disclosure form required under the bill must be retained for two years following the patient's most recent service.

Current Law: The Maryland Medical Practice Act sets forth the laws governing the licensure of physicians and the practice of medicine in the State. The Act establishes the State Board of Physicians and specifically defines the acts that constitute the practice of medicine. The State Board of Physicians is responsible for regulating, licensing, and disciplining physicians and other allied health professionals.

Certain practitioners are exempt from licensure under the Maryland Medical Practice Act. For instance, Christian Science practitioners who are accredited by the First Church of Christ, Scientist, in Boston, Massachusetts who deal with human ills in accordance with the tenets of Christian Science and charge for services are exempted from the Maryland Medical Practice Act. In addition, a licensed dentist who has administered anesthesia regularly in hospitals in this State for at least 15 years before June 1, 1962, is also exempted when practicing anesthesiology or administering anesthesia for medical purposes.

Complementary and alternative health services, as well as the practice of a wellness practitioner, are not regulated under State law.

Background: According to the National Institutes of Health, complementary and alternative medicine is a group of diverse medical and health care systems, practices, and products that are not considered to be part of conventional medicine. Some health care providers practice both complementary and alternative medicine and conventional medicine.

Complementary and alternative medicines are different from each other. Complementary medicine is used together with conventional medicine, such as using aromatherapy to help lessen a patient's discomfort following surgery. In comparison, alternative medicine is used in place of conventional medicine. An example of this is using a special diet to treat cancer instead of undergoing surgery, radiation, or chemotherapy as recommended by a conventional doctor.

Complementary and alternative medicine practices are divided into four domains: (1) mind-body medicine; (2) biologically based practices; (3) manipulative and body-based practices; and (4) energy medicine. Mind-body medicine uses a variety of techniques designed to enhance the mind's capacity to affect bodily functions and systems such as patient support groups and cognitive-behavioral therapy. Meditation, prayer, mental healing, and therapies that use creative outlets such as art, music, or dance are also considered mind-body medicine. Biologically based practices use substances found in nature including dietary supplements and herbal products. Manipulative body-based practices are based on manipulation and/or movement of one or more parts of the body, including massage. Energy medicine involves the use of energy fields, such as biofield therapies and bioelectromagnetic-based therapies. Biofield therapies are intended to affect energy fields that allegedly surround and penetrate the human body. Some forms of energy therapy manipulate biofields by applying pressure and/or manipulating the body by placing the hands in, or through, these fields. Examples of biofield therapies include qi gong, Reiki, and therapeutic touch. The existence of such energy fields has not yet been scientifically proven. Bioelectromagnetic-based therapies involve the unconventional use of electromagnetic fields, such as pulsed fields, magnetic fields, or alternating current or direct-current fields.

Whole medical systems cut across all four of these domains and are built upon complete systems of theory and practice. These systems have evolved apart from, and earlier than, conventional medicine used in the United States. Examples of whole medicine systems include homeopathic medicine, traditional Chinese medicine, and Ayurveda. Ayurveda originated in India and aims to integrate the body, mind, and spirit using therapies that include herbs, massage, and yoga.

In the United States, 38.3% of adults and 11.8% of children used some form of complementary alternative medicine in 2007.

Additional Information

Prior Introductions: None.

Cross File: SB 357 (Senator Harrington) - Education, Health, and Environmental Affairs.

Information Source(s): Office of the Attorney General (Consumer Protection Division), National Institutes of Health, Department of Health and Mental Hygiene, Department of Legislative Services

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