



NATIONAL HEALTH FREEDOM ACTION

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TO: Chairman Yuko
Members of the House Commerce and Labor Committee
FROM: Diane Miller JD, Director of Law and Public Policy
National Health Freedom Action
DATE: May 18, 2010
RE: House Bill 442
Protecting Consumer Access to Natural Health Care

Chairman Yuko and Members of the Committee:

Thank you for the opportunity to testify before this committee today in support of HB 442, a bill that *“permits a complementary or alternative health care practitioner to provide certain services without being in violation of health care professional licensing laws if the practitioner does not engage in activities prohibited by the bill or fail to comply with the bill's disclosure requirements”* (official bill analysis online).

My name is Diane Miller I am an attorney working nationally as the Legal and Public Policy Director for National Health Freedom Action (NHFA) and its sister educational organization National Health Freedom Coalition (NHFC).

NHFA provides resources to states that are working to pass legislation that would protect consumer options in the broadest range of healing methods and health care. It also provides strategic support for federal dietary supplement issues and international issues such as Codex and World Health concerns.

NHFC hosts an annual conference for training leaders about how the legislative process works, and has testified at the White House Commission on Complementary Medicine Policy hearings, and at a number of state legislatures on consumer health freedom legislation. NHFC founded and hosts the US Health Freedom Assembly of 40 organizations working to protect consumer options for natural health.

Based on a July 2009 report from the National Institute of Health's National Center for Complementary and Alternative Medicine (NCCAM), 38% of Americans' use complementary and alternative medicine (CAM). It also found that Americans spent \$33.9 billion in out-of-pocket costs in a 12-month period for CAM. This means that thousands of Ohioans are using complementary and alternative health care spending millions of dollars in the state of Ohio for alternative care.

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Clients find that alternative practitioners often offer them approaches that either are more natural or may help them address their health concerns by life style changes or non-invasive healing techniques from a broad variety of methods of which the consumer has become aware of through their own research and networking. Because our national organization wants to assure consumers their broadest access to information and services, we support Ohio's HB 442 and are glad that it is before this committee.

From our work with Ohio citizen groups, we understand that Ohio citizens would like to have a consumer health freedom law for unlicensed healers and practitioners who are providing non-invasive methods of healing and health care services in the public domain. Many natural health practitioners are not licensed, registered, or certified by the various states.

NHFA supports consumer health freedom laws because permit consumers to utilize the services of unlicensed complementary and alternative health providers such as naturopaths, homeopaths, and herbalists. These practitioners are not licensed to practice a conventional health care professions such as medicine or dietetics, and do not have a desire or plans to be conventionally licensed.

The way that consumer health freedom laws work is that unlicensed practitioner practicing in the public domain must avoid the actions on the list of prohibited conduct in HB 442, such as puncturing the skin or giving out prescription drugs, must avoid use of an exclusive title from a licensed profession such as "Dietician", and must provide their client with required disclosures including a statement that they are not licensed and what their background and services will be.

Under a consumer health freedom bill, if a practitioner fails to do any of these things they lose the protection of the consumer health freedom and will be investigated or charged under already existing law for unlicensed practice.

These Consumer Health Freedom laws are being passed and implemented to have a practical way for states to balance consumer protections while assuring consumers have continued access and availability to many natural health and complementary and alternative health care practitioners.

Currently eight states have consumer health freedom law including Minnesota, Rhode Island, California, Louisiana, Idaho, Oklahoma, Arizona (for homeopaths) and most recently New Mexico. Twenty one additional states have now recently introduced this type of legislation.

An example of how a consumer health freedom law works is that if a practitioner is currently providing health care services in the public domain such as nutrition consulting, and that practitioner is not a licensed conventional dietician or other licensed professional, in many states such as Ohio that do not have Consumer Health Freedom laws, that practitioner could be vulnerable to being accused of practicing dietetics without a license because dietetics is broadly defined in Ohio Revised Code Chapter 4759.01:

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(A) *“The practice of dietetics” means any of the following:*

(1) Nutritional assessment to determine nutritional needs and to recommend appropriate nutritional intake, including enteral and parenteral nutrition;

(2) Nutritional counseling or education as components of preventive, curative, and restorative health care;

(3) Development, administration, evaluation, and consultation regarding nutritional care standards.

(B) *“The American Dietetic Association” means the national professional organization of dietitians that provides direction and leadership for quality dietetic practice, education, and research.*

(C) *“Commission on Dietetic Registration” means the commission on dietetic registration that is a member of the national commission on health certifying agencies.*

Without a Consumer Health Freedom law, the Board of Dietetics has no way of exempting a practitioner from charges of practicing without a license, even where there was no harm to the public and where many consumers were reaping the benefits of the practitioner. The Board or state has no option other than to look at the definition of a practice and ask whether the person has a license. In many instances this means that a practitioner can be stopped from providing many good services where there is no cause for concern.

With a consumer health freedom law, rather than asking “Were you doing a behavior that could be interpreted to be in the broad definition of a licensed profession?” the state would ask: “Were you using an exclusive title, were you doing a prohibited act outside of the consumer health freedom law, or did you fail to give proper disclosure to your client?”

Consumer health freedom laws are a common sense way of addressing how to manage the thousands of healers and practitioners and the many businesses providing services in the public domain. Consumer health freedoms provide practitioners and the state with guidance parameters on how to proceed in their work and in the event of a complaint, and it assures the continued availability of these services to consumers who enjoy them.

I am privileged to live in one of the 8 states, Minnesota, that has a consumer health freedom law for public domain practitioners. We have a broad range of health care options which support consumers in taking charge of their own health care journeys.

The citizens of Ohio have worked hard to provide you with a bill that provides a good solution to a pressing public need. We hope that you will support this bill and give it your positive encouragement and attention. I would be happy to answer any questions that you might have.

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