

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**SENATE BILL 329**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Joseph A. Fidel**

**AN ACT**

**RELATING TO HEALTH CARE; ENACTING THE ALTERNATIVE HEALTH CARE  
CLIENT BILL OF RIGHTS ACT.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. SHORT TITLE.--This act may be cited as the  
"Alternative Health Care Client Bill of Rights Act".**

**Section 2. DEFINITIONS.--As used in the Alternative  
Health Care Client Bill of Rights Act:**

**A. "alternative health care" means the broad  
domain of complementary and alternative health care practices.**

**(1) "Alternative health care" includes:**

- (a) acupressure;**
- (b) anthroposophy;**
- (c) aromatherapy;**
- (d) ayurveda;**

- 1 (e) culturally traditional healing  
2 practices;  
3 (f) detoxification practices and  
4 therapies;  
5 (g) energetic healing;  
6 (h) polarity therapy;  
7 (i) folk practices;  
8 (j) healing practices utilizing food,  
9 food supplements, nutrients and the physical forces of heat,  
10 cold, water, touch and light;  
11 (k) Gerson therapy and colostrum  
12 therapy;  
13 (l) healing touch;  
14 (m) herbology or herbalism;  
15 (n) homeopathy;  
16 (o) nondiagnostic iridology;  
17 (p) body work, massage and massage  
18 therapy;  
19 (q) meditation;  
20 (r) mind-body healing practices;  
21 (s) naturopathy;  
22 (t) noninvasive instrumentalities; and  
23 (u) traditional Oriental practices,  
24 such as Qi Gong energy healing.

25 (2) "Alternative health care" does not

underscored material = new  
[bracketed material] = delete

1 include surgery, x-ray radiation, administering or dispensing  
2 legend drugs or controlled substances, providing a medical  
3 diagnosis, recommending discontinuance of medically prescribed  
4 treatment, practices that invade the human body by puncture of  
5 the skin, setting fractures, the use of medical devices, any  
6 practice included in the practice of dentistry, manipulation  
7 or adjustment of articulations of joints or the spine;

8 B. "alternative health care practitioner" means a  
9 person who practices alternative health care for compensation  
10 or is holding oneself out to the public as a practitioner of  
11 alternative health care and:

12 (1) is not licensed or registered by a  
13 health-related licensing board under Chapter 61 NMSA 1978; or

14 (2) is licensed or registered by a health-  
15 related licensing board under Chapter 61 NMSA 1978 other than  
16 the New Mexico board of medical examiners, the New Mexico  
17 board of dental health care, the chiropractic board or the  
18 board of podiatry but does not hold oneself out to the public  
19 as being licensed or registered when engaging in alternative  
20 health care; and

21 C. "department" means the department of health.

22 Section 3. REGISTRATION REQUIRED-- RESTRICTIONS. --

23 A. No person shall practice alternative health  
24 care without a registration certificate issued by the  
25 department.

underscored material = new  
[bracketed material] = delete

1           B. An alternative health care practitioner shall  
2 not provide a medical diagnosis or recommend discontinuance of  
3 a medically prescribed treatment.

4           Section 4. ALTERNATIVE HEALTH CARE CLIENT BILL OF  
5 RIGHTS. --

6           A. An alternative health care practitioner shall  
7 provide to each alternative health care client prior to  
8 providing treatment a written copy of the alternative health  
9 care client bill of rights. A copy must also be posted in a  
10 prominent location in the office of the alternative health  
11 care practitioner. Reasonable accommodations shall be made  
12 for those clients who cannot read or who have communication  
13 impairments and those who do not read or speak English. The  
14 alternative health care client bill of rights shall include:

15                   (1) the name, alternative health care title,  
16 business address and telephone number of the alternative  
17 health care practitioner;

18                   (2) the degrees, training, experience or  
19 other qualifications of the practitioner regarding the  
20 alternative health care being provided, followed by the  
21 following statement in bold print:

22                   **"THE STATE OF NEW MEXICO HAS NOT ADOPTED ANY EDUCATIONAL**  
23 **OR TRAINING STANDARDS FOR ALTERNATIVE HEALTH CARE**  
24 **PRACTITIONERS. THIS STATEMENT OF CREDENTIALS IS FOR**  
25 **INFORMATION PURPOSES ONLY.**

underscored material = new  
[bracketed material] = delete

1 Under New Mexico law, an alternative health care  
2 practitioner may not provide a medical diagnosis or recommend  
3 discontinuance of medically prescribed treatments. If a  
4 client desires a diagnosis from a licensed physician,  
5 chiropractor or any other licensed health care provider  
6 authorized to diagnose, or services from a physician,  
7 chiropractor, nurse, osteopath, physical therapist, dietitian,  
8 nutritionist, acupuncture practitioner or any other type of  
9 health care provider, the client may seek such services at any  
10 time. ";

11 (3) the name, business address and telephone  
12 number of the practitioner's supervisor, if any;

13 (4) notice that an alternative health care  
14 client has the right to file a complaint with the  
15 practitioner's supervisor, if any, and the procedure for  
16 filing complaints;

17 (5) the name, address and telephone number of  
18 the department and notice that a client may file complaints  
19 with the department;

20 (6) the practitioner's fees per unit of  
21 service, the practitioner's method of billing for such fees,  
22 the names of any insurance companies that have agreed to  
23 reimburse the practitioner, the names of any health  
24 maintenance organizations with whom the practitioner contracts  
25 to provide service, whether the practitioner accepts medicare,

. 134899. 2

underscored material = new  
[bracketed material] = delete

1 medical assistance or general assistance medical care and  
2 whether the practitioner is willing to accept partial payment  
3 or to waive payment and in what circumstances;

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

6 (8) notice that the client has a right to  
7 complete and current information concerning the practitioner's  
8 assessment and recommended service that is to be provided,  
9 including the expected duration of the service to be provided;

10 (9) a statement that clients may expect to be  
11 treated courteously at all times;

12 (10) a statement that client records are  
13 confidential, unless release of the records is authorized in  
14 writing by the client, or otherwise provided by law;

15 (11) a statement of the client's right to be  
16 allowed access to records and written information from records  
17 in accordance with state law;

18 (12) a statement that the client has the  
19 right to choose freely among available practitioners and to  
20 change practitioners after services have begun, within the  
21 limits of health insurance, medical assistance or other health  
22 programs; and

23 (13) a statement that the client has a right  
24 to a coordinated transfer when there will be a change in the  
25 provider of services.

underscored material = new  
[bracketed material] = delete

1           B. Prior to the provision of service, an  
2 alternative health care client shall sign a written statement  
3 attesting that the client has received the alternative health  
4 care client bill of rights.

5           Section 5. DEPARTMENT--DUTIES.--The department shall:

6           A. adopt such rules as are necessary to carry out  
7 the provisions of the Alternative Health Care Client Bill of  
8 Rights Act;

9           B. register alternative health care practitioners.  
10 The department may charge such registration fees as are  
11 necessary to defray expenses incurred pursuant to the  
12 Alternative Health Care Client Bill of Rights Act;

13           C. maintain a file containing reports and  
14 complaints filed against registered alternative health care  
15 practitioners and unregistered persons practicing alternative  
16 health care. The department shall investigate each complaint  
17 and, in response to a complaint, may review the practice of an  
18 alternative health care practitioner; and

19           D. enforce the provisions of the Alternative  
20 Health Care Client Bill of Rights Act.

21           Section 6. ABUSE OR NEGLECT OF MINORS.--Nothing in the  
22 Alternative Health Care Client Bill of Rights Act restricts  
23 the ability of the state, or any of its political subdivisions  
24 or agencies, from taking action regarding the abuse or neglect  
25 of children pursuant to the Abuse and Neglect Act. A parent

underscored material = new  
[bracketed material] = delete

1 or guardian who obtains alternative health care for the parent  
2 or guardian's minor child is not relieved of the duty to seek  
3 necessary medical care in accordance with state law. An  
4 alternative health care practitioner who is providing services  
5 to a child has a duty to report pursuant to Section 32A-4-3  
6 NMSA 1978.

7 Section 7. CIVIL PENALTY.--The department may impose a  
8 civil penalty upon an alternative health care practitioner who  
9 violates any provision of the Alternative Health Care Client  
10 Bill of Rights Act or a rule adopted pursuant to that act.  
11 The civil penalty shall not exceed one hundred dollars (\$100)  
12 per violation.

13 Section 8. APPLICATION OF OTHER LAWS.--The provisions of  
14 Chapter 61 NMSA 1978 relating to the licensing of health care  
15 practitioners do not apply to, control, prevent or restrict  
16 the practice, service or activities of an alternative health  
17 care practitioner practicing pursuant to the Alternative  
18 Health Care Client Bill of Rights Act.

19 Section 9. APPLICATION OF ACT.--The Alternative Health  
20 Care Client Bill of Rights Act does not apply to, control,  
21 prevent or restrict the practice, service or acts of marketing  
22 or distributing food products, including dietary supplements  
23 as defined in the federal Dietary Supplement Health and  
24 Education Act of 1994, educating customers about such products  
25 or explaining the use of such products.

. 134899. 2