

# HOUSE RESEARCH

## Bill Summary

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### Overview

This bill establishes an office of unlicensed complementary and alternative health care practice, to be housed at the health department. This office will investigate complaints against unlicensed complementary and alternative health care practitioners, discipline practitioners, and serve as a clearinghouse for information on complementary and alternative health care practices.

- 1 **Unlicensed complementary and alternative health care practitioners and clients.** Adds subd. 42c to § 13.99. Adds a cross-reference in the Government Data Practices Act to data classified in chapter 146A.
- 2 **Definitions.** Adds § 146A.01. In subdivisions 1 to 8, defines the following terms: commissioner, complementary and alternative health care client, complementary and alternative health care practices, office of unlicensed complementary and alternative health care practice or office, patient-identifying data, roster data, and unlicensed complementary and alternative health care practitioner.

Subdivisions 4 and 8 of this section provide the following definitions:

**Subd. 4. Complementary and alternative health care practices.** Means a broad domain of complementary and alternative healing methods and treatments, and includes but is not limited to a list of 22 practices. Also specifies what practices are not included in this definition: surgery, x-ray radiation, administering or dispensing legend drugs and controlled substances, puncturing the skin, setting fractures, dentistry, the use of medical devices, the manipulation or adjustment of joints or the spine, and exclusive use of mental or spiritual means or prayer for healing.

**Subd. 8. Unlicensed complementary and alternative health care practitioner.** Means a person who (1) is not licensed or registered by a board or the commissioner of health, or does not hold oneself out as licensed or registered when providing complementary and alternative health care; (2) has not has a license or registration revoked or has not been disciplined in any way, unless the right to practice has been established by the commissioner of health; (3) is

engaging in complementary and alternative health care practices; and (4) is providing this care for remuneration or is holding oneself out to the public as a practitioner.

3 **Office of unlicensed complementary and alternative health care practice.** Adds § 146A.02. Creates the office within the Health Department and specifies its duties, including investigating complaints against unlicensed complementary and alternative health care practitioners, disciplining them, and providing information on complementary and alternative health care practices. Also directs the commissioner of health to adopt rules needed to create and operate the office.

4 **Maltreatment of minors.** Adds § 146A.025. Specifies that this chapter does not restrict the ability to take action regarding the maltreatment of minors. States that a parent who obtains complementary and alternative health care for a child is not relieved of the duty to seek necessary medical care. Requires a practitioner providing services to a child who is not receiving necessary medical care to report maltreatment of the child, and makes a practitioner a mandated reporter of child neglect or physical or sexual abuse.

5 **Reporting obligations.** Adds § 146A.03. Lists the people and entities permitted or required to report certain conduct by unlicensed complementary and alternative health care practitioners to the office of unlicensed complementary and alternative health care practice.

**Subd. 1. Permission to report.** Allows any person to report to the office any conduct that constitutes grounds for disciplinary action under this chapter.

**Subd. 2. Institutions.** Requires governmental entities and health care institutions to report (1) any action it takes regarding the practitioner's privilege to practice or to treat clients in the institution; and (2) if a practitioner resigns before charges are filed or an investigation is completed regarding possible grounds for disciplinary action.

**Subd. 3. Professional societies.** Requires any professional society for practitioners to report (1) any disciplinary action taken against the practitioner's membership; and (2) any complaints received that might be grounds for discipline.

**Subd. 4. Licensed professionals.** Requires licensed health care professionals to report any conduct that the professional reasonably believes constitutes grounds for disciplinary action.

**Subd. 5. Insurers.** Requires insurers who provide professional liability insurance to practitioners, four times a year, to submit a report to the office on practitioners against whom malpractice settlements or awards have been made.

**Subd. 6. Courts.** Requires court administrators to report to the office any determination made by the court in which a practitioner is found mentally ill, mentally incompetent, or guilty of certain crimes; is civilly committed; or in which a guardian is appointed for the practitioner.

**Subd. 7. Self-reporting.** Requires practitioners to report to the office (1) any information that is required to be reported under subdivisions 2 to 5; (2) any disciplinary action against the practitioner's right to practice in another state; and (3) the filing of charges against the practitioner's right to practice in another state.

**Subd. 8. Deadlines; forms.** States that required reports must be filed within 30 days of learning of the reportable event, and permits the office to provide reporting forms and to require that reports be submitted on forms provided.

6 **Immunity.** Adds § 146A.04. Grants immunity from civil liability and criminal prosecution to any person who reports violations of this chapter, cooperates with an investigation, conducts an investigation, or prepares and manages charges. Specifies that an unlicensed practitioner on whom violations or alleged violations of this chapter are reported is not immune from liability or prosecution for submitting a report to the office.

7 **Disciplinary record on judicial review.** Adds § 146A.05. Directs a court reviewing a

disciplinary action taken under this chapter to seal the administrative record, except for the commissioner's final decision.

8 **Professional cooperation; unlicensed practitioner.** Adds § 146A.06. Establishes requirements for practitioner cooperation with the office during investigations, classifies data, and directs the office to establish internal operating procedures.

**Subd. 1. Cooperation.** Requires a practitioner who is the subject of an investigation or questioned regarding an investigation to cooperate with an investigation by the office, and specifies procedures to protect patient privacy during investigations. Specifies what constitutes cooperation by the practitioner. Allows the commissioner to compel testimony or the production of evidence if the practitioner refuses to provide it.

**Subd. 2. Classification of data.** Classifies all records obtained as part of an investigation as investigative data, except that client records are classified as private unless the client authorizes the records to be made public.

**Subd. 3. Exchanging information.** Requires the office to establish internal operating procedures for exchanging information and coordinating investigations with other agencies and states. Directs the office to forward complaints to other agencies if the complaints are within the jurisdiction of the other agency. Requires the office to give all people who file complaints descriptions of the actions taken by the office relating to the complaints.

9 **Professional accountability.** Adds § 146A.07. Requires the office to keep a current file on reports and complaints filed against practitioners, requires all complaints to be investigated, and allows the commissioner to authorize an investigation based on a report from an insurer that a malpractice settlement or award was made.

10 **Prohibited conduct.** Adds § 146A.08. Lists grounds for disciplinary action. Allows certain records to be entered into evidence without further authentication, and allows the commissioner to order a practitioner to submit to a mental or physical examination and obtain medical data.

**Subd. 1. Prohibited conduct.** Lists conduct for which the commissioner may discipline a practitioner.

**Subd. 2. Less customary approach.** States that the fact that a complementary and alternative health care practice may be a less customary approach to health care shall not constitute the basis of a disciplinary action per se.

**Subd. 3. Evidence.** Specifies that in certain disciplinary actions, a copy of a judgment or proceeding sealed by the court administrator or administrative agency that entered the judgment is admissible as evidence without further authentication, and is prima facie evidence of its contents.

**Subd. 4. Examination; access to medical data.** Specifies the circumstances under which the commissioner can order a practitioner to submit to a mental or physical examination or chemical dependency evaluation, or obtain medical data and health records on the practitioner. A failure to submit to an examination constitutes an admission to the ground for disciplinary action alleged. Gives affected practitioners the opportunity, on a periodic basis, to demonstrate that practice can be resumed with reasonable safety to clients.

11 **Disciplinary actions.** Adds § 146A.09. Lists disciplinary actions the commissioner may take. Requires notice of a right to a hearing before discipline is imposed. Allows the commissioner to reinstate or temporarily suspend the right to practice, and automatically suspends that right in certain cases.

**Subd. 1. Forms of disciplinary action.** Lists the types of disciplinary action the commissioner may impose on a practitioner.

**Subd. 2. Discovery; subpoenas.** Allows the commissioner to conduct discovery and issue

subpoenas to investigate conduct that may constitute grounds for disciplinary action.

**Subd. 2a. Hearings.** Before disciplining a practitioner, requires the commissioner to notify the practitioner that the practitioner has the right to request a hearing according to the provisions of chapter 14. Allows the commissioner to discipline a practitioner without a hearing if the practitioner does not request one within 30 days of service of the notice.

**Subd. 3. Reinstatement.** Allows the commissioner to reinstate a practitioner's right to practice and impose any discipline, at the commissioner's discretion.

**Subd. 4. Temporary suspension.** Allows the commissioner to temporarily suspend a practitioner's right to practice if the commissioner finds that the practitioner's continued practice would create a serious risk of harm to others. Specifies subsequent notice and hearing requirements.

**Subd. 5. Automatic suspension.** Specifies that a practitioner's right to practice is automatically suspended if a guardian is appointed for the practitioner or if the practitioner is civilly committed. The right to practice remains suspended until the practitioner is restored to capacity and the commissioner terminates the suspension.

12 **Additional remedies.** Adds § 146A.10. Allows the commissioner to issue cease and desist orders and seek injunctive relief against practitioners when appropriate, and specifies that these remedies do not relieve a practitioner from criminal prosecution or other disciplinary action.

**Subd. 1. Cease and desist.** Allows the commissioner to issue cease and desist orders to stop practitioners from violating a statute, rule, or order of the office of unlicensed complementary and alternative health care practice. Makes the order final 15 days after issuance if the subject of the order does not request a hearing, and specifies hearing procedures. If a practitioner does not comply with a cease and desist order, allows the commissioner to bring suit in district court to enforce the order.

**Subd. 2. Injunctive relief.** Allows the commissioner to bring an action in district court for injunctive relief to stop a practitioner from violating a statute, rule, or order of the office. Requires a temporary restraining order to be issued by the court if the practitioner's continued practice would create a serious risk of harm to others.

**Subd. 3. Additional powers.** States that a cease and desist order or injunction does not relieve a practitioner from criminal prosecution or other disciplinary action.

13 **Complementary and alternative health care client bill of rights.** Adds § 146A.11. Describes the required content of a client bill of rights that must be provided to each complementary and alternative health care client before services are provided, and requires all clients to acknowledge receipt of the bill of rights in writing before services are provided.

**Subd. 1. Scope.** Requires all unlicensed complementary and alternative health care practitioners to give each client a written copy of the complementary and alternative health care client bill of rights, and to post a copy of the bill of rights in the practitioner's office. Specifies the information the bill of rights must include.

**Subd. 2. Acknowledgment by client.** Requires all clients to acknowledge receipt of the bill of rights in writing before services are provided to the client.

14 **Exemptions.** Amends § 147.09. Amends a provision of the Medical Practice Act to specify that unlicensed complementary and alternative health care practitioners who practice according to chapter 146A cannot be criminally penalized for practicing medicine without a license.

15 **Health-related licensing board.** Amends § 214.01, subd. 2. Chapter 214 establishes various requirements for state-regulated occupations. This section adds the office of unlicensed complementary and alternative health care practice to the definition of "health-related licensing board" for that chapter, making the office subject to the provisions of the chapter relating to

health-related licensing boards.

16 **Report to the legislature.** By January 1, 2003, requires the commissioner of health to provide the legislature with information on complaints received against practitioners, the types of practitioners complained against the number of investigations conducted, and enforcement actions.

17 **Effective date.** Makes sections 1 to 16 effective July 1, 2001.