

The following has been signed into law by Gray Davis, Governor of the State of California, on September 24, 2002

An act to add Sections 2053.5 and 2053.6 to the Business and Professions Code, relating to health.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Based upon a comprehensive report by the National Institute of Medicine and other studies, including a study published by the New England Journal of Medicine, it is evident that millions of Californians, perhaps more than five million, are presently receiving a substantial volume of health care services from complementary and alternative health care practitioners. Those studies further indicate that individuals utilizing complementary and alternative health care services cut across a wide variety of age, ethnic, socioeconomic, and other demographic categories.

(b) Notwithstanding the widespread utilization of complementary and alternative medical services by Californians, the provision of many of these services may be in technical violation of the Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code). Complementary and alternative health care practitioners could therefore be subject to fines, penalties, and the restriction of their practice under the Medical Practice Act even though there is no demonstration that their practices are harmful to the public.

(c) The Legislature intends, by enactment of this act, to allow access by California residents to complementary and alternative health care practitioners who are not providing services that require medical training and credentials. The Legislature further finds that these nonmedical complementary and alternative services do not pose a known risk to the health and safety of California residents, and that restricting access to those services due to technical violations of the Medical Practice Act is not warranted.

SEC. 2. Section 2053.5 is added to the Business and Professions Code, to read:

2053.5.

(a) Notwithstanding any other provision of law, a person who complies with the requirements of Section 2053.6 shall not be in violation of Section 2051, 2052, or 2053 unless that person does any of the following:

(1) Conducts surgery or any other procedure on another person that punctures the skin or harmfully invades the body.

(2) Administers or prescribes X-ray radiation to another person.

(3) Prescribes or administers legend drugs or controlled substances to another person.

(4) Recommends the discontinuance of legend drugs or controlled substances prescribed by an appropriately licensed practitioner.

(5) Willfully diagnoses and treats a physical or mental condition of any person under circumstances or conditions that cause or create a risk of great bodily harm, serious physical or mental illness, or death.

(6) Sets fractures.

(7) Treats lacerations or abrasions through electrotherapy.

(8) Holds out, states, indicates, advertises, or implies to a client or prospective client that he or she is a physician, a surgeon, or a physician and surgeon.

(b) A person who advertises any services that are not unlawful under Section 2051, 2052, or 2053

pursuant to subdivision (a) shall disclose in the advertisement that he or she is not licensed by the state as a healing arts practitioner.

SEC. 3. Section 2053.6 is added to the Business and Professions Code, to read: 2053.6.

(a) A person who provides services pursuant to Section 2053.5 that are not unlawful under Section 2051, 2052, or 2053 shall, prior to providing those services, do the following:

(1) Disclose to the client in a written statement using plain language the following information:

(A) That he or she is not a licensed physician.

(B) That the treatment is alternative or complementary to healing arts services licensed by the state.

(C) That the services to be provided are not licensed by the state.

(D) The nature of the services to be provided. (E) The theory of treatment upon which the services are based.

(F) His or her educational, training, experience, and other qualifications regarding the services to be provided.

(2) Obtain a written acknowledgement from the client stating that he or she has been provided with the information described in paragraph

(1). The client shall be provided with a copy of the written acknowledgement, which shall be maintained by the person providing the service for three years.

(b) The information required by subdivision (a) shall be provided in a language that the client understands.

(c) Nothing in this section or in Section 2053.5 shall be construed to do the following:

(1) Affect the scope of practice of licensed physicians and surgeons.

(2) Limit the right of any person to seek relief for negligence or any other civil remedy against a person providing services subject to the requirements of this section.

LEGISLATIVE COUNSEL'S DIGEST SB 577, Burton. Health: complementary and alternative health care practitioners. Existing law regulates the practice of medicine in the state, and in that regard prohibits persons who are not licensed as physicians and surgeons from engaging in certain activities constituting the practice of medicine. This bill, notwithstanding any other provision of law, would provide that a person engaging in certain medical treatments who makes specified written disclosures to a client shall not be in violation of certain provisions of the Medical Practice Act unless that person engages in specified diagnosis, treatment, and other activities. The bill would require a person who advertises himself or herself as performing the services that are subject to those requirements to state in the advertisement that he or she is not licensed by the state as a healing arts practitioner. This bill would also make various findings of the Legislature concerning the utilization of complementary and alternative health care services.