NATIONAL HEALTH FREEDOM ACTION

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Board of Directors
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Date: January 29, 2021

Re: House Bill 1472 regarding Complementary and Alternative Care

To: Chairman Representative Weisz and Members of the House Human Services Committee Representative:

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

National Health Freedom Action (NHFA) is a 501(c)4 non-profit corporation working to protect maximum health care options for consumers. NHFA works to protect the right of people to access the health care practitioners, health care products, and the broad range of healing arts that resonate with his or her own decisions regarding health and wellness.

NHFA responds to calls year-round from individuals and groups throughout the country who wish to promote legal reform in occupational laws and regulations having to do with complementary and alternative health care on the state level. We have subscribers to our organization in North Dakota who would like to have protective laws for unlicensed healers and practitioners who are providing non-invasive methods of healing and health services in North Dakota similar to other states that have protective laws.

NHFA supports HB1472 because it will protect access to hundreds of traditional, complementary, and alternative care practitioners such as traditional naturopaths, homeopaths, and herbalists, providing their services to health seekers in North Dakota and who are not licensed under medical health care occupation laws.

HB1472 leaves in place current licensing laws and current enforcement provisions for the unlicensed practice of medicine, however it makes an addition to the current unlicensed practice exemptions, creating a new exemption for those who are practicing non-invasive complementary and alternative care and who (1) avoid a specific list of prohibited conduct, such as puncturing the skin and, (2) who give out the disclosure information for unlicensed practitioners listed in the bill, such as contact information, education and training, and the nature of the services to be provided.

The use of complementary and alternative practitioners is prevalent in the United States. Based on a February 2015 National Health Statistics Report, the percentage of U.S. adults aged 18 and over who used any complementary health approach was 33.2%.[i] And based on the 2012 National Institute of Health's NHIS Survey from the National Center for Complementary and Alternative Medicine (NCCAM), it was found that about 59 million Americans spend money out-of-pocket on complementary health approaches, and their total spending adds up to $30.2 billion a year. This means that thousands of North Dakota citizens are using complementary and alternative health care and spending millions of dollars in the State of North Dakota for that care.

Clients find that gentle complementary and alternative care practitioners offer approaches that are often either more natural or may help them address their health concerns by lifestyle changes or non-invasive healing techniques from a broad variety of methods that the consumer has become aware of through their own research and networking. Many complementary and alternative practitioners are not licensed to practice a conventional health care profession and do not have a desire or plan to become conventionally licensed in a medical profession. Because NHFA wants to assure consumers their broadest access to their healing services, we support North Dakota's HB1472 and are glad that it is before this committee.

We have observed that state safe harbor practitioner exemption laws, similar to ND's HB1472, provide a practical way for states to assure continued consumer access to and the availability of practitioners and modalities while also retaining the avenues that state governments have to process complaints for unlicensed practice and enforce the unlicensed practice provisions against those who go outside the requirements of prohibited acts and disclosures in the exemption.

Currently eleven states have passed "safe harbor" practitioner exemption laws in some form, including: Minnesota, Rhode Island, California, Louisiana, Idaho, Oklahoma, Arizona (for homeopaths), New Mexico, Colorado, Nevada, and, most recently, Maine. Additional states have introduced and are working to pass similar legislation including in this session Wisconsin, Massachusetts, Iowa, and Connecticut.

Safe harbor laws do not change the regulation of licensed professionals. Complementary and alternative methods of treatment are also provided by many licensed professionals but they practice under the jurisdiction of their own licensing Boards.

We believe that safe harbor practitioner exemption laws are a common-sense way of addressing how to manage the hundreds of practitioners and businesses providing services in the public domain. These laws provide practitioners and the state with guidance parameters on how to proceed in the event of a complaint while assuring the continued availability of these services to consumers who enjoy them.

NHFA believes that HB1472 goes a long way in protecting consumer access to the broad domain of healing modalities practiced by practitioners currently not licensed by the state of North Dakota.

NHFA respectfully urges you to support HB1472 and we hope this letter is helpful in answering any of your questions about this type of legislation.

My Very Best Regards,

Diane M. Miller JD
Director of Law and Public Policy NHFA

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[i] Trends in the Use of Complementary Health Approaches Among Adults: United States, 2002–2012", by Tainya C. Clarke, Ph.D., M.P.H., Lindsey I. Black, M.P.H., National Center for Health Statistics; Barbara J. Stussman, B.A., National Institutes of Health; Patricia M. Barnes, M.A., National Center for Health Statistics; and Richard L. Nahin, Ph.D., M.P.H., National Institutes of Health 2015.