



NATIONAL HEALTH FREEDOM ACTION

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Date: January 29, 2021

Re: Vote Yes on House Bill 1472 regarding Complementary and Alternative Care

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

Thank you for hearing this bill, HB 1472, protecting consumer access to complementary and alternative care, and for the opportunity to speak in favor of it today.

I'd like to begin with just a brief introduction of our organization and then I'll provide a brief explanation of the problem HB 1472 is designed to solve and how it solves it. I'll be happy to answer any questions you have.

NHFA is a 501c4 non-profit organization, dedicated to protecting maximum health care options for consumers so they can exercise their rights to access the health care practitioners, products, services, and information that resonate with their own individual decisions for achieving and maintaining health and wellness.

We are based in MN but work nationally to educate and empower citizens to promote legal reform in occupational laws and regulations related to health care on the state level.

We have the privilege of working with residents in many states to draft practitioner exemption legislation, similar to HB 1472, and we enjoy getting to know them while supporting bills as they move through the legislative process. We work with them only after they reach out to us for a solution to a problem in their state laws.

The problem in current state laws is not unique to ND law - but it's a problem that leaves complementary and alternative care practitioners vulnerable to criminal charges for practicing medicine – or another licensed health care profession – without a license.

The potential of being put in jail for something as simple and innocent as exercising free speech rights when helping another person get well by, for example, teaching someone about their body's natural healing processes (information anyone can find by using google or going to their local library), or by recommending the consumption of foods and herbs with healing properties

(many of which are available to any consumer already at Whole Foods, the local co-op, or on Amazon). That's what we're here to change with HB 1472.

We're happy to support HB 1472 which we believe is a proactive, solution-oriented piece of legislation that gives ND the opportunity to reform its laws to reflect what is happening in the culture already.

As you'll hear from the testimony or from your individual constituents, consumers are increasingly searching for, embracing, and benefitting from health care options that involve lifestyle and behavior modifications and/or gentle healing therapies over, or alongside of, more conventional, pharmaceutical-based options.

Consumers are searching for approaches from a broad variety of methods that the consumer has become aware of through their own research and networking. We are so fortunate to live in the age of information where we can learn about anything we want – often without even having to leave the comfort of our homes to do so.

But finding a practitioner who offers these services is challenging. Many of the practitioners who consumers are looking for are not licensed to practice a conventional health care profession and do not have a desire or a plan or the means to become conventionally licensed. But that doesn't mean that they shouldn't be able to speak honestly about what they know or that they shouldn't be able to put to use the education, training or credentials, or other experience that they invested time and money in pursuing. And it certainly doesn't mean they don't have a role to play in supporting the health and wellness journeys of ND residents.

ND residents want access to practitioners who can help them navigate their holistic health options; herbalists, health coaches, and others. But these practitioners are often hard to find because they work under the radar because of the fear of criminal charges.

These criminal charges arise from the broad definition of the practice of medicine at ND Statute ch. 43-17-01, subd. 5 (a)-(d), which provides, in part, that a person is practicing medicine if he or she:

“[is] engaged within this state in the [...] treatment of diseases or injuries”; or “suggests, recommends, or prescribes any form of treatment for the intended relief or cure of any physical or mental ailment of any individual”.

It's good to have a broad definition. We want doctors to be able to use all the tools in their tool belt to help people get well. But the problem is that anyone who does anything within that broad definition without holding a license - even if it's not dangerous or harmful – can be put in jail or fined thousands of dollars.

HB 1472 does not seek to change that broad definition, but it asks ND law to acknowledge the impact that the broad definition has on complementary and alternative care providers by providing them with an exemption under certain situations. ND law already has a long list of exemptions at the end of each health care licensing law. Typically, these exemptions are for other licensed health care professionals doing some of the dangerous things that another licensed professional does under their licensing law. Also, there are exemptions that exist for non-licensed people - for example Good Samaritan laws in cases of emergencies, or for home

remedies (see e.g., ND Statute ch. 43-17-02, at subd. 2) - those people won't be charged criminally for unlicensed practice.

HB 1472 is asking you to add another exemption; not for dangerous things that have to be restricted to a few. Rather an exemption for gentle, common-sense, non-invasive activities, that yes, do fit within the broad definition of the practice of medicine or other regulated professions but activities that should be allowed in the public domain because they don't rise to the level of potential for harm that requires state regulation.

HB 1472 provides guidelines for the use of an exemption from occupational licensure and registration requirements for these unlicensed complementary and alternative health care practitioners as long as they:

- (1) give out the Required Disclosures listed in the bill on p. 2, lines 5-26; and
- (2) avoid a specific list of Prohibited Acts outlined on p. 1, lines 13-24, and p. 2, lines 1-3, of the bill.

We have observed that the practitioner exemption laws – passed in 11 states so far – provide a practical way for states to assure continued consumer access to, and the availability of, complementary and alternative care practitioners and modalities while also retaining the avenues that state governments have to process complaints for unlicensed practice when the need arises.

With HB 1472 in place, when/if a complaint arises, the question asked by the state would change from “Was the person practicing medicine without a license?” to: “Did the person fail to give out a required disclosure or did he/she perform a prohibited act?”

I want to be clear that HB 1472 would not change the regulation of licensed professionals. Complementary and alternative methods of treatments are also provided by many licensed professionals (such as an oncologist who might advise a patient to take turmeric or to see an herbalist) but they practice under the jurisdiction of their own licensing boards.

Exemption laws, like we hope HB 1472 will become in the state of ND, are a common sense way of addressing how to manage the thousands of practitioners and businesses providing services in the public domain – not under a board. 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 those services to consumers who safely enjoy them.

We believe HB 1472 goes a long way in protecting consumer access to the broad domain of healing modalities practiced by small business owners (often moms and wives trying to help make ends meet) who are not currently licensed by the state of ND.

NHFA respectfully urges you to support HB 1472. Thank you.

Sincerely,

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