

FINDINGS AND RECOMMENDATIONS

COMPLEMENTARY AND ALTERNATIVE HEALTH CARE REGULATION

Produced by

**National Health Freedom Coalition and National Health Freedom Action
www.nationalhealthfreedom.org**

The National Health Freedom Coalition and the National Health Freedom Action find that:

- I.** Every individual has the basic right of self-determination and the right to make their own personal choices in the process of healing. Each individual person is ultimately responsible for securing their own health and well being and making decisions to that end.
- II.** In order to have the right of self-determination, in the fullest sense of the word, every person has a constitutional right of access to any healing or health care practitioner, treatment, or information source they desire. This right remains, whether or not treatment options are generally accepted, well known, recognized, or researched, and regardless of a practitioner's education, training, and experience.
- III.** There is a broad range of types of health care practitioners and healing modalities and treatments available, be they conventional or non-conventional, holistic, integrative, natural, or culturally specific, and many of these have provided people with profound healing effects. The individual has the ultimate responsibility for assessing whether a particular treatment or practitioner has been or is likely to be beneficial to them in their healing process.
- IV.** Studies indicate that consumers are placing increased reliance on non-conventional healthcare providers and healing modalities to avoid the excessive cost of conventional medical services and to obtain more holistic consideration of their needs.
- V.** The role of the government in healthcare is to protect citizens from harm, and at the same time to protect citizen rights to individual choice and autonomy.
- VI.** The basic right of self-determination dictates that regulations are not to be imposed that impact consumer individual rights unless they are clearly required for the safety and well being of citizens. If regulations are imposed, the following criteria should be used: 1) necessity to protect the safety and well being of citizens, and 2) use of the least restrictive means of regulation possible.
- VII.** The least-restrictive means of regulation, balancing the role of the government to protect individuals from harm with the role of the government to protect individual autonomy and choice, should be founded on principles of a consumer informed environment and clear avenues of consumer recourse for complaints.
- VIII.** Consumers benefit from, and deserve to have, truthful information in order to make informed choices regarding their healthcare. A consumer benefits when a practitioner is required, before treatment begins, to give disclosure to the consumer regarding the method of healthcare they provide and their training and experience in the health care they practice.
- IX.** Consumers benefit from having accessible places to direct their complaints and deserve to be supported in their expectation of receiving ethical treatment and truthful information. If a person has been harmed or put in the position of imminent risk of direct harm by a modality or a practitioner relationship, the government should have in place a mechanism for consumer complaint and clear grounds for disciplinary actions to correct the situation.

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Re: State Occupational Regulation

1. The use of state licensure, registration, and certification to regulate health care occupations is not the least restrictive means of regulation and can negatively impact consumer options when used as the sole means of regulation. In fact, licensure is the most restrictive type of regulation, utilizing the broadest sweep of police power possible for occupations. Licensure laws typically describe an area of practice, demand particular types of education and training and use of exclusive titles for that practice, demand that the practitioner stay within the prevailing standard of care of the education and training mandated by the government for that practice, and then exclude all other persons from practicing in that area of healing.
2. Consumers are disempowered by states that only use the most restrictive means of regulation and do not provide an additional form of regulation that protects consumer options. Health-care regulations that are exclusive, that bestow ultimate power on particular types of professional and delivery systems to the exclusion of others, and that limit available healing practitioners and treatments through enforcement of exclusive and restrictive occupational laws, decrease consumer options in health care and infringe on the individual's basic right of self-determination to make choices.
3. Consumers are empowered by states that use additional least-restrictive means regulations that ensure all practitioners the right to practice and the right to use the full range of treatment methods. These states maximize consumer choice and protect the right of self-determination of the individual to make informed decisions about their health and acknowledge and respect consumer needs for meaningful information and reasonable practitioner/client relationship expectations.
4. There are recognized problems that occur when a state attempts to use exclusive and restrictive occupational regulation for non-conventional, holistic, integrative, natural or culturally specific types of healing practices:
 - a. **Education:** Government-mandated educational standards for the multidisciplinary and the broad domain of healing arts can be misleading and unrealistic and can decrease consumer access to practitioners that do not abide by governments' mandates. Attempts to regulate may involve setting arbitrary numbers of classroom hours at selected types of educational institutions with the receipt of conventional types of degrees, but many forms of natural healing cannot be confined to traditional learning environments or classroom or textbook training. Practitioner effectiveness may depend on inherent giftedness in the healing art. Skills may be acquired by mentoring with an individual, self-study, or other unconventional methods. Attempts by the government to quantify effective preparation needed for a particular healing art may restrict the pool of practitioners and may only serve to eliminate some of the most effective healers. Government mandates may miss some of the more intuitive or spiritual dimensions of healing skills, which may not be easily defined or tested.
 - * Governments should allow practitioners to practice regardless of their education and training as long as they practice within reasonable conduct guidelines and provide consumers with an informed environment. This will ensure maximum consumer options.
 - b. **Innovation:** Regulation that restricts health care practice to one group and to one standard of care can decrease incentive for innovation. The healthcare field needs healthy competition in the market place and needs the freedom to expand and develop as understanding of healing grows.
 - * No restrictions should be put in place regarding dissemination of new ideas and information if the government has not shown that it poses an imminent risk of harm and there is an informed consumer environment.

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c. **Preservation of Knowledge:** Health care regulation must always safeguard against the elimination of age-old wisdom and knowledge of healing.

* Preservation of wisdom is accomplished only in a free and uncensored society.

d. **Cooperation among Practitioners:** Health care regulation that promotes turf battles instead of an interdisciplinary environment decreases the potential for cooperation and exchange of information among practitioners. Practitioners practice in fear of being charged with the practice of medicine without a license or in fear of losing their existing license for practicing outside of a defined scope or outside of prevailing standards.

* The least restrictive means of communication should be used to promote acknowledgment and acceptance among practitioners and promote professional coordination, cooperation and free flow of information.

e. **Consumer Decision-making:** Occupational regulations that limit consumer options take away important rights and motivations of consumers to decide their own healing path.

* Consumer decision-making should be encouraged and regulation should support the fact that consumers that participate in their own health care decisions thrive more and have better health outcomes.

Re: Federal Regulations of Communications, Products, and Devices:

Current federal regulation of communications, drugs and devices are not the least restrictive means of health care regulation and can negatively impact consumer options when used as the sole means of regulation. For example, the federal definition of a drug is the most restrictive type of regulation possible for health care products. Federal law defines drugs broadly to include any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease. Substances that are defined as drugs cannot be used without FDA approval and the approval process involves lengthy expensive studies economically prohibitive for the general public. This law puts an unreasonable burden of proof on the public and outlaws the use of all healing agents that have not been proven safe by the government, even when there is no documented imminent risk of harm and even when the consumer is properly informed. This drastically reduces consumer options and choice of treatments.

The Dietary Supplement Health and Education Act is a strong positive reform of the Federal Food, Drug, and Cosmetic Act that protects the right of access of consumers to safe dietary supplements used to promote wellness.

The DSHEA amended the definition of food to include dietary supplements; however, the definition of drug remains and has yet to be reformed. This reform is needed to secure the maximum number of options for all consumers.

In Summary:

- I. State and federal governments must be vigilant during health care reform to preserve the balance between government regulation and an individual's right of self-determination and right of choice.
- II. Existing regulatory health care statutes should be reviewed and revised to acknowledge and promote the use of the broad domain of healing arts and trades in a nonexclusive manner by all consumers and by all

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professions both licensed and unlicensed, thus creating the widest range of choices for consumers.

- III. A regulatory framework should be utilized that embodies the least restrictive means of regulation, and that provides an informed consumer environment and a system for consumer recourse in the event of a complaint. For state regulation of unlicensed health care practitioners, The Minnesota Complementary and Alternative Health Care Freedom of Access Act of 2000, California Health Care Freedom of Access Act, and Rhode Island Unlicensed Practitioner Act can be referred to for conceptual planning. For federal legislation, bills amending the definition of the word drug can be reviewed for conceptual planning.
- IV. Government should look to the future and create laws that allow for the greatest amount of innovations and that ensure freedom of consumer access to all health care options.