

House Bill 1040

By: Representatives Smith of the 129<sup>th</sup>, Post 2, Henson of the 55<sup>th</sup>, Epps of the 90<sup>th</sup>, Stanley-Turner of the 43<sup>rd</sup>, Post 2, Howard of the 98<sup>th</sup>, and others

A BILL TO BE ENTITLED

AN ACT

1 To enact the "State Planning for Increased Community Access Act"; to amend Title 50 of the  
2 Official Code of Georgia Annotated, relating to state government, so as to provide for  
3 legislative findings; to provide for state planning for improved community access to  
4 culturally sensitive services; to provide for community economic development through the  
5 removal of culturally biased obstacles to access to culturally sensitive services; to provide  
6 that unlicensed practitioners providing complementary and alternative health care services  
7 shall not be in violation of state laws when providing services in compliance with this Act;  
8 to provide for client and practitioner rights and responsibilities; to provide for disclosures,  
9 notices, and informed consent; to provide for the establishment of the Georgia Advisory  
10 Council for Culturally Based Business Development; to provide for prohibited conduct and  
11 prohibited practice; to provide for applicability; to repeal conflicting laws; and for other  
12 purposes.

13 WHEREAS, the Georgia Department of Community Affairs provides incentives to local  
14 areas to assist in the development of service delivery systems and leads the state in the  
15 development and implementation of strategies that improve the quality of life through local  
16 and regional planning and community and economic development programs; and

17 WHEREAS, the General Assembly acknowledges that access to adequate health care is an  
18 important local and regional planning component that is critical to meeting the needs and  
19 providing for the general welfare of the people of Georgia; and

20 WHEREAS, there is a clear need for the State of Georgia to provide unimpeded access to  
21 safe health services as its citizens may choose under the law and to encourage the  
22 development of both traditional and alternative medicine to citizens in all areas of this state,  
23 provided such practices result in no imminent risk of harm to patients; and

1 WHEREAS, many members of Georgia's growing immigrant population, who are enhancing  
2 the culture and society of this state, use alternative forms of medicine brought from their  
3 native lands and wish to continue to use such complementary and nontraditional health care  
4 as residents of this state; and

5 WHEREAS, the state should encourage various cultural expressions in the arts and  
6 humanities in pursuit of its mission to serve all its citizens regardless of national origin; and

7 WHEREAS, the state should encourage traditional as well as alternative forms of health care  
8 in pursuit of its mission to ensure the good health of all of its citizens; and

9 WHEREAS, in 2002, the Georgia House of Representatives resolved that "the citizens of the  
10 State of Georgia have a protected freedom to choose and receive those healing treatments  
11 that they desire and deem to correspond with their own view of health and disease, which  
12 they deem to be effective in securing their own wellness and delivered by their own choice  
13 of practitioner"; and

14 WHEREAS, citizens of this state should not be denied access to information that would  
15 allow them to make informed choices on key quality of life issues; and

16 WHEREAS, some existing state laws may discourage individuals from obtaining training to  
17 become practitioners of alternative health care and may slow the lawful development of such  
18 alternative health care practices; and

19 WHEREAS, the enactment of the State Planning for Increased Community Access Act will  
20 allow for the planning and development of alternative health care service delivery systems.

21 NOW, THEREFORE, BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 GEORGIA:

23 **SECTION 1.**

24 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
25 by adding after Chapter 35, relating to the Georgia Environmental Training and Education  
26 Authority, a new Chapter 36 to read as follows:

## "CHAPTER 36

50-36-1.

This chapter shall be known and may be cited as the "State Planning for Increased Community Access Act."

50-36-2.

The General Assembly finds and declares the following:

(1) Based upon a comprehensive report by the National Institute of Health, a study published by the *New England Journal of Medicine*, and other research data, it is evident that hundreds of thousands of Georgians are currently 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 include persons in a wide variety of age, ethnic, socioeconomic, and other demographic categories;

(2) Notwithstanding the widespread utilization of complementary and alternative health care services by Georgians, the provision of many of these services may be in technical violation of the practice acts governing the licensed health care professions delineated in Georgia law. Unlicensed complementary and alternative health care practitioners could therefore be subject to fines, penalties, and the restriction of their practices under Georgia law, although there is no demonstration that their practice results in an imminent risk of significant harm to clients;

(3) Every citizen of this state has a protected right to choose and receive the healing treatment that he or she desires and deems to correspond with his or her own view of health and disease, which he or she deems to be effective in securing his or her own wellness, and delivered by his or her own choice of practitioner;

(4) The General Assembly finds that the practice of unlicensed complementary and alternative health care services does not pose an imminent risk of significant harm to the public. It is, therefore, the intent of the General Assembly to protect public access to practitioners who offer complementary and alternative health care services that do not require the training and credentials of a licensed health care practitioner.

50-36-3.

(a) Notwithstanding any other provision of law, a person who is not a licensed health care practitioner and who provides complementary and alternative health care services in accordance with this Code section shall not be in violation of Georgia law or any of the health care profession practice acts unless that person does any of the following:

- 1 (1) Conducts surgery or any other procedure on another person that harmfully invades  
2 the body;
- 3 (2) Administers or prescribes X-ray radiation to another person;
- 4 (3) Prescribes, orders, dispenses, administers, or supplies legend drugs or controlled  
5 substances to another person;
- 6 (4) Recommends the discontinuance of legend drugs or controlled substances prescribed  
7 by a licensed health care practitioner;
- 8 (5) Diagnoses or treats a physical or mental health condition of any person which causes  
9 an imminent risk of significant bodily injury, significant physical or mental illness, or  
10 death;
- 11 (6) Sets fractures;
- 12 (7) Manipulates or adjusts articulations of joints or of the spine; or
- 13 (8) Holds out, states, indicates, advertises, or implies that he or she is a licensed health  
14 care practitioner under the laws of this state.
- 15 (b) Any unlicensed person providing complementary and alternative health care services  
16 in violation of this Code section shall be subject to the administrative, civil, and criminal  
17 remedies and penalties specified under Georgia law, including but not limited to court  
18 costs, reasonable attorneys' fees, and the reasonable costs of investigation and prosecution.
- 19 50-36-4.
- 20 (a) Any unlicensed person providing complementary and alternative health care services  
21 shall, prior to providing those services, disclose to the client in a plainly worded written  
22 statement:
- 23 (1) That he or she is not a licensed health care practitioner under the laws of this state;
- 24 (2) The nature of the services to be provided and the theory upon which the  
25 complementary and alternative health care services are based; and
- 26 (3) The degrees, training, experience, credentials, or other qualifications of the  
27 practitioner, or the absence thereof, regarding the complementary and alternative health  
28 care services being provided.
- 29 (b) An unlicensed person providing complementary and alternative health care services  
30 shall obtain a written acknowledgment from the client stating that he or she has been  
31 provided with the information described in this Code section, which shall be retained by  
32 the person providing such services for three years. The client shall be provided with a copy  
33 of such written acknowledgment.
- 34 (c) An unlicensed practitioner providing complementary and alternative health care  
35 services who fails to comply with this Code section shall be subject to the administrative  
36 and civil remedies and penalties specified in this chapter and under Georgia law, including

1 but not limited to court costs, reasonable attorneys' fees, and the reasonable costs of  
2 investigation and prosecution.

3 (d) Nothing in this Code section shall be construed to do the following:

4 (1) Affect the scope of practice or the standard of care applicable to health care  
5 professionals licensed in this state in the performance of complementary and alternative  
6 health care services; or

7 (2) Limit the right of any person to seek relief for negligence or any other civil remedy  
8 otherwise provided by law against a person providing complementary and alternative  
9 health care services under this chapter.

10 (e) A health care practitioner licensed in this state who provides complementary and  
11 alternative health care services while practicing under his or her license shall be regulated  
12 by and be under the jurisdiction of the board of his or her applicable health care profession  
13 with regard to such services.

14 (f) This chapter shall not restrict the practice, service, or activity of lawful marketing or  
15 distributing of food products, including dietary supplements as defined in the federal  
16 Dietary Supplement Health and Education Act of 1994, P.L. 103-417, but authorizes the  
17 education of customers about such products or explains the uses of such products.

18  
19 50-36-5.

20 No provision of this chapter shall be construed to prohibit the practice of complementary  
21 and alternative health care services that are in compliance with this chapter by persons not  
22 licensed to practice a health care profession specified under Georgia law.

23 50-36-6.

24 There is created and established the Georgia Advisory Council for Culturally Based  
25 Business Development.

26 50-36-7.

27 The purposes for which the council is established shall include:

28 (1) To promote, stimulate, develop, and advance economic growth in culturally based  
29 businesses and thereby promote, stimulate, develop, and advance the business, prosperity,  
30 and economic welfare of the entire state;

31 (2) To encourage, assist, and facilitate the development and creation of culturally based  
32 business and industry in this state, including community based small businesses, and to  
33 strengthen and assist existing business and industry;

1 (3) To stimulate and assist in the expansion of community culturally based business  
2 activity which will tend to promote small business development and maintain the  
3 economic stability of the state; and

4 (4) To advise the House State Planning and Community Affairs Committee on the status  
5 of culturally based businesses in the state.

6 50-36-8.

7 (a) Members of the council shall not be entitled to compensation for the duties they  
8 perform as members of the council.

9 (b) The council shall be under the direction and supervision of a board of directors to be  
10 composed of seven members appointed by the House State Planning and Community  
11 Affairs Committee. There shall be a director of the council who shall be appointed and  
12 removed by the board of directors upon recommendation of the Governor."

13

## **SECTION 2.**

14 All laws and parts of laws in conflict with this Act are repealed.