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A. Health Freedom Law

**B. Summary of Health Freedom Law
(Senate Bill 1324)**

CHAPTER 2001-116

Senate Bill No. 1324

An act relating to health care; creating s. 456.41, F.S.; authorizing provision of and access to complementary or alternative health care treatments; requiring patients to be provided with certain information regarding such treatments; requiring the keeping of certain records; providing effect on the practice acts; amending s. 381.026, F.S.; revising the Florida Patient's Bill of Rights and Responsibilities to include the right to access any mode of treatment the patient or the patient's health care practitioner believes is in the patient's best interests; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 456.41, Florida Statutes, is created to read:

456.41 Complementary or alternative health care treatments.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature that citizens be able to make informed choices for any type of health care they deem to be an effective option for treating human disease, pain, injury, deformity, or other physical or mental condition. It is the intent of the Legislature that citizens be able to choose from all health care options, including the prevailing or conventional treatment methods as well as other treatments designed to complement or substitute for the prevailing or conventional treatment methods. It is the intent of the Legislature that health care practitioners be able to offer complementary or alternative health care treatments with the same requirements, provisions, and liabilities as those associated with the prevailing or conventional treatment methods.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Complementary or alternative health care treatment" means any treatment that is designed to provide patients with an effective option to the prevailing or conventional treatment methods associated with the services provided by a health care practitioner. Such a treatment may be provided in addition to or in place of other treatment options.

(b) "Health care practitioner" means any health care practitioner as defined in s. 456.001(4).

(3) COMMUNICATION OF TREATMENT ALTERNATIVES.—A health care practitioner who offers to provide a patient with a complementary or alternative health care treatment must inform the patient of the nature of the treatment and must explain the benefits and risks associated with the treatment to the extent necessary for the patient to make an informed and prudent decision regarding such treatment option. In compliance with this subsection:

(a) The health care practitioner must inform the patient of the practitioner's education, experience, and credentials in relation to the complementary or alternative health care treatment option.

(b) The health care practitioner may, in his or her discretion, communicate the information orally or in written form directly to the patient or to the patient's legal representative.

(c) The health care practitioner may, in his or her discretion and without restriction, recommend any mode of treatment that is, in his or her judgment, in the best interests of the patient, including complementary or alternative health care treatments, in accordance with the provisions of his or her license.

(4) RECORDS.—Every health care practitioner providing a patient with a complementary or alternative health care treatment must indicate in the patient's care record the method by which the requirements of subsection (3) were met.

(5) EFFECT.—This section does not modify or change the scope of practice of any licensees of the department, nor does it alter in any way the provisions of the individual practice acts for those licensees, which require licensees to practice within their respective standards of care and which prohibit fraud and exploitation of patients.

Section 2. Paragraph (d) of subsection (4) of section 381.026, Florida Statutes, is amended to read:

381.026 Florida Patient's Bill of Rights and Responsibilities.—

(4) RIGHTS OF PATIENTS.—Each health care facility or provider shall observe the following standards:

(d) Access to health care.—

1. A patient has the right to impartial access to medical treatment or accommodations, regardless of race, national origin, religion, physical handicap, or source of payment.

2. A patient has the right to treatment for any emergency medical condition that will deteriorate from failure to provide such treatment.

3. A patient has the right to access any mode of treatment that is, in his or her own judgment and the judgment of his or her health care practitioner, in the best interests of the patient, including complementary or alternative health care treatments, in accordance with the provisions of s. 456.41.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor May 31, 2001.

Filed in Office Secretary of State May 31, 2001.

Summary of Senate 1324: Relating to Health Care/Alternative Treatment
Senate Sponsor, Senator Durell Peadar, M.D.
Senate Co-Sponsor, Senator Charlie Clary
Filed 3/06/01

Creates 456.41; Amends 381.026

- ❖ Gives patients the rights to receive (Chapter 381), and licensed health care practitioners (under Chapter 456) the right to provide, complementary or alternative health care treatment with informed consent.
 - “Complementary or alternative health care treatment” means any treatment designed to provide patients an effective option to the prevailing or conventional treatment methods associated with services provided by a health care practitioner.
 - Informed consent means health care practitioner:
 - 1) informs the patient of the nature of the treatment,
 - 2) explains the benefits and risks associated with the treatment to the extent necessary for the patient to make an informed and prudent decision regarding such treatment,
 - 3) informs the patient of the practitioner’s education, experience, and credentials in relation to the treatment, and
 - 4) indicates in the patient’s records whether these requirements were communicated orally or in writing.
 - Provides patient access to any mode of treatment that is, in the judgment of the practitioner and the patient, in the best interests of the patient, in accordance with the provisions of practitioner’s license.
 - Effect – does not modify or change scope of practice of any licensed health care practitioners nor does it alter requirements to practice within respective standards of care which prohibit fraud and exploitation of patients.