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# **Minnesota Department of Health**

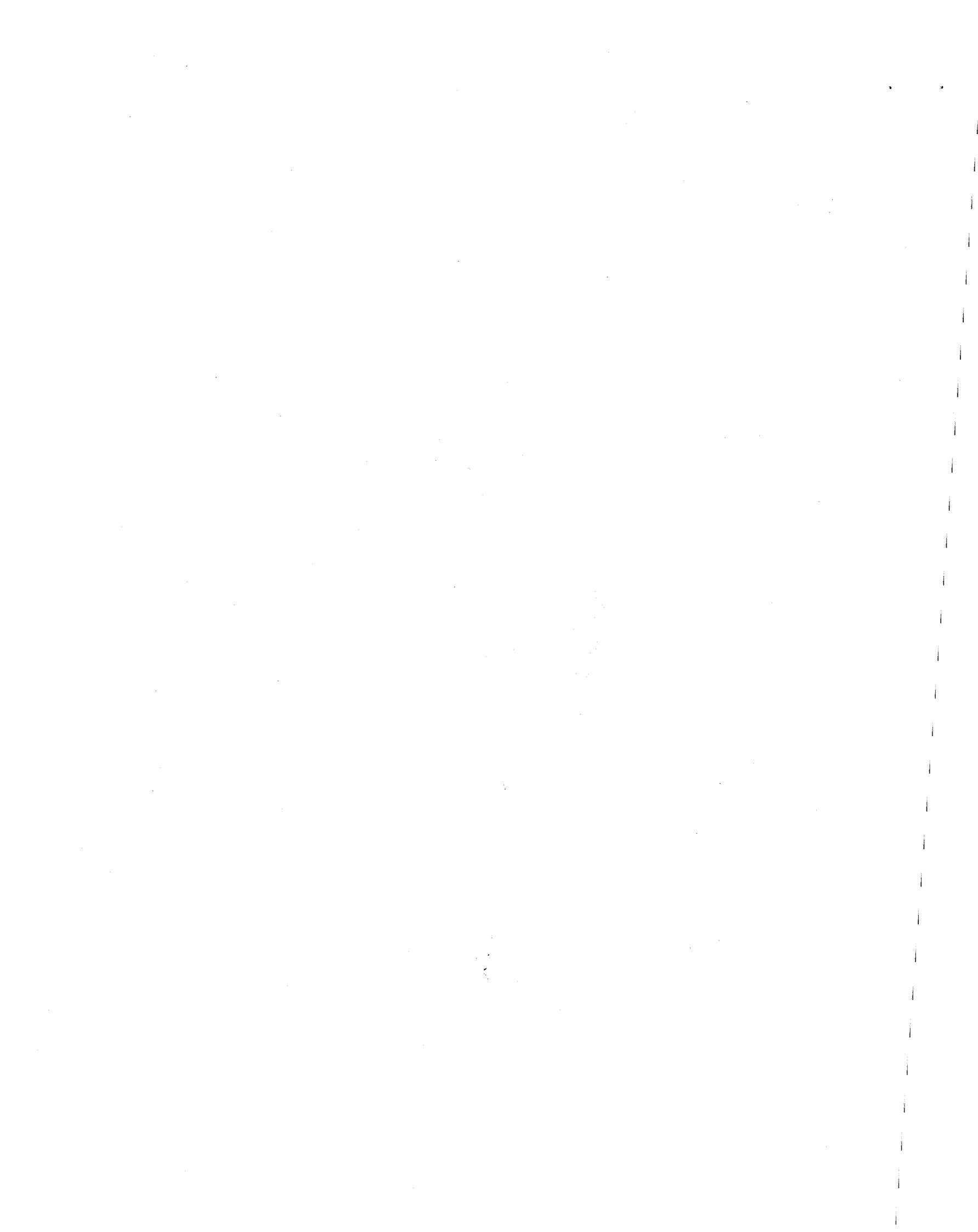
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**Office of Unlicensed Complementary and  
Alternative Health Care Practice**

***Legislative Report***

**January 1, 2003**

Health Policy & Systems Compliance  
Health Occupation Program  
121 E 7<sup>th</sup> Place, Suite 400  
St. Paul, MN 55101  
[www.health.state.mn.us](http://www.health.state.mn.us)



# **Office of Unlicensed Complementary and Alternative Health Care Practice**

## **Legislative Report January 1, 2003**

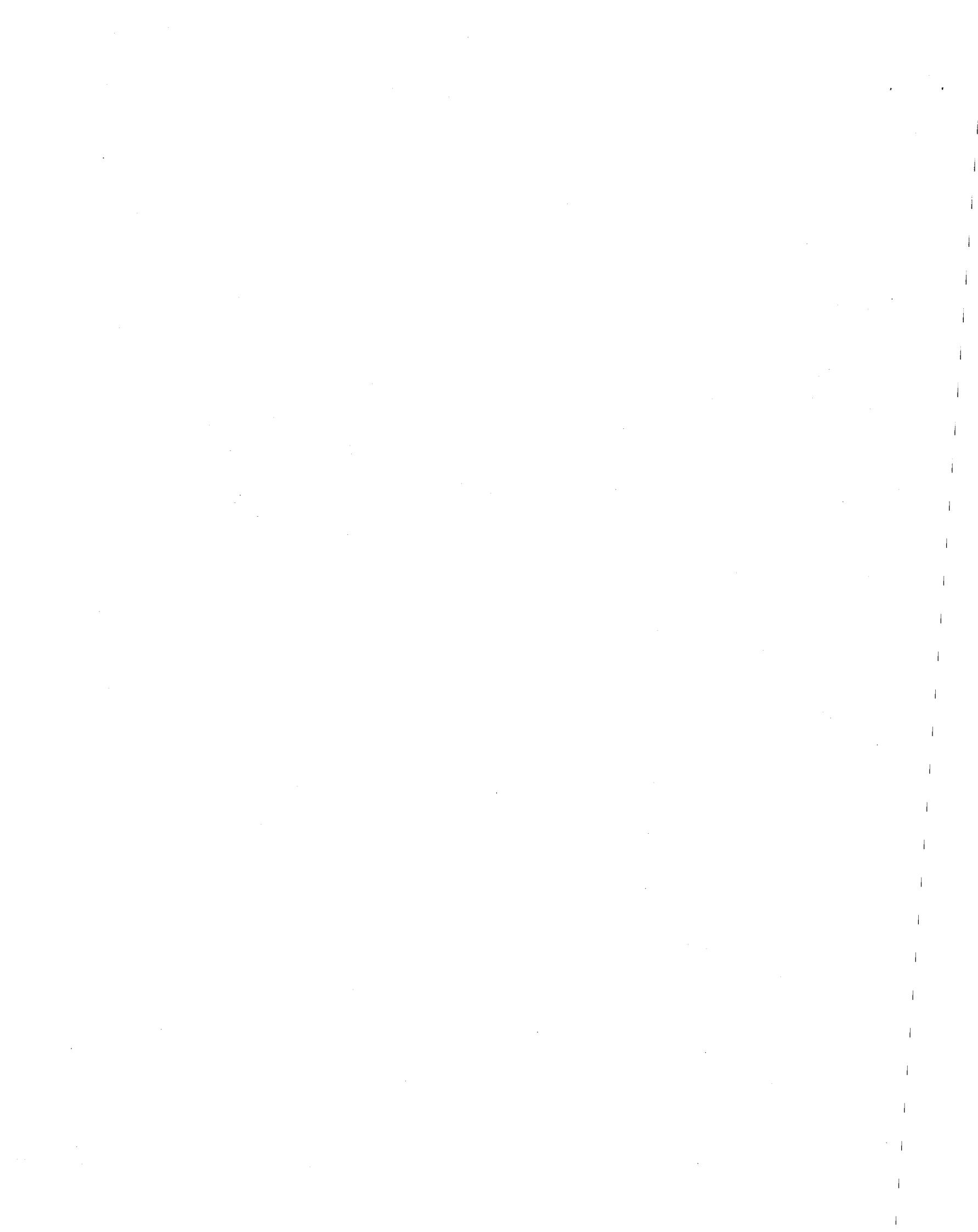
For more information, contact:  
Health Occupations Program  
Minnesota Department of Health  
121 East 7<sup>th</sup> Place, Suite 400  
Post Office Box 64975  
St. Paul, Minnesota 55164-0975

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**Office of Unlicensed Complementary and Alternative Health Care Practice  
Minnesota Department of Health  
Legislative Report**



## I. General Information

### **Introduction:**

Minnesota Session Laws 2000, Chapter 460, § 65 required the Commissioner of Health to report to the 2003 legislature on the number and types of complaints received against unlicensed complementary and alternative health care practitioners pursuant to Minnesota Statutes, Chapter 146A, the types of practitioners against whom complaints were filed, investigations conducted, and the number and types of enforcement actions completed.

The effective date of the law establishing funding for the office of unlicensed complementary and alternative health care practice (OCAP) was July 1, 2001. This report covers the time period between July 1, 2001 to December 19, 2002. Some start-up activities occurring before July 1, 2001 are also listed.

### **A. Office Of Unlicensed Complementary and Alternative Health Care Practice Mission and Major Functions:**

#### **Mission:**

To protect and educate consumers who receive complementary and/or alternative health care services from practitioners, including, but not limited to, persons who provide: herbology, acupressure, homeopathy, body work, massage therapy, naturopathy, and culturally traditional healing practices. The OCAP was created within the Minnesota Department of Health (MDH) to receive and investigate complaints against unlicensed complementary and alternative health care practitioners, to take enforcement action for violations of prohibited conduct, monitor practitioner conduct after discipline, and act as an information clearinghouse by providing the public with information about regulation of unlicensed complementary and alternative health care practitioners in the state of Minnesota.

#### **Major Functions:**

##### **Investigating complaints**

Accepting complaints and reports from the public, health care service providers, and other health care regulators regarding the conduct of unlicensed complementary and alternative health care practitioners.

Determining whether a complaint or inquiry is jurisdictional and, if so, obtaining sufficient evidence to determine if a violation of Minnesota Statutes, Chapter 146A occurred.

Engaging in fact-finding by interviewing complainants, witnesses, and the practitioners, and obtaining relevant documentation about the allegation(s) including a completed complaint form from the complainant.

Coordinating investigations involving matters within the jurisdiction of more than one regulatory

agency by making appropriate referrals to other state boards, agencies, departments responsible for licensing health related occupations, facilities and programs, and law enforcement personnel in this and other states.

Informing complainants of action taken to resolve their complaints as allowed by the provisions of the Minnesota Government Data Practices Act.

**Taking and enforcing disciplinary actions against unlicensed complementary and alternative health care practitioners for violations of prohibited conduct**

Evaluating the case against a practitioner while balancing the constitutional due process rights of the practitioner against the Commissioner's obligation to protect the public from harm in a cost effective way.

Holding conferences with practitioners to clarify information received during an investigation, identify the practitioner's role and responsibility in a matter under investigation, and allow the practitioner an opportunity to make a meaningful response.

Obtaining voluntary and negotiated agreements with practitioners for discipline whenever possible.

Protecting the identity of clients in all instances and especially when sexual misconduct or other serious violations occurred.

When disciplinary action is taken, setting up a system to continue monitoring practitioner's conduct to ensure the practitioner complies with disciplinary order.

Taking further enforcement actions if there is evidence to conclude that practitioner violated terms of the Order of the Commissioner.

**Accepting petitions for reinstatement of right to practice unlicensed complementary and alternative health care practice from practitioners who had been disciplined by a health-related licensing board or the commissioner of health pursuant to requirements in Minnesota Statutes, § 146A.01, subd. 6(4).**

Evaluating the prior discipline and investigate practitioner's conduct since the time of the sanction to determine whether the practitioner is currently safe to practice unlicensed complementary or alternative health care.

**Acting as informational clearinghouse on complementary and alternative health care services provided by unlicensed practitioners through dissemination of information to the public about avenues for relief, consumer rights, sexual exploitation by practitioners, and to practitioners about their legal responsibilities**

Responding by telephone or in writing to answer questions about regulations pertaining to consumer rights and unlicensed complementary and/or alternative health care service providers in Minnesota.

Responding on-line via the website which provides information about regulation of unlicensed complementary and alternative health care practitioners in the state of Minnesota, consumer rights, how to file complaints against practitioners, and public disciplinary action which has been taken by the OCAP.

Preparing and distributing brochures and other printed materials to both consumers and practitioners to describe consumer rights and options, to educate the public and practitioners about the OCAP and to inform practitioners about their legal responsibilities.

Collecting and recording data about both investigations and enforcement actions for distribution to the public and legislative authorities about OCAP's activities.

## **B. Major Activities**

Staff attended and testified at the White House Commission on Complementary and Alternative Medicine Town Hall Meeting, which was held in Minneapolis on March 16, 2001.

In June and July 2001, developed mailing list of stakeholders, practitioners and interested persons from newspapers, yellow pages, advertisements and callers.

In July 2001, staff met with Board of Nursing staff to discuss and decide unique jurisdictional issues relating to OCAP and registered nurses in Minnesota.

In July 2001, Minneapolis Star and Tribune interviewed staff about the new OCAP office and responsibilities. [See Addendum "A"]

In August 2001, staff drafted a "Question and Answer" memo based on questions the Department had received from interested persons and practitioners. The memo was mass mailed to approximately 800 persons on the mailing list in the same month.

In August 2001, completed the complaint form for the OCAP and the cover letter.

In October 2001, mailed the "Question and Answer" memo to City Administrators in the state notifying them about the new laws because many cities also regulate massage therapists.

December 2001 to April 2002, staff responded to several calls from other states wanting information about OCAP administration and laws in Minnesota.

On February 16, 2002, staff presented a continuing legal education seminar to the Health Law

Section of the Minnesota State Bar Association about the OCAP program.

On March 29, 2002 hired Health Care Program Investigator to handle investigations, enforcement actions, and public information activities for the OCAP.

Issued the first OCAP news release on September 27, 2002. Contacted various metro area media outlets to publish information about the OCAP and consumer rights. [See Addendum "B"]

Completed the OCAP brochure "Consumer Rights" and distributed it to over 1,000 practitioners, clients, and interested consumers. [See Addendum "C"]

Staff were interviewed for a November 15, 2002 article in the Business Journal about the regulation of homeopaths and the OCAP law. [See Addendum "D"]

Since June 2001, have responded to nearly 500 inquiries from the public and/or practitioners about OCAP.

### **C. Emerging Issues Regarding Regulation of Unlicensed Complementary and Alternative Health Care Practitioners and Practices**

Acceptance of complementary and alternative health care by the general population, including Minnesotans in Greater Minnesota. Eight of the thirty-one investigations opened (25%) were about services provided in Greater Minnesota.

In nine files, complainants did not cooperate with the investigative process by not following through with a written complaint or by refusing to identify the practitioners. In five out of the nine files, the allegations were boundaries and/or sexual misconduct violations. Based on staff experience in handling sexual misconduct investigations in other regulatory programs, it is often difficult for complainant-clients to follow through with complaints on matters that are especially personal and sensitive like sexual misconduct.

An operating budget of \$95,000 designated for the first fiscal year for the OCAP decreased to \$50,000 for the second fiscal year. The lower funding amount affects the OCAP's ability to support investigations and enforcement actions because there is no funding for clerical support, supervisor review, medical/technical expertise on health issues, nor IT development and/or maintenance.

Sexual misconduct by massage therapists is significant compared to other types of unlicensed complementary and alternative health care practitioners. Eight of the ten investigations against massage therapists involve a boundaries violations and/or sexual misconduct.

The following is a list of issues Department staff have identified in the OCAP statute and possible ways of resolving the language problems involved.

1. Minn. Stat. § 146A.03, subd. 4; the reporting requirement.

The general rule is that licensed health professionals shall report to the Department any conduct that would constitute a ground for disciplinary action. The last line of this section provides an exception to the rule whereby treating practitioners may not report to the Department if they also successfully counsel the offending practitioner to leave practice. There are inherent risks associated with burdening the treating practitioner with having to successfully counsel an offending practitioner out of practice because there are no guarantees that the offending practitioner will stay out of practice and that the offending practitioner will not continue the violations after s/he has stopped seeing the treating practitioner. Further, perhaps leaving practice is unnecessary and not the best option for the offending practitioner nor his/her clients. A possible way of resolving this issue is to delete the last line of the section to eliminate this exception. This places the responsibility for appropriate discipline and monitoring with the regulatory agency.

2. Minn. Stat. § 146A.01, subd. 4(b); podiatric medicine is not exempted from OCAP.

Subdivision 4(b) sets out practices that are not included within the Department's jurisdiction. It appears that podiatric medicine, which is licensed, should have been included in these exceptions.

3. Minn. Stat. § 146A.01, subd. 6 (c) ; practices not allowed by OCAP practitioners.

The current definition and scope of the Department's jurisdiction focuses on practitioner types, not practices. As the statute reads now, it states that OCAP practices do not include activities like setting fractures, using x-ray technology, puncturing the skin, dispensing legend drugs, doing surgery or using medical devices, and the statute could be misinterpreted to mean that practitioners doing these activities are outside the jurisdiction of the Department, which is contrary to the intent of the statute.

4. Minn. Stat. § 146A.06, subd. 3(2)e; clarifying when the Department shall provide information to the complainant about the outcome of the file.

Currently, the law does not define when the Department will advise the complainant about the actions taken. One possible fix is to require the Department to make those disclosures after the file has been closed.

5. Minn. Stat. § 146A.08, subd. 1(p); soliciting money or services from a client through use of undue influence, harassment, duress, deception, or fraud is not prohibited.

There is an existing prohibition against *obtaining* money or services from a client through undue influence, harassment, duress, deception, or fraud, and the *solicitation* of money or services from a client, should also be included. Not including "soliciting money or services" means that practitioners who are unsuccessful at actually obtaining the money or services fraudulently would not be in violation of the law.

6. Minn. Stat. § 146A.08, subd. 1(w); protected titles based on professions already credentialed in Minnesota.

Currently, titles such as “physician”, “nutritionist” and “dietitian” are not included as protected titles OCAP practitioners cannot use.

7. Minn. Stat. § 146A.08, subd. 1(x); Documenting recommendations that clients seek care from a licensed health care provider.

The law already requires practitioners to recommend that their clients seek care from a licensed or registered health care provider when there is a reasonable likelihood that such a practitioner’s care is warranted, but it does not require the practitioner to document any such recommendation. This would protect both the practitioner and the client.

8. Minn. Stat. § 146A.011, subd. 2; Having the client date a written statement attesting to the fact that the client received a client bill of rights.

The existing requirement is that all practitioners provide a client bill of rights to their clients and keep a record that each client received it by having them sign a statement to that effect. Clients should also date the statement.

## **II. OCAP's Staff and Budget**

### **A. Employees**

The OCAP had one full-time investigator from March 29, 2002 to December 26, 2002. At the time of this final report, the investigator position is vacant and because of the general fund deficit for FY 2003, the Department had not hired a replacement.

### **B. Receipts and Disbursements and Major Fees Assessed By Office**

The OCAP is part of the Health Occupations Program within the Health Policy and Systems Compliance Division in the Minnesota Department of Health. Legislation enacted by the Minnesota State Legislature during the 2000 session created the Office and its budget. During fiscal year 2002, \$50,164 was expended by the OCAP. This amount included expenditures on salaries, publication materials, postage, office supplies, and website development. As there are no credentialing components to the OCAP, no fee-based revenue is received. Also, due to the relatively short period of time that the Office has been in existence, no civil penalty monies have been assessed and collected.

#### **Expenditures**

FY 2001	\$ 0
FY 2002	\$50,164
<b>TOTAL</b>	<b>\$50,164 (excluding indirect costs)</b>

### III. Complaints

#### **A. Complaints Received**

“Complaints” means all “investigations” undertaken and includes investigations begun upon staff information, practitioner self-disclosure and petitions for reinstatement of the right to practice. The statistics are current through December 19, 2002.

	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2003</u>
<b>Complaints Received</b>	1	16	14
<b>Complaints by Type of Complaint</b>	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2003</u>
Sexual Misconduct	0	3	4
Impaired Objectivity (Boundaries violation)	0	3	1
Harm to Public <sup>1</sup>	1	3	6
Failure to Provide Recommendation <sup>2</sup>	0	2	0
Misrepresentation of Credentials	0	2	3
False Advertising	0	1	0
Unhygienic services	0	1	0
Puncture of the Skin	0	1	0
	<hr/> 1	<hr/> 16	<hr/> 14

#### **Closed Complaint Investigations**

	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2003</u>
<b>Number Closed</b>	<b>0</b>	<b>6</b>	<b>8</b>
Disposition By Type			
A. Enforcement Action	0	0	0
B. Practitioner Advisement	0	0	2
B. Non-jurisdictional	0	2	1
D. Complainant non cooperation	0	4	4
E. Referral to Licensing Boards/Federal Agencies	0	2	1

<sup>1</sup> “Harm to the Public” constitutes conduct by a practitioner likely to deceive, defraud, or harm the public; or demonstrating a willful or careless disregard for the health, welfare, or safety of a client; or any other practice that may create danger to any client’s life, health, or safety, in any of which cases, proof of actual injury need not be established.

<sup>2</sup> “Failure to Provide Recommendation” is defined as failure by the unlicensed complementary and alternative practitioner to provide a client with a recommendation that the client see a health care provider who is licensed or registered by a health-related licensing board or the commissioner of health, if there is a reasonable likelihood that the client needs to be seen by a licensed or registered health care provider”.

<b>Types of Practitioners</b>	<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>
Massage Therapists	0	5	5
Naturopaths	1	3	4
Rolfer	0	3	0
Cell Analyzer	0	1	1
Homeopath	0	1	1
Electral-Dermal Screener	0	1	0
Ortho-Bionomist	0	1	0
QXCI Practitioner (biocomputer)	0	1	0
Energy Worker	0	0	1
DNA Integration	0	0	1
Dietary Supp Salesman	0	0	1

Massage Therapists (Sexual Misconduct & Boundaries issues = 8)

Naturopaths (Diagnosing & Misrepresenting creds = 5)

Rolfers (Boundaries issues = 2)

### **Table of Investigations Data:**

**Office of Unlicensed Complementary and Alternative Health Care Practice  
Health Occupations Program  
Minnesota Department of Health**

<b>Opened</b>	<b>Alleg. Type</b>	<b>P'ter type &amp; Location</b>	<b>Status</b>	<b>Other</b>
06/04/01	Fraud lab results	Naturopath <b>Alexandria</b>	Pending	Coord. w/ fed Centers for Medicare & Medicaid; awaiting their inv results in March 2003
07/01/01	Prior Discipline	Massage Therapist (hereinafter “MT”) <b>Mpls</b>	Closed 03/01/02 w/ order reinstating right to practice OCAP	No complaint. Investigated BSW revocation and boundary issues.

07/10/01	Boundaries	MT <b>Metro</b>	Closed 04/08/02	No jurisd. Conduct occurred B4 law.
07/14/01	Unsafe practices; Diagnosing	Electral- Dermal Screening; Homeopathy  <b>St. Paul</b>	<b>Pending;</b> eval p'ter resp & case conf to do	Also referred to FDA for eval of machine
07/20/01	Sex Miscond.	MT; <b>North Branch</b>	Closed 05/08/02	No jurisd. ; occurred B4 law.
10/09/01	Boundaries	Ortho- Bionomist  <b>St. Paul</b>	<b>Pending</b> Eval p'ter resp and case conf	Referred by OMHP;
12/12/01	Diagnosing	Naturopath  <b>Plymouth</b>	Closed 06/25/02	No coop fr complainant
01/11/02	Unhygienic practice	MT  <b>Coon Rapids</b>	Closed 11/17/02	No coop fr complainant
01/23/02	Had prior discipline	Naturopath  <b>Eagan</b>	Closed 07/01/02 No compl Self- disclosure	Advisemnt to him re: petition for reinstatement
01/30/02	Boundaries	Rolfer  <b>Mpls</b>	Closed 05/13/02	No coop fr complainant
02/07/02	Boundaries	Rolfer  <b>Mpls</b>	Closed 06/10/02	No coop fr complainant
03/15/02	Unsafe practices; diagnosing	QXCI use  <b>St. Paul</b>	<b>Pending</b>	Coordinated inv w/ FDA

03/04/02	Sex miscond.	MT <b>Metro</b>	<b>Pending;</b> ready for enf action	Police report filed
06/18/02	Unsafe Practices; puncturing skin	Cell Analyzer <b>Alexandria</b>	<b>Pending;</b> case conf & subpoena served	Jan. 27, 2002 case conf
06/24/02	Unsafe practices; not referring to medical	Rolfer <b>Bloomington</b>	<b>Pending;</b> eval p'ter resp & case conf	P'ter did refund some of client's money
06/24/02	Unsafe practices; puncturing skin	Naturopath <b>Hopkins</b>	<b>Pending;</b> eval p'ter resp & case conf	
05/28/02	Unsafe practices	Homeopath <b>Shakopee</b>	Closed 8/8/02	No coop fr complainant
07/08/02	Sex Miscond.	MT <b>Mpls</b>	<b>Pending;</b> Eval p'ter resp & case conf	
08/08/02	Misrep of credentials	Naturopath <b>Out of state</b>	Closed 8/8/02	Out of state p'ter; referred to FTC for f/up
08/21/02	Boundaries	MT <b>Lindstrom</b>	Closed 12/10/02	No coop fr complainant
09/10/02	Criminal Sexual conviction	MT <b>Winona</b>	Closed 11/21/02	Advisement re: not practicing M.T.
09/12/02	Misrep cred	Naturopath <b>Mpls</b>	<b>Pending;</b> eval p'ter's resp and f/up	
09/12/02	Prior discipline hx	Naturopath <b>Mpls</b>	Closed 10/02 w/ no action; prior discipline was voided	No complaint; staff noted prior discipline

09/17/02	Unsafe practices	Dietary supp salesman <b>Owatonna</b>	Closed 11/17/02	No coop fr complainant, but appeared not to be OCAP p'ter too
09/19/02	Misrep cred	Naturopath <b>Mpls</b>	<b>Pending;</b> eval p'ter's resp	No complaint; TV news broadcast staff noted
09/20/02	Sex miscond.	MT <b>Metro</b>	Closed 11/14/02	No coop from compl
09/30/02	Unsafe practices	DNA Integration <b>Mpls</b>	<b>Pending;</b> to do NC	
11/13/02	Crim Sex arrest	MT <b>Red Wing</b>	<b>Pending;</b> to do enf action if conviction	Coordinated with County Atty. Arrest in 10/02
11/22/02	Unsafe practice	Homeopath <b>Landfall</b>	<b>Pending;</b> sent compl form on 11/22	
12/11/02	Petition for Reinstatement	Energy work <b>St. Paul</b>	<b>Pending;</b> need to do investig	SLPA sanction
12/19/02	Unsafe practice	Cell analysis <b>Duluth</b>	<b>Pending;</b> to do investig	Same complainant as in 6/18/02 file

# /State

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Tuesday, July 3, 2001 • Section **B**

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## Natural healers feel great about new state office

By Maura Lerner  
*Star Tribune Staff Writer*

For the first time, natural healers such as Jerri Johnson have an office in Minnesota state government to call their own.

Although the main job of the Office of Complementary and Alternative Practice is to investigate consumer complaints, Johnson, a homeopath from Eagan, calls it a cause for celebration because it implicitly recognizes the right to practice alternative medicine in Minnesota. "That's a very fundamental freedom ... that we didn't have before," said Johnson, a member of the Minnesota Natural Health Coalition, which lobbied for the law creating the office.

The office, believed to be the first of its kind in the country, quietly opened Monday.

**HEALTH continues on B7:**  
— *Several states are considering laws patterned after the Minnesota model.*

## INSIDE

### Gifted students

The St. Paul school board is looking at new ways to identify gifted students. Turn to B3.

### Hiring defended

Horse-racing regulators stood by their hiring of a steward who was fired in Arizona. Turn to B3.

## COLUMNIST

### C.J.

U.S. District Judge Jim Rosenbaum dressed up for his elevation to chief judge. Turn to B4.

## JULY 4TH

A.

the ceremonial kiss, they after a "demo" in 1995.

612-282-5623  
www.alternativemed.com

Morris Nielsen Chapel  
612-869-3226  
Please notice later.  
Portland Ave S. Com-

## HEALTH from B1

# *Law is designed to protect patients, not practitioners*

For now, it is operating with a part-time manager and not much more at the Department of Health headquarters in St. Paul.

But already, Johnson said, several states are considering laws patterned after the Minnesota model, which was approved last year.

Advocates lobbied hard for the law, which took effect Sunday, to try to fend off efforts by the Board of Medical Practice to prosecute alternative healers, such as herbalists and naturopaths, for practicing medicine without a license.

But state officials say the law is designed to protect patients, not practitioners.

"Quite frankly ... I think that there are more restrictions in place now on alternative and complementary care than there were [before]," said

Robert Leach, executive director of the Board of Medical Practice. "Why would they want this? I never did quite understand it."

The law prohibits practitioners from several types of conduct, such as false advertising and having sex with clients. It also allows the state to order them to cease practicing if they violate the law.

It does not, however, take a stand on the merits of alternative medicine itself.

"It's really only an investigations and enforcement system," said Susan Winkelmann, an attorney who oversees the new office under a program that regulates several health occupations. "It gives consumers the ability to get redress or have kind of a clearinghouse for complaints."

So far, the office has a phone number (651-282-5623)

and a boss (Winkelmann, who will devote about 20 percent of her time to it). But she has yet to hire its only full-time employee, an investigator. During the budget impasse, she didn't think it was responsible, she said, knowing that she might have to lay off the employee on the first day of work if the state government shut down Sunday, as threatened. Now she's ready to fill the job. The Legislature allotted \$95,000 to set up the office.

Although complaints will be confidential, the office is expected to release the names of anyone disciplined and summary data on the complaints it receives.

Many supporters of alternative medicine, however, have referred to the new law as the "freedom of access" law. They say it has, in effect, carved out a legal niche for alternative medicine that didn't exist in 1996, when the Medical Board accused a St. Paul naturopath, Helen Healy, of practicing medicine without a license. The Healy case

prompted a public outcry and, after it was settled out of court, inspired a campaign to change the law.

"This law gives them guidelines," Johnson said. "But within those parameters they have the right to be able to help other people get well ... without being arbitrarily prosecuted for the practice of medicine. And that opens up a whole world."

Leach, of the Medical Board, sees it differently. "I think that alternative healers felt the board was out to get them, which was not true," he said. But he said the new law won't exempt natural healers from possible action by the Medical Board, particularly if they attempt to diagnose illness.

"If there are allegations of practicing medicine without a license, we're certainly in the same position we were in before," he said.

— Maura Lerner is at [mlerner@startribune.com](mailto:mlerner@startribune.com).

**From:** Communications Office (Melody Pizzuti)  
**To:** All-MDH-Employees; CHS/PHN@listserve.health.state.mn.us; Health reporters  
**Date:** 9/27/2002 12:03:39 PM  
**Subject:** News Release - Alternative health care practice

**Minnesota Department of Health information describes consumer rights about complementary and alternative health care practice Consumer input helps successful investigations that protect the public**

A new brochure is available from the Minnesota Department of Health for consumers interested in knowing more about complementary and alternative care. It includes information on the Client Bill of Rights, questions a client can ask a practitioner about their practice and education, how to register a complaint against a practitioner, and the MDH procedure for investigating complaints.

A separate information packet has information for practitioners who want to know more about their obligations to clients.

Examples of complementary and alternative health care practices include but are not limited to acupressure, aromatherapy, healing touch, massage therapy, and naturopathy. They do not include surgery, or administering or dispensing legend (prescription) drugs and controlled substances.

The MDH Office of Unlicensed Complementary and Alternative Health Care Practice was established by statute in July 2001 to provide information to the public about unlicensed complementary and alternative practitioners and practices, to investigate complaints, and to discipline the practitioner if necessary. The Office is part of the MDH Health Occupations Program.

The law requires practitioners to provide clients with a Client Bill of Rights before providing treatment. The document must include the address and telephone number of the Minnesota Department of Health should the client want to file a complaint.

Consumers with concerns or complaints about such care are encouraged to contact MDH and provide information if an investigation is opened.

"We encourage people who have concerns to contact us," said Susan Winkelmann, investigations and enforcement manager for the Health Occupations Program. "We're here to protect Minnesotans from unsafe practices and unscrupulous practitioners. The information will also be helpful for us to determine appropriate disciplinary action where it's needed."

Examples of prohibited conduct are having been convicted of a crime, engaging in sexual contact with a client, and using advertisements that are false, fraudulent or misleading.

Consumers can be assured that the law provides data privacy protection for clients and other complainants. Individuals (except for the practitioner in question), health care facilities, businesses and organizations are immune from civil liability or criminal prosecution for reporting and/or cooperating with an investigation.

For more information, to obtain a copy of the brochure or information packet, or to file a complaint, contact MDH at (651) 282-6319 or toll-free at 1-800-657-3957.

Information on the statute is online at: <http://www.health.state.mn.us/divs/hpsc/hop/ocap/ocaphome.html>.

To view the statute in its entirety, visit: <http://www.revisor.leg.state.mn.us/stats/146A>.

B.

## QUESTIONS & COMPLAINTS

If you have any questions or complaints about an unlicensed complementary or alternative health care practitioner, please contact:

Minnesota Department of Health  
Health Occupations Program  
Office of Unlicensed  
Complementary and Alternative  
Health Care Practice  
121 East Seventh Place, Suite 400  
P.O. Box 64975  
Saint Paul, Minnesota 55164-0975

Phone: 651-282-6319 or  
Toll Free: 1-800-657-3957  
Fax: 651-282-5628

<http://www.health.state.mn.us/divs/hpsc/hop/ocap/home.html>

<http://www.revisor.leg.state.mn.us/stats/146A>

If you feel that a practitioner has behaved inappropriately with you (see the Client Bill Of Rights for examples), you can talk with us confidentially about it. The law makes it possible for us to investigate the practitioner while at the same time prohibits us from identifying the complainant's name. Clients' sensitive data is not accessible to the public. People who decide to file a complaint help us protect others.



## Health Occupations Program Office of Unlicensed Complementary and Alternative Health Care Practice

### CONSUMER GUIDE

#### YOU HAVE RIGHTS AND OPTIONS AS A CONSUMER/CLIENT

- ◆ What is complementary and alternative health care?
- ◆ Do you have questions about improper behavior, personal safety, the privacy of your records, or false advertising?
- ◆ Do you (or someone you know) want to make a complaint and need to know how?

This consumer guide answers these questions and tells you how state law protects you. If a practitioner is not acting professionally in the best interests of you and other clients, please contact the Minnesota Department of Health, Health Occupations Program, Office of Unlicensed Complementary and Alternative Health Care Practice, at 651-282-6319, or toll free at 1-800-657-3957. We can help you sort out your options and tell you how your privacy is kept safe.

Office of Complementary and Alternative  
Health Care Practitioners  
121 East Seventh Place, P.O. Box 64975  
St. Paul, MN 55164-0975



C.

**WHAT ARE COMPLEMENTARY AND ALTERNATIVE HEALTH CARE PRACTICES?** These are healing methods and treatments that are not usually provided by traditional Western medical practitioners in clinics and hospitals. They include, but are not limited to:

- |   |                 |
|---|-----------------|
| Acupressure   | Homeopathy      |
| Anthroposophy   | Meditation      |
| Aroma therapy   | Naturopathy     |
| Ayurveda  | Body work       |
| Massage   | Massage Therapy |
| Cranial sacral therapy  |                 |
| Culturally traditional healing practices  |                 |
| Detoxification practices and therapies  |                 |
| Energetic healing   | Folk practices  |
| Gerson Therapy and Colostrum Therapy  |                 |
| Healing practices utilizing food, food supplements, nutrients, and the physical forces of heat, cold, water, touch, and light |                 |
| Polarity therapy  |                 |
| Healing touch   |                 |
| Herbology or Herbalism  |                 |
| Mind-body healing practices   |                 |
| Nondiagnostic iridology   |                 |
| Noninvasive instrumentalities   |                 |
| Traditional Oriental practices, such as Qi Gong energy healing  |                 |

**WHAT IS NOT INCLUDED IN COMPLEMENTARY AND ALTERNATIVE HEALTH CARE PRACTICES? THE LIST OF SUCH PRACTICES DOES NOT INCLUDE:**

- ◆ Surgery
- ◆ X-ray radiation
- ◆ Administering or dispensing prescription drugs and controlled substances
- ◆ Practices that invade the human body by puncture of the skin
- ◆ Setting fractures
- ◆ Use of certain medical devices
- ◆ Any practice that is included in the practice of dentistry
- ◆ Manipulation or adjustment of articulations of joints or the spine that would be included under chiropractic

It is important to ask questions of any complementary and alternative health care practitioner. If you are receiving care from such a practitioner, or are looking into it, you can make more informed decisions for yourself by asking:

- ◆ Are you licensed?
- ◆ What is your professional title?
- ◆ What are your credentials? Including education and training?
- ◆ What are your fees? Are your services covered by insurance?
- ◆ Do you have a supervisor? How are you supervised?
- ◆ How will we determine the number of sessions or length of service I will receive?

## **CLIENT BILL OF RIGHTS**

Unlicensed complementary and alternative health care practitioners are required by Minnesota law to provide you with a "Client Bill Of Rights." You have the right to receive a copy. A partial listing of your client rights are listed below:

- ◆ You have the right to seek service from any other type of health care provider, including a licensed physician, at any time.
- ◆ You have the right to be allowed access to your records.
- ◆ An unlicensed complementary and alternative health care practitioner may not provide a medical diagnosis or recommend discontinuance of medically prescribed treatments.
- ◆ You have the right to expect courteous treatment and to be free from verbal, physical, or sexual abuse by the practitioner.
- ◆ Inappropriate touching, sexual contact, or verbal harassment of a sexual nature by an unlicensed complementary or alternative health care practitioner towards a client or former client is prohibited.
- ◆ You have the right to choose freely among available practitioners and to change practitioners after services have begun, within the limits of health insurance, medical assistance, or other health programs.

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From the November 15, 2002 print edition

## Out in the open

Thanks to a recent law, homeopaths no longer fear being shut down suddenly

Benno Groeneveld Web Reporter

The Minnesota Homeopathic Association is hosting its first conference on Nov. 16. That, in and of itself, is not particularly newsworthy, except that in the past this conference would not have been held. Those who practiced homeopathy and other alternative, non-traditional methods of treating illnesses say they lived under constant fear of being hauled into court for practicing medicine without a license.



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That situation changed in Minnesota on July 1, 2001, when the "Complementary and Alternative Health Care Freedom of Access Act" set rules protecting both the practitioners of alternative health care and the people using them.

Since the law passed, homeopaths in the Twin Cities said they have seen an upsurge in their practices. Many also say they are no longer fearful to spread

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the word about homeopathy — a treatment method that involves giving a client small substances that cause symptoms similar to those of the particular ailment. They still mostly rely on word of mouth to attract clients — homeopaths avoid use of the word "patient" — but some are thinking about advertising.

Carla Swanson said she feels liberated by the law. Swanson, who has an office in Stillwater, has been practicing homeopathy for about three years. "If the law had not passed, I would have been nervous about the state coming in and shutting my practice down." Before last year, she said, she was cautious about discussing and practicing homeopathy.

Swanson is now much more open about her profession. "Before the law I wouldn't have talked to reporters, I would have laid low," she said. She also gives lectures and teaches a course at Century College.

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When Valerie Ohanian started practicing 20 years ago, she said, she was the only homeopath in the Twin Cities. Now the Minnesota Homeopathic Association has about 80 members. Since the law was passed in July last year, 25 homeopaths have set up shop in the area.

Ohanian works with three other homeopaths at Homeopathic Practitioners in Plymouth. The clinic has been busy, especially after the law was passed, and new clients have to wait until the end of January for an appointment.

The scope of the alternative health-care law is fairly limited. "The law simply says: 'If you provide services, you must consent not to commit prohibited acts, such as false advertising, sexual misconduct, substance abuse,'" said Susan Winkelmann, investigations and enforcement manager at the Minnesota Department of Health. The law doesn't give the state the power to issue permits or licenses to practitioners of alternative healing methods.

Under the law, everyone who practices alternative medicine has to disclose education in the particular treatment method, experience, how he or she proposes to treat the client and cost of services. The law also sets up the state-level Office of Unlicensed Complementary and Alternative Health Care Practice to accept any client complaints.

Alternative medicine was being practiced before the Freedom of Access law was passed, said outgoing state Sen. Twyla Ring, D-Chisago and Isanti Counties, one of its authors, "The bill just brought what was practiced in secret into the light."

The law's co-author, state Rep. Lynda Boudreau, R-Faribault, said she heard a surprising amount of support for the bill. "I received hundreds of calls and letters," mostly from people who had used homeopathy and other alternative treatments and were afraid that without legal protection, their healers could be shut down.

Homeopathy dates back to ancient Greece and Hippocrates, practitioners say. The treatment method looks at disease symptoms and tries to treat them with a substance in nature that creates the same effect on healthy people. For example, watery eyes caused by allergies might be treated with a medication that contains an extract of onions, on the theory that since onions cause eyes to water, they contain something that can cure that condition.

Homeopaths dilute and pound the substance they think is effective for treatment until there are hardly any active ingredients left. But, said homeopath Jerri Johnson, even though there is little of the original substance left, the medication contains the energy generated by that substance, and energy is what makes for an effective treatment.

Johnson, who has been in practice for 12 years, now in the Crescenteria Health Center in St. Paul, has been helping an effort to spur in other states legislation that is similar to the Minnesota statute. Since Minnesota's law became effective last year, California and Rhode Island have passed similar laws.

Homeopaths don't try to replace traditional medicine, said Ohanian of Homeopathic Practitioners. The main reason people consult with homeopaths is to increase their vitality and gain a sense of well-being, she said.

Swanson gave the example of a friend who earlier this year broke her leg in two places. She had emergency surgery using traditional medicine. "No way could something like that have been treated by a homeopath," she said. But within days after the surgery, Swanson started her friend on homeopathic remedies to reduce the trauma to her tissue and bones, improve blood circulation in her wounded leg and reduce the pain.

The modern version of homeopathy started about 200 years ago in Germany and was quite popular in the United States in the beginning of this century. There were even special certifications for homeopaths. Homeopaths blame the declining acceptance of their craft on a trend in the 1920s to bring medical schools into universities and their science departments. As a result, healing methods not based on pure science were increasingly marginalized by the medical establishment, they say.

A reversal came in the 1970s with renewed interest in alternative medicine.

The Minnesota law was the final result of this new interest.

Traditional doctors often have problems with alternative forms of medicine because they generally find it too unscientific.

Accordingly, said Gary Hanovitch, president of the Minnesota Medical Association, Minneapolis, "when the law was first proposed, I felt funny talking about it." But Hanovitch and other doctors have since come to terms with alternatives therapies. As long as people believe these therapies work and as long as they don't hurt, he sees no problem with it.

Hanovitch said there is no conspiracy in the medical profession to keep alternative treatments out. That would run counter to what physicians do, Hanovitch said. "Physicians are always trying to help people."

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