

MAR 6 2003
STATE GOVERNMENT

HOUSE FILE 477
BY FALLON

(COMPANION TO LSB 2514SS
BY HATCH)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the provision of complementary and alternative
2 health care diagnoses and treatment by unlicensed persons, and
3 making penalties applicable.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HF 477

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1 Section 1. CONSUMER HEALTH FREEDOM ACT -- LEGISLATIVE
2 FINDINGS.

3 1. SHORT TITLE. This Act shall be known and may be cited
4 as the "Consumer Health Freedom Act".

5 2. LEGISLATIVE INTENT. The general assembly finds that,
6 based upon a comprehensive report by the national institute of
7 health, studies published by the New England journal of
8 medicine and the journal of the American medical association,
9 and other research data, it is evident that hundreds of
10 thousands of citizens of this state are presently receiving a
11 substantial volume of health care from complementary and
12 alternative health care providers. The report and studies
13 further indicate that individuals utilizing complementary and
14 alternative health care comprise a wide variety of age,
15 ethnic, socioeconomic, and other demographic categories.

16 Notwithstanding the widespread utilization of complementary
17 and alternative health care by citizens of this state, the
18 provision of this care may be in technical violation of the
19 provisions governing the licensing of health care
20 professionals delineated in Title IV, subtitle 3. Unlicensed
21 complementary and alternative health care providers could
22 therefore be subject to fines, penalties, and the restriction
23 of their practice, without a demonstration that their practice
24 poses an imminent and discernable risk of significant harm to
25 public health and safety.

26 Due to current research on complementary approaches to
27 health by this state's Maharishi university of management in
28 conjunction with the national institutes of health, the
29 university of Iowa, and other major research institutions, the
30 laws of this state should reflect the state's emergence as a
31 national leader in the recognition, research, and
32 implementation of complementary and alternative health care.

33 The general assembly finds that the unlicensed practice of
34 complementary and alternative health care is not harmful to
35 public health and safety, and intends, by the enactment of

1 this Act, to protect freedom of access to complementary and
2 alternative health care.

3 Sec. 2. NEW SECTION. 147.86A PROVISIONS NOT APPLICABLE.

4 The provisions of this chapter, or any chapter contained in
5 Title IV, subtitle 3, licensing a health care provider shall
6 not be construed to prohibit the practice of complementary and
7 alternative health care diagnoses and treatment by an
8 unlicensed person provided that the requirements of section
9 147.105 are met. The penalty provisions of section 147.86, or
10 specific penalty provisions contained within an otherwise
11 applicable licensing chapter, shall not apply to the practice
12 of complementary and alternative health care diagnoses and
13 treatment, subject to section 147.105, subsection 3.

14 Sec. 3. NEW SECTION. 147.105 COMPLEMENTARY AND
15 ALTERNATIVE HEALTH CARE.

16 1. As used in this section, and section 147.86A,
17 "complementary and alternative health care" means a group of
18 medical, health care, and healing systems other than those
19 included in conventional health care which encompass theories,
20 modalities, products, and practices used to treat illness and
21 promote health and well-being. Common characteristics of
22 complementary and alternative health care include a focus on
23 individualizing treatments, treating the whole person,
24 promoting self-care and self-healing, and recognizing the
25 spiritual nature of each individual. Complementary and
26 alternative health care includes, but is not limited to, the
27 following:

28 a. Alternative health care systems, including ayurvedic
29 medicine, homeopathic medicine, Native American medicine,
30 naturopathic medicine, traditional Chinese medicine, and
31 Chinese herbal medicine.

32 b. Mind-body interventions, including meditation,
33 hypnosis, guided imagery, dance therapy, music therapy, art
34 therapy, and prayer and mental healing.

35 c. Biological-based therapies, including herbal therapies,

1 dietary therapy, or individual biological therapies such as
2 bee pollen.

3 d. Massage, body work, and somatic movement therapies
4 including alexander, feldenkrais, reflexology, and
5 hydrotherapy.

6 e. Energy therapies including reiki, touch for health,
7 breathwork, and biofield therapeutics.

8 f. Bioelectromagnetic or magnet therapy.

9 2. Complementary and alternative health care diagnoses and
10 treatment may be provided by a person who is not a licensed
11 health care provider in this state pursuant to the licensure
12 provisions of any of the chapters of Title IV, subtitle 3,
13 provided that the following requirements are met:

14 a. Prior to the provision of complementary and alternative
15 health care, a provider of such care shall supply a
16 prospective client with a plainly worded written statement
17 disclosing:

18 (1) That the provider is not a licensed health care
19 provider pursuant to the licensure provisions of any of the
20 chapters of Title IV, subtitle 3.

21 (2) The nature of the complementary and alternative health
22 care diagnoses and treatment to be provided.

23 (3) The education, training, experience, or other
24 credentials or qualifications of the provider regarding the
25 complementary and alternative health care being provided,
26 accompanied by the following statement:

27 "The state of Iowa has not adopted educational and training
28 standards for unlicensed complementary and alternative health
29 care providers. This statement of credentials is for
30 informational purposes only. If a client wishes to receive
31 health care from a licensed health care provider, the client
32 may seek such care at any time. Clients receiving treatment
33 from a licensed provider of health care should consult with a
34 licensed provider before modifying or discontinuing such
35 treatment."

1 b. A written acknowledgment shall be obtained from the
2 prospective client indicating that the prospective client has
3 been provided with the statement required by paragraph "a".
4 The acknowledgment shall be maintained by the provider for a
5 two-year period. A copy of the acknowledgment shall be
6 provided to the prospective client.

7 c. Any advertisement by the complementary or alternative
8 health care provider regarding such care shall disclose that
9 the provider has not been issued a license to practice a
10 health care profession in this state.

11 3. A person providing complementary and alternative health
12 care diagnoses and treatment shall be subject to the penalty
13 provision of section 147.86, and specific penalty provisions
14 pursuant to the applicable licensing chapter contained within
15 Title IV, subtitle 3, if that person does any of the
16 following:

17 a. Fails to comply with the provisions of subsection 2.

18 b. Conducts surgery or any other procedure on any person
19 that harmfully invades the skin.

20 c. Prescribes or administers x-ray radiation.

21 d. Prescribes or administers drugs or controlled
22 substances for which a prescription by a licensed health care
23 provider is required.

24 e. Willfully administers a diagnostic procedure or
25 treatment that causes an imminent and discernable risk of
26 serious bodily injury, serious physical or mental illness, or
27 death.

28 f. Represents, states, indicates, advertises, or implies
29 that the person has been issued a license to practice a health
30 care profession in this state, except as provided in section
31 147.105.

32 EXPLANATION

33 This bill relates to the provision of complementary and
34 alternative health care diagnoses and treatment by unlicensed
35 persons.

1 The bill provides intent language recognizing that many
2 citizens of this state obtain complementary and alternative
3 health care, that the provision of this care subjects
4 unlicensed providers of the care to fines, penalties, and the
5 restriction of their practice without a demonstration that the
6 practice poses an imminent and discernable risk of significant
7 harm to public health and safety, and that the unlicensed
8 practice of complementary and alternative health care
9 diagnoses and treatment is not harmful to public health and
10 safety.

11 The bill provides that the provisions of Code Title IV,
12 subtitle 3, dealing with the licensing of health care
13 providers, including penalty provisions, shall not apply to
14 the provision of complementary and alternative health care
15 diagnoses and treatment by unlicensed persons, if the
16 requirements of new Code section 147.105 governing the
17 provision of such care are met.

18 The bill provides a definition of complementary and
19 alternative health care that refers to a group of medical,
20 health care, and healing systems other than those included in
21 conventional health care. The bill provides that these
22 services encompass theories, modalities, products, and
23 practices used to treat illness and promote health and well-
24 being, and include a focus on individualizing treatments,
25 treating the whole person, promoting self-care and self-
26 healing, and recognizing the spiritual nature of each
27 individual. The bill provides examples of these services.

28 The bill provides that several requirements apply to the
29 provision of complementary and alternative health care
30 diagnoses and treatment. The bill provides that prior to the
31 provision of the care, a provider of such care shall supply a
32 prospective client with a plainly worded written statement
33 disclosing that the provider is not a licensed health care
34 provider, the nature of the complementary and alternative
35 health care diagnoses and treatment to be provided, and the

1 provider's education, training, experience, or other
2 credentials or qualifications. The bill provides specific
3 wording regarding this statement of credentials. The bill
4 provides that a written acknowledgment shall be obtained from
5 the prospective client indicating that the prospective client
6 has been provided with the statement, and that any
7 advertisement by the complementary or alternative health care
8 provider regarding such care shall disclose that the provider
9 has not been issued a license to practice a health care
10 profession in this state.

11 The bill provides that current Code penalty provisions
12 shall apply if a specified list of unauthorized practices is
13 engaged in.

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