

APR 13 2005  
HUMAN RESOURCES

HOUSE FILE 855  
BY WHITAKER and MASCHER

(COMPANION TO LSB 2393SS  
BY HATCH)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act providing for the establishment of an Iowa health freedom  
2 Act.

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

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HF 855

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

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

5 2. LEGISLATIVE INTENT. The general assembly recognizes  
6 that people find value in utilizing unlicensed and licensed  
7 health care providers, and diverse methods, to meet a wide  
8 variety of highly individual and personally determined needs  
9 including comfort, well-being, vitality, hope, prevention of  
10 disease, treatment of chronic and acute conditions, self-  
11 understanding, self-empowerment, and self-development. The  
12 general assembly also recognizes that individuals are  
13 ultimately responsible for choosing their own health care  
14 because they are the ones that experience the effects of that  
15 health care on their health and well-being, and that the  
16 exercise of the constitutional right to privacy and self-  
17 determination in regard to health care requires freedom to  
18 access all information and all methods and providers deemed of  
19 value by individuals so that they may have the best  
20 opportunity to find their most suitable path to health and  
21 well-being. The general assembly additionally recognizes that  
22 the threat of prosecution under the chapters contained in  
23 Title IV, subtitle 3, pertaining to licensure requirements for  
24 health care providers, has significantly, harmfully, and  
25 unnecessarily limited the availability of many healing arts  
26 services in Iowa by potentially subjecting the unlicensed  
27 providers of those services to fines, penalties, and the  
28 restriction of their practice.

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

30 The provisions of this chapter, or any chapter contained in  
31 Title IV, subtitle 3, licensing a health care provider shall  
32 not be construed to prohibit the practice of healing arts  
33 diagnoses and treatments by an unlicensed person provided that  
34 the requirements of sections 147.105 and 147.106 are met. The  
35 provisions of this chapter, or any chapter contained in Title

1 IV, subtitle 3, shall not be construed to apply to, control,  
2 or prevent the practice of healing arts diagnoses and  
3 treatments by persons already lawfully exempt from an  
4 applicable licensing chapter. The penalty provisions of  
5 section 147.86, or specific penalty provisions contained  
6 within an otherwise applicable licensing chapter, shall not  
7 apply to the practice of healing arts diagnoses and treatment  
8 by an unlicensed person provided that the requirements of  
9 sections 147.105 and 147.106 are met.

10 Sec. 3. NEW SECTION. 147.105 PROVISION OF HEALTH CARE BY  
11 UNLICENSED PERSONS.

12 Notwithstanding any other provision to the contrary, a  
13 person who is not licensed by this state as a health care  
14 professional, and who provides healing arts diagnoses and  
15 treatment, does not violate Title IV, subtitle 3, pertaining  
16 to health care provider licensure requirements, unless the  
17 person:

- 18 1. Conducts surgery, sets fractures, or performs any other  
19 procedure on any person that harmfully invades the skin.
- 20 2. Prescribes or administers x-ray radiation.
- 21 3. Prescribes or administers drugs, devices, or controlled  
22 substances for which a prescription by a licensed health care  
23 provider is required.
- 24 4. Represents, states, indicates, advertises, or implies  
25 that the person has been issued a license to practice a health  
26 care profession in this state.

27 Sec. 4. NEW SECTION. 147.106 DISCLOSURES BY UNLICENSED  
28 PERSONS WHO PROVIDE HEALTH CARE.

29 1. An unlicensed person who advertises in any media that  
30 the person is a provider of healing arts diagnoses and  
31 treatments, or who receives financial compensation for the  
32 provision of healing arts diagnoses and treatments, shall,  
33 prior to the provision of such services, provide a prospective  
34 client a plainly worded written statement disclosing the  
35 following:

1 a. That the provider is not a licensed health care  
2 provider pursuant to the licensure provisions of any of the  
3 chapters of Title IV, subtitle 3.

4 b. The nature of the health care diagnoses and treatment  
5 to be provided.

6 c. The education, training, experience, or other  
7 credentials or qualifications of the unlicensed provider  
8 regarding the diagnoses and treatment being provided,  
9 accompanied by the following statement:

10 "The state of Iowa has not adopted educational and training  
11 standards for unlicensed providers of health care services.  
12 This statement of credentials is for informational purposes  
13 only. If a client wishes to receive health care from a  
14 licensed health care provider, the client may seek such care  
15 at any time. Clients receiving treatment from a licensed  
16 provider of health care should consult with that licensed  
17 provider before modifying or discontinuing such treatment."

18 d. Whether the provider has voluntarily relinquished a  
19 license to practice any health care profession in Iowa or  
20 elsewhere under threat of discipline by a licensing board or  
21 agency, civil liability, or criminal prosecution.

22 e. The revocation of a provider's license to practice any  
23 health care profession in this or any other state for  
24 misconduct.

25 f. Whether the provider has been convicted or adjudicated  
26 not guilty of a criminal offense against a minor, or of sexual  
27 exploitation, or of a sexually violent crime against any  
28 person, or is under indictment for any such crimes.

29 g. That the parent or legal guardian of a minor seeking  
30 treatment has a right to request and receive written  
31 permission from the provider for access to the relevant data  
32 in the Iowa child abuse registry.

33 2. An unlicensed provider of healing arts diagnoses and  
34 treatments shall obtain written acknowledgment from a  
35 prospective client indicating that the prospective client has

1 been provided with the statement of disclosures pursuant to  
2 subsection 1, and shall supply the client with a copy of the  
3 disclosures and acknowledgment. The acknowledgment shall be  
4 retained by the provider for a two-year period.

5 3. Any advertisement by an unlicensed provider of healing  
6 arts diagnoses and treatments shall disclose that the provider  
7 has not been issued a license to practice a licensed health  
8 care profession in this state.

9 4. Upon request, an unlicensed provider of healing arts  
10 diagnoses and treatment shall give written permission to a  
11 parent or legal guardian of a minor to allow the parent or  
12 legal guardian to access the Iowa child abuse registry.

13 Sec. 5. NEW SECTION. 147.106A SCOPE OF CHAPTER --  
14 REMEDIES.

15 1. The department may issue an immediate cease and desist  
16 order, or seek a temporary or permanent injunction, against an  
17 unlicensed provider of healing arts diagnoses and treatment  
18 who fails to comply with the provisions of sections 147.105  
19 and 147.106.

20 2. State criminal and civil law not relating to the  
21 provision of health care shall continue to apply to unlicensed  
22 providers of healing arts diagnoses and treatments.

23 3. This section does not limit the right of any person to  
24 seek relief for negligent or willful harm, or to seek any  
25 other civil remedy against an unlicensed provider of healing  
26 arts diagnoses and treatments.

27 4. This section does not restrict the state from taking  
28 action regarding the maltreatment of minors.

29 EXPLANATION

30 This bill establishes an Iowa health freedom Act dealing  
31 with the provision of healing arts diagnoses and treatment by  
32 unlicensed persons.

33 The bill contains intent language indicating that the  
34 general assembly recognizes that people find value in  
35 utilizing unlicensed and licensed health care providers, and

1 diverse methods, to meet a wide variety of highly individual  
2 and personally determined needs; that individuals are  
3 ultimately responsible for choosing their own health care  
4 because they are the ones that experience the effects of that  
5 health care on their health and well-being; and that the  
6 exercise of the constitutional right to privacy and self-  
7 determination in regard to health care requires freedom to  
8 access all information and all methods and providers deemed of  
9 value by individuals so that they may have the best  
10 opportunity to find their most suitable path to health and  
11 well-being. The intent section also indicates that the  
12 general assembly recognizes that the threat of prosecution  
13 under the professional licensing chapters contained in Code  
14 Title IV, subtitle 3, has significantly, harmfully, and  
15 unnecessarily limited the availability of many healing arts  
16 services in Iowa by potentially subjecting the unlicensed  
17 providers of those services to fines, penalties, and the  
18 restriction of their practice.

19 The bill provides that Code Title IV, subtitle 3, providing  
20 for the licensing of health care providers shall not be  
21 construed to prohibit the practice of healing arts diagnoses  
22 and treatment by an unlicensed person provided that the  
23 requirements of new Code sections 147.105 and 147.106 relating  
24 to prohibited practices and disclosure, are met, nor shall  
25 they be construed to apply to, control, or prevent the  
26 practice of healing arts diagnoses and treatment by persons  
27 already lawfully exempt from an applicable licensing Code  
28 chapter. The bill removes the practice of healing arts  
29 diagnoses and treatment from the penalty provisions of Code  
30 section 147.86, or specific penalty provisions contained  
31 within an otherwise applicable licensing Code chapter.

32 The bill provides that the provision of healing arts  
33 diagnoses and treatment does not violate Code Title IV,  
34 subtitle 3, pertaining to health care provider licensure  
35 requirements, unless the provider of such services conducts

1 surgery, sets fractures, or performs any other procedure on  
2 any person that harmfully invades the skin; prescribes or  
3 administers x-ray radiation; prescribes or administers drugs,  
4 devices, or controlled substances for which a prescription by  
5 a licensed health care provider is required; or represents,  
6 states, indicates, advertises, or implies that the person has  
7 been issued a license to practice a health care profession in  
8 this state.

9 The bill requires an unlicensed person who advertises in  
10 any media that they are a provider of healing arts diagnoses  
11 and treatment, or who receives financial compensation for the  
12 provision of healing arts diagnoses and treatment, to supply a  
13 prospective client prior to the provision of such services  
14 with a plainly worded written statement making several  
15 disclosures. It must be disclosed that the provider is not a  
16 licensed health care provider; the nature of the health care  
17 diagnoses and treatment to be provided; and the education,  
18 training, experience, or other credentials or qualifications  
19 of the unlicensed provider regarding the diagnoses and  
20 treatment being provided, accompanied by a statement that Iowa  
21 has not adopted educational and training standards for  
22 unlicensed providers of health care services; that the  
23 statement of credentials is for informational purposes only;  
24 and that if a client wishes to receive health care from a  
25 licensed health care provider, the client may seek such care  
26 at any time and should consult with a licensed provider before  
27 modifying or discontinuing such existing treatment. An  
28 unlicensed provider of healing arts diagnoses and treatment  
29 must also disclose whether the provider has voluntarily  
30 relinquished a license to practice; had a license revoked;  
31 been convicted or adjudicated of a criminal offense against a  
32 minor, or of sexual exploitation, or of a sexually violent  
33 crime against any person, or is under indictment for any such  
34 crimes; and that the parent or legal guardian of a minor  
35 seeking treatment has a right to request and receive written

1 permission from the provider for access to the relevant data  
2 in the Iowa child abuse registry. The bill provides that  
3 written acknowledgment from a prospective client that the  
4 client was provided a statement of disclosures must be  
5 obtained, and retained for a two-year period, and that the  
6 prospective client shall receive a copy of the disclosures and  
7 acknowledgment.

8 The bill additionally provides that an advertisement by an  
9 unlicensed provider of healing arts diagnoses and treatments  
10 shall disclose that the provider has not been issued a license  
11 to practice a licensed health care profession, and that upon  
12 request, an unlicensed provider of health care services shall  
13 give written permission to a parent or legal guardian of a  
14 minor to allow the parent or legal guardian to access the Iowa  
15 child abuse registry.

16 The bill also provides for the scope of the bill's  
17 provisions and penalties. The bill provides that the Iowa  
18 department of public health may issue an immediate cease and  
19 desist order, or seek a temporary or permanent injunction,  
20 against an unlicensed provider of healing arts diagnoses and  
21 treatment who fails to comply with the bill's provisions, and  
22 that state criminal and civil law not relating to the  
23 provision of health care shall continue to be applicable. The  
24 bill provides that its provisions shall not limit the right of  
25 any person to seek relief for negligent or willful harm, or to  
26 seek any other civil remedy, and does not restrict the state  
27 from taking action regarding the maltreatment of minors.

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