

House File 2409 - Introduced

HOUSE FILE _____
BY KUHN, GRANZOW, BOAL,
and D. OLSON

(COMPANION TO SF 2168 BY
DOTZLER)

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

A BILL FOR

1 An Act relating to the practice of healing arts by unlicensed
2 persons and providing remedies.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5855YH 82
5 jr/nh/14

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1 1 Section 1. NEW SECTION. 147.161 IOWA ACCESS TO WELLNESS
1 2 ACT == LEGISLATIVE FINDINGS == DEFINITION.
1 3 1. SHORT TITLE. This section and sections 147.162 through
1 4 147.165 shall be known and may be cited as the "Iowa Access to
1 5 Wellness Act".
1 6 2. LEGISLATIVE FINDINGS AND INTENT.
1 7 a. The general assembly recognizes all of the following:
1 8 (1) The right of liberty and self-determination in
1 9 individuals' selection of healing arts providers and methods
1 10 to meet a wide variety of highly individual and personally
1 11 determined needs, including comfort, well-being, vitality,
1 12 prevention of disease, treatment of chronic and acute
1 13 conditions, and self-development.
1 14 (2) That individuals are ultimately responsible for
1 15 choosing their wellness care because they are the ones that
1 16 experience the effects of that care on their well-being.
1 17 (3) That the exercise of the right to liberty and
1 18 self-determination in regard to health care requires freedom
1 19 to access all information and all methods and providers deemed
1 20 of value by individuals so that they may have the best
1 21 opportunity to find their most suitable path to health and
1 22 well-being.
1 23 (4) That the threat of prosecution under the chapters
1 24 contained in this subtitle pertaining to licensure
1 25 requirements for health care providers, has significantly,
1 26 harmfully, and unnecessarily limited the availability of many
1 27 healing arts services in Iowa by potentially subjecting the
1 28 unlicensed providers of those services to fines, penalties,
1 29 and the restriction of their practice.
1 30 b. The general assembly enacts sections 147.162 through
1 31 147.165 for the purpose of promoting provision of natural,
1 32 holistic, ethnic, indigenous, and other alternative approaches
1 33 to wellness in the state of Iowa.
1 34 3. For purposes of this section and sections 147.162
1 35 through 147.165, "practice of healing arts" includes any
2 1 system, treatment, operation, diagnosis, prescription, or
2 2 practice for the ascertainment, cure, relief, palliation,
2 3 adjustment, or correction of any human disease, ailment, pain,
2 4 deformity, injury, or physical or mental condition.
2 5 Sec. 2. NEW SECTION. 147.162 PROVISIONS NOT APPLICABLE.
2 6 1. The provisions of this chapter, chapter 272C, or any
2 7 chapter contained in this subtitle relating to the licensing
2 8 of a health care provider, shall not be construed to prohibit
2 9 the practice of healing arts diagnoses and treatments by an
2 10 unlicensed person provided that the requirements of section
2 11 147.163 and 147.164 are met.
2 12 2. The provisions of this chapter, chapter 272C, or any
2 13 chapter contained in this subtitle shall not be construed to
2 14 apply to, control, or prevent the practice of healing arts
2 15 diagnoses and treatments by persons already lawfully exempt
2 16 from an applicable licensing chapter. The penalty provisions

2 17 of section 147.86, or specific penalty provisions contained
2 18 within an otherwise applicable licensing chapter, shall not
2 19 apply to the practice of healing arts diagnoses and treatments
2 20 by an unlicensed person provided that the requirements of
2 21 sections 147.163 and 147.164 are met.

2 22 Sec. 3. NEW SECTION. 147.163 PROVISION OF HEALTH CARE BY
2 23 UNLICENSED PERSONS.

2 24 Notwithstanding any other provision to the contrary, a
2 25 person who is not licensed by the state as a health care
2 26 professional, and who provides healing arts diagnoses and
2 27 treatments, does not violate the provisions of this subtitle
2 28 or chapter 272C, pertaining to health care provider licensure
2 29 requirements, unless the person does any of the following:

2 30 1. Performs surgery, sets fractures, or performs any other
2 31 invasive procedure that cuts the skin.

2 32 2. Prescribes or administers X-ray radiation.

2 33 3. Prescribes or administers drugs, devices, or controlled
2 34 substances for which a prescription by a licensed health care
2 35 provider is required.

3 1 4. Represents, states, indicates, advertises, or implies
3 2 that the person has been issued a license to practice a health
3 3 care profession in this state.

3 4 Sec. 4. NEW SECTION. 147.164 DISCLOSURES BY UNLICENSED
3 5 PERSONS WHO PROVIDE HEALTH CARE.

3 6 1. An unlicensed person who advertises in any media that
3 7 the person is a provider of healing arts diagnoses and
3 8 treatments, or who receives financial compensation for the
3 9 provision of healing arts diagnoses and treatments, shall,
3 10 prior to the provision of such services, provide a prospective
3 11 client a plainly worded written statement disclosing all of
3 12 the following:

3 13 a. That the provider is not a licensed health care
3 14 provider pursuant to the licensure provisions of any of the
3 15 chapters of this subtitle.

3 16 b. The nature of the health care diagnoses and treatments
3 17 to be provided.

3 18 c. The education, training, experience, or other
3 19 credentials or qualifications of the unlicensed provider
3 20 regarding the diagnoses and treatments being provided,
3 21 accompanied by the following statement:

3 22 "The state of Iowa has not adopted educational and training
3 23 standards for unlicensed providers of health care services.
3 24 This statement of credentials is for informational purposes
3 25 only. If a client wishes to receive health care from a
3 26 licensed health care provider, the client may seek such care
3 27 at any time. Clients receiving treatment from a licensed
3 28 provider of health care should consult with that licensed
3 29 provider before modifying or discontinuing such treatment."

3 30 d. Whether the provider has voluntarily relinquished a
3 31 license to practice any health care profession in Iowa or
3 32 elsewhere under threat of discipline by a licensing board or
3 33 agency, civil liability, or criminal prosecution.

3 34 e. Whether the provider has had a license to practice any
3 35 health care profession revoked for misconduct in this or any
4 1 other state.

4 2 f. Whether the provider has been convicted of or
4 3 adjudicated guilty of a criminal offense against a minor, or
4 4 of sexual exploitation, or of a sexually violent crime against
4 5 any person, or is under indictment for any such crimes.

4 6 g. That the parent or legal guardian of a minor seeking
4 7 treatment has a right to request and receive written
4 8 permission from the provider for access to the relevant data
4 9 in the Iowa child abuse registry.

4 10 2. An unlicensed provider of healing arts diagnoses and
4 11 treatments shall obtain written acknowledgment from a
4 12 prospective client indicating that the prospective client has
4 13 been provided with the statement of disclosures pursuant to
4 14 subsection 1, and shall supply the client with a copy of the
4 15 disclosures and acknowledgment. The acknowledgment shall be
4 16 retained by the provider for a two-year period.

4 17 3. Any advertisement by an unlicensed provider of healing
4 18 arts diagnoses and treatments shall disclose that the provider
4 19 has not been issued a license to practice a licensed health
4 20 care profession in this state.

4 21 4. Upon request, an unlicensed provider of healing arts
4 22 diagnoses and treatments shall give written permission to a
4 23 parent or legal guardian of a minor to allow the parent or
4 24 legal guardian to access data in regard to the provider in the
4 25 central registry for founded child abuse pursuant to section
4 26 235A.15, subsection 2, paragraph "f".

4 27 Sec. 5. NEW SECTION. 147.165 SCOPE == REMEDIES.

4 28 1. The department of public health may issue an immediate
4 29 cease and desist order, subject to the provisions of chapter
4 30 17A, or seek a temporary or permanent injunction, against an
4 31 unlicensed provider of healing arts diagnoses and treatments
4 32 who fails to comply with the provisions of sections 147.163
4 33 and 147.164.

4 34 2. State criminal and civil law not relating to the
4 35 provision of health care shall continue to apply to unlicensed
5 1 providers of healing arts diagnoses and treatments.

5 2 3. This section does not limit the right of any person to
5 3 seek relief for negligent or willful harm, or to seek any
5 4 other civil remedy against an unlicensed provider of healing
5 5 arts diagnoses and treatments.

5 6 4. This section does not restrict the state from taking
5 7 criminal or civil action regarding the maltreatment of minors.

5 8 EXPLANATION

5 9 This bill establishes an Iowa Access to Wellness Act
5 10 dealing with the provision of healing arts diagnoses and
5 11 treatment by unlicensed persons. The "practice of healing
5 12 arts" is defined to include any system, treatment, operation,
5 13 diagnosis, prescription, or practice for the ascertainment,
5 14 cure, relief, palliation, adjustment, or correction of any
5 15 human disease, ailment, pain, deformity, injury, or physical
5 16 or mental condition.

5 17 The bill contains intent language indicating that the
5 18 general assembly recognizes the right to liberty and
5 19 self-determination in regard to health care. The intent
5 20 section also indicates that the general assembly recognizes
5 21 that the threat of prosecution under the professional
5 22 licensing chapters contained in Code Title IV, subtitle 3, has
5 23 significantly, harmfully, and unnecessarily limited the
5 24 availability of many healing arts services in Iowa by
5 25 potentially subjecting the unlicensed providers of those
5 26 services to fines, penalties, and the restriction of their
5 27 practice. The bill sets forth provisions to remedy this
5 28 situation.

5 29 The bill provides that Code Title IV, subtitle 3, and Code
5 30 chapter 272C, relating to the licensing of health care
5 31 providers, shall not be construed to prohibit the practice of
5 32 healing arts diagnoses and treatments by an unlicensed person
5 33 provided that the requirements of new Code sections 147.163
5 34 and 147.164, relating to prohibited practices and disclosure,
5 35 are met, nor shall they be construed to apply to, control, or
6 1 prevent the practice of healing arts diagnoses and treatments
6 2 by persons already lawfully exempt from an applicable
6 3 licensing Code chapter. The bill provides for specific
6 4 disclosures by an unlicensed provider of healing arts
6 5 diagnoses and treatments and sets out certain limitations on
6 6 their scope of practice.

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