

Senate File 124 - Introduced

SENATE FILE _____
BY HATCH and BOETTGER

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

A BILL FOR

1 An Act establishing an Iowa health freedom Act and providing
2 remedies.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2121SS 82
5 nh/je/5

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1 1 Section 1. IOWA HEALTH FREEDOM ACT == LEGISLATIVE
1 2 FINDINGS.
1 3 1. SHORT TITLE. This Act shall be known and may be cited
1 4 as the "Iowa Health Freedom Act".
1 5 2. LEGISLATIVE INTENT. The general assembly recognizes
1 6 that people find value in utilizing unlicensed and licensed
1 7 health care providers, and diverse methods, to meet a wide
1 8 variety of highly individual and personally determined needs,
1 9 including comfort, well-being, vitality, hope, prevention of
1 10 disease, treatment of chronic and acute conditions, self=
1 11 understanding, self=empowerment, and self=development. The
1 12 general assembly also recognizes that individuals are
1 13 ultimately responsible for choosing their own health care
1 14 because they are the ones that experience the effects of that
1 15 health care on their health and well-being, and that the
1 16 exercise of the constitutional right to privacy and self=
1 17 determination in regard to health care requires freedom to
1 18 access all information and all methods and providers deemed of
1 19 value by individuals so that they may have the best
1 20 opportunity to find their most suitable path to health and
1 21 well-being. The general assembly additionally recognizes that
1 22 the threat of prosecution under the chapters contained in
1 23 Title IV, subtitle 3, pertaining to licensure requirements for
1 24 health care providers, has significantly, harmfully, and
1 25 unnecessarily limited the availability of many healing arts
1 26 services in Iowa by potentially subjecting the unlicensed
1 27 providers of those services to fines, penalties, and the
1 28 restriction of their practice.
1 29 Sec. 2. NEW SECTION. 147.86A PROVISIONS NOT APPLICABLE.
1 30 The provisions of this chapter, or any chapter contained in
1 31 Title IV, subtitle 3, licensing a health care provider shall
1 32 not be construed to prohibit the practice of healing arts
1 33 diagnoses and treatments by an unlicensed person provided that
1 34 the requirements of sections 147.105 and 147.105A are met.
1 35 The provisions of this chapter, or any chapter contained in
2 1 Title IV, subtitle 3, shall not be construed to apply to,
2 2 control, or prevent the practice of healing arts diagnoses and
2 3 treatments by persons already lawfully exempt from an
2 4 applicable licensing chapter. The penalty provisions of
2 5 section 147.86, or specific penalty provisions contained
2 6 within an otherwise applicable licensing chapter, shall not
2 7 apply to the practice of healing arts diagnoses and treatment
2 8 by an unlicensed person provided that the requirements of
2 9 sections 147.105 and 147.105A are met.
2 10 Sec. 3. NEW SECTION. 147.105 PROVISION OF HEALTH CARE BY
2 11 UNLICENSED PERSONS.
2 12 Notwithstanding any other provision to the contrary, a
2 13 person who is not licensed by this state as a health care
2 14 professional, and who provides healing arts diagnoses and
2 15 treatment, does not violate Title IV, subtitle 3, pertaining
2 16 to health care provider licensure requirements, unless the
2 17 person:
2 18 1. Conducts surgery, sets fractures, or performs any other
2 19 procedure on any person that harmfully invades the skin.
2 20 2. Prescribes or administers x-ray radiation.

2 21 3. Prescribes or administers drugs, devices, or controlled
2 22 substances for which a prescription by a licensed health care
2 23 provider is required.

2 24 4. Represents, states, indicates, advertises, or implies
2 25 that the person has been issued a license to practice a health
2 26 care profession in this state.

2 27 Sec. 4. NEW SECTION. 147.105A DISCLOSURES BY UNLICENSED
2 28 PERSONS WHO PROVIDE HEALTH CARE.

2 29 1. An unlicensed person who advertises in any media that
2 30 the person is a provider of healing arts diagnoses and
2 31 treatments, or who receives financial compensation for the
2 32 provision of healing arts diagnoses and treatments, shall,
2 33 prior to the provision of such services, provide a prospective
2 34 client a plainly worded written statement disclosing the
2 35 following:

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

3 4 b. The nature of the health care diagnoses and treatment
3 5 to be provided.

3 6 c. The education, training, experience, or other
3 7 credentials or qualifications of the unlicensed provider
3 8 regarding the diagnoses and treatment being provided,
3 9 accompanied by the following statement:

3 10 "The state of Iowa has not adopted educational and training
3 11 standards for unlicensed providers of health care services.
3 12 This statement of credentials is for informational purposes
3 13 only. If a client wishes to receive health care from a
3 14 licensed health care provider, the client may seek such care
3 15 at any time. Clients receiving treatment from a licensed
3 16 provider of health care should consult with that licensed
3 17 provider before modifying or discontinuing such treatment."

3 18 d. Whether the provider has voluntarily relinquished a
3 19 license to practice any health care profession in Iowa or
3 20 elsewhere under threat of discipline by a licensing board or
3 21 agency, civil liability, or criminal prosecution.

3 22 e. The revocation of a provider's license to practice any
3 23 health care profession in this or any other state for
3 24 misconduct.

3 25 f. Whether the provider has been convicted or adjudicated
3 26 guilty of a criminal offense against a minor, or of sexual
3 27 exploitation, or of a sexually violent crime against any
3 28 person, or is under indictment for any such crimes.

3 29 g. That the parent or legal guardian of a minor seeking
3 30 treatment has a right to request and receive written
3 31 permission from the provider for access to the relevant data
3 32 in the Iowa child abuse registry.

3 33 2. An unlicensed provider of healing arts diagnoses and
3 34 treatments shall obtain written acknowledgment from a
3 35 prospective client indicating that the prospective client has
4 1 been provided with the statement of disclosures pursuant to
4 2 subsection 1, and shall supply the client with a copy of the
4 3 disclosures and acknowledgment. The acknowledgment shall be
4 4 retained by the provider for a two-year period.

4 5 3. Any advertisement by an unlicensed provider of healing
4 6 arts diagnoses and treatments shall disclose that the provider
4 7 has not been issued a license to practice a licensed health
4 8 care profession in this state.

4 9 4. Upon request, an unlicensed provider of healing arts
4 10 diagnoses and treatment shall give written permission to a
4 11 parent or legal guardian of a minor to allow the parent or
4 12 legal guardian to access data in regard to the provider in the
4 13 central registry for founded child abuse pursuant to section
4 14 235A.15, subsection 2, paragraph "f".

4 15 Sec. 5. NEW SECTION. 147.105B SCOPE OF CHAPTER ==
4 16 REMEDIES.

4 17 1. The department may issue an immediate cease and desist
4 18 order, or seek a temporary or permanent injunction, against an
4 19 unlicensed provider of healing arts diagnoses and treatment
4 20 who fails to comply with the provisions of sections 147.105
4 21 and 147.105A.

4 22 2. State criminal and civil law not relating to the
4 23 provision of health care shall continue to apply to unlicensed
4 24 providers of healing arts diagnoses and treatments.

4 25 3. This section does not limit the right of any person to
4 26 seek relief for negligent or willful harm, or to seek any
4 27 other civil remedy against an unlicensed provider of healing
4 28 arts diagnoses and treatments.

4 29 4. This section does not restrict the state from taking
4 30 action regarding the maltreatment of minors.

4 31 EXPLANATION

4 32 This bill establishes an Iowa health freedom Act dealing
4 33 with the provision of healing arts diagnoses and treatment by
4 34 unlicensed persons.

4 35 The bill contains intent language indicating that the
5 1 general assembly recognizes that people find value in
5 2 utilizing unlicensed and licensed health care providers, and
5 3 diverse methods, to meet a wide variety of highly individual
5 4 and personally determined needs; that individuals are
5 5 ultimately responsible for choosing their own health care
5 6 because they are the ones that experience the effects of that
5 7 health care on their health and well-being; and that the
5 8 exercise of the constitutional right to privacy and self=
5 9 determination in regard to health care requires freedom to
5 10 access all information and all methods and providers deemed of
5 11 value by individuals so that they may have the best
5 12 opportunity to find their most suitable path to health and
5 13 well-being. The intent section also indicates that the
5 14 general assembly recognizes that the threat of prosecution
5 15 under the professional licensing chapters contained in Code
5 16 Title IV, subtitle 3, has significantly, harmfully, and
5 17 unnecessarily limited the availability of many healing arts
5 18 services in Iowa by potentially subjecting the unlicensed
5 19 providers of those services to fines, penalties, and the
5 20 restriction of their practice.

5 21 The bill provides that Code Title IV, subtitle 3, providing
5 22 for the licensing of health care providers shall not be
5 23 construed to prohibit the practice of healing arts diagnoses
5 24 and treatment by an unlicensed person provided that the
5 25 requirements of new Code sections 147.105 and 147.105A
5 26 relating to prohibited practices and disclosure, are met. The
5 27 new requirements shall not be construed to apply to, control,
5 28 or prevent the practice of healing arts diagnoses and
5 29 treatment by persons already lawfully exempt from an
5 30 applicable licensing Code chapter. The bill removes the
5 31 practice of healing arts diagnoses and treatment from the
5 32 penalty provisions of Code section 147.86, or specific penalty
5 33 provisions contained within an otherwise applicable licensing
5 34 Code chapter.

5 35 The bill provides that the provision of healing arts
6 1 diagnoses and treatment does not violate Code Title IV,
6 2 subtitle 3, pertaining to health care provider licensure
6 3 requirements, unless the provider of such services conducts
6 4 surgery, sets fractures, or performs any other procedure on
6 5 any person that harmfully invades the skin; prescribes or
6 6 administers x-ray radiation; prescribes or administers drugs,
6 7 devices, or controlled substances for which a prescription by
6 8 a licensed health care provider is required; or represents,
6 9 states, indicates, advertises, or implies that the person has
6 10 been issued a license to practice a health care profession in
6 11 this state.

6 12 The bill requires an unlicensed person who advertises in
6 13 any media that they are a provider of healing arts diagnoses
6 14 and treatment, or who receives financial compensation for the
6 15 provision of healing arts diagnoses and treatment, to supply a
6 16 prospective client prior to the provision of such services
6 17 with a plainly worded written statement making several
6 18 disclosures. It must be disclosed that the provider is not a
6 19 licensed health care provider; the nature of the health care
6 20 diagnoses and treatment to be provided; and the education,
6 21 training, experience, or other credentials or qualifications
6 22 of the unlicensed provider regarding the diagnoses and
6 23 treatment being provided, accompanied by a statement that Iowa
6 24 has not adopted educational and training standards for
6 25 unlicensed providers of health care services; that the
6 26 statement of credentials is for informational purposes only;
6 27 and that if a client wishes to receive health care from a
6 28 licensed health care provider, the client may seek such care
6 29 at any time and should consult with a licensed provider before
6 30 modifying or discontinuing such existing treatment. An
6 31 unlicensed provider of healing arts diagnoses and treatment
6 32 must also disclose whether the provider has voluntarily
6 33 relinquished a license to practice; had a license revoked;
6 34 been convicted or adjudicated of a criminal offense against a
6 35 minor, or of sexual exploitation, or of a sexually violent
7 1 crime against any person, or is under indictment for any such
7 2 crimes; and that the parent or legal guardian of a minor
7 3 seeking treatment has a right to request and receive written
7 4 permission from the provider for access to relevant data in
7 5 the Iowa child abuse registry. The bill provides that written
7 6 acknowledgment from a prospective client that the client was
7 7 provided a statement of disclosures must be obtained, and

7 8 retained for a two-year period, and that the prospective
7 9 client shall receive a copy of the disclosures and
7 10 acknowledgment.

7 11 The bill additionally provides that an advertisement by an
7 12 unlicensed provider of healing arts diagnoses and treatments
7 13 shall disclose that the provider has not been issued a license
7 14 to practice a licensed health care profession, and that upon
7 15 request, an unlicensed provider of health care services shall
7 16 give written permission to a parent or legal guardian of a
7 17 minor to allow the parent or legal guardian to access the Iowa
7 18 child abuse registry.

7 19 The bill also provides for the scope of the bill's
7 20 provisions and penalties. The bill provides that the
7 21 department of public health may issue an immediate cease and
7 22 desist order, or seek a temporary or permanent injunction,
7 23 against an unlicensed provider of healing arts diagnoses and
7 24 treatment who fails to comply with the bill's provisions, and
7 25 that state criminal and civil law not relating to the
7 26 provision of health care shall continue to be applicable. The
7 27 bill provides that its provisions shall not limit the right of
7 28 any person to seek relief for negligent or willful harm, or to
7 29 seek any other civil remedy, and does not restrict the state
7 30 from taking action regarding the maltreatment of minors.

7 31 LSB 2121SS 82
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