

# IOWA ACCESS TO WELLNESS ACT

Version 3 for the 2008 Legislative Session  
SF2168 and HF2409

Section 1. IOWA ACCESS TO WELLNESS ACT == LEGISLATIVE FINDINGS.

1. SHORT TITLE. This Act shall be known and may be cited as the "Iowa Access to Wellness Act".

2. LEGISLATIVE FINDINGS AND INTENT.

a. The general assembly recognizes all of the following:

(1) The right of liberty and self-determination in individuals' selection of healing arts providers and methods to meet a wide variety of highly individual and personally determined needs, including comfort, wellbeing, vitality, prevention of disease, treatment of chronic and acute conditions, and self-development.

(2) That individuals are ultimately responsible for choosing their wellness care because they are the ones that experience the effects of that care on their wellbeing.

(3) That the exercise of the right to liberty and self-determination in regard to wellness requires freedom to access all information and all methods and providers deemed of value by individuals so that they may have the best opportunity to find their most suitable path to health and wellbeing.

(4) That the threat of prosecution under the chapters contained in this subtitle pertaining to licensure requirements for health care providers, has significantly, harmfully, and unnecessarily limited the availability of many healing arts services in Iowa by potentially subjecting the unlicensed providers of those services to fines, penalties, and the restriction of their practice.

b. The general assembly enacts sections 147.162 through 147.165 for the purpose of promoting provision of natural, holistic, ethnic, indigenous, and other alternative approaches to wellness in the state of Iowa.

3. For the purpose of this section and sections 147.162 through 147.165, "practice of healing arts" includes any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, pain, deformity, injury, or physical or mental condition.

Sec. 2. NEW SECTION. 147.162 PROVISIONS NOT APPLICABLE.

1. The provisions of this chapter, or any chapter contained in this subtitle relating to licensing of a health care provider, shall not be construed to prohibit the practice of healing arts diagnoses and treatments by an unlicensed person provided that the requirements of sections 147.163 and 147.164 are met.

2. The provisions of this chapter, chapter 272C, or any chapter

contained in this subtitle, shall not be construed to apply to, control, or prevent the practice of healing arts diagnoses and treatments by persons already lawfully exempt from an applicable licensing chapter. The penalty provisions of section 147.86, or specific penalty provisions contained within an otherwise applicable licensing chapter, shall not apply to the practice of healing arts diagnoses and treatments by an unlicensed person provided that the requirements of sections 147.163 and 147.164 are met.

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

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

1. Performs surgery, sets fractures, or performs any other invasive procedure that cuts the skin.
2. Prescribes or administers x-ray radiation.
3. Prescribes or administers drugs, devices, or controlled substances for which a prescription by a licensed health care provider is required.
4. Represents, states, indicates, advertises, or implies that the person has been issued a license to practice a health care profession in this state.

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

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

- a. That the provider is not a licensed health care provider pursuant to the licensure provisions of any of this subtitle.
- b. The nature of the health care diagnoses and treatments to be provided.
- c. The education, training, experience, or other credentials or qualifications of the unlicensed provider regarding the diagnoses and treatments being provided, accompanied by the following statement: "The state of Iowa has not adopted educational and training standards for unlicensed providers of health care services. This statement of credentials is for informational purposes only. If a client wishes to receive health care from a licensed health care provider, the client may seek such care at any time. Clients receiving treatment from a licensed provider of health care should consult with that licensed

provider before modifying or discontinuing such treatment."

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

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

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

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

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

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

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

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

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

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

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

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

## EXPLANATION

This bill establishes an Iowa Access to Wellness Act dealing with the provision of healing arts diagnoses and treatments by unlicensed persons. The “practice of healing arts” is defined to include any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, pain, deformity, injury, or physical or mental condition.

The bill contains intent language indicating that the general assembly recognizes the right to liberty and self-determination in regard to wellness. The intent section also indicates that the general assembly recognizes that the threat of prosecution under the professional licensing chapters contained in Code Title IV, subtitle 3, has significantly, harmfully, and unnecessarily limited the availability of many healing arts services in Iowa by potentially subjecting the unlicensed providers of those services to fines, penalties, and the restriction of their practice. This bill sets forth provisions to remedy this situation.

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