

**USHFC-2018-Resolution Re: Model Legislation for Safe Harbor Exemption Law
for Complementary and Alternative Health Care Practitioners
Resolution 1**

**Call for Endorsement of Model Legislation for Safe Harbor
Licensing Exemption Law for Traditional Complementary and
Alternative Health Care Practitioners**

2018 United States Health Freedom Congress
InterContinental Hotel, St. Paul Minnesota
June 10 - 12, 2018
Submitted by National Health Freedom Action

See NHFA's website, [here](#), for the actual language already passed in 10 states exempting practitioners from licensing requirements in certain circumstances. This Model Legislation draft is NHFA's recommended template based on their work in over 20 states.

Whereas, The United States Health Freedom Congress supports access to all of the diverse health care services, treatments and products that people deem beneficial for their own health and survival and opposes unnecessary restrictions on such access.

Whereas, State professional health care practice acts contain specific definitions of practice as well as protected titles and also include violation sections that state that no one can practice that particular profession as defined, or use a particular title, without a license.

Whereas, The legal definitions of each health care occupation's practices are very broad and include many activities that a person who is not a licensed health care practitioner might do, and thus the law may make many unlicensed persons vulnerable to being charged with unlicensed practice even when the practitioner is not causing any harm to the public or using protected titles.

Whereas, Most practice acts create an exemption list from licensing requirements of persons who, based on public policy, can be exempt from violations of unlicensed practice.

Whereas, A Safe Harbor Licensing Exemption law for complementary and alternative health care practitioners and healers, provides an exemption from charges of "unlicensed practice" for practitioners who practice within certain parameters listed in the safe harbor. If a practitioner practices outside of the safe harbor, they no longer receive the protection of the safe harbor.

Whereas, Ten states have enacted a version of a Safe Harbor Licensing Exemption law for complementary and alternative health care practitioners and healers.

Whereas, Consumer demand for access to Complementary and Alternative Health Care practitioners is consistently increasing in the US.

Whereas, Safe Harbor Licensing Exemption laws protects access to Complementary and Alternative Health Care practitioners who practice within the parameters of the safe harbor requirements.

Whereas, it is unconstitutional for a State to regulate a profession that does not pose a threat to the health, safety, or welfare of citizens, and numerous states list these constitutional criteria and parameters in statute as well.

Whereas, Safe Harbor Licensing Exemption laws are the least restrictive means of regulating Complementary and Alternative Health Care practitioners. Other forms of regulation, such as mandatory registration, certification, or licensure that would force persons to gain a privilege from the government before they engage in a healing act, are inappropriate when such acts do not pose an imminent and significant risk of direct harm to the public.

Whereas, Each state is unique and states view their own healing practitioners according to their own specific state culture including any risk of harm or lack of harm a practitioner might pose to the public. Therefore state laws, including Safe Harbor Licensing Exemption laws, are tailored to the public needs and strategic decisions of each state.

Whereas, Language of Safe Harbor Licensing Exemption laws has evolved over the years as more states proceed to establish safe harbor protections, and Model Legislation recommends certain specific sections to be included while still keeping the Legislation the least restrictive means possible for regulation.

Whereas, State activist groups have indicated a desire to pass Safe Harbor Licensing Exemption laws in their states and would benefit from Model Legislation to use as a template for their state discussion and to take to their state legislatures.

THEREFORE, BE IT RESOLVED that the following Voting Members of the US Health Freedom Congress do endorse the appended Model Legislation as an example from which a Safe Harbor Licensing Exemption law could begin to be drafted.

Name of Organization

California Health Freedom Coalition

Consumers for Dental Choice

Dental Amalgam Mercury Solutions (DAMS) Inc.

ElectromagneticHealth.org

Health Choice

Health Freedom Action Massachusetts

Michigan Natural Health Coalition

Minnesota Natural Health Coalition

Minnesota Natural Health – Legal Reform Project

National Health Freedom Action

National Health Freedom Coalition

National Vaccine Information Center (NVIC)

North American Society of Homeopaths (NASH)

Sunshine Health Freedom Foundation

Texas Health Freedom Coalition

The Robert Scott Bell Show

Voice for HOPE - Healers Of Planet Earth

Weston A. Price Foundation

Wisconsin Health Freedom Coalition

Model State Legislation re: Safe Harbor Exemption Law for Complementary and Alternative Health Care Practitioners

Section 1. NEW SECTION. [State Name] HEALTH FREEDOM AND ACCESS ACT - LEGISLATIVE FINDINGS.

This section of the bill is the "intent" part, and many states do not allow intent sections, so you will have to see if your bill drafters want Section 1 in the bill or not.

1. SHORT TITLE. This Act shall be known and may be cited as the "[State Name] [Title of Act]".

2. LEGISLATIVE INTENT. (2) FINDINGS AND INTENT.

(a) Based upon a report by the National Institute of Health, and other research data, it is evident that a significant number of individuals in this state are presently receiving a substantial amount of health care from practitioners of health care approaches who are not licensed, registered, or certified by this state to provide health care. Those studies further indicate that individuals from a wide variety of age, ethnic, socioeconomic, and other demographic categories utilize these health care services, often times referred to as complementary and alternative health care practices or natural healing therapies and modalities.

(b) Notwithstanding the widespread utilization of these health care services by residents of this state, the provision of such services may be in technical violation of the professional practice acts governing the licensed health care practitioners. As a result, a provider of the healing arts who is not licensed, certified, or registered by this state as a health care practitioner as defined in [Citation to State Statutes] could be subject to fines, penalties, and the restriction of his or her practice.

(c) Because this state finds that these practices are widely used and desirable under certain circumstances and in order to maximize and protect consumer options in health care and for the public's health and welfare, the Legislature intends to remove current barriers to the public's access to these practitioners providing health care services with appropriate consumer protections, as provided in this section.

A definition section could be added here if desired but it is not necessary.

Section. 2. NEW SECTION. PROVISION OF HEALTH CARE BY UNLICENSED PERSONS.

Notwithstanding any other provision of law, a person who provides health care services in accordance with this chapter, but who is not licensed, certified, or registered by this state as a health care professional or practitioner under [Citation to State Occupational Statutes], shall not be in violation of a law for unlicensed practice or provision of service under these statutes unless the person:

- A. engages in any activity prohibited in Section 3 of this Act, or
- B. fails to fulfill the duties set forth in Section 4 of this Act.

Section 3. NEW SECTION. PROHIBITED ACTS.

A person who is not licensed, certified, or registered by the state as a health care professional, shall not:

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1. Conduct surgery, set fractures, or perform any other procedure on any person that punctures or harmfully invades the skin.
2. Prescribe or administer x-ray radiation.
3. Prescribe or administer drugs, devices, or controlled substances for which a prescription by a licensed health care provider is required.
4. Perform a chiropractic adjustment of the articulations of joints or the spine;
5. Hold out, state, indicate, advertise, or imply to any person that he or she is a health care practitioner licensed, certified, or registered, by this state unless they hold such credential.

This list can be expanded if desired and NHFA has list of potential language depending on issue.

Section 4. NEW SECTION. DISCLOSURES.

(a) Any person providing health care services who is not licensed, certified, or registered by this state as a health care practitioner and who is advertising or charging a fee for those services, shall, prior to providing such services, disclose to the client in a plainly worded written statement:

1. The practitioner's name, business address, and telephone number.
2. The fact that he or she is not licensed, certified, or registered, as a health care practitioner by this state.
3. The nature of the health care services to be provided.
4. The degrees, training, experience, credentials, or other qualifications if any of the practitioners regarding the health care services being provided.

(b) A written copy of said statements must be posted in a prominent location in the office or service location of the practitioner providing the service in at least a 12-pitch font size. Reasonable accommodations shall be made for those clients who cannot read or who have communication impairments and those who do not read or speak English or the language of the providing practitioner.

(c) Before a practitioner provides health care services to a client for the first time, such practitioner must obtain a written acknowledgment from the client stating that he or she has been provided with the information described in this subsection. The client shall be provided with a copy of this written acknowledgment and it must be maintained for 2 years by the person providing the services. If the disclosure information has changed then the practitioner has a duty to repeat part (a) (b) and (c) if a client obtains services after the change.

(d) Any advertisement by an unlicensed provider of healing arts services shall disclose that the provider has not been issued a license to practice a licensed health care profession in this state.

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Sec. 5. NEW SECTION. SCOPE OF CHAPTER – REMEDIES AND EXEMPTIONS.

(a) This act does not apply to, control, or prevent any health care professional licensed, certified, or registered by this state, from practicing lawfully and according to a professional practice act or under other state law.

(b) This act does not apply to, control, or prevent any acts or persons that would otherwise already be exempt from professional practice acts.

(c) The government may issue an immediate cease and desist order, or seek a temporary or permanent injunction, against an unlicensed provider of healing arts services who fails to comply with the provisions of sections 3 and 4. However, if the non-compliance is solely based on Section 4 violations, the government must first recommend compliance with notice in writing and if the practitioner is unresponsive then before legally proceeding, utilize a mediative approach to gain compliance from the practitioner.

(d) State criminal and civil law not relating to the provision of health care shall continue to apply to unlicensed providers of healing arts services.

(e) 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 services.

Sec. 6. This Act shall take effect [Future Date].