

5 tion of specimens and actual cost of examination, not to exceed two  
6 dollars for each. A copy of the report Reports of each epidemiological  
7 examination examinations and investigation investigations shall be  
8 promptly sent to the state department of health responsible agency.

9 In addition to its regular work, the laboratory shall perform without  
10 charge all bacteriological, serological, and epidemiological examinations  
11 and investigations which may be required by the state department of  
12 health and said department shall establish rules therefor. The laborato-  
13 ry shall also provide, those laboratory, scientific field measurement,  
14 and environmental quality services which, by contract, are requested  
15 by the department of environmental quality other agencies of govern-  
16 ment.

17 The laboratory is authorized to perform such other laboratory deter-  
18 minations relating to air contaminants as may be requested by political  
19 subdivisions or other persons any state institution, citizen, school,  
20 municipality or local board of health, and the laboratory also is here-  
21 by authorized to charge political subdivisions or other persons fees cover-  
22 ing transportation of samples and the actual costs of examinations  
23 performed upon their request.

1 SEC. 4. Section five hundred ninety-six point three (596.3),  
2 Code 1975, is amended to read as follows:

3 **596.3 Laboratory tests.** All standard serological tests for syphilis  
4 as required under this chapter shall be made by the state hygienic lab-  
5 oratory of the state department of health university of Iowa or by  
6 such other laboratories which are approved by the state department of  
7 health. Such tests as may be made by the state hygienic laboratory of  
8 the state department of health university of Iowa shall be free of  
9 charge. The results of all laboratory tests shall be reported on standard  
10 forms prescribed by the commissioner of public health. Said blanks  
11 may be destroyed by the clerk of the district court two years after the  
12 laboratory date thereon.

Approved March 14, 1975

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## CHAPTER 119

### HEALTH CARE FACILITIES

S. F. 525

AN ACT relating to the licensing and regulation of health care facilities, and prescribing pen-  
alties for violations.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section one hundred thirty-five C point one (135C.1),  
2 Code 1975, as amended by Acts of the Sixty-sixth General Assembly,  
3 1975 Session, Senate File one hundred ninety-three (193), section one  
4 (1), is amended to read as follows:

5 **135C.1 Definitions.**

6 1. "Adult foster family home" means any private dwelling or other  
7 suitable place providing for a period exceeding twenty-four consecutive  
8 hours accommodation, board, and supervision, for which a charge is  
9 made, to not more than five individuals, not related to the owner or  
10 occupant of the dwelling or place within the third degree of consan-

11 guinity, who by reason of age, illness, disease, or physical or mental  
12 infirmity are unable to sufficiently or properly care for themselves, but  
13 who are essentially capable of managing their own affairs.

14 2. "Boarding home" means any institution, place, building, or agen-  
15 cy providing for a period exceeding twenty-four consecutive hours ac-  
16 commodation, board, and supervision to three or more individuals, not  
17 related to the administrator or owner thereof within the third degree of  
18 consanguinity, who by reason of age, illness, disease, or physical or  
19 mental infirmity are unable to sufficiently or properly care for them-  
20 selves, but who are essentially capable of managing their own affairs.

21 3. "Custodial home" 1. "Residential care facility" means any in-  
22 stitution, place, building, or agency providing for a period exceeding  
23 twenty-four consecutive hours accommodation, board, and personal as-  
24 sistance in feeding, dressing, and other essential daily living activities  
25 to three or more individuals, not related to the administrator or owner  
26 thereof within the third degree of consanguinity, who by reason of age,  
27 illness, disease, or physical or mental infirmity are unable to sufficient-  
28 ly or properly care for themselves or manage their own affairs, but who  
29 do not require the daily services of a registered or licensed practical  
30 nurse *except on an emergency basis*.

31 4. "Basic nursing home" means any institution, place, building, or  
32 agency providing for a period exceeding twenty-four consecutive hours  
33 accommodation, board, and personal care and treatment or simple  
34 nursing care to three or more individuals, not related to the adminis-  
35 trator or owner thereof within the third degree of consanguinity, who  
36 by reason of age, illness, disease, or physical or mental infirmity re-  
37 quire domiciliary care, simple nursing care, or occasional skilled nurs-  
38 ing care, but who do not require hospital or skilled nursing home care.

39 5 2. "Intermediate nursing home care facility" means any institu-  
40 tion, place, building, or agency providing for a period exceeding twenty-  
41 four consecutive hours accommodation, board, and nursing care and  
42 supporting services as directed, *the need for which is certified by a*  
43 *physician*, to three or more individuals, not related to the administra-  
44 tor or owner thereof within the third degree of consanguinity, who by  
45 reason of age, illness, disease, or physical or mental infirmity require  
46 continuous nursing care and related medical services, or occasional  
47 skilled nursing care, but who do not require hospital care *nursing ser-*  
48 *vices which can be provided only under the direction of a registered*  
49 *nurse or a licensed practical nurse*.

50 6 3. "Skilled nursing home facility" means any institution, place,  
51 building, or agency providing for a period exceeding twenty-four con-  
52 secutive hours accommodation, board, and the health care nursing ser-  
53 vices necessary for certification as a skilled nursing home under Title  
54 XIX of the United States Social Security Act (Title XLII, United  
55 States Code, sections 1396 through 1396g), as amended to January 1,  
56 1970, *the need for which is certified by a physician*, to three or more  
57 individuals not related to the administrator or owner thereof within  
58 the third degree of consanguinity *who by reason of illness, disease, or*  
59 *physical or mental infirmity require continuous nursing care ser-*  
60 *vices and related medical services, but do not require hospital care.*  
61 *The nursing care services provided must be under the direction of a*  
62 *registered nurse on a twenty-four-hours-per-day basis*.

63 7. "Extended care facility" means any institution, place, building,  
64 or agency providing for a period exceeding twenty-four consecutive  
65 hours accommodation, board, and the health care services necessary for  
66 certification as an extended care facility under Title XVIII of the  
67 United States Social Security Act (Title XLII, United States Code, see-

68 tions 1305 through 130511), as amended to January 1, 1970, to three or  
69 more individuals not related to the administrator or owner thereof  
70 within the third degree of consanguinity.

71 8 4. "Health care facility" or "facility" means any adult foster fam-  
72 ily home, boarding home, custodial home, basic nursing home *residen-*  
73 *tial care facility*, intermediate nursing home care facility or, skilled  
74 nursing home, or extended care facility.

75 9. "Patient" means an individual admitted to a basic nursing home,  
76 intermediate nursing home, skilled nursing home, or extended care fa-  
77 cility in the manner prescribed by section 135C.23 for care requiring, at  
78 a minimum, the daily services of a registered or licensed practical  
79 nurse.

80 5. "Licensee" means the holder of a license issued for the opera-  
81 tion of a facility, pursuant to this chapter.

82 10 6. "Resident" means an individual admitted to a health care fa-  
83 cility in the manner prescribed by section 135C.23, who does not re-  
84 quire the daily services of a registered or licensed practical nurse. An  
85 employee of, or an individual related within the third degree of con-  
86 sanguinity to the administrator or owner of, a health care facility shall  
87 not be deemed a resident thereof for the purposes of this chapter solely  
88 by reason of being provided living quarters within such facility.

89 11 7. "Physician" means a person licensed to practice medicine and  
90 surgery, osteopathy and surgery or osteopathy under the laws of this  
91 state has the meaning assigned that term by section one hundred  
92 thirty-five point one (135.1), subsection five (5) of the Code.

93 8. "House physician" means a physician who has entered into a  
94 two-party contract with a health care facility to provide services in  
95 that facility.

96 12 9. "Commissioner" means the commissioner of public health ap-  
97 pointed pursuant to section 135.2, or his designee.

98 13 10. "Department" means the state department of health.

99 14 11. "Person" means any individual, firm, partnership, corpora-  
100 tion, company, association or joint stock association; and includes  
101 trustee, receiver, assignee or other similar representative thereof.

102 15 12. "Governmental unit" means the state, or any county, municipi-  
103 pality, or other political subdivision or any department, division,  
104 board or other agency of any of the foregoing.

105 13. "Direction" means authoritative policy or procedural guid-  
106 ance for the accomplishment of a function or activity.

107 14. "Supervision" means direct oversight and inspection of the  
108 act of accomplishing a function or activity.

109 15. "Nursing care" means those services which can be provided  
110 only under the direction of a registered nurse or a licensed practical  
111 nurse.

112 16. "Social services" means services relating to the psychological  
113 and social needs of the individual in adjusting to living in a health  
114 care facility, and minimizing stress arising from that circumstance.

115 17. "Rehabilitative services" means services to encourage and as-  
116 sist restoration of optimum mental and physical capabilities of the  
117 individual resident of a health care facility.

1 SEC. 2. Section one hundred thirty-five C point two (135C.2), sub-  
2 section two (2), Code 1975, is amended to read as follows:

3 2. Rules and standards prescribed, promulgated and enforced under  
4 this chapter shall not be arbitrary, unreasonable or confiscatory and  
5 the department or agency prescribing, promulgating or enforcing such  
6 rules or standards shall have the burden of proof to establish that such

7 rules or standards meet such requirements and are consistent with the  
8 economic problems and conditions involved in the care and housing of  
9 persons in ~~nursing homes and custodial homes~~ *health care facilities*.

1 SEC. 3. Section one hundred thirty-five C point two (135C.2), Code  
2 1975, is amended by adding the following new subsection:

3 NEW SUBSECTION. The department shall establish by administrative  
4 rule, within the intermediate care facility category, a special classifica-  
5 tion for facilities intended to serve mentally retarded individuals. The  
6 department may also establish by administrative rule other classifica-  
7 tions within that category, or special classifications within the residen-  
8 tial care facility or skilled nursing facility categories, for facilities  
9 intended to serve individuals who have special health care problems or  
10 conditions in common. Rules establishing a special classification shall  
11 define the problem or condition to which the classification is relevant  
12 and establish requirements for an approved program of care commensurate  
13 with such problem or condition, and may grant special variances  
14 or considerations to facilities licensed within the classification so estab-  
15 lished.

1 SEC. 4. Section one hundred thirty-five C point three (135C.3),  
2 Code 1975, is amended to read as follows:

3 **135C.3 Nature of care.** Each facility licensed as ~~an extended~~  
4 ~~care facility, a skilled nursing home, facility or an intermediate nurs-~~  
5 ~~ing home, or a basic nursing home, care facility~~ shall provide an organ-  
6 ized continuing twenty-four hour program of nursing ~~care services~~  
7 commensurate with the needs of ~~the patients its residents~~ and under  
8 the immediate direction of a licensed physician, licensed registered  
9 nurse or licensed practical nurse licensed by the state of Iowa, whose  
10 combined training and supervised experience is such as to assure ade-  
11 quate and competent nursing direction. Medical and nursing ~~care ser-~~  
12 ~~vices~~ shall be under the direction of either a "house physician" or  
13 individually selected physicians, but surgery or obstetrical care shall  
14 not be provided within the ~~home facility~~. All admissions to ~~extended~~  
15 ~~care facilities, skilled nursing homes, facilities or intermediate nursing~~  
16 ~~homes, and basic nursing homes care facilities~~ shall be based on an or-  
17 der written by a physician certifying that the individual being admit-  
18 ted requires no greater degree of nursing care than the facility to which  
19 the admission is made is *licensed to provide and is capable of provid-*  
20 *ing.*

1 SEC. 5. Section one hundred thirty-five C point four (135C.4), Code  
2 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975  
3 Session, Senate File one hundred ninety-three (193), section two (2), is  
4 amended to read as follows:

5 **135C.4 Custodial homes Residential care facilities.** Each facil-  
6 ity licensed as a ~~custodial home or boarding home residential care fa-~~  
7 ~~ility~~ shall provide an organized continuous twenty-four hour program  
8 of care commensurate with the needs of the residents of the home and  
9 under the immediate direction of a person *approved and certified by*  
10 *the department* whose combined training and supervised experience is  
11 such as to ensure adequate and competent care. All admissions to ~~eus-~~  
12 ~~todial homes or boarding homes, and all placements in adult foster~~  
13 ~~family homes residential care facilities~~ shall be based on an order  
14 written by a physician certifying that the individual being admitted ~~or~~  
15 ~~placed~~ does not require nursing ~~care services~~.

1 SEC. 6. Section one hundred thirty-five C point five (135C.5), Code  
2 1975, is amended to read as follows:

3 **135C.5 Health care facilities, etc.** No other business or activity  
 4 shall be carried on in a health care facility, nor in the same physical  
 5 structure with a health care facility except as hereinafter provided, un-  
 6 less such business or activity *is under the control of and* is directly re-  
 7 lated to ~~or necessary for and incidental to~~ the operation of the health  
 8 care facility. No business or activity which is operated within the limi-  
 9 tations of this section shall interfere in any manner with the use of the  
 10 facility by the patients or residents, nor be disturbing to them. ~~Any~~  
 11 ~~part of such business or activity open to customers other than patients~~  
 12 ~~or residents of the health care facility shall be physically separated~~  
 13 ~~from the facility, and an entrance shall be provided for such customers~~  
 14 ~~so that they do not pass through the health care facility in entering or~~  
 15 ~~leaving the area where such business or activity is conducted.~~

1 SEC. 7. Section one hundred thirty-five C point six (135C.6), sub-  
 2 sections four (4) and five (5), Code 1975, are amended to read as fol-  
 3 lows:

4 4. No department, agency, or officer of this state or of any of its po-  
 5 litical subdivisions shall pay or approve for payment from public funds  
 6 any amount or amounts to a health care facility under any program of  
 7 state aid in connection with services provided or to be provided an ac-  
 8 tual or prospective patient or resident in a health care facility, unless  
 9 the facility has a current license issued by the department and meets  
 10 such other requirements as may be in effect pursuant to law.

11 5. No health care facility established and operated in compliance  
 12 with law prior to ~~July 1, 1970~~ *January 1, 1976*, shall be required to  
 13 change its corporate or business name by reason of the definitions pre-  
 14 scribed in section 135C.1, provided that no health care facility shall at  
 15 any time represent or hold out to the public or to any individual that  
 16 it is licensed as, or provides the services of, a health care facility of a  
 17 type offering a higher grade of care than such health care facility is li-  
 18 censed to provide. Any health care facility which, by virtue of this sec-  
 19 tion, operates under a name not accurately descriptive of the type of  
 20 license which it holds shall clearly indicate in any printed advertise-  
 21 ment, letterhead, or similar material, the type of license *or licenses*  
 22 which it has in fact been issued. No health care facility established or  
 23 renamed after ~~July 1, 1971~~ *January 1, 1976*, shall use any name indi-  
 24 cating that it holds a ~~higher~~ *different* type of license than it has been  
 25 issued.

1 SEC. 8. Section one hundred thirty-five C point seven (135C.7),  
 2 Code 1975, as amended by Acts of the Sixty-sixth General Assembly,  
 3 1975 Session, Senate File one hundred ninety-three (193), sections three  
 4 (3) and four (4), is amended to read as follows:

5 **135C.7 Application—fees.** Licenses shall be obtained from the  
 6 department. Applications shall be upon such forms and shall include  
 7 such information as the department may reasonably require, which  
 8 may include affirmative evidence of compliance with such other stat-  
 9 utes and local ordinances as may be applicable. Each application for  
 10 license shall be accompanied by the annual license fee prescribed by  
 11 this section, subject to refund to the applicant if the license is denied,  
 12 which fee shall be paid over into the state treasury and credited to the  
 13 general fund if the license is issued. There shall be an annual license  
 14 fee based upon the bed capacity of the health care facility, as follows:

15 1. ~~For extended care facilities, skilled nursing homes, intermediate~~  
 16 ~~nursing homes, and basic nursing homes having a total of:~~

17 a 1. Ten beds or less, ~~ten~~ *twenty* dollars.

18 b 2. More than ten and not more than twenty-five beds, ~~twenty for-~~  
 19 *ty* dollars.

- 20 e 3. More than twenty-five and not more than seventy-five beds,  
21 ~~thirty sixty~~ dollars.
- 22 d 4. More than seventy-five and not more than one hundred fifty  
23 beds, ~~forty eighty~~ dollars.
- 24 e 5. More than one hundred fifty beds, ~~fifty one hundred~~ dollars.
- 25 2. For boarding homes and custodial homes having a total of:
- 26 a. Ten beds or less, five dollars.
- 27 b. More than ten and not more than twenty-five beds, ten dollars.
- 28 c. More than twenty-five and not more than seventy-five beds, fif-  
29 teen dollars.
- 30 d. More than seventy-five and not more than one hundred fifty  
31 beds, twenty dollars.
- 32 e. More than one hundred fifty beds, twenty-five dollars.
- 33 3. For adult foster family homes, five dollars.

1 SEC. 9. Section one hundred thirty-five C point nine (135C.9),  
2 Code 1975, is amended to read as follows:

3 **135C.9 Inspection before issuance.**

4 1. The department shall not issue a health care facility license to  
5 any applicant until:

6 1 a. The department has ascertained that the staff and equipment of  
7 the facility is adequate to provide the care and services required of a  
8 health care facility of the category for which the license is sought.  
9 Prior to the review and approval of plans and specifications for any  
10 new facility and *the* initial licensing under a new licensee, a resumé of  
11 the programs and services to be furnished and of the means available  
12 to the applicant for providing the same and for meeting requirements  
13 for staffing, equipment, and operation of the health care facility, with  
14 particular reference to the professional requirements for services to be  
15 rendered, shall be submitted in writing to the department for review  
16 and approval. *The resumé shall be reviewed by the department with-*  
17 *in ten working days and returned to the applicant. The resumé*  
18 *shall, upon the department's request, be revised as appropriate by*  
19 *the facility from time to time after issuance of a license.*

20 2 b. The facility has been inspected by the state fire marshal or a  
21 deputy appointed by him for that purpose, who may be a member of a  
22 municipal fire department, and the department has received either a  
23 certificate of compliance or a ~~conditional~~ *provisional* certificate of  
24 compliance by the facility with the fire-hazard and fire-safety rules  
25 and standards of the department as promulgated by the fire marshal  
26 *and, where applicable, the fire safety standards required for partici-*  
27 *ipation in programs authorized by either Title XVIII or Title XIX of*  
28 *the United States Social Security Act (Title XLII, United States*  
29 *Code, sections one thousand three hundred ninety-five (1395)*  
30 *through one thousand three hundred ninety-five ll (1395ll) and*  
31 *one thousand three hundred ninety-six (1396) through one thousand*  
32 *three hundred ninety-six g (1396g)). The certificate or ~~conditional~~*  
33 *provisional* certificate shall be signed by the fire marshal or his deputy  
34 who made the inspection.

35 2. The rules and standards *promulgated by the fire marshal pursu-*  
36 *ant to subsection one (1), paragraph b of this section* shall be sub-  
37 stantially in keeping with the latest generally recognized safety criteria  
38 for the facilities covered, of which the applicable criteria recommended  
39 and published from time to time by the national fire protection asso-  
40 ciation shall be prima-facie evidence.

41 3. The state fire marshal or his deputy may issue a ~~conditional cer-~~  
42 *tificate successive provisional certificates* of compliance for a period

43 *periods of one year each to a facility which is in substantial compli-*  
 44 *ance with the applicable fire-hazard and fire-safety rules and stand-*  
 45 *ards, upon satisfactory evidence of an intent, in good faith, by the*  
 46 *owner or operator of the facility to correct the deficiencies noted upon*  
 47 *inspection within a reasonable period of time as determined by the*  
 48 *state fire marshal or his deputy. Renewal of a conditional provisional*  
 49 *certificate shall be based on a showing of substantial progress in elimi-*  
 50 *nating deficiencies noted upon the last previous inspection of the facil-*  
 51 *ity without the appearance of additional deficiencies other than those*  
 52 *arising from changes in the fire-hazard and fire-safety rules, regula-*  
 53 *tions and standards which have occurred since the last previous inspec-*  
 54 *tion, except that substantial progress toward achievement of a good-*  
 55 *faith intent by the owner or operator to replace the entire facility with-*  
 56 *in a reasonable period of time, as determined by the state fire marshal*  
 57 *or his deputy, may be accepted as a showing of substantial progress in*  
 58 *eliminating deficiencies, for the purposes of this section.*

1 SEC. 10. Section one hundred thirty-five C point ten (135C.10),  
 2 Code 1975, is amended to read as follows:

3 **135C.10 Denial, suspension or revocation.** The department  
 4 shall have the authority to deny, suspend, or revoke a license in any  
 5 case where the department finds that there has been a *repeated failure*  
 6 *on the part of the facility* to comply with the provisions of this chap-  
 7 ter or the rules or minimum standards promulgated hereunder, or for  
 8 any of the following reasons:

9 1. Cruelty or indifference to ~~the welfare of~~ health care facility resi-  
 10 ~~dent or patient~~.

11 2. Appropriation or conversion of the property of a health care facili-  
 12 ty resident ~~or patient~~ without his written consent or the written con-  
 13 sent of his legal guardian.

14 3. ~~Evidence that the moral character of the applicant, manager or~~  
 15 ~~supervisor of the health care facility is not reputable.~~

16 4. 3. Permitting, aiding, or abetting the commission of any illegal  
 17 act in the health care facility.

18 5. 4. Inability or failure to operate and conduct the health care facili-  
 19 ty in accordance with the requirements of this chapter and the mini-  
 20 mum standards and rules issued pursuant thereto.

21 6. 5. Obtaining or attempting to obtain or retain a license by fraudu-  
 22 lent means, misrepresentation, or by submitting false information.

23 7. 6. Habitual intoxication or addiction to the use of drugs by the ap-  
 24 plicant, manager or supervisor of the health care facility.

25 8. 7. Securing the devise or bequest of the property of a ~~patient in~~  
 26 ~~resident of~~ a health care facility by undue influence.

27 8. *Willful failure or neglect to maintain a continuing in-service*  
 28 *education and training program for all personnel employed in the*  
 29 *facility.*

30 9. *In the case of an application by an existing licensee for a new*  
 31 *or newly-acquired facility, continuing or repeated failure of the li-*  
 32 *censee to operate any previously licensed facility or facilities in*  
 33 *compliance with the provisions of this Act or of the rules adopted*  
 34 *pursuant to it.*

1 SEC. 11. Section one hundred thirty-five C point eleven (135C.11),  
 2 Code 1975, is amended to read as follows:

3 **135C.11 Notice—hearings.** ~~Such denial~~

4 1. *The denial, suspension, or revocation of a license shall be effect-*  
 5 *ed by mailing delivering to the applicant or licensee by certified mail*  
 6 *or by personal service of a notice setting forth the particular reasons*

7 for such action. Such denial, suspension, or revocation shall become ef-  
 8 fective thirty days after the mailing or service of the notice, unless the  
 9 applicant or licensee, within such thirty-day period, shall give written  
 10 notice to the department requesting a hearing, in which case the notice  
 11 shall be deemed to be suspended. If a hearing has been requested, the  
 12 applicant or licensee shall be given an opportunity for a prompt and  
 13 fair hearing before the department. At any time at or prior to the hear-  
 14 ing the department may rescind the notice of the denial, suspension or  
 15 revocation upon being satisfied that the reasons for the denial, suspen-  
 16 sion or revocation have been or will be removed. On the basis of any  
 17 such hearing, or upon default of the applicant or licensee, the determi-  
 18 nation involved in the notice may be affirmed, modified, or set aside  
 19 by the department. A copy of such decision shall be sent by certified  
 20 mail, or served personally upon the applicant or licensee. The appli-  
 21 cant or licensee may seek judicial review pursuant to section 135C.13.

22 2. The procedure governing hearings authorized by this section shall  
 23 be in accordance with the rules promulgated by the department. A full  
 24 and complete record shall be kept of all proceedings, and all testimony  
 25 shall be reported but need not be transcribed unless judicial review is  
 26 sought pursuant to section 135C.13. A copy or copies of the transcript  
 27 may be obtained by an interested party upon payment of the cost of  
 28 preparing such copy or copies. Witnesses may be subpoenaed by either  
 29 party and shall be allowed fees at a rate prescribed by the aforesaid  
 30 rules. The commissioner may, with the advice and consent of the care  
 31 review committee established pursuant to section 135C.25, remove all  
 32 residents ~~and patients~~ and suspend the license or licenses of any health  
 33 care facility, prior to a hearing, when he finds that the health or safety  
 34 of residents ~~or patients~~ of the health care facility requires such action  
 35 on an emergency basis. *The fact that no care review committee has*  
 36 *been appointed for a particular facility shall not bar the commis-*  
 37 *sioner from exercising the emergency powers granted by this subsec-*  
 38 *tion with respect to that facility.*

1 SEC. 12. Section one hundred thirty-five C point thirteen (135C.13),  
 2 Code 1975, is amended to read as follows:

3 **135C.13 Judicial review.** Judicial review of *any* action of the  
 4 commissioner may be sought in accordance with the terms of the Iowa  
 5 administrative procedure Act. Notwithstanding the terms of said Act,  
 6 petitions for judicial review may be filed in the district court of the  
 7 county where the facility or proposed facility is located, and pending  
 8 final disposition of the matter the status quo of the applicant or licen-  
 9 see shall be preserved except when the commissioner, with the advice  
 10 and consent of the care review committee established pursuant to sec-  
 11 tion 135C.25, determines that the health, safety or welfare of the resi-  
 12 dents ~~or patients~~ of the facility are in immediate danger, in which case  
 13 he may order the immediate removal of such residents ~~or patients~~.  
 14 *The fact that no care review committee has been appointed for a*  
 15 *particular facility shall not bar the commissioner from exercising*  
 16 *the emergency powers granted by this subsection with respect to*  
 17 *that facility.*

1 SEC. 13. Section one hundred thirty-five C point fourteen  
 2 (135C.14), Code 1975, is amended to read as follows:

3 **135C.14 Rules.** The department ~~may~~ shall, *in accordance with*  
 4 *chapter seventeen A (17A) of the Code, adopt by reference nationally*  
 5 ~~recognized standards and rules or otherwise amend, promulgate and~~  
 6 *enforce rules setting minimum standards for health care facilities. In so*  
 7 *doing, the department may adopt by reference, with or without*



8 *amendment, nationally recognized standards and rules, which shall*  
 9 *be specified by title and edition, date of publication, or similar in-*  
 10 *formation. Such* The rules and standards required by this section  
 11 shall be formulated in consultation with the commissioner of social ser-  
 12 vices or his or her designee and with industry, professional and con-  
 13 sumer groups affected thereby, and shall be designed to further the  
 14 accomplishment of the purposes of this chapter and shall relate to:

15 1. Location and construction of the facility, including plumbing,  
 16 heating, lighting, ventilation, and other housing conditions, which  
 17 shall ensure the health, safety and comfort of residents and protection  
 18 from fire hazards. Such rules and standards regarding location and  
 19 construction of the home may impose requirements in excess of those  
 20 provided in chapter 413 but shall not impose requirements less than  
 21 those provided by such chapter. The rules of the department relating  
 22 to protection from fire hazards and fire safety shall be promulgated by  
 23 the state fire marshal, and shall be in keeping with the latest generally  
 24 recognized safety criteria for the facilities covered of which the applica-  
 25 ble criteria recommended and published from time to time by the na-  
 26 tional fire protection association shall be prima facie evidence.

27 2. Number and qualifications of all personnel, including manage-  
 28 ment and nursing personnel, having responsibility for any part of the  
 29 care provided to residents ~~or patients~~.

30 3. All sanitary conditions within the facility and its surroundings in-  
 31 cluding water supply, sewage disposal, food handling, and general hy-  
 32 giene, which shall ensure the health and comfort of residents ~~or~~  
 33 ~~patients~~.

34 4. Diet related to the needs of each resident ~~or patient~~ and based on  
 35 good nutritional practice and on recommendations which may be made  
 36 by the physician attending the resident ~~or patient~~.

37 5. Equipment essential to the health and welfare of the resident ~~or~~  
 38 ~~patient~~.

39 6. *Requirements that a minimum number of registered or li-*  
 40 *censed practical nurses and nurses' aides, relative to the number of*  
 41 *residents admitted, be employed by each licensed facility. Staff-to-*  
 42 *resident ratios established under this subsection need not be the*  
 43 *same for facilities holding different types of licenses, nor for facili-*  
 44 *ties holding the same type of license if there are significant differ-*  
 45 *ences in the needs of residents which the respective facilities are*  
 46 *servng or intend to serve.*

47 7. *Social services and rehabilitative services provided for the resi-*  
 48 *dents.*

1 SEC. 14. Section one hundred thirty-five C point fifteen (135C.15),  
 2 Code 1975, is amended to read as follows:

3 **135C.15 Time to comply.**

4 1. Any health care facility which is in operation at the time of  
 5 adoption or promulgation of any applicable rules or minimum stan-  
 6 dards under this chapter shall be given reasonable time from the date of  
 7 such promulgation to comply with such rules and minimum standards  
 8 as provided for by the department. *The commissioner may grant suc-*  
 9 *cessive thirty-day extensions of the time for compliance where evi-*  
 10 *dence of a good faith attempt to achieve compliance is furnished, if*  
 11 *the extensions will not place in undue jeopardy the residents of the*  
 12 *facility to which the extensions are granted.*

13 2. Renovation of an existing health care facility, not already in  
 14 compliance with all applicable standards, shall be permitted only if the  
 15 fixtures and equipment to be installed and the services to be provided  
 16 in the renovated portion of the facility will conform substantially to

17 current operational standards. Construction of an addition to an exist-  
 18 ing health care facility shall be permitted only if the design of the  
 19 structure, the fixtures and equipment to be installed, and the services  
 20 to be provided in the addition will conform substantially to current  
 21 construction and operational standards.

1 SEC. 15. Section one hundred thirty-five C point sixteen (135C.16),  
 2 Code 1975, is amended to read as follows:

3 **135C.16 Inspections.** The

4 1. *In addition to the inspections required by section one hundred*  
 5 *thirty-five C point nine (135C.9) of the Code and by section twenty-*  
 6 *five (25) of this Act, the department shall make or cause to be made*  
 7 *such further unannounced inspections as it may deem necessary to*  
 8 *adequately enforce this chapter, and shall including at least one*  
 9 *general inspection in each calendar year of every licensed health*  
 10 *care facility in the state made without providing advance notice of*  
 11 *any kind to the facility being inspected. The inspector shall identify*  
 12 *himself or herself to the person in charge of the facility and state*  
 13 *that an inspection is to be made before beginning the inspection.*  
 14 *Any employee of the department who gives unauthorized advance*  
 15 *notice of an inspection made or planned to be made under this sub-*  
 16 *section or section twenty-five (25) of this Act shall be disciplined as*  
 17 *determined by the commissioner, except that if the employee is em-*  
 18 *ployed pursuant to chapter nineteen A (19A) of the Code the disci-*  
 19 *pline shall not exceed that authorized pursuant to that chapter.*

20 2. *The department shall prescribe by rule that any licensee or ap-*  
 21 *plicant for license desiring to make specific types of physical or func-*  
 22 *tional alterations or additions to its facility or to construct new*  
 23 *facilities shall, before commencing such alteration or additions or new*  
 24 *construction, submit plans and specifications therefor to the depart-*  
 25 *ment for preliminary inspection and approval or recommendations*  
 26 *with respect to the compliance with the rules and standards herein au-*  
 27 *thorized.*

28 *When plans and specifications submitted as required by this sub-*  
 29 *section have been properly approved by the department or other ap-*  
 30 *propriate state agency, the facility or the portion of the facility*  
 31 *constructed or altered in accord with the plans so approved shall*  
 32 *not for a period of at least five years from completion of the con-*  
 33 *struction or alteration be considered deficient or ineligible for li-*  
 34 *censing by reason of failure to meet any rule or standard*  
 35 *established subsequent to approval of the plans and specifications,*  
 36 *unless a clear and present danger exists that would adversely affect*  
 37 *the residents of the facility.*

38 3. *An inspector of the department, ~~department of social services,~~*  
 39 *~~county board of social welfare or fire marshal,~~ may enter any licensed*  
 40 *health care facility without a warrant, and may examine all records*  
 41 *pertaining to the care provided residents of the facility. An inspec-*  
 42 *tor of the department of social services shall have the same right*  
 43 *with respect to any facility where one or more residents are cared*  
 44 *for entirely or partially at public expense and the state fire marshal*  
 45 *or a deputy appointed pursuant to section one hundred thirty-five C*  
 46 *point nine (135C.9), subsection one (1), paragraph b shall have the*  
 47 *same right of entry into any facility and the right to inspect any*  
 48 *records pertinent to fire safety practices and conditions within that*  
 49 *facility. If any such inspector has probable cause to believe that any*  
 50 *institution, place, building, or agency not licensed as a health care fa-*  
 51 *cility is in fact a health care facility as defined by this chapter, and*  
 52 *upon properly identifying himself he is denied entry thereto for the*

53 purpose of making an inspection, he may, with the assistance of the  
 54 county attorney of the county in which the purported health care facil-  
 55 ity is located, apply to the district court for an order requiring the  
 56 owner or occupant to permit entry and inspection of the premises to  
 57 determine whether there have been any violations of this chapter.

1 SEC. 16. Section one hundred thirty-five C point seventeen (135C.17),  
 2 Code 1975, is amended to read as follows:

3 **135C.17 Duties of other departments.** It shall be the duty of  
 4 the department of social services, state fire marshal, and the officers  
 5 and agents of other *state and local* governmental units to assist the  
 6 department in carrying out the provisions of this chapter, insofar as  
 7 the functions of these respective offices and departments are concerned  
 8 with the health, welfare, and safety of any resident ~~or patient~~ of any  
 9 health care facility.

1 SEC. 17. Section one hundred thirty-five C point nineteen (135C.19),  
 2 Code 1975, is amended to read as follows:

3 **135C.19 Public disclosure of inspection findings—posting of**  
 4 **citations.**

5 1. Following *any* inspection of a health care facility by the depart-  
 6 ment, the findings of the inspection with respect to compliance by the  
 7 facility with requirements for licensing under this chapter shall be  
 8 made public in a readily available form and place forty-five days after  
 9 the findings are made available to the applicant or licensee. However,  
 10 if the applicant or licensee requests a hearing pursuant to section  
 11 135C.11, the findings of the inspection shall not be made public until  
 12 the hearing has been completed. *When the findings are made public,*  
 13 *they shall include no reference to any cited violation which has*  
 14 *been corrected to the department's satisfaction unless the same ref-*  
 15 *erence also clearly notes that the violation has been corrected.* Other  
 16 information relating to any health care facility, obtained by the de-  
 17 partment through reports, investigations, complaints, or as otherwise  
 18 authorized by this chapter, which is not a part of the department's  
 19 findings from an inspection of the facility, shall not be disclosed pub-  
 20 licly except in proceedings involving *the citation of a facility for a vi-*  
 21 *olation, in the manner provided by section twenty-seven (27) of this*  
 22 *Act, or the denial, suspension or revocation of a license under this*  
 23 *chapter.*

24 2. *Each citation for a class I or class II violation which is issued*  
 25 *to a health care facility and which has become final, or a copy or*  
 26 *copies thereof, shall be prominently posted as prescribed in rules to*  
 27 *be adopted by the department, until the violation is corrected to the*  
 28 *department's satisfaction. The citation or copy shall be posted in a*  
 29 *place or places in plain view of the residents of the facility cited,*  
 30 *persons visiting the residents, and persons inquiring about place-*  
 31 *ment in the facility.*

32 3. *A copy of each citation required to be posted by this subsection*  
 33 *shall be sent by the department to the department of social services.*

34 *If the facility cited subsequently advises the department of social*  
 35 *services that the violation has been corrected to the satisfaction of*  
 36 *the department of health, the department of social services must*  
 37 *maintain this advisory in the same file with the copy of the cita-*  
 38 *tion. The department of social services shall not disseminate to the*  
 39 *public any information regarding citations issued by the depart-*  
 40 *ment of health, but shall forward or refer such inquiries to the de-*  
 41 *partment of health.*

1 SEC. 18. Section one hundred thirty-five C point twenty-one  
2 (135C.21), Code 1975, is amended to read as follows:

3 **135C.21 Penalty Penalties.**

4 1. Any person establishing, conducting, managing, or operating any  
5 health care facility without a license shall be guilty of a misdemeanor  
6 and, upon conviction thereof, shall be fined not less than one hundred  
7 dollars nor more than one thousand dollars or be imprisoned in the  
8 county jail for not more than six months, or both. Each day of con-  
9 tinuing violation after conviction or notice from the department by  
10 certified mail of a violation shall be considered a separate offense *or*  
11 *chargeable offense*. Any such person establishing, conducting, manag-  
12 ing or operating any health care facility without a license may be by  
13 any court of competent jurisdiction temporarily or permanently re-  
14 strained therefrom in any action brought by the state.

15 2. *Any person who prevents or interferes with or attempts to*  
16 *impede in any way any duly authorized representative of the de-*  
17 *partment or of any of the agencies referred to in section one*  
18 *hundred thirty-five C point seventeen (135C.17) of the Code in the*  
19 *lawful enforcement of this chapter or of the rules adopted pursuant*  
20 *to it is guilty of a misdemeanor and, upon conviction, shall be sub-*  
21 *ject to a fine of not less than fifty nor more than five hundred dol-*  
22 *lars or imprisonment in the county jail for not more than ninety*  
23 *days or both. As used in this subsection, lawful enforcement in-*  
24 *cludes but is not limited to:*

25 a. *Contacting or interviewing any resident of a health care facili-*  
26 *ty in private at any reasonable hour and without advance notice.*

27 b. *Examining any relevant books or records of a health care facil-*  
28 *ity.*

29 c. *Preserving evidence of any violation of this chapter or of the*  
30 *rules adopted pursuant to it.*

1 SEC. 19. Section one hundred thirty-five C point twenty-three  
2 (135C.23), Code 1975, is amended to read as follows:

3 **135C.23 Express requirements for admission or resi-**  
4 **dence.** No individual shall be admitted to or permitted to remain in  
5 a health care facility as a ~~patient or~~ resident, except in accordance  
6 with the requirements of this section.

7 1. Each ~~patient or~~ resident shall be covered by a contract executed  
8 at the time of admission or prior thereto by the ~~patient or~~ resident, or  
9 his legal representative, and the health care facility, *except as other-*  
10 *wise provided by subsection five (5) of this section with respect to*  
11 *residents admitted at public expense to a county care facility oper-*  
12 *ated under chapter two hundred fifty-three (253) of the Code.* Each  
13 party to the contract shall be entitled to a duplicate original thereof,  
14 and the health care facility shall keep on file all contracts which it has  
15 with ~~patients or~~ residents and shall not destroy or otherwise dispose of  
16 any such contract for at least one year after its expiration ~~or such long-~~  
17 ~~er period as the department may by rule require.~~ Each such contract  
18 shall expressly set forth:

19 a. The terms of the contract.

20 b. The services and accommodations to be provided by the health  
21 care facility and the rates or charges therefor.

22 c. Specific descriptions of any duties and obligations of the parties  
23 in addition to those required by operation of law.

24 d. Any other matters deemed appropriate by the parties to the con-  
25 tract. No contract or any provision thereof shall be drawn or construed  
26 so as to relieve any health care facility of any requirement or obliga-

27 tion imposed upon it by this chapter or any standards or rules in force  
 28 pursuant to this chapter, *nor contain any disclaimer of responsibility*  
 29 *for injury to the resident, or to relatives or other persons visiting the*  
 30 *resident, which occurs on the premises of the facility or, with re-*  
 31 *spect to injury to the resident, which occurs while the resident is*  
 32 *under the supervision of any employee of the facility whether on or*  
 33 *off the premises of the facility.*

34 2. No health care facility shall knowingly admit or retain any pa-  
 35 ~~tient or~~ resident:

36 a. Who is dangerous to himself or other ~~patients or~~ residents.

37 b. Who is in an active or acute stage of alcoholism, drug addiction,  
 38 mental illness, or communicable disease.

39 c. Whose condition or conduct is such that he would be unduly dis-  
 40 turbing to other ~~patients or~~ residents.

41 d. Who is in need of medical procedures, as determined by a physi-  
 42 cian, or services, ~~as determined by the care review committee,~~ which  
 43 cannot be *or are not being* carried out in the facility.

44 3. Except in emergencies, a ~~patient or~~ resident who is not essentially  
 45 capable of managing his own affairs shall *not* be transferred out of a  
 46 health care facility or discharged for any reason ~~only after~~ *without*  
 47 prior notification to the next of kin, legal representative, or agency  
 48 acting on the ~~patient's or~~ resident's behalf. When such next of kin, le-  
 49 gal representative, or agency cannot be reached or refuses to co-oper-  
 50 ate, proper arrangements shall be made by the ~~home~~ *facility* for the  
 51 welfare of the ~~patient or~~ resident before his transfer or discharge.

52 4. No owner, administrator, employee, or representative of a health  
 53 care facility shall pay any commission, bonus, or gratuity in any form  
 54 whatsoever, directly or indirectly, to any person for ~~patients or~~ resi-  
 55 dents referred to such facility, *nor accept any commission, bonus, or*  
 56 *gratuity in any form whatsoever, directly or indirectly, for profes-*  
 57 *sional or other services or supplies purchased by the facility or by*  
 58 *any resident, or by any third party on behalf of any resident, of the*  
 59 *facility.*

60 5. *Each county which maintains a county care facility under*  
 61 *chapter two hundred fifty-three (253) of the Code shall develop a*  
 62 *statement in lieu of, and setting forth substantially the same items*  
 63 *as, the contracts required of other health care facilities by subsec-*  
 64 *tion one (1) of this section. The statement must be approved by the*  
 65 *county board of supervisors and by the department. When so ap-*  
 66 *proved, the statement shall be considered in force with respect to*  
 67 *each resident of the county care facility.*

1 SEC. 20. Section one hundred thirty-five C point twenty-four  
 2 (135C.24), Code 1975, is amended to read as follows:

3 **135C.24 Personal property or affairs of patients or resi-**  
 4 **dents.** The admission of a ~~patient or~~ resident to a health care facility  
 5 and his presence therein shall not in and of itself confer on such facili-  
 6 ty, its owner, administrator, employees, or representatives any authori-  
 7 ty to manage, use, or dispose of any property of the ~~patient or~~  
 8 resident, nor any authority or responsibility for the personal affairs of  
 9 the ~~patient or~~ resident, except as may be necessary for the safety and  
 10 orderly management of the facility and as required by this section.

11 1. No health care facility, and no owner, administrator, employee or  
 12 representative thereof shall act as guardian, trustee or conservator for  
 13 any ~~patient or~~ resident of such facility, or any of such ~~patient's or~~ resi-  
 14 dent's property, unless such ~~patient or~~ resident is related to the person  
 15 acting as guardian within the third degree of consanguinity.

16 2. A health care facility shall provide for the safekeeping of personal  
 17 effects, funds and other property of its ~~patients or~~ residents, provided  
 18 that whenever necessary for the protection of valuables or in order to  
 19 avoid unreasonable responsibility therefor, the facility may require  
 20 that they be excluded or removed from the premises of the facility and  
 21 kept at some place not subject to the control of the facility.

22 3. A health care facility shall keep complete and accurate records of  
 23 all funds and other effects and property of its ~~patients or~~ residents re-  
 24 ceived by it for safekeeping.

25 4. Any funds or other property belonging to or due a ~~patient or~~ resi-  
 26 dent, or expendable for his account, which are received by a health  
 27 care facility shall be trust funds, shall be kept separate from the funds  
 28 and property of the facility and of its other ~~patients or~~ residents, or  
 29 specifically credited to such ~~patient or~~ resident, and shall be used or  
 30 otherwise expended only for the account of the ~~patient or~~ resident.  
 31 Upon request the facility shall furnish the ~~patient or~~ resident, the  
 32 guardian, trustee or conservator, if any, for any ~~patient or~~ resident, or  
 33 any governmental unit or private charitable agency contributing funds  
 34 or other property on account of any ~~patient or~~ resident, a complete  
 35 and certified statement of all funds or other property to which this sub-  
 36 section applies detailing the amounts and items received, together with  
 37 their sources and disposition.

38 5. *The provisions of this section notwithstanding, upon the veri-*  
 39 *fied petition of the county board of supervisors the district court*  
 40 *may appoint the administrator of a county care facility as conser-*  
 41 *vator or guardian, or both, of a resident of such county care facility,*  
 42 *in accordance with the provisions of Chapter 633 of the Code. Such*  
 43 *administrator shall serve as conservator or guardian, or both, with-*  
 44 *out fee. The county attorney shall serve as attorney for the adminis-*  
 45 *trator in such conservatorship or guardianship, or both, without fee.*  
 46 *The administrator may establish either separate or common bank*  
 47 *accounts for cash funds of such resident wards.*

1 SEC. 21. Section one hundred thirty-five C point twenty-five  
 2 (135C.25), Code 1975, is amended to read as follows:

3 **135C.25 Care review committee—~~appointment—duties.~~**

4 1. Each health care facility shall have a care review committee  
 5 whose members shall be appointed ~~by~~ as follows:

6 a. *By the areawide health planning council recognized as such by*  
 7 *this state acting through the office for comprehensive health planning*  
 8 *in the office for planning and programming; or*

9 b. *If the appropriate areawide health planning council has failed*  
 10 *to make any appointment necessary under this subsection within*  
 11 *thirty days after being notified of a vacancy by the administrator of*  
 12 *the facility involved, by the commissioner; or*

13 c. *If the commissioner has failed to act within thirty days after*  
 14 *being notified by the administrator of the facility involved of a va-*  
 15 *cancy which has not been filled by the appropriate areawide health*  
 16 *planning council within the time prescribed by this subsection, the*  
 17 *appointment may be made by the administrator.*

18 2. The care review committee shall periodically review the needs of  
 19 each individual ~~patient or~~ resident of the facility, and shall perform  
 20 the functions delegated to it by section twenty-five (25) of this Act.  
 21 The responsibilities of the care review committee shall be in accordance  
 22 with rules of the department, which shall in formulating such rules  
 23 give consideration to the needs of ~~patients and~~ residents of each license  
 24 category of health care facility and the services facilities of each cate-  
 25 gory are authorized to render.

1 SEC. 22. Chapter one hundred thirty-five C (135C), Code 1975, is  
2 amended by adding sections twenty-three (23) through thirty-five (35)  
3 of this Act.

1 SEC. 23. NEW SECTION. **Violations classified.** Every violation  
2 by a health care facility of any provision of this chapter or of the rules  
3 adopted pursuant to it shall be classified by the department in accord-  
4 ance with this section. The department shall adopt and may from  
5 time to time modify, in accordance with chapter seventeen A (17A) of  
6 the Code, rules setting forth so far as feasible the specific violations in-  
7 cluded in each classification and stating criteria for the classification of  
8 any violation not so listed.

9 1. A class I violation is one which presents an imminent danger or a  
10 substantial probability of resultant death or physical harm to the resi-  
11 dents of the facility in which the violation occurs. A physical condition  
12 or one or more practices in a facility may constitute a class I violation.  
13 A class I violation shall be abated or eliminated immediately unless  
14 the department determines that a stated period of time, specified in  
15 the citation issued under section twenty-seven (27) of this Act, is re-  
16 quired to correct the violation. A licensee shall be subject to a penalty  
17 of not less than five hundred nor more than five thousand dollars for  
18 each class I violation for which the licensee's facility is cited.

19 2. A class II violation is one which has a direct or immediate rela-  
20 tionship to the health, safety or security of residents of a health care  
21 facility, but which presents no imminent danger nor substantial proba-  
22 bility of death or physical harm to them. A physical condition or one  
23 or more practices within a facility, including either physical abuse of  
24 any resident or failure to treat any resident with consideration, respect  
25 and full recognition of the resident's dignity and individuality, in vio-  
26 lation of a specific rule adopted by the department, may constitute a  
27 class II violation. A class II violation shall be corrected within a stated  
28 period of time determined by the department and specified in the cita-  
29 tion issued under section twenty-seven (27) of this Act. The stated peri-  
30 od of time specified in the citation may subsequently be modified by  
31 the department for good cause shown. A licensee shall be subject to a  
32 penalty of not less than one hundred nor more than five hundred dol-  
33 lars for each class II violation for which the licensee's facility is cited,  
34 however the commissioner may waive the penalty if the violation is  
35 corrected within the time specified in the citation.

36 3. A class III violation is any violation of this chapter or of the rules  
37 adopted pursuant to it which violation is not classified in the depart-  
38 ment's rules nor classifiable under the criteria stated in those rules as a  
39 class I or a class II violation. A licensee shall not be subject to a pen-  
40 alty for a class III violation, except as provided by section twenty-seven  
41 (27), subsection one (1) of this Act for failure to correct the violation  
42 within a reasonable time specified by the department in the notice of  
43 the violation.

1 SEC. 24. NEW SECTION. **Complaints alleging violations.** Any  
2 person may request an inspection of any health care facility by filing  
3 with the department or care review committee of the facility a com-  
4 plaint of an alleged violation of applicable requirements of this chap-  
5 ter or the rules adopted pursuant to it. The complaint shall state in a  
6 reasonably specific manner the basis of the complaint, and a copy  
7 thereof shall be forwarded to the facility involved within twenty-four  
8 hours of receipt of the complaint by the department or the committee.

1     **SEC. 25. NEW SECTION. Inspections upon complaints.**

2     1. Upon receipt of a complaint made in accordance with section  
3 twenty-four (24) of this Act, the department or care review committee  
4 shall make a preliminary review of the complaint. Unless the depart-  
5 ment or committee concludes that the complaint is intended to harass  
6 a facility or a licensee or is without reasonable basis, it shall within  
7 twenty working days of receipt of the complaint make or cause to be  
8 made an on-site inspection of the health care facility which is the sub-  
9 ject of the complaint. The department may refer to the care review  
10 committee of a facility any complaint received by the department re-  
11 garding that facility, for initial evaluation and appropriate action by  
12 the committee. In any case, the complainant shall be promptly in-  
13 formed of the result of any action taken by the department or commit-  
14 tee in the matter.

15     2. An inspection made pursuant to a complaint filed under section  
16 twenty-four (24) of this Act shall be limited to the matter or matters  
17 complained of, and shall not be a general inspection. Upon arrival at  
18 the facility to be inspected, the inspector shall identify himself or her-  
19 self to an employee of the facility and state that an inspection is to be  
20 made, before beginning the inspection. Upon request of either the com-  
21 plainant or the department or committee, the complainant or his or  
22 her representative or both may be allowed the privilege of accompany-  
23 ing the inspector during any on-site inspection made pursuant to this  
24 section. The inspector may cancel the privilege at any time if the in-  
25 spector determines that the privacy of any resident of the facility to be  
26 inspected would otherwise be violated. The dignity of the resident  
27 shall be given first priority by the inspector and others.

28     3. If upon an inspection of a facility by its care review committee,  
29 pursuant to this section, the committee advises the department of any  
30 circumstance believed to constitute a violation of this chapter or of any  
31 rule adopted pursuant to it, the committee shall similarly advise the  
32 facility at the same time. If the facility's licensee or administrator dis-  
33 agrees with the conclusion of the committee regarding the supposed vi-  
34 olation, an informal conference may be requested and if requested  
35 shall be arranged by the department as provided in section twenty-nine  
36 (29) of this Act before a citation is issued. If the department thereafter  
37 issues a citation pursuant to the committee's finding, the facility shall  
38 not be entitled to a second informal conference on the same violation  
39 and the citation shall be considered affirmed. The facility cited may  
40 proceed under section thirty (30) of this Act if it so desires.

1     **SEC. 26. NEW SECTION. No advance notice of inspection—excep-**  
2 **tion.** No advance notice of an on-site inspection made pursuant to  
3 section twenty-five (25) of this Act shall be given the health care facili-  
4 ty or the licensee thereof unless previously and specifically authorized  
5 in writing by the commissioner or required by federal law. The person  
6 in charge of the facility shall be informed of the substance of the com-  
7 plaint at the commencement of the on-site inspection.

1     **SEC. 27. NEW SECTION. Citations when violations found—excep-**  
2 **tion.**

3     1. When any inspection or investigation of a health care facility  
4 made pursuant to this chapter finds the facility in violation of any ap-  
5 plicable requirement of this chapter or the rules adopted pursuant to  
6 it, the commissioner shall within five working days after a finding of a  
7 class I violation is made, and within ten working days after a finding  
8 of a class II or class III violation is made, issue a written citation to



9 the facility. The citation shall be served upon the facility personally or  
 10 by certified mail, except that a citation for a class III violation may be  
 11 sent by ordinary mail. Each citation shall specifically describe the na-  
 12 ture of the violation, identifying the Code section or subsection or the  
 13 rule or standard violated, and the classification of the violation under  
 14 section twenty-three (23) of this Act. Where appropriate, the citation  
 15 shall also state the period of time allowed for correction of the viola-  
 16 tion, which shall in each case be the shortest period of time the depart-  
 17 ment deems feasible. Failure to correct a violation within the time  
 18 specified, unless the licensee shows that the failure was due to circum-  
 19 stances beyond the licensee's control, shall subject the facility to a fur-  
 20 ther penalty of fifty dollars for each day that the violation continues  
 21 after the time specified for correction.

22 2. When a citation is served upon or mailed to a health care facility  
 23 under subsection one (1) of this section, and the licensee of the facility  
 24 is not actually involved in the daily operation of the facility, a copy of  
 25 the citation shall be mailed to the licensee. If the licensee is a corpora-  
 26 tion, a copy of the citation shall be sent to the corporation's office of  
 27 record. If the citation was issued pursuant to an inspection resulting  
 28 from a complaint filed under section twenty-four (24) of this Act, a  
 29 copy of the citation shall be sent to the complainant at the earliest  
 30 time permitted by section one hundred thirty-five C point nineteen  
 31 (135C.19), subsection one (1), of the Code.

32 3. No health care facility shall be cited for any violation caused by  
 33 any practitioner licensed pursuant to chapters one hundred forty-eight  
 34 (148), one hundred fifty (150) or one hundred fifty A (150A) of the  
 35 Code if that practitioner is not the licensee of and is not otherwise fi-  
 36 nancially interested in the facility, and the licensee or the facility pre-  
 37 sents evidence that reasonable care and diligence have been exercised in  
 38 notifying the practitioner of his duty to the patients in the facility.

1 SEC. 28. NEW SECTION. **Licensee's response to citation.** Within  
 2 twenty business days after service of a citation under section twenty-  
 3 seven (27) of this Act, a facility shall either:

4 1. If it does not desire to contest the citation:  
 5 a. Remit to the department the amount specified by the department  
 6 pursuant to section twenty-three (23) of this Act as a penalty for each  
 7 class I violation cited, and for each class II violation unless the citation  
 8 specifically waives the penalty, which funds shall be paid by the de-  
 9 partment into the state treasury and credited to the general fund; or  
 10 b. In the case of a class II violation for which the penalty has been  
 11 waived in accordance with the standards prescribed in section twenty-  
 12 three (23), subsection two (2) of this Act, or a class III violation, send  
 13 to the department a written response acknowledging that the citation  
 14 has been received and stating that the violation will be corrected with-  
 15 in the specific period of time allowed by the citation; or

16 2. Notify the commissioner that the facility desires to contest the ci-  
 17 tation and, in the case of citations for class II or class III violations, re-  
 18 quest an informal conference with a representative of the department.

1 SEC. 29. NEW SECTION. **Informal conference on contested cita-**  
 2 **tion.** The commissioner shall assign a representative of the depart-  
 3 ment, other than the inspector upon whose inspection the contested  
 4 citation is based, to hold an informal conference with the facility with-  
 5 in ten working days after receipt of a request made under section twen-  
 6 ty-eight (28), subsection two (2) of this Act. At the conclusion of the  
 7 conference the representative may affirm or may modify or dismiss the  
 8 citation. In the latter case, the representative shall state in writing the

9 specific reasons for the modification or dismissal and immediately  
10 transmit copies of the statement to the commissioner, and to the facili-  
11 ty. If the facility does not desire to further contest an affirmed or mod-  
12 ified citation, it shall within five working days after the informal  
13 conference, or after receipt of the written explanation of the represent-  
14 ative, as the case may be, comply with section twenty-eight (28), sub-  
15 section one (1) of this Act.

1     **SEC. 30. NEW SECTION. Formal contest—judicial review.**

2     1. A facility which desires to contest a citation for a class I violation,  
3 or to further contest an affirmed or modified citation for a class II or  
4 class III violation, may do so in the manner provided by chapter sev-  
5 enteen A (17A) of the Code for contested cases. Notice of intent to for-  
6 mally contest a citation shall be given the department in writing  
7 within five days after service of a citation for a class I violation, or  
8 within five days after the informal conference or after receipt of the  
9 written explanation of the representative delegated to hold the informal  
10 conference, whichever is applicable, in the case of an affirmed or  
11 modified citation for a class II or class III violation. A facility which  
12 has exhausted all adequate administrative remedies and is aggrieved  
13 by the final action of the department may petition for judicial review  
14 in the manner provided by chapter seventeen A (17A) of the Code.

15     2. Hearings on petitions for judicial review brought under this sec-  
16 tion shall be set for trial at the earliest possible date and shall take  
17 precedence on the court calendar over all other cases except matters to  
18 which equal or superior precedence is specifically granted by law. The  
19 times for pleadings and for hearings in such actions shall be set by the  
20 judge of the court with the object of securing a decision in the matter  
21 at the earliest possible time.

1     **SEC. 31. NEW SECTION. Treble fines for repeated violations.**

2     The penalties authorized by section twenty-three (23) of this Act shall  
3 be trebled for a second or subsequent class I or class II violation occur-  
4 ring within any twelve-month period if a citation was issued for the  
5 same class I or class II violation occurring within that period and a  
6 penalty was assessed therefor.

1     **SEC. 32. NEW SECTION. Refund of penalty.** If at any time a con-  
2 test or appeal of any citation issued a health care facility under this  
3 Act results in an order or determination that a penalty previously paid  
4 to or collected by the department must be refunded to the facility, the  
5 refund shall be made from any money in the state general fund not  
6 otherwise appropriated.

1     **SEC. 33. NEW SECTION. Retaliation by facility prohibited.**

2     1. A facility shall not discriminate or retaliate in any way against a  
3 resident or an employee of the facility who has initiated or participat-  
4 ed in any proceeding authorized by this chapter. A facility which vio-  
5 lates this section is subject to a penalty of not less than two hundred  
6 fifty nor more than five thousand dollars, to be assessed and collected  
7 by the commissioner in substantially the manner prescribed by sections  
8 twenty-seven (27) through thirty (30), inclusive, of this Act and paid in-  
9 to the state treasury to be credited to the general fund, or to immedi-  
10 ate revocation of the facility's license.

11     2. Any attempt to expel from a health care facility a resident by  
12 whom or upon whose behalf a complaint has been submitted to the de-  
13 partment under section twenty-four (24) of this Act, within ninety days  
14 after the filing of the complaint or the conclusion of any proceeding

15 resulting from the complaint, shall raise a rebuttable presumption that  
16 the action was taken by the licensee in retaliation for the filing of the  
17 complaint.

1     **SEC. 34. NEW SECTION. Report listing licensees and cita-**  
2 **tions.** The state department shall annually prepare and make avail-  
3 able in its office at the seat of government a report listing all licensees  
4 by name and address, indicating (1) the number of citations and the  
5 nature of each citation issued to each licensee during the previous  
6 twelve-month period and the status of any action taken pursuant to  
7 each citation, including penalties assessed, and (2) the nature and sta-  
8 tus of action taken with respect to each uncorrected violation for which  
9 a citation is outstanding.

1     **SEC. 35. NEW SECTION. Information about complaint proce-**  
2 **dure.** The state department shall make a continuing effort to inform  
3 the general public of the appropriate procedure to be followed by any  
4 person who believes that a complaint against a health care facility is  
5 justified and should be made under section twenty-four (24) of this Act.

1     **SEC. 36.** A health care facility licensed prior to the effective date of  
2 this Act under chapter one hundred thirty-five C (135C) as it appears  
3 in the Code of 1975 may operate by virtue of that license for one year  
4 from the date the license is issued unless it is sooner suspended or re-  
5 voked in the manner provided by law. Any facility holding a license  
6 on the effective date of this Act shall have one year from that date,  
7 subject to such provisional certificates or other extensions as may be  
8 granted in accordance with this Act, to achieve compliance with any  
9 standards or requirements imposed by or pursuant to this Act which are  
10 new or are more stringent than the comparable standards or require-  
11 ments previously in existence, but this provision shall not be construed  
12 to exempt any facility from operation of the citation and penalty pro-  
13 cedure established by this Act as a means of enforcing laws and rules to  
14 which the facility is subject.

1     **SEC. 37.** After consultation with industry, professional and consum-  
2 er groups affected thereby, but not later than three months after the  
3 effective date of this Act, the commissioner shall initiate the procedure  
4 prescribed by section seventeen A point four (17A.4) of the Code for  
5 adoption of the rules required by section twenty-three (23) of this Act.  
6 The adoption of those rules shall then be completed as expeditiously  
7 as reasonably possible. It is the intent of this Act that those rules the  
8 adoption of which is required by this section shall serve only to classify  
9 violations of and not to substantively change the department's existing  
10 rules previously adopted under chapter one hundred thirty-five C  
11 (135C) of the Code. Any substantive changes in such existing rules  
12 shall be made in a proceeding separate from the proceeding for adop-  
13 tion of the rules required by section twenty-three (23) of this Act.

1     **SEC. 38.** Not later than July 1, 1978, the department shall complete  
2 a review of the effectiveness of the citation and penalty procedure es-  
3 tablished by this Act as a means of enforcement of the provisions of  
4 chapter one hundred thirty-five C (135C) of the Code and of the rules  
5 adopted pursuant to it, and shall submit a report thereon to the legis-  
6 lative council for transmission to the Sixty-eighth General Assembly  
7 upon the convening of its first regular session. The report shall include  
8 any recommendations for additional legislation which the department  
9 deems necessary to improve the enforcement of the provisions of chap-

10 ter one hundred thirty-five C (135C) of the Code or to enhance the  
11 quality of care provided in health care facilities in this state.

1 SEC. 39. This Act shall take effect January 1, 1976.

Approved July 14, 1975

This Act was passed by the G.A. prior to July 1, 1975; see §3.7 of the Code

## CHAPTER 120

### ADULT FOSTER FAMILY HOMES

S. F. 193

AN ACT to amend chapter 135C of the Code so as to change the defined term "adult foster home" to "adult foster family home" and to make certain related changes in the use of that term.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section one hundred thirty-five C point one (135C.1),  
2 subsections one (1) and eight (8), Code 1975, is amended to read as fol-  
3 lows:

4 1. "Adult foster *family* home" means any private dwelling or other  
5 suitable place providing for a period exceeding twenty-four consecutive  
6 hours accommodation, board, and supervision, for which a charge is  
7 made, to not more than ~~two~~ *five* individuals, not related to the owner  
8 or occupant of the dwelling or place within the third degree of consan-  
9 guinity, who by reason of age, illness, disease, or physical or mental  
10 infirmity are unable to sufficiently or properly care for themselves, but  
11 who are essentially capable of managing their own affairs.

12 8. "Health care facility" or "facility" means any adult foster *family*  
13 home, boarding home, custodial home, basic nursing home, intermedi-  
14 ate nursing home, skilled nursing home, or extended care facility.

1 SEC. 2. Section one hundred thirty-five C point four (135C.4), Code  
2 1975, is amended to read as follows:

3 **135C.4 Custodial homes.** Each facility licensed as a custodial  
4 home or boarding home shall provide an organized continuous twenty-  
5 four hour program of care commensurate with the needs of the resi-  
6 dents of the home and under the immediate direction of a person  
7 whose combined training and supervised experience is such as to ensure  
8 adequate and competent care. All admissions to custodial homes, *or*  
9 boarding homes, ~~or~~ *and all placements in* adult foster *family* homes  
10 shall be based on an order written by a physician certifying that the  
11 individual being admitted *or placed* does not require nursing care.

1 SEC. 3. Section one hundred thirty-five C point seven (135C.7), sub-  
2 section two (2), unnumbered paragraph one (1), Code 1975, is amended  
3 to read as follows:

4 2. For ~~adult foster homes~~, boarding homes, and custodial homes,  
5 having a total of:

1 SEC. 4. Section one hundred thirty-five C point seven (135C.7),  
2 Code 1975, is amended by adding the following new subsection:

3 NEW SUBSECTION. For adult foster family homes, five dollars.

Approved May 12, 1975