

CHAPTER 41
OCCUPATION REGULATION

H. F. 679

AN ACT establishing a commission to review the regulation of occupations.

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

Section 1. NEW SECTION. INTENT. The general assembly finds that the right of every person to engage in a lawful occupation or profession is a right which should not be abridged except as a reasonable exercise of the state's police power when it is clearly found to be necessary for the preservation of the health, safety, and welfare of the public.

It is declared to be the policy of the state of Iowa that no regulation shall be imposed on a profession or occupation except for the exclusive purpose of protecting the public interest when:

1. Its unregulated practice can harm or endanger the health, safety, and welfare of the public.
2. Its practice requires specialized skill or training and the public needs and will benefit by assurances of initial and continuing professional and occupational ability.
3. Its practice has inherent within it qualities peculiar to it that distinguishes it from ordinary work and labor.
4. The public is not effectively protected by other means.

Sec. 2. NEW SECTION. COMMISSION ESTABLISHED.

1. There is created a commission on professional and occupational regulation. The commission shall be bipartisan and shall be composed of the following members:

- a. Two senators, not more than one from the same political party, appointed by the president of the senate.
- b. Two representatives, not more than one from the same political party, appointed by the speaker of the house.
- c. Five persons, not more than three from the same political party, appointed by the governor and confirmed by two-thirds of the members of the senate.

2. A commission member shall be appointed for a term of four years. A member shall serve until a successor is appointed. A vacancy on the commission shall be filled by the original appointing authority for the remainder of the term. A vacancy shall exist whenever a commission member ceases to be a member of the house from which the member was appointed. A member of the commission shall not be a member of a licensed profession or occupation.

3. The persons appointed by the governor, and the legislative members when the general assembly is not in session, shall be paid forty dollars per diem and actual and necessary expenses from funds appropriated by section two point twelve (2.12) of the Code.

4. The commission shall organize annually and elect a chairperson.

Sec. 3. NEW SECTION. DUTIES.

1. The commission on professional and occupational regulation shall evaluate those professions and occupations seeking to become regulated and may evaluate those professions and occupations which are regulated according to the criteria listed in section one (1) of this Act. The general assembly may, by concurrent resolution, direct that the commission undertake or not undertake an evaluation of a profession or occupation. Upon completion of an evaluation, the commission shall make a recommendation to the general assembly whether the profession or occupation should become or continue to be regulated by the state and the degree of regulation that should be imposed. If the commission recommends a continuation or imposition of regulation, the commission shall recommend whether continuing education should be required. The commission shall file an annual report of its evaluations and recommendations with the chief clerk of the house of representatives and the secretary of the senate upon the convening of each session of the general assembly.

2. If the commission determines that existing remedies do not adequately protect the public health, safety or welfare, it shall consider the following degrees of regulation of the practice of that occupation or profession in the order they appear below:

a. Statutory change to provide stricter causes for civil action and criminal prosecution.

b. Inspection of the practitioner's premises and activities and authorization of an appropriate state agency to enjoin an activity which is detrimental to the public health, safety or welfare.

c. Registration of a practitioner's location, nature and operation of practice.

d. Certification by an appropriate state agency that a practitioner has the minimum skills to properly engage in the occupation or profession.

e. Licensure by an appropriate state agency of the profession or occupation.

3. In determining the proper degree of regulation, if any, the commission shall determine the following:

a. Whether the practitioner performs a service for individuals which, if unregulated, involves a hazard to the public health, safety or welfare.

b. The number of states which have regulatory provisions similar to those proposed.

c. Whether the profession or occupation requires high standards of public responsibility, character and performance of each individual engaged in the profession or occupation, as evidenced by established and published codes of ethics.

d. Whether the profession or occupation requires such skill that the public generally is not qualified to select a competent practitioner without some assurance that the practitioner has met minimum qualifications.

e. Whether the professional or occupational associations do not adequately protect the public from incompetent, unscrupulous or irresponsible members of the profession or occupation.

f. Whether current laws which protect the public health, safety and welfare generally are ineffective or inadequate.

g. Whether the characteristics of the profession or occupation make it impractical or impossible to prohibit those practices of the profession or occupation which are detrimental to the public health, safety and welfare.

h. Whether the practitioner performs a service for others which may have a detrimental effect on third parties relying on the expert knowledge of the practitioner.

i. Whether the profession or occupation is required to be regulated by the federal government or an agency thereof.

j. Whether the practitioner performs a service for others which would qualify for payment of part or all of those services by a third party if the practitioner were to be regulated as provided in this Act.

k. Whether there is sufficient demand for the service for which there is no substitute which is not similarly regulated and this service is required by a substantial portion of the population.

l. The view of a substantial portion of the people who do not practice the particular profession or occupation.

Sec. 4. This Act is repealed four years after the effective date of this Act.

Sec. 5. In making the initial appointments under section two (2) of this Act, the governor shall appoint two of the five citizen members to terms of two years.

Approved June 4, 1979

CHAPTER 42

CERTIFICATE OF NEED FOR HEALTH SERVICES

H. F. 725

AN ACT to amend the certificate of need law enacted in 1977, by permitting partial refund of the fee for application for a certificate of need upon withdrawal of the application, by revising the summary review procedure, by providing for review of the council's final decision by the commissioner of health, and by delaying until January 1, 1980 the time when hospitals and health care facilities are required to comply with uniform financial reporting provisions.

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

Section 1. Section one hundred thirty-five point sixty-three (135.63), subsection one (1), Code 1979, is amended to read as follows:

1. A new institutional health service or changed institutional health service shall not be offered or developed in this state without prior application to the department for and receipt of a certificate of need,