

insurance policy or by posting bond in such amount as determined by the department.

Sec. 2. This Act is effective January first following its enactment.

Approved May 13, 1980

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CHAPTER 1044  
HEALTH CARE COMPLAINTS  
S. F. 431

AN ACT relating to complaints alleging violations of provisions relating to health care facilities.

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

Section 1. Section one hundred thirty-five C point eleven (135C.11), subsection two (2), Code 1979, is amended to read as follows:

2. The procedure governing hearings authorized by this section shall be in accordance with the rules promulgated by the department. A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless judicial review is sought pursuant to section 135C.13. ~~A copy or copies~~ Copies of the transcript may be obtained by an interested party upon payment of the cost of preparing ~~such copy or~~ the copies. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the ~~aforsaid~~ department's rules. The commissioner may, ~~with--the--advice--and--consent--of~~ after advising the care review committee established pursuant to section 135C.25, either proceed in accordance with section six (6) of this Act, or remove all residents and suspend the license or licenses of any health care facility, prior to a hearing, when ~~he~~ the commissioner finds that the health or safety of residents of the health care facility requires such action on an emergency basis. The fact that no care review committee has been appointed for a particular facility shall not bar the commissioner from exercising the emergency powers granted by this subsection with respect to that facility.

Sec. 2. Section one hundred thirty-five C point twelve (135C.12), Code 1979, is amended to read as follows:

135C.12 CONDITIONAL OPERATION. ~~In any case where~~ If the department ~~shall have has~~ the authority under section one hundred thirty-five C point ten (135C.10) of the Code to deny, suspend or revoke a license, the department ~~shall have--the--authority--to--conditionally~~ or commissioner may, as an alternative to those actions:

1. Apply to the district court of the county in which the licensee's health care facility is located for appointment by the court of a receiver for the facility pursuant to section six (6) of this Act.

2. Conditionally issue or continue a license dependent upon the performance by the licensee of ~~such~~ reasonable conditions within ~~such~~ a reasonable period of time as ~~may be~~ set by the department so as to permit the licensee to commence or continue the operation of the health care facility pending his full compliance with this chapter or ~~any--regulations--issued hereunder---in-such-case--if~~ the regulations or minimum standards promulgated under this chapter. If the licensee does not make diligent efforts to comply with ~~such~~ the conditions as prescribed, the department may, under the proceedings ~~hereinafore~~ prescribed by this chapter, suspend or revoke the license. No health care facility shall be operated on a conditional license for more than one year.

3. The department, in evaluating corrections of deficiencies in a facility in receivership or operating on a conditional license, may determine what is satisfactory compliance, provided that in so doing it shall employ established criteria which shall be uniformly applied to all facilities of the same license category.

Sec. 3. Section one hundred thirty-five C point nineteen (135C.19), subsection one (1), Code 1979, is amended to read as follows:

1. Following any inspection of a health care facility by the department, the findings of the inspection with respect to compliance by the facility with requirements for licensing under this chapter shall be made available to the public in a readily available form and place ~~forty-five~~ not later than twenty-one days after the findings are made available to the applicant or licensee. However, the findings from an inspection shall be sent to the chairperson of the care review committee of the facility at the same time they are sent to the applicant or licensee. ~~However,--if--the--applicant--or licensee--requests-a-hearing-pursuant-to-section-135C.11,--the-findings-of-the inspection--shall--not--be--made--public--until--the--hearing--has--been--completed.~~ When the findings are made available to the public, they shall include no reference to any cited violation which has been corrected to the department's satisfaction unless the same reference also clearly notes that the violation has been corrected. Other information relating to any health care facility, obtained by the department through reports, investigations, complaints, or as otherwise authorized by this chapter, which is not a part of the department's findings from an inspection of the facility, shall not be ~~disclosed--publicly~~ made available to the public except in proceedings involving the citation of a facility for a violation, in the manner provided by section 135C.40, or the denial, suspension or revocation of a license under this chapter.

Sec. 4. Section one hundred thirty-five C point thirty-seven (135C.37), Code 1979, is amended to read as follows:

135C.37 COMPLAINTS ALLEGING VIOLATIONS. Any person may request an inspection of any health care facility by filing with the department or care review committee of the facility a complaint of an alleged violation of applicable requirements of this chapter or the rules adopted pursuant to it. A copy of a complaint filed with the care review committee shall be forwarded to the department. The complaint shall state in a reasonably specific manner the basis of the complaint, and a ~~copy thereof~~ statement of the nature of the complaint shall be forwarded delivered to the facility involved within

~~twenty-four-hours-of-receipt-of--the--complaint--by--the--department--or--the~~  
~~committee~~ at the time of or prior to the inspection.

Sec. 5. Section one hundred thirty-five C point thirty-eight (135C.38), subsection two (2), Code 1979, is amended to read as follows:

2. An inspection made pursuant to a complaint filed under section 135C.37 ~~shall need not~~ be limited to the matter or matters complained of, ~~and~~ however the inspection shall not be a general inspection unless the complaint inspection coincides with a scheduled general inspection. Upon arrival at the facility to be inspected, the inspector shall identify himself or herself to ~~an-employee~~ the person in charge of the facility and state that an inspection is to be made, before beginning the inspection. Upon request of either the complainant or the department or committee, the complainant or his or her representative or both may be allowed the privilege of accompanying the inspector during any on-site inspection made pursuant to this section. The inspector may cancel the privilege at any time if the inspector determines that the privacy of any resident of the facility to be inspected would otherwise be violated. The dignity of the resident shall be given first priority by the inspector and others.

Sec. 6. Chapter one hundred thirty-five C (135C), Code 1979, is amended by adding the following new section:

NEW SECTION. OPERATION OF FACILITY UNDER RECEIVERSHIP. When so authorized by section one hundred thirty-five C point eleven (135C.11), subsection two (2), or section one hundred thirty-five C point twelve (135C.12), subsection one (1), of the Code, the commissioner may file a verified application in the district court of the county where a health care facility licensed under this chapter is located, requesting that an individual nominated by the commissioner be appointed as receiver for the facility with responsibility to bring the operation and condition of the facility into conformity with this chapter and the rules or minimum standards promulgated under this chapter.

1. The court shall expeditiously hold a hearing on the application, at which the commissioner shall present evidence in support of the application. The licensee against whose facility the petition is filed may also present evidence, and both parties may subpoena witnesses. The court may appoint a receiver for the health care facility in advance of the hearing if the commissioner's verified application states that an emergency exists which presents an imminent danger of resultant death or physical harm to the residents of the facility. If the licensee against whose facility the receivership petition is filed informs the court at or before the time set for the hearing that the licensee does not object to the application, the court shall waive the hearing and at once appoint a receiver for the facility.

2. The court, on the basis of the verified application and evidence presented at the hearing, may order the facility placed under receivership, and if so ordered, the court shall direct either that the receiver assume the duties of administrator of the health care facility or that the receiver supervise the facility's administrator in conducting the day-to-day business of the facility. The receiver shall be empowered to control the facility's

financial resources and to apply its revenues as the receiver deems necessary to the operation of the facility in compliance with this chapter and the rules or minimum standards promulgated under this chapter, but shall be accountable to the court for management of the facility's financial resources.

3. A receivership established under this section may be terminated by the district court which established it, after a hearing upon an application for termination. The application may be filed:

a. Jointly by the receiver and the current licensee of the health care facility which is in receivership, stating that the deficiencies in the operation, maintenance or other circumstances which were the grounds for establishment of the receivership have been corrected and that there are reasonable grounds to believe that the facility will be operated in compliance with this chapter and the rules or minimum standards promulgated under this chapter.

b. By the current licensee of the facility, alleging that termination of the receivership is merited for the reasons set forth in paragraph a of this subsection, but that the receiver has declined to join in the petition for termination of the receivership.

c. By the receiver, stating that all residents of the facility have been relocated elsewhere and that there are reasonable grounds to believe it will not be feasible to again operate the facility on a sound financial basis and in compliance with this chapter and the rules or minimum standards promulgated under this chapter, and asking that the court approve surrender of the facility's license to the department and subsequent return of control of the facility's premises to the owners of the premises.

4. Payment of the expenses of a receivership established under this section shall be the responsibility of the facility for which the receiver is appointed, unless the court directs otherwise.

5. This section does not:

a. Preclude the sale or lease of a health care facility, and the transfer or assignment of the facility's license in the manner prescribed by section one hundred thirty-five C point eight (135C.8) of the Code, while the facility is in receivership, provided these actions are not taken without approval of the receiver.

b. Affect the civil or criminal liability of the licensee of the facility placed in receivership, for any acts or omissions of the licensee which occurred before the receiver was appointed.

Approved May 19, 1980