

expire if a substitution under section 602.6302 or the allocation under section 602.6401 results in a reduction in the number of magistrates in a county where the magistrates hold office.

Sec. 5. Section 602.6404, subsection 2, Code 1989, is amended to read as follows:

2. A person is not qualified for appointment as a magistrate unless the person can complete the entire term of office prior to reaching if at the time of appointment the person has reached age seventy-two.

Sec. 6. Upon enactment, except as provided in section 602.6403, subsection 4, a magistrate appointed pursuant to section 602.6403, subsection 1, prior to the effective date of this Act shall be deemed to have been appointed pursuant to this Act and the magistrates term shall commence August 1, 1989.

Except as provided in section 602.6403, subsection 4, the term of a magistrate whose term is to expire on June 30, 1989, shall be extended through July 31, 1989.

Sec. 7. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 3, 1989

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## CHAPTER 115

### RULES FOR INTERMEDIATE CARE FACILITIES FOR MENTALLY RETARDED

*S.F. 534*

**AN ACT** relating to the adoption of rules by the department of inspections and appeals for intermediate care facilities for the mentally retarded and providing an effective date.

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

Section 1. Section 135C.2, subsection 3, Code 1989, is amended by adding the following new unnumbered paragraphs:

**NEW UNNUMBERED PARAGRAPH.** The rules adopted for intermediate care facilities for the mentally retarded shall be consistent with, but no more restrictive than, the federal standards for intermediate care facilities for the mentally retarded established pursuant to the federal Social Security Act, § 1905(c)(d), as codified in 42 U.S.C. § 1396d, in effect on January 1, 1989. However, in order to be licensed the state fire marshal must certify to the department an intermediate care facility for the mentally retarded as meeting the applicable provisions of either the health care occupancies chapter or the residential board and care chapter of the life safety code of the national fire protection association, 1985 edition. The department shall adopt additional rules for intermediate care facilities for the mentally retarded pursuant to section 135C.14, subsection 8.

**NEW UNNUMBERED PARAGRAPH.** Notwithstanding the limitations set out in this subsection regarding rules for intermediate care facilities for the mentally retarded, the department shall consider the federal interpretive guidelines issued by the federal health care financing administration when interpreting the department's rules for intermediate care facilities for the mentally retarded. This use of the guidelines is not subject to the rulemaking provisions of sections 17A.4 and 17A.5, but the guidelines shall be published in the Iowa administrative bulletin and the Iowa administrative code.

Sec. 2. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment. Within sixty days of the effective date of this Act, the department shall adopt rules, which take effect immediately upon filing, to comply with the provisions of this Act.

Approved May 3, 1989