

MAR 7 1978
HUMAN RESOURCES

HOUSE FILE 2299

By KREWSON, DEN HERDER and
EGENES

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the licensure and regulation of hospitals.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 2299

H-5576

- 1 Amend House File 2299 as follows:
- 2 1. Page 6, line 15, by striking the word
- 3 "associaion" and inserting in lieu thereof the word
- 4 "association".

H-5576 FILED
MARCH 7, 1978

BY KREWSON of Polk

1 Section 1. Section one hundred thirty-five B point one
2 (135B.1), subsection one (1), Code 1977, is amended to read
3 as follows:

4 1. "Hospital" means a place which is devoted primarily
5 to the maintenance and operation of facilities for the
6 diagnosis, treatment or care over a period exceeding twenty-
7 four hours of two or more nonrelated individuals suffering
8 from illness, injury, or deformity, ~~or a place which is devoted~~
9 ~~primarily to the rendering over a period exceeding twenty-~~
10 ~~four hours of obstetrical or other medical or nursing care~~
11 ~~for two or more nonrelated individuals, or any institution,~~
12 ~~place, building or agency in which any accommodation is~~
13 ~~primarily maintained, furnished or offered for the care over~~
14 ~~a period exceeding twenty-four hours of two or more nonrelated~~
15 ~~aged or infirm persons requiring or receiving chronic or~~
16 ~~convalescent care, and shall include sanatoriums or other~~
17 ~~related institutions within the meaning of this chapter.~~
18 ~~Provided, however, nothing in this chapter shall apply to~~
19 ~~hotels or other similar places that furnish only food and~~
20 ~~lodging, or either, to their guests.~~ "Hospital" shall include,
21 in any event, any facilities wholly or partially constructed
22 or to be constructed with federal financial assistance,
23 pursuant to Public Law 725, 79th Congress, approved August
24 13, 1946.

25 Sec. 2. Section one hundred thirty-five B point four
26 (135B.4), Code 1977, is amended to read as follows:

27 135B.4 APPLICATION FOR LICENSE. Licenses shall be obtained
28 from the state department of health. Applications shall be
29 upon such forms and shall contain such information as the
30 said department may reasonably require, which may include
31 affirmative evidence of ability to comply with such reasonable
32 standards and rules as may be lawfully prescribed hereunder.
33 Each application for license shall be accompanied by the a
34 license fee of one hundred dollars, which shall be refunded
35 to the applicant if the license is denied and which shall

1 be paid over into the state treasury credited to the general
 2 fund if the license is issued. In case of death of any person
 3 holding such license or the sale of any hospital licensed
 4 hereunder within the ~~first-year-of-the~~ tenure of such license
 5 the department shall certify to the state comptroller a claim
 6 on behalf of the licensee for refund of a proportionate share
 7 of the license fee. Said refund shall be based on one-twelfth
 8 the amount thereof multiplied by the remaining months in the
 9 year. The comptroller shall thereupon draw a warrant against
 10 the general fund payable to the order of the licensee.

11 ~~Hospitals-having-fifty-beds-or-less-shall-pay-an-initial~~
 12 ~~license-fee-of-fifteen-dollars,-hospitals-of-more-than-fifty~~
 13 ~~beds-and-not-more-than-one-hundred-beds-shall-pay-an-initial~~
 14 ~~license-fee-of-twenty-five-dollars,-all-other-hospitals-shall~~
 15 ~~pay-an-initial-license-fee-of-fifty-dollars-~~

16 Sec. 3. Section one hundred thirty-five B point five
 17 (135B.5), Code 1977, is amended by striking the section and
 18 inserting in lieu thereof the following:

19 135B.5 ISSUANCE AND RENEWAL OF LICENSE. The state
 20 department of health may issue a hospital license for a period
 21 of twelve months if it has reason to believe that the applicant
 22 hospital is in substantial compliance with all applicable
 23 state laws and regulations. A hospital license shall be
 24 renewed annually.

25 Sec. 4. Section one hundred thirty-five B point six
 26 (135B.6), Code 1977, is amended to read as follows:

27 135B.6 DENIAL OR REVOCATION OF LICENSE--HEARINGS AND
 28 REVIEW--CONDITIONAL OPERATION.

29 1. The state department of health shall have the authority
 30 to deny, suspend or revoke a license in any case where it
 31 finds that there has been a substantial failure on the part
 32 of the hospital to comply with the provisions of this chapter
 33 or the rules ~~ex-minimum-standards~~ promulgated under this
 34 chapter, or for any of the following reasons:

35 a. Cruelty to hospital patients.

1 b. Permitting, aiding or abetting the commission of any
2 illegal act in the hospital.

3 c. Inability or failure to operate the hospital in
4 accordance with the requirements of this chapter, or to conform
5 to the minimum standards established in rules promulgated
6 under this chapter.

7 d. Obtaining or attempting to obtain or retain a license
8 by fraud, misrepresentation, or by submitting false
9 information.

10 2. ~~Such denial~~ Denial, suspension, or revocation of a
11 license shall be effected by mailing to the applicant or
12 licensee by certified mail, or by personal service of, a
13 notice setting forth the particular reasons for such action.
14 Such denial, suspension, or revocation shall become effective
15 thirty days after the mailing or service of the notice, unless
16 the applicant or licensee, within such thirty-day period shall
17 give written notice to the department requesting a hearing,
18 in which case the notice shall be deemed to be suspended.
19 If a hearing has been requested, the applicant or licensee
20 shall be given an opportunity for a prompt and fair hearing
21 before the department. At any time at or prior to hearing,
22 the department may rescind the notice of denial, suspension
23 or revocation upon being satisfied that the reasons for the
24 denial, suspension or revocation have been or will be removed.
25 On the basis of any such hearing, or upon default of the
26 applicant or licensee the determination involved in the notice
27 may be affirmed, modified, or set aside, by the department.
28 A copy of such decision, ~~setting forth the finding of facts~~
29 ~~and the particular reasons for the decision~~ shall be sent
30 by certified mail, or served personally upon, the applicant
31 or licensee.

32 3. The procedure governing hearings authorized by this
33 section shall be in accordance with rules promulgated by said
34 the department ~~with the advice of the hospital licensing~~
35 board. A full and complete record shall be kept of all

1 proceedings, and all testimony shall be reported but need
2 not be transcribed unless judicial review is sought pursuant
3 to section 135B.14. A copy or copies of the transcript may
4 be obtained by an interested party on payment of the cost
5 of preparing such copy or copies. Witnesses may be subpoenaed
6 by either party and shall be allowed fees at a rate prescribed
7 by the aforesaid rules.

8 4. In any case where the department has authority to deny,
9 suspend or revoke a license, it may issue a license
10 conditionally, dependent upon the performance by the licensee
11 of such reasonable requirements within such reasonable period
12 of time as the department may prescribe, so as to permit the
13 licensee to commence or to continue the operation of the
14 hospital pending full compliance with this chapter and the
15 rules promulgated under this chapter. If a conditional
16 licensee does not make diligent efforts to comply with the
17 requirements prescribed by the department, the department
18 may suspend or revoke the license. The department may
19 determine what constitutes satisfactory compliance with the
20 requirements it has prescribed, but in so doing it shall
21 employ established criteria which shall be uniformly applied
22 to all hospitals.

23 Sec. 5. Section one hundred thirty-five B point seven
24 (135B.7), Code 1977, is amended to read as follows:

25 135B.7 RULES AND ENFORCEMENT. The state department of
26 health ~~with-the-advice-of,~~ after consultation with the hospital
27 ~~licensing-board~~ advisory council, shall adopt, amend,
28 promulgate and enforce such rules and standards with respect
29 to the different types of hospitals to be licensed hereunder
30 as may be designed to further the accomplishment of the
31 purposes of the chapter. Rules and standards may be adopted
32 imposing requirements in excess of those provided in chapter
33 413, but no rule or standard shall be adopted imposing
34 requirements less than those provided by said chapter. No
35 rules ~~or-standards~~ shall be adopted or enforced which would

1 have the effect of denying a license to a hospital or other
2 institution required to be licensed hereunder, solely by
3 reason of the school or system of practice employed or
4 permitted to be employed by physicians therein; ~~provided that~~
5 if such school or system of practice is recognized by the
6 laws of this state.

7 Sec. 6. Section one hundred thirty-five B point nine
8 (135B.9), Code 1977, is amended by striking the section and
9 inserting in lieu thereof the following:

10 135B.9 INSPECTIONS, CONSULTATIONS AND INVESTIGATIONS.

11 1. The state department of health shall make or cause
12 to be made such inspection as it may deem necessary to
13 adequately enforce this chapter. These shall include licensure
14 surveys, consultation visits to hospitals, and investigations
15 based on complaints alleging violations of this chapter or
16 rules promulgated under this chapter in hospitals. These
17 visits may be announced or unannounced as the department deems
18 necessary. In the case of any unannounced investigation,
19 the person representing the department shall identify himself
20 or herself to the person in charge of the hospital before
21 beginning the investigation. The department may recognize,
22 in lieu of its own inspection, the results of inspections
23 made by the joint commission on accreditation of hospitals,
24 the American osteopathic association, or by employees of the
25 United States or the state of Iowa pursuant to title twenty
26 (XX) of the United States social security Act.

27 2. The department shall prescribe by rule that any licensee
28 or applicant for a license desiring to make specified types
29 of alterations or additions to its facilities or to construct
30 new facilities shall, before commencing such alterations,
31 additions, or new construction, submit plans and specifications
32 therefor to the department for both preliminary and final
33 inspection and approval or recommendations with respect to
34 compliance with the rules and standards authorized by this
35 chapter.

1 Sec. 7. Section one hundred thirty-five B point ten
2 (135B.10), Code 1977, is amended by striking the section and
3 inserting in lieu thereof the following:

4 135B.10 HOSPITAL ADVISORY COUNCIL. There is established
5 in the state department of health a hospital advisory council
6 consisting of nine members, as follows:

7 1. Four members shall be persons actively engaged in
8 hospital administration, of whom two shall be associated with
9 hospitals of less than one hundred beds each, chosen from
10 lists of nominees submitted by the Iowa hospital association.

11 2. Three members shall be persons licensed or otherwise
12 professionally qualified in health care fields and actively
13 engaged in the providing of direct health care services,
14 chosen from lists of nominees submitted by the Iowa medical
15 society, the Iowa nurses association, the Iowa society of
16 osteopathic physicians and surgeons, the Iowa pharmaceutical
17 association and the Iowa dietetic association.

18 3. Two members shall be persons who are not providers
19 of health care nor otherwise directly or indirectly engaged
20 in the delivery of health care services, chosen to represent
21 the general public.

22 The members of the hospital advisory council shall be
23 appointed by the commissioner of public health for terms of
24 three years beginning July first of the year of appointment.
25 Vacancies occurring during the regular term shall be filled
26 by appointment for the remainder of the term.

27 In making the initial appointments under this section,
28 the commissioner shall designate three of the appointees to
29 serve terms of one year each, and three to serve terms of
30 two years each.

31 Sec. 8. Section one hundred thirty-five B point eleven
32 (135B.11), Code 1977, is amended to read as follows:

33 135B.11 ~~FUNCTIONS OF HOSPITAL LICENSING-BOARD~~ ADVISORY
34 COUNCIL--COMPENSATION AND EXPENSES. The hospital ~~licensing~~
35 board advisory council shall have the following

1 responsibilities and duties:

2 1. To consult and advise with the department of health
3 in matters of policy affecting administration of this chapter,
4 and provide professional expertise in the development of
5 ~~rules, regulations and standards provided for hereunder~~
6 authorized by this chapter.

7 2. To review and approve comment on such rules and
8 ~~standards authorized hereunder~~ prior to their promulgation
9 by the department of health ~~as specified herein.~~

10 The council shall meet at least twice each year, at times
11 and places designated by the commissioner of public health,
12 or upon the written request of a majority of the members.

13 The members of the ~~board~~ council shall be paid a forty-dollar
14 per diem and shall be reimbursed for actual and necessary
15 expenses incurred as members. All per diem moneys paid to
16 the members shall be paid from funds appropriated to the state
17 department of health.

18 Sec. 9. Section one hundred thirty-five B point twelve
19 (135B.12), Code 1977, is amended by striking the section and
20 inserting in lieu thereof the following:

21 135B.12 PUBLIC DISCLOSURE OF INSPECTION FINDINGS.

22 Following any inspection of a hospital by or for the
23 department, the findings of the inspection with respect to
24 compliance by the hospital with requirements for licensing
25 under this chapter shall be made public in a readily available
26 form and place ninety days after the findings are made
27 available to the applicant or licensee. The inspection report
28 will be accompanied by any response or comment the hospital
29 deems necessary. However, if the applicant or licensee
30 requests a hearing pursuant to section one hundred thirty-
31 five B point six (135B.6) of the Code, the findings of the
32 inspection shall not be made public until the hearing has
33 been completed. Other information relating to any health
34 care facility, obtained by the department through reports,
35 investigations, complaints, or as otherwise authorized by

1 this chapter, which is not a part of the department's findings
2 from an inspection of the facility, shall not be disclosed
3 publicly except in proceedings involving the denial,
4 suspension, or revocation of a license as provided in this
5 chapter.

6 Sec. 10. Chapter one hundred thirty-five A (135A), and
7 sections one hundred thirty-five B point thirteen (135B.13),
8 one hundred thirty-five B point seventeen (135B.17), and one
9 hundred thirty-five B point eighteen (135B.18), Code 1977,
10 are repealed.

11 Sec. 11. This Act is effective January 1, 1979.

12 EXPLANATION

13 This bill repeals Chapter 135A of the Code, the Iowa
14 Hospital Survey and Construction Act, which was enacted at
15 least partly in response to the federal Hill-Burton hospital
16 construction program, which no longer exists. Chapter 135B,
17 under which hospitals are licensed and regulated, is amended
18 to update the first part of the chapter and reflect the repeal
19 of Chapter 135B. This bill does not affect the Pathology
20 and Radiology Services in Hospitals Law, appearing as sections
21 135B.19 through 135B.32 of the Code.

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