

Reprinted 5/78

APR 20 1978

SIFTING COMMITTEE

HOUSE FILE 2433

By COMMITTEE ON STATE GOVERNMENT  
(Formerly Study Bill 393)

Passed House, Date 5-11-78 (p. 2476) Passed Senate, Date 5-12-78 (p. 1515)

Vote: Ayes 73 Nays 0 Vote: Ayes 46 Nays 0

Approved June 12, 1978

# A BILL FOR

1 An Act making technical corrections and relating to chapter  
2 ninety-five (95) of the Acts of the Sixty-seventh General  
3 Assembly, 1977 Session.

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

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1 Section 1. Acts of the Sixty-seventh General Assembly,  
2 1977 Session, chapter ninety-five (95), section two (2), sub-  
3 section two (2), paragraph b, is amended to read as follows:  
4 b. Place the responsibility for arrangement of financing  
5 of continuing education on the licensee, while allowing the  
6 board ~~of continuing education provider~~ to receive any other  
7 available funds or resources that aid in supporting a  
8 continuing education program.

9 Sec. 2. Acts of the Sixty-seventh General Assembly, 1977  
10 Session, chapter ninety-five (95), section three (3), sub-  
11 section two (2), paragraph a, is amended to read as follows:

12 a. Revoke a license, or suspend a license either until  
13 further order of the board or for a specified period, upon  
14 the grounds specified in sections one hundred fourteen point  
15 twenty-one (114.21), one hundred fifteen point eight (115.8),  
16 one hundred sixteen point twenty-one (116.21), one hundred  
17 seventeen point twenty-nine (117.29), one hundred eighteen  
18 point thirteen (118.13), one hundred eighteen A point fifteen  
19 (118A.15), one hundred twenty point ten (120.10), chapter  
20 one hundred thirty-five E (135E), section one hundred forty-  
21 seven point fifty-five (147.55), chapter one hundred fifty-  
22 one (151), sections one hundred fifty-three point thirty-  
23 four (153.34), one hundred fifty-four A point twenty-four  
24 (154A.24), one hundred sixty-nine point thirty-six (169.36)  
25 and four hundred fifty-five B point fifty-nine (455B.59) of  
26 the Code, or upon any other grounds specifically provided  
27 for in this Act for revocation of the license of a licensee  
28 subject to the jurisdiction of that board, or upon failure  
29 of the licensee to comply with a decision of the board imposing  
30 licensee discipline;

31 Sec. 3. Acts of the Sixty-seventh General Assembly, 1977  
32 Session, chapter ninety-five (95), section three (3),  
33 subsection two (2), is amended by striking paragraph e and  
34 inserting in lieu thereof the following:

35 e. Impose civil penalties by rule, if the rule specifies

1 which offenses or acts are subject to civil penalties. The  
2 amount of civil penalty shall be in the discretion of the  
3 board, but shall not exceed one thousand dollars. Failure  
4 to comply with the imposition of a civil penalty may be grounds  
5 for further license discipline.

6 Sec. 4. Acts of the Sixty-seventh General Assembly, 1977  
7 Session, chapter ninety-five (95), section three (3),  
8 subsection four (4), unnumbered paragraph two (2), is amended  
9 to read as follows:

10 All health-care boards shall file written decisions which  
11 specify the sanction entered by the board with the department  
12 of health which ~~file~~ shall be available to the public upon  
13 request. All nonhealth-care boards shall have on file the  
14 written and specified decisions and sanctions entered by the  
15 board and shall be available to the public upon request.

16 Sec. 5. Acts of the Sixty-seventh General Assembly, 1977  
17 Session, chapter ninety-five (95), section three (3),  
18 subsection four (4), unnumbered paragraph three (3), is amended  
19 to read as follows:

20 ~~Licensee-discipline-pursuant-to-informal-stipulation-or~~  
21 ~~agreed-settlement-under-this-section-and-pursuant-to-this~~  
22 ~~Act-shall-not-be-subject-to-review-by-the-court.~~

23 Sec. 6. Acts of the Sixty-seventh General Assembly, 1977  
24 Session, chapter ninety-five (95), section four (4), subsection  
25 one (1), paragraphs c, d, and e, are amended to read as  
26 follows:

27 c. Establish procedures by which any recommendation taken  
28 by a peer review committee shall be reported to and reviewed  
29 by the board if a peer review committee is established;

30 d. Establish procedures for registration with the board  
31 of peer review committees if a peer review committee is  
32 established;

33 e. Define by rule those recommendations of peer review  
34 committees which shall constitute disciplinary recommenda-  
35 tions which must be reported to the board if a peer review

1 committee is established;

2 Sec. 7. Acts of the Sixty-seventh General Assembly, 1977  
3 Session, chapter ninety-five (95), section four (4), sub-  
4 section one (1), paragraph f, is amended to read as follows:  
5 f. Define by rule acts or omissions which are grounds  
6 for revocation or suspension of a license under the provi-  
7 sions of sections one hundred fourteen point twenty-one  
8 (114.21), one hundred fifteen point eight (115.8), one hundred  
9 sixteen point twenty-one (116.21), one hundred seventeen point  
10 twenty-nine (117.29), one hundred eighteen point thirteen  
11 (118.13), one hundred eighteen A point fifteen (118A.15),  
12 one hundred twenty point ten (120.10), chapter one hundred  
13 thirty-five E (135E), section one hundred forty-seven point  
14 fifty-five (147.55), chapter one hundred fifty-one (151),  
15 sections one hundred fifty-three point thirty-four (153.34),  
16 one hundred fifty-four A point twenty-four (154A.24),  
17 one hundred sixty-nine point thirty-six (169.36) and four  
18 hundred fifty-five B point forty-nine (45B.49), of the Code,  
19 and to define by rule acts or omissions which constitute  
20 negligence, careless acts or omissions within the meaning  
21 of paragraph b of subsection two (2) of section three (3)  
22 of this Act, which licensees are required to report to the  
23 board pursuant to subsection two (2) of section nine (9) of  
24 this Act;

25 Sec. 8. Acts of the Sixty-seventh General Assembly, 1977  
26 Session, chapter ninety-five (95), section five (5), sub-  
27 section two (2), paragraph c, is amended to read as follows:  
28 c. Shall state whether the procedures are an alternative  
29 to or an addition to the procedures stated in sections one  
30 hundred fourteen point twenty-two (114.22), one hundred six-  
31 teen point twenty-three (116.23), one hundred seventeen point  
32 thirty-five (117.35), one hundred seventeen point thirty-six  
33 (117.36), one hundred eighteen A point sixteen (118A.16),  
34 one hundred forty-seven point fifty-eight (147.58) through  
35 one hundred forty-seven point seventy-one (147.71), one hun-

1 dred forty-eight point six (148.6) through one hundred forty-  
2 eight point nine (148.9), one hundred fifty-three point twenty-  
3 three (153.23) through one hundred fifty-three point thirty  
4 (153.30), one hundred fifty-three point thirty-three (153.33),  
5 one hundred fifty-four A point twenty-three (154A.23), and  
6 one hundred fifty-five point fourteen (155.14) through one  
7 hundred fifty-five point sixteen (155.16) of the Code.

8 Sec. 9. Acts of the Sixty-seventh General Assembly, 1977  
9 Session, chapter ninety-five (95), section six (6), subsection  
10 four (4), unnumbered paragraph one (1), is amended to read  
11 as follows:

12 In order to assure a free flow of information for  
13 accomplishing the purposes of this section, and notwithstanding  
14 section six hundred twenty-two point ten (622.10) of the Code,  
15 all complaint files, and investigation files, and all other  
16 investigation reports and other investigative information  
17 in the possession of a licensing board or peer review committee  
18 acting under the authority of a licensing board or its  
19 employees or agents which relates to licensee discipline shall  
20 be privileged and confidential, and shall not be subject to  
21 discovery, subpoena, or other means of legal compulsion for  
22 their release to any person other than the licensee and the  
23 boards, their employees and agents involved in licensee  
24 discipline, or be admissible in evidence in any judicial or  
25 administrative proceeding other than the proceeding involving  
26 licensee discipline. However, a final written decision and  
27 finding of fact of a licensing board in a disciplinary  
28 proceeding, including a decision referred to in subsection  
29 four (4) of section three (3) of this Act shall be a public  
30 record.

31 Sec. 10. Acts of the Sixty-seventh General Assembly, 1977  
32 Session, chapter ninety-five (95), is amended by striking  
33 section twenty-one (21) and inserting in lieu thereof the  
34 following:

35 SEC. 21. Section one hundred sixty-nine point thirty-

1 six (169.36), Code 1977, is amended by striking unnumbered  
2 paragraph one (1) and inserting in lieu thereof the following:

3 A license or temporary permit issued under this chapter  
4 may be revoked or suspended or the licensee or permittee may  
5 be otherwise disciplined by the board upon a two-thirds vote  
6 of the entire board, with the secretary of agriculture sitting  
7 as a voting board member for this purpose only. Such an  
8 action may be taken when the licensee is found guilty of any  
9 of the following acts or offenses:

10 Sec. 11. Acts of the Sixty-seventh General Assembly, 1977  
11 Session, chapter ninety-five (95), section twenty-two (22),  
12 subsection five (5), is amended to read as follows:

13 5. Conviction of a felony related to the profession or  
14 occupation of the licensee or the conviction of any felony  
15 that would affect his or her ability to ~~practice professional~~  
16 ~~veterinarian medicine and surgery~~ operate a water treatment  
17 plant or waste water treatment plant. A copy of the record  
18 of conviction or plea of guilty shall be conclusive evidence.

19 Sec. 12. Section one hundred forty-seven point fifty-five  
20 (147.55), Code 1977, is amended to read as follows:

21 147.55 GROUNDS. A license to practice a profession shall  
22 be revoked or suspended when the licensee is guilty of any  
23 of the following acts or offenses:

24 1. Fraud in procuring ~~his~~ a license.

25 2. ~~Incompetency in the practice of his profession~~  
26 Professional incompetency.

27 3. Knowingly making misleading, deceptive, untrue or  
28 fraudulent representations in the practice of ~~his~~ a profes-  
29 sion or engaging in unethical conduct or practice harmful  
30 or detrimental to the public. Proof of actual injury need  
31 not be established.

32 4. Habitual intoxication or addiction to the use of drugs.

33 5. Conviction of a felony related to the profession or  
34 occupation of the licensee or the conviction of any felony  
35 that would affect his or her ability to practice within a

1 profession. A copy of the record of conviction or plea of  
2 guilty shall be conclusive evidence.

3 6. Fraud in representations as to skill or ability.

4 7. Use of untruthful or improbable statements in  
5 advertisements. ~~This shall not be construed as permitting  
6 dentists or dental hygienists to advertise their services  
7 or products, contrary to the other provisions of this title  
8 relative thereto.~~

9 ~~8.---Distribution of intoxicating liquors or drugs for any  
10 other than lawful purposes.~~

11 9 8. Willful or repeated violations of ~~this title,~~ the  
12 ~~title on "Public Health," or the rules of the state department~~  
13 ~~of health~~ the provisions of this Act.

14 ~~10.---Continued practice while knowingly having an infectious  
15 or contagious disease.~~

16 Sec. 13. This Act, being deemed of immediate importance,  
17 shall take effect and be in force from and after its publica-  
18 tion in The Council Bluffs Nonpareil, a newspaper published  
19 in Council Bluffs, Iowa, and in the Ames Daily Tribune, a  
20 newspaper published in Ames, Iowa.

21 EXPLANATION

22 This bill makes technical corrections to S.F. 312 drafted  
23 during the Sixty-seventh General Assembly, 1977 Session and  
24 amends an additional section of law to make it consistent  
25 with provisions of S.F. 312.

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HOUSE FILE 2433

By COMMITTEE ON STATE GOVERNMENT

(As Amended and Passed by the House)

Passed House, Date 5-11-78 (p. 2467) Passed Senate, Date 5-12-78 (p. 1515)

Vote: Ayes 0 Nays 0 Vote: Ayes 46 Nays 0

Approved June 12, 1978

### A BILL FOR

1 An Act making technical corrections and relating to chapter  
2 ninety-five (95) of the Acts of the Sixty-seventh General  
3 Assembly, 1977 Session.

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House Amendments \_\_\_\_\_

1 Section 1. Acts of the Sixty-seventh General Assembly,  
2 1977 Session, chapter ninety-five (95), section two (2), sub-  
3 section two (2), paragraph b, is amended to read as follows:

4 b. Place the responsibility for arrangement of financing  
5 of continuing education on the licensee, while allowing the  
6 board ~~of continuing education provider~~ to receive any other  
7 available funds or resources that aid in supporting a  
8 continuing education program.

9 Sec. 2. Acts of the Sixty-seventh General Assembly, 1977  
10 Session, chapter ninety-five (95), section three (3), sub-  
11 section two (2), paragraph a, is amended to read as follows:

12 a. Revoke a license, or suspend a license either until  
13 further order of the board or for a specified period, upon  
14 the grounds specified in sections one hundred fourteen point  
15 twenty-one (114.21), one hundred fifteen point eight (115.8),  
16 one hundred sixteen point twenty-one (116.21), one hundred  
17 seventeen point twenty-nine (117.29), one hundred eighteen  
18 point thirteen (118.13), one hundred eighteen A point fifteen  
19 (118A.15), one hundred twenty point ten (120.10), chapter  
20 one hundred thirty-five E (135E), section one hundred forty-  
21 seven point fifty-five (147.55), chapter one hundred fifty-  
22 one (151), sections one hundred fifty-three point thirty-four  
23 (153.34), one hundred fifty-four A point twenty-four (154A.24),  
24 one hundred sixty-nine point thirty-six (169.36) and four  
25 hundred fifty-five B point fifty-nine (455B.59) of the Code,  
26 or upon any other grounds specifically provided for in this  
27 Act for revocation of the license of a licensee subject to  
28 the jurisdiction of that board, or upon failure of the licensee  
29 to comply with a decision of the board imposing licensee  
30 discipline;

31 Sec. 3. Acts of the Sixty-seventh General Assembly, 1977  
32 Session, chapter ninety-five (95), section three (3),  
33 subsection two (2), is amended by striking paragraph e and  
34 inserting in lieu thereof the following:

35 e. Impose civil penalties by rule, if the rule specifies

1 which offenses or acts are subject to civil penalties. The  
2 amount of civil penalty shall be in the discretion of the  
3 board, but shall not exceed one thousand dollars. Failure  
4 to comply with the imposition of a civil penalty may be grounds  
5 for further license discipline.

6 Sec. 4. Acts of the Sixty-seventh General Assembly, 1977  
7 Session, chapter ninety-five (95), section three (3),  
8 subsection four (4), unnumbered paragraph two (2), is amended  
9 to read as follows:

10 All health-care boards shall file written decisions which  
11 specify the sanction entered by the board with the department  
12 of health which ~~file~~ shall be available to the public upon  
13 request. All nonhealth-care boards shall have on file the  
14 written and specified decisions and sanctions entered by the  
15 board and shall be available to the public upon request.

16 Sec. 5. Acts of the Sixty-seventh General Assembly, 1977  
17 Session, chapter ninety-five (95), section three (3),  
18 subsection four (4), unnumbered paragraph three (3), is amended  
19 to read as follows:

20 ~~Licensee-discipline-pursuant-to-informal-stipulation-or~~  
21 ~~agreed-settlement-under-this-section-and-pursuant-to-this~~  
22 ~~Act-shall-not-be-subject-to-review-by-the-court.~~

23 Sec. 6. Acts of the Sixty-seventh General Assembly, 1977  
24 Session, chapter ninety-five (95), section four (4), subsection  
25 one (1), paragraphs c, d, and e, are amended to read as  
26 follows:

27 c. Establish procedures by which any recommendation taken  
28 by a peer review committee shall be reported to and reviewed  
29 by the board if a peer review committee is established;

30 d. Establish procedures for registration with the board  
31 of peer review committees if a peer review committee is  
32 established;

33 e. Define by rule those recommendations of peer review  
34 committees which shall constitute disciplinary recommenda-  
35 tions which must be reported to the board if a peer review

1 committee is established;

2 Sec. 7. Acts of the Sixty-seventh General Assembly, 1977

3 Session, chapter ninety-five (95), section four (4), sub-

4 section one (1), paragraph f, is amended to read as follows:

5 f. Define by rule acts or omissions which are grounds

6 for revocation or suspension of a license under the provi-

7 sions of sections one hundred fourteen point twenty-one

8 (114.21), one hundred fifteen point eight (115.8), one hundred

9 sixteen point twenty-one (116.21), one hundred seventeen point

10 twenty-nine (117.29), one hundred eighteen point thirteen

11 (118.13), one hundred eighteen A point fifteen (118A.15),

12 one hundred twenty point ten (120.10), chapter one hundred

13 thirty-five E (135E), section one hundred forty-seven point

14 fifty-five (147.55), chapter one hundred fifty-one (151),

15 sections one hundred fifty-three point thirty-four (153.34),

16 one hundred fifty-four A point twenty-four (154A.24), one

17 hundred sixty-nine point thirty-six (169.36) and four hundred

18 fifty-five B point forty-nine (455B.49), of the Code, and

19 to define by rule acts or omissions which constitute

20 negligence, careless acts or omissions within the meaning

21 of paragraph b of subsection two (2) of section three (3)

22 of this Act, which licensees are required to report to the

23 board pursuant to subsection two (2) of section nine (9) of

24 this Act;

25 Sec. 8. Acts of the Sixty-seventh General Assembly, 1977

26 Session, chapter ninety-five (95), section five (5), sub-

27 section two (2), paragraph c, is amended to read as follows:

28 c. Shall state whether the procedures are an alternative

29 to or an addition to the procedures stated in sections one

30 hundred fourteen point twenty-two (114.22), one hundred six-

31 teen point twenty-three (116.23), one hundred seventeen point

32 thirty-five (117.35), one hundred seventeen point thirty-six

33 (117.36), one hundred eighteen A point sixteen (118A.16),

34 one hundred forty-seven point fifty-eight (147.58) through

35 one hundred forty-seven point seventy-one (147.71), one hun-

1 dred forty-eight point six (148.6) through one hundred forty-  
2 eight point nine (148.9), one hundred fifty-three point twenty-  
3 three (153.23) through one hundred fifty-three point thirty  
4 (153.30), one hundred fifty-three point thirty-three (153.33),  
5 one hundred fifty-four A point twenty-three (154A.23), and  
6 one hundred fifty-five point fourteen (155.14) through one  
7 hundred fifty-five point sixteen (155.16) of the Code.

8 Sec. 9. Acts of the Sixty-seventh General Assembly, 1977  
9 Session, chapter ninety-five (95), section six (6), subsection  
10 four (4), unnumbered paragraph one (1), is amended to read  
11 as follows:

12 In order to assure a free flow of information for  
13 accomplishing the purposes of this section, and notwithstanding  
14 section six hundred twenty-two point ten (622.10) of the Code,  
15 all complaint files, and investigation files, and all other  
16 investigation reports and other investigative information  
17 in the possession of a licensing board or peer review committee  
18 acting under the authority of a licensing board or its  
19 employees or agents which relates to licensee discipline shall  
20 be privileged and confidential, and shall not be subject to  
21 discovery, subpoena, or other means of legal compulsion for  
22 their release to any person other than the licensee and the  
23 boards, their employees and agents involved in licensee  
24 discipline, or be admissible in evidence in any judicial or  
25 administrative proceeding other than the proceeding involving  
26 licensee discipline. However, a final written decision and  
27 finding of fact of a licensing board in a disciplinary  
28 proceeding, including a decision referred to in subsection  
29 four (4) of section three (3) of this Act shall be a public  
30 record.

31 Sec. 10. Acts of the Sixty-seventh General Assembly, 1977  
32 Session, chapter ninety-five (95), is amended by striking  
33 section twenty-one (21) and inserting in lieu thereof the  
34 following:

35 SEC. 21. Section one hundred sixty-nine point thirty-

1 six (169.36), Code 1977, is amended by striking unnumbered  
2 paragraph one (1) and inserting in lieu thereof the following:

3 A license or temporary permit issued under this chapter  
4 may be revoked or suspended or the licensee or permittee may  
5 be otherwise disciplined by the board upon a two-thirds vote  
6 of the entire board, with the secretary of agriculture sitting  
7 as a voting board member for this purpose only. Such an  
8 action may be taken when the licensee is found guilty of any  
9 of the following acts or offenses:

10 Sec. 11. Acts of the Sixty-seventh General Assembly, 1977  
11 Session, chapter ninety-five (95), is amended by striking  
12 section twenty-two (22) and inserting in lieu thereof the  
13 following:

14 SEC. 22. Section four hundred fifty-five B point fifty-  
15 nine (455B.59), Code 1977, is amended by striking the section  
16 and inserting in lieu thereof the following:

17 455B.59 REVOCATION OR SUSPENSION. The board may suspend  
18 or revoke the certificate of an operator, following a hearing  
19 before the board, when the operator is found guilty of the  
20 following acts or offenses:

21 1. Fraud in procuring a license.

22 2. Professional incompetency.

23 3. Knowingly making misleading, deceptive, untrue or  
24 fraudulent representations in the practice of his or her  
25 profession or engaging in unethical conduct or practice harmful  
26 or detrimental to the public. Proof of actual injury need  
27 not be established.

28 4. Habitual intoxication or addiction to the use of drugs.

29 5. Conviction of a felony related to the profession or  
30 occupation of the licensee, or the conviction of any felony  
31 that would affect his or her ability to operate a water  
32 treatment or wastewater treatment plant. A copy of the record  
33 of conviction or plea of guilty shall be conclusive evidence.

34 6. Fraud in representation as to skill or ability.

35 7. Use of untruthful or improbable statements in

1 advertisements.

2 8. Willful or repeated violations of this Act.

3 Sec. 12. Section one hundred forty-seven point fifty-five  
4 (147.55), Code 1977, is amended to read as follows:

5 147.55 GROUND. A license to practice a profession shall  
6 be revoked or suspended when the licensee is guilty of any  
7 of the following acts or offenses:

8 1. Fraud in procuring his a license.

9 2. ~~Incompetency-in-the-practice-of-his-profession~~

10 Professional incompetency.

11 3. Knowingly making misleading, deceptive, untrue or  
12 fraudulent representations in the practice of his a profes-  
13 sion or engaging in unethical conduct or practice harmful  
14 or detrimental to the public. Proof of actual injury need  
15 not be established.

16 4. Habitual intoxication or addiction to the use of drugs.

17 5. Conviction of a felony related to the profession or  
18 occupation of the licensee or the conviction of any felony  
19 that would affect his or her ability to practice within a  
20 profession. A copy of the record of conviction or plea of  
21 guilty shall be conclusive evidence.

22 6. Fraud in representations as to skill or ability.

23 7. Use of untruthful or improbable statements in  
24 advertisements. ~~This shall not be construed as permitting~~  
25 ~~dentists or dental hygienists to advertise their services~~  
26 ~~or products, contrary to the other provisions of this title~~  
27 ~~relative thereto.~~

28 ~~8. --Distribution of intoxicating liquors or drugs for any~~  
29 ~~other than lawful purposes.~~

30 9 8. Willful or repeated violations of this title, the  
31 title on "Public Health", or the rules of the state department  
32 of health the provisions of this Act.

33 ~~10. --Continued practice while knowingly having an infectious~~  
34 ~~or contagious disease.~~

35 Sec. 13. Section one hundred fifty-three point thirty-

1 three (153.33), Code 1977, is amended by adding the following  
2 new subsection:

3 NEW SUBSECTION. To promulgate rules as may be necessary  
4 to implement the provisions of this chapter.

5 Sec. 14. Section one hundred fifty-three point thirty-  
6 two (153.32), subsections one (1) through four (4), and section  
7 one hundred fifty-three point thirty-four (153.34), subsections  
8 five (5), six (6), eight (8), and ten (10), Code 1977, are  
9 amended by striking those subsections.

10 Sec. 15. Section one hundred fifty-three point nineteen  
11 (153.19), Code 1977, is repealed.

12 Sec. 16. This Act, being deemed of immediate importance,  
13 shall take effect and be in force from and after its publica-  
14 tion in The Council Bluffs Nonpareil, a newspaper published  
15 in Council Bluffs, Iowa, and in the Ames Daily Tribune, a  
16 newspaper published in Ames, Iowa.

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H-6638

1 Amend House File 2433 as follows:  
2 1. Page 5, by striking lines 10 through 18 and  
3 inserting in lieu thereof the following:  
4 "Sec. \_\_\_\_ . Acts of the Sixty-seventh General  
5 Assembly, 1977 Session, chapter ninety-five (95),  
6 is amended by striking section twenty-two (22) and  
7 inserting in lieu thereof the following:  
8 SEC. 22. Section four hundred fifty-five B point  
9 fifty-nine (#55B.59), Code 1977, is amended by striking  
10 the section and inserting in lieu thereof the  
11 following:  
12 455B.59 REVOCATION OR SUSPENSION. The board may  
13 suspend or revoke the certificate of an operator,  
14 following a hearing before the board, when the operator  
15 is found guilty of the following acts or offenses:  
16 1. Fraud in procuring a license.  
17 2. Professional incompetency.  
18 3. Knowingly making misleading, deceptive, untrue  
19 or fraudulent representations in the practice of his  
20 or her profession or engaging in unethical conduct  
21 or practice harmful or detrimental to the public.  
22 Proof of actual injury need not be established.  
23 4. Habitual intoxication or addiction to the use  
24 of drugs.  
25 5. Conviction of a felony related to the pro-  
26 fession or occupation of the licensee, or the  
27 conviction of any felony that would affect his or  
28 her ability to operate a water treatment or wastewater  
29 treatment plant. A copy of the record of conviction  
30 or plea of guilty shall be conclusive evidence.  
31 6. Fraud in representation as to skill or ability.  
32 7. Use of untruthful or improbable statements  
33 in advertisements.  
34 8. Willful or repeated violations of this Act."  
35 2. Page 6, by inserting after line 15 the  
36 following:  
37 "Sec. \_\_\_\_ . Section one hundred fifty-three point  
38 thirty-three (153.33), Code 1977, is amended by adding  
39 the following new subsection:  
40 NEW SUBSECTION. To promulgate rules as may be  
41 necessary to implement the provisions of this chapter.  
42 Sec. \_\_\_\_ . Section one hundred fifty-three point  
43 thirty-two (153.32), subsections one (1) through four  
44 (4), and section one hundred fifty-three point thirty-  
45 four (153.34), subsections five (5), six (6), eight  
46 (8), and ten (10), Code 1977, are amended by striking  
47 those subsections.  
48 Sec. \_\_\_\_ . Section one hundred fifty-three point  
49 nineteen (153.19), Code 1977, is repealed."  
50 3. By renumbering the sections to conform with

1 this amendment.

## HOUSE FILE 2433

## AN ACT

MAKING TECHNICAL CORRECTIONS AND RELATING TO CHAPTER NINETY-FIVE (95) OF THE ACTS OF THE SIXTY-SEVENTH GENERAL ASSEMBLY, 1977 SESSION.

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

Section 1. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section two (2), subsection two (2), paragraph b, is amended to read as follows:

b. Place the responsibility for arrangement of financing of continuing education on the licensee, while allowing the board ~~of continuing education provider~~ to receive any other available funds or resources that aid in supporting a continuing education program.

Sec. 2. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section three (3), subsection two (2), paragraph a, is amended to read as follows:

a. Revoke a license, or suspend a license either until further order of the board or for a specified period, upon the grounds specified in sections one hundred fourteen point twenty-one (114.21), one hundred fifteen point eight (115.8), one hundred sixteen point twenty-one (116.21), one hundred seventeen point twenty-nine (117.29), one hundred eighteen point thirteen (118.13), one hundred eighteen A point fifteen (118A.15), one hundred twenty point ten (120.10), chapter one hundred thirty-five E (135E), section one hundred forty-seven point fifty-five (147.55), chapter one hundred fifty-one (151), sections one hundred fifty-three point thirty-four (153.34), one hundred fifty-four A point twenty-four (154A.24), one hundred sixty-nine point thirty-six (169.36) and four hundred fifty-five B point fifty-nine (455B.59) of the Code, or upon any other grounds specifically provided for in this Act for revocation of the license of a licensee subject to the jurisdiction of that board, or upon failure of the licensee

to comply with a decision of the board imposing licensee discipline;

Sec. 3. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section three (3), subsection two (2), is amended by striking paragraph e and inserting in lieu thereof the following:

e. Impose civil penalties by rule, if the rule specifies which offenses or acts are subject to civil penalties. The amount of civil penalty shall be in the discretion of the board, but shall not exceed one thousand dollars. Failure to comply with the imposition of a civil penalty may be grounds for further license discipline.

Sec. 4. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section three (3), subsection four (4), unnumbered paragraph two (2), is amended to read as follows:

All health-care boards shall file written decisions which specify the sanction entered by the board with the department of health which ~~file~~ shall be available to the public upon request. All nonhealth-care boards shall have on file the written and specified decisions and sanctions entered by the board and shall be available to the public upon request.

Sec. 5. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section three (3), subsection four (4), unnumbered paragraph three (3), is amended to read as follows:

~~licensee-discipline-pursuant-to-informal-stipulation-or agreed-settlement-under-this-section-and-pursuant-to-this Act-shall-not-be-subject-to-review-by-the-court.~~

Sec. 6. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section four (4), subsection one (1), paragraphs c, d, and e, are amended to read as follows:

c. Establish procedures by which any recommendation taken by a peer review committee shall be reported to and reviewed by the board if a peer review committee is established;

d. Establish procedures for registration with the board

of peer review committees if a peer review committee is established;

e. Define by rule those recommendations of peer review committees which shall constitute disciplinary recommendations which must be reported to the board if a peer review committee is established;

Sec. 7. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section four (4), subsection one (1), paragraph f, is amended to read as follows:

f. Define by rule acts or omissions which are grounds for revocation or suspension of a license under the provisions of sections one hundred fourteen point twenty-one (114.21), one hundred fifteen point eight (115.8), one hundred sixteen point twenty-one (116.21), one hundred seventeen point twenty-nine (117.29), one hundred eighteen point thirteen (118.13), one hundred eighteen A point fifteen (118A.15), one hundred twenty point ten (120.10), chapter one hundred thirty-five E (135E), section one hundred forty-seven point fifty-five (147.55), chapter one hundred fifty-one (151), sections one hundred fifty-three point thirty-four (153.34), one hundred fifty-four A point twenty-four (154A.24), one hundred sixty-nine point thirty-six (169.36) and four hundred fifty-five B point forty-nine (455B.49), of the Code, and to define by rule acts or omissions which constitute negligence, careless acts or omissions within the meaning of paragraph b of subsection two (2) of section three (3) of this Act, which licensees are required to report to the board pursuant to subsection two (2) of section nine (9) of this Act;

Sec. 8. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section five (5), subsection two (2), paragraph c, is amended to read as follows:

c. Shall state whether the procedures are an alternative to or an addition to the procedures stated in sections one hundred fourteen point twenty-two (114.22), one hundred sixteen point twenty-three (116.23), one hundred seventeen point thirty-five (117.35), one hundred seventeen point thirty-six

(117.36), one hundred eighteen A point sixteen (118A.16), one hundred forty-seven point fifty-eight (147.58) through one hundred forty-seven point seventy-one (147.71), one hundred forty-eight point six (148.6) through one hundred forty-eight point nine (148.9), one hundred fifty-three point twenty-three (153.23) through one hundred fifty-three point thirty (153.30), one hundred fifty-three point thirty-three (153.33), one hundred fifty-four A point twenty-three (154A.23), and one hundred fifty-five point fourteen (155.14) through one hundred fifty-five point sixteen (155.16) of the Code.

Sec. 9. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section six (6), subsection four (4), unnumbered paragraph one (1), is amended to read as follows:

In order to assure a free flow of information for accomplishing the purposes of this section, and notwithstanding section six hundred twenty-two point ten (622.10) of the Code, all complaint files, and investigation files, and all other investigation reports and other investigative information in the possession of a licensing board or peer review committee acting under the authority of a licensing board or its employees or agents which relates to licensee discipline shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person other than the licensee and the boards, their employees and agents involved in licensee discipline, or be admissible in evidence in any judicial or administrative proceeding other than the proceeding involving licensee discipline. However, a final written decision and finding of fact of a licensing board in a disciplinary proceeding, including a decision referred to in subsection four (4) of section three (3) of this Act shall be a public record.

Sec. 10. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), is amended by striking section twenty-one (21) and inserting in lieu thereof the following:

SEC. 21. Section one hundred sixty-nine point thirty-six (169.36), Code 1977, is amended by striking unnumbered paragraph one (1) and inserting in lieu thereof the following:

A license or temporary permit issued under this chapter may be revoked or suspended or the licensee or permittee may be otherwise disciplined by the board upon a two-thirds vote of the entire board, with the secretary of agriculture sitting as a voting board member for this purpose only. Such an action may be taken when the licensee is found guilty of any of the following acts or offenses:

Sec. 11. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), is amended by striking section twenty-two (22) and inserting in lieu thereof the following:

SEC. 22. Section four hundred fifty-five B point fifty-nine (455B.59), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

455B.59 REVOCATION OR SUSPENSION. The board may suspend or revoke the certificate of an operator, following a hearing before the board, when the operator is found guilty of the following acts or offenses:

1. Fraud in procuring a license.
2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of his or her profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
4. Habitual intoxication or addiction to the use of drugs.
5. Conviction of a felony related to the profession or occupation of the licensee, or the conviction of any felony that would affect his or her ability to operate a water treatment or wastewater treatment plant. A copy of the record of conviction or plea of guilty shall be conclusive evidence.
6. Fraud in representation as to skill or ability.
7. Use of untruthful or improbable statements in advertisements.

8. Willful or repeated violations of this Act.

Sec. 12. Section one hundred forty-seven point fifty-five (147.55), Code 1977, is amended to read as follows:

147.55 GROUNDS. A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses:

1. Fraud in procuring his a license.
  2. ~~Incompetency-in-the-practice-of-his-profession~~  
Professional incompetency.
  3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of his a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
  4. Habitual intoxication or addiction to the use of drugs.
  5. Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect his or her ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.
  6. Fraud in representations as to skill or ability.
  7. Use of untruthful or improbable statements in advertisements. ~~This shall not be construed as permitting dentists or dental hygienists to advertise their services or products, contrary to the other provisions of this title relative thereto.~~
  8. ~~Distribution of intoxicating liquors or drugs for any other than lawful purposes.~~
  - 9 ~~8.~~ Willful or repeated violations of ~~this title, the title on "Public Health", or the rules of the state department of health~~ the provisions of this Act.
  10. ~~Continued practice while knowingly having an infectious or contagious disease.~~
- Sec. 13. Section one hundred fifty-three point thirty-three (153.33), Code 1977, is amended by adding the following new subsection:
- NEW SUBSECTION. To promulgate rules as may be necessary

to implement the provisions of this chapter.

Sec. 14. Section one hundred fifty-three point thirty-two (153.32), subsections one (1) through four (4), and section one hundred fifty-three point thirty-four (153.34), subsections five (5), six (6), eight (8), and ten (10), Code 1977, are amended by striking those subsections.

Sec. 15. Section one hundred fifty-three point nineteen (153.19), Code 1977, is repealed.

Sec. 16. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Council Bluffs Nonpareil, a newspaper published in Council Bluffs, Iowa, and in the Ames Daily Tribune, a newspaper published in Ames, Iowa.

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DALE M. COCHRAN  
Speaker of the House

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ARTHUR A. NEU  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2433, Sixty-seventh General Assembly.

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DAVID L. WRAY  
Chief Clerk of the House

Approved Jan 12, 1978

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ROBERT D. RAY  
Governor