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SENATE FILE 2156
BY ADMINISTRATIVE RULES
REVIEW COMMITTEE

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

A BILL FOR

1 An Act relating to the rulemaking authority of the department of
2 inspections and appeals and the state board of health
3 regarding health-related inspections and licensing.

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

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SF 2156

1 Section 1. Section 135B.1, Code 1987, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 4. "Department" means the department of
4 inspections and appeals.

5 Sec. 2. Section 135B.4, Code 1987, is amended to read as
6 follows:

7 135B.4 APPLICATION FOR LICENSE.

8 Licenses shall be obtained from the department of
9 ~~inspections-and-appeals~~. Applications shall be upon such
10 forms and shall contain such information as the said
11 department may reasonably require, which may include
12 affirmative evidence of ability to comply with such reasonable
13 standards and rules ~~as-may-be-lawfully~~ prescribed hereunder
14 under this chapter. Each application for license shall be
15 accompanied by the license fee, which shall be refunded to the
16 applicant if the license is denied and which shall be paid
17 over deposited into the state treasury and credited to the
18 general fund if the license is issued. In case of death of
19 any a person holding such a license or the sale of any a
20 hospital licensed hereunder under this chapter within the
21 first year of the tenure of such the license, the department
22 ~~of-inspections-and-appeals~~ shall certify to the director of
23 revenue and finance a claim on behalf of the licensee for
24 refund of a proportionate share of the license fee. ~~Said~~ The
25 refund shall be based on one-twelfth the amount ~~thereof~~ of the
26 fee multiplied by the remaining months in the year. The
27 director of revenue and finance shall ~~thereupon~~ draw a warrant
28 against the general fund in the amount of the refund payable
29 to the order of the licensee. Hospitals having fifty beds or
30 less shall pay an initial license fee of fifteen dollars;
31 hospitals of more than fifty beds and not more than one
32 hundred beds shall pay an initial license fee of twenty-five
33 dollars; all other hospitals shall pay an initial license fee
34 of fifty dollars.

35 Sec. 3. Section 135B.5, unnumbered paragraph 1, Code 1987,

1 is amended to read as follows:

2 Upon receipt of an application for license and the license
3 fee, the department of ~~inspections and appeals~~ shall issue a
4 license if the applicant and hospital facilities comply with:
5 ~~the provisions of~~ this chapter and the regulations rules of
6 the ~~said~~ department. Each ~~such~~ license, unless sooner
7 suspended or revoked, ~~shall be~~ is renewable annually upon
8 payment of ten dollars and upon filing by the licensee, and
9 approval by the department of ~~inspections and appeals~~, of an
10 annual report upon such ~~the~~ uniform dates and containing such
11 information in such a form as the state department of ~~health~~,
12 ~~with the advice of the hospital licensing board~~, shall
13 prescribe by regulation rule. Licenses ~~issued hereunder~~ shall
14 be either general or restricted in form. In those instances
15 where an applicant for a hospital license was licensed as a
16 hospital on December 31, 1960, or had an application for a
17 hospital license pending on April 1, 1961, and the facilities
18 of such ~~the~~ applicant are suitable or adequate for only
19 certain types of hospital care or treatment, the specific
20 types of care or treatment for which such ~~the~~ hospital is
21 properly equipped shall be set forth on the face of the
22 license and the lawful operation of the hospital shall be
23 ~~thereby~~ restricted to the types of care and treatment so
24 specified. Each license shall be issued only for the premises
25 and persons or governmental units named in the application and
26 ~~shall~~ is not be transferable or assignable except with the
27 written approval of the department of ~~inspections and appeals~~.
28 Licenses shall be posted in a conspicuous place on the
29 licensed premises as prescribed by regulation rule of the ~~said~~
30 department.

31 Sec. 4. Section 135B.6, Code 1987, is amended to read as
32 follows:

33 135B.6 DENIAL OR REVOCATION OF LICENSE -- HEARINGS AND
34 REVIEW.

35 The department of ~~inspections and appeals~~ ~~shall have the~~

1 ~~authority to~~ may deny, suspend or revoke a license in any case
2 where it finds that there has been a substantial failure to
3 comply with ~~the provisions of~~ this chapter or the rules or
4 minimum standards ~~promulgated under~~ adopted pursuant to this
5 chapter.

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

29 The procedure governing hearings authorized by this section
30 shall be in accordance with rules ~~promulgated~~ adopted by said
31 ~~the department with the advice of the hospital licensing~~
32 board. A full and complete record shall be kept of all
33 proceedings, and all testimony shall be reported but need not
34 be transcribed unless judicial review is sought pursuant to
35 section 135B.14. A copy or copies of the transcript may be

1 obtained by an interested party on payment of the cost of
2 preparing ~~such~~ the copy or copies. Witnesses may be
3 subpoenaed by either party and shall be allowed fees at a rate
4 prescribed by ~~the-aforesaid-rules~~ rule.

5 Sec. 5. Section 135B.7, unnumbered paragraph 1, Code 1987,
6 is amended to read as follows:

7 The ~~state department,~~ of-health with the advice of the
8 hospital licensing board and approval of the state board of
9 health, shall adopt and enforce rules and standards for the
10 different types of hospitals to be licensed under this
11 chapter, to further the purposes of the chapter. Rules or
12 standards shall not be adopted or enforced which would have
13 the effect of denying a license to a hospital or other
14 institution required to be licensed, solely by reason of the
15 school or system of practice employed or permitted to be
16 employed by physicians in the hospital, if the school or
17 system of practice is recognized by the laws of this state.

18 Sec. 6. Section 135B.9, Code 1987, is amended to read as
19 follows:

20 135B.9 INSPECTIONS AND CONSULTATIONS.

21 The ~~department of-inspections-and-appeals~~ shall make or
22 cause to be made ~~such~~ inspections as it ~~may-deem~~ deems
23 necessary. The ~~state department of-health~~ shall, ~~with-the~~
24 ~~advice-of-the-hospital-licensing-board,~~ prescribe by
25 regulations rule that any a licensee or applicant for license
26 desiring to make specified types of alteration or addition to
27 its facilities or to construct new facilities shall, before
28 commencing ~~such~~ the alteration, addition, or new construction,
29 submit plans and specifications therefor to the department of
30 ~~inspections-and-appeals~~ for preliminary inspection and
31 approval or recommendations with respect to compliance with
32 the regulations applicable rules and standards ~~herein~~
33 ~~authorized~~.

34 Sec. 7. Section 135B.10, Code 1987, is amended to read as
35 follows:

1 135B.10 HOSPITAL LICENSING BOARD.

2 The governor shall appoint five individuals who possess
3 recognized ability in the field of hospital administration,
4 ~~who shall function to serve as and be~~ the hospital licensing
5 board within the department of ~~inspections and appeals~~.

6 Sec. 8. Section 135B.11, subsection 1, Code Supplement
7 1987, is amended to read as follows:

8 1. To consult with and advise with the Iowa department of
9 public health in matters of policy affecting administration of
10 this chapter, and in the development of rules, regulations and
11 standards provided for hereunder under this chapter.

12 Sec. 9. Section 135B.11, subsection 2, unnumbered
13 paragraph 1, Code Supplement 1987, is amended to read as
14 follows:

15 To review and approve rules and standards authorized under
16 this chapter prior to their approval by the state board of
17 health and adoption by the department of ~~inspections and~~
18 ~~appeals~~.

19 Sec. 10. Section 135B.12, Code 1987, is amended to read as
20 follows:

21 135B.12 INFORMATION CONFIDENTIAL.

22 Information received by the department of ~~inspections and~~
23 ~~appeals~~ through filed reports, inspection, or as otherwise
24 authorized under this chapter, shall not be disclosed publicly
25 in such a manner as to identify individuals or hospitals,
26 except in a proceeding involving the question of licensure or
27 the denial, suspension, or revocation of a license.

28 Sec. 11. Section 135B.13, Code 1987, is amended to read as
29 follows:

30 135B.13 ANNUAL REPORT OF DEPARTMENT.

31 The department of ~~inspections and appeals~~ shall prepare and
32 publish an annual report of its activities and operations
33 under this chapter.

34 Sec. 12. Section 135B.14, Code 1987, is amended to read as
35 follows:

1 135B.14 JUDICIAL REVIEW.

2 Judicial review of the action of the department of
3 ~~inspections-and-appeals~~ may be sought in accordance with the
4 ~~terms-of-the-Iowa-administrative-procedure-Act~~ chapter 17A.
5 Notwithstanding the terms of ~~said~~ chapter 17A, the Iowa
6 administrative procedure Act, petitions for judicial review
7 may be filed in the district court of the county in which the
8 hospital is located or to be located, and the status quo of
9 the petitioner or licensee shall be preserved pending final
10 disposition of the matter in the courts.

11 Sec. 13. Section 135C.14, unnumbered paragraph 1, Code
12 1987, is amended to read as follows:

13 The department ~~shall~~, in accordance with chapter 17A and
14 with the approval of the state board of health, shall adopt
15 and enforce rules setting minimum standards for health care
16 facilities. In so doing, the department, with the approval of
17 the state board of health, may adopt by reference, with or
18 without amendment, nationally recognized standards and rules,
19 which shall be specified by title and edition, date of
20 publication, or similar information. The rules and standards
21 required by this section shall be formulated in consultation
22 with the commissioner of human services or the commissioner's
23 designee and with affected industry, professional, and
24 consumer groups ~~affected-thereby,~~ and shall be designed to
25 further the accomplishment of the purposes of this chapter,
26 and shall relate to:

27 Sec. 14. Section 135C.14, subsection 8, unnumbered
28 paragraph 1, Code 1987, is amended to read as follows:

29 Facility policies and procedures regarding the treatment,
30 care, and rights of residents. The rules shall apply the
31 federal resident's bill of rights contained in 42 C.F.R.
32 442.311, as amended to January 1, 1981, to all health care
33 facilities as defined in this chapter and shall include
34 procedures for implementing and enforcing the federal rules.
35 The department, with the approval of the state board of

1 health, shall also adopt rules relating to the following:

2 Sec. 15. Section 135C.19, subsection 2, unnumbered
3 paragraph 1, Code Supplement 1987, is amended to read as
4 follows:

5 Each A citation for a class I or class II violation which
6 is issued to a health care facility and which has become
7 final, or a copy ~~or copies thereof~~ of the citation, shall be
8 prominently posted as prescribed in rules ~~to be adopted by the~~
9 department, until the violation is corrected to the
10 department's satisfaction. The citation or copy shall be
11 posted in a place ~~or places~~ in plain view of the residents of
12 the facility cited, persons visiting the residents, and
13 persons inquiring about placement in the facility.

14 Sec. 16. Section 135C.19, subsection 3, Code Supplement
15 1987, is amended to read as follows:

16 3. If the facility cited subsequently advises the
17 department of human services that the violation has been
18 corrected to the satisfaction of the department of health
19 inspections and appeals, the department of human services ~~must~~
20 shall maintain this advisory in the same file with the copy of
21 the citation. The department of human services shall not
22 disseminate to the public any information regarding citations
23 issued by the department of health inspections and appeals,
24 but shall forward or refer ~~such~~ inquiries to the department of
25 health inspections and appeals.

26 Sec. 17. Section 135E.1, subsection 3, Code Supplement
27 1987, is amended to read as follows:

28 3. "Nursing home" means an institution or facility, or
29 part thereof, whether proprietary or nonprofit, licensed as an
30 intermediate care facility or a skilled nursing facility, but
31 not including an intermediate care facility for the mentally
32 retarded or an intermediate care facility for the mentally
33 ill, defined as such for licensing purposes under state law or
34 ~~pursuant to the rules for nursing homes promulgated by the~~
35 ~~state board of health, in consultation with the department of~~

1 ~~inspections-and-appeals,-whether-proprietary-or-nonprofit~~
2 administrative rule, including but not limited to, a nursing
3 homes home owned or administered by the federal or state
4 government or an agency or political subdivision of
5 government.

6 Sec. 18. Section 170.55, unnumbered paragraph 1, Code
7 1987, is amended to read as follows:

8 The director has ~~sole-and~~ exclusive authority to regulate,
9 license, and inspect food establishments and to enforce the
10 retail food store sanitation code in Iowa. The director, with
11 approval of the state board of health, shall adopt rules
12 pursuant to chapter 17A to enforce this chapter. Municipal
13 corporations shall not regulate, license, inspect, or collect
14 license fees from food establishments except as provided for
15 in agreements entered into between the director and the
16 municipal corporations.

17 Sec. 19. Section 170A.3, unnumbered paragraph 1, Code
18 1987, is amended to read as follows:

19 As soon as practicable, the director, with the approval of
20 the state board of health, shall adopt the food service
21 sanitation ordinance, section 170A.2, subsection 12, by rule
22 as part of the Iowa food service sanitation code with the
23 following exceptions:

24 Sec. 20. Section 170B.3, unnumbered paragraph 1, Code
25 1987, is amended to read as follows:

26 The director shall regulate, license, and inspect hotels
27 and enforce the Iowa hotel sanitation code in Iowa. The
28 director, with approval of the state board of health, shall
29 adopt rules pursuant to chapter 17A to enforce this chapter.
30 Municipal corporations shall not regulate, license, inspect,
31 or collect license fees from hotels except as provided for in
32 the Iowa hotel sanitation code.

33 Sec. 21. Section 191A.10, unnumbered paragraph 1, Code
34 1987, is amended to read as follows:

35 The department, with the approval of the state board of

1 health, shall ~~promulgate~~ adopt rules governing requirements
2 for sanitation of vended foods and beverages not inconsistent
3 with the terms of this chapter nor federal standards governing
4 the requirements for sanitation of vended foods and beverages.
5 ~~Such~~ The rules shall set forth:

6 Sec. 22. CODIFICATION TRANSFERS. The Code editor shall
7 transfer sections 135.90 through 135.96 to chapter 135B as a
8 separate division of chapter 135B, and shall transfer section
9 135B.33 to chapter 135 as a separate division of chapter 135,
10 unless the Code editor determines that a different Code
11 arrangement would be preferable.

12

EXPLANATION

13 This bill provides that certain health-related
14 administrative rules, including those rules relating to food
15 establishments and food services, adopted by the department of
16 inspections and appeals must first be approved by the state
17 board of health.

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