

H. F. 2489 substituted 2/7

FILED FEB 12 1990

SENATE FILE 2307  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 2142)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

53021 An Act relating to health care facilities and providing a  
2 penalty.

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

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SF 2307

1 Section 1. Section 135B.33, subsection 5, Code 1989, is  
2 amended to read as follows:

3 5. An analysis of community health needs, specifically  
4 including long-term care needs, including ~~intermediate-care~~  
5 ~~facility-and-skilled~~ nursing facility care, pediatric and  
6 maternity services, and the health facilities' potential role  
7 in facilitating the provision of services to meet these needs.

8 Sec. 2. Section 135C.1, subsections 2 and 3, Code 1989,  
9 are amended by striking the subsections.

10 Sec. 3. Section 135C.1, subsection 4, Code 1989, is  
11 amended to read as follows:

12 4. "Health care facility" or "facility" means ~~any a~~  
13 residential care facility, ~~intermediate-care-facility,-or~~  
14 ~~skilled a~~ nursing facility, an intermediate care facility for  
15 the mentally ill, or an intermediate care facility for the  
16 mentally retarded.

17 Sec. 4. Section 135C.1, subsection 18, Code 1989, is  
18 amended by striking the subsection and inserting in lieu  
19 thereof the following:

20 18. "Intermediate care facility for the mentally ill"  
21 means an institution, place, building, or agency designed to  
22 provide accommodation, board, and nursing care for a period  
23 exceeding twenty-four consecutive hours to three or more  
24 individuals, who primarily have mental illness and who are not  
25 related to the administrator or owner within the third degree  
26 of consanguinity.

27 Sec. 5. Section 135C.1, Code 1989, is amended by adding  
28 the following new subsections:

29 NEW SUBSECTION. 20. "Nursing facility" means an  
30 institution or a distinct part of an institution housing three  
31 or more individuals not related to the administrator or owner  
32 within the third degree of consanguinity, which is primarily  
33 engaged in providing health-related care and services,  
34 including rehabilitative services, but which is not engaged  
35 primarily in providing treatment or care for mental illness or

1 mental retardation, for a period exceeding twenty-four  
2 consecutive hours for individuals who, because of a mental or  
3 physical condition, require nursing care and other services in  
4 addition to room and board.

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NEW SUBSECTION. 21. "Intermediate care facility for the  
6 mentally retarded" means an institution, place, building, or  
7 agency designed to provide accommodation, board, and nursing  
8 care for a period exceeding twenty-four consecutive hours to  
9 three or more individuals, who primarily have mental  
10 retardation and who are not related to the administrator or  
11 owner within the third degree of consanguinity.

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NEW SUBSECTION. 22. "Qualified mental retardation  
13 professional" means an individual who has at least one year of  
14 experience working directly with persons with mental  
15 retardation or other developmental disability and who has any  
16 of the following professional qualifications:

- 17 a. Is licensed as a physician under chapter 148 or 150A.
- 18 b. Is licensed as a registered nurse under chapter 152.
- 19 c. Has a bachelor's degree in any of the following areas:
  - 20 (1) Audiology.
  - 21 (2) Dietary services.
  - 22 (3) Human services.
  - 23 (4) Occupational therapy.
  - 24 (5) Physical therapy.
  - 25 (6) Psychology.
  - 26 (7) Recreation or leisure services.
  - 27 (8) Social work.
  - 28 (9) Speech-language pathology.

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NEW SUBSECTION. 23. "Interdisciplinary team" means a  
30 group of individuals who develop a single, integrated,  
31 individual program plan to meet the needs for services of an  
32 individual residing in an intermediate care facility for the  
33 mentally retarded. The group consists of the individual  
34 resident, the resident's legal guardian, if any, the  
35 resident's advocate, if desired by the resident, a referral

1 agency representative, staff members of the resident's  
2 facility, other providers of services to the resident, and  
3 other individuals relevant to the resident's needs.

4 Sec. 6. Section 135C.2, subsection 3, unnumbered paragraph  
5 1, Code Supplement 1989, is amended to read as follows:

6 The department shall establish by administrative rule,  
7 ~~within the intermediate care facility category, a special~~  
8 ~~classification for facilities intended to serve mentally~~  
9 ~~retarded individuals, and~~ within the residential care facility  
10 category, a special classification for residential facilities  
11 intended to serve mentally ill individuals. The department  
12 may also establish by administrative rule either  
13 ~~classifications within that category, or special~~  
14 ~~classifications within the residential care facility,~~  
15 intermediate care facility for the mentally ill, intermediate  
16 care facility for the mentally retarded, or skilled nursing  
17 facility categories, for facilities intended to serve  
18 individuals who have special health care problems or  
19 conditions in common. Rules establishing a special  
20 classification shall define the problem or condition to which  
21 the special classification is relevant and establish  
22 requirements for an approved program of care commensurate with  
23 the problem or condition, and may grant special variances or  
24 considerations to facilities licensed within the special  
25 classification so established.

26 Sec. 7. Section 135C.3, Code 1989, is amended by striking  
27 the section and inserting in lieu thereof the following:

28 135C.3 NATURE OF CARE.

29 1. A licensed nursing facility shall provide an organized  
30 twenty-four-hour program of services commensurate with the  
31 needs of its residents and under the immediate direction of a  
32 licensed registered nurse. Medical and nursing services must  
33 be provided under the direction of either a house physician or  
34 an individually selected physician. Surgery or obstetrical  
35 care shall not be provided within the facility. An admission

1 to the nursing facility must be based on a physician's written  
2 order certifying that the individual being admitted requires  
3 no greater degree of nursing care than the facility to which  
4 the admission is made is licensed to provide and is capable of  
5 providing.

6 2. A licensed intermediate care facility for the mentally  
7 ill shall provide an organized twenty-four-hour program of  
8 services commensurate with the needs of its residents and  
9 under the immediate direction of a licensed registered nurse,  
10 who has had at least two years of recent experience in a  
11 chronic or acute psychiatric setting. Medical and nursing  
12 service must be provided under the direction of either a house  
13 physician or an individually selected physician. Surgery or  
14 obstetrical care shall not be provided within the facility.  
15 An admission to the intermediate care facility for the  
16 mentally ill must be based on a physician's written order  
17 certifying that the individual being admitted requires no  
18 greater degree of nursing care than the facility to which the  
19 admission is made is licensed to provide and is capable of  
20 providing.

21 3. A licensed intermediate care facility for the mentally  
22 <sup>4228</sup>retarded shall provide an organized twenty-four-hour program  
23 <sup>2304</sup>of services commensurate with the needs of its residents and  
24 under the immediate direction of a qualified mental  
25 retardation professional. Medical and nursing services must  
26 be provided under the direction of either a house physician or  
27 an individually selected physician. Surgery or obstetrical  
28 care shall not be provided within the facility. An admission  
29 to the intermediate care facility for the mentally retarded  
30 shall be based on a written order by an interdisciplinary team  
31 certifying that the individual being admitted requires no  
32 greater degree of nursing care than the facility to which the  
33 admission is made is licensed to provide and is capable of  
34 providing.

35 Sec. 8. Section 135C.19, subsection 3, Code 1989, is

1 amended to read as follows:

2 3. If the facility cited subsequently advises the  
3 department of human services that the violation has been  
4 corrected to the satisfaction of the department of ~~health~~  
5 inspections and appeals, the department of human services must  
6 maintain this advisory in the same file with the copy of the  
7 citation. The department of human services shall not  
8 disseminate to the public any information regarding citations  
9 issued by the department of ~~health inspections and appeals~~,  
10 but shall forward or refer such inquiries to the department of  
11 health inspections and appeals.

12 Sec. 9. Section 135C.23, subsection 2, unnumbered  
13 paragraph 2, Code 1989, is amended to read as follows:

14 This section does not prohibit the admission of a patient  
15 with a history of dangerous or disturbing behavior to an  
16 intermediate care facility for the mentally ill, intermediate  
17 care facility for the mentally retarded, skilled nursing  
18 facility, or county care facility when the intermediate care  
19 facility for the mentally ill, intermediate care facility for  
20 the mentally retarded, skilled nursing facility, or county  
21 care facility has a program which has received prior approval  
22 from the department to properly care for and manage the  
23 patient. An intermediate care facility for the mentally ill,  
24 intermediate care facility for the mentally retarded, skilled  
25 nursing facility, or county care facility is required to  
26 transfer or discharge a resident with dangerous or disturbing  
27 behavior when the intermediate care facility for the mentally  
28 ill, intermediate care facility for the mentally retarded,  
29 skilled nursing facility, or county care facility cannot  
30 control the resident's dangerous or disturbing behavior. The  
31 department, in coordination with the state mental health and  
32 mental retardation commission, shall adopt rules pursuant to  
33 chapter 17A for programs to be required in intermediate care  
34 facilities for the mentally ill, intermediate care facilities  
35 for the mentally retarded, skilled nursing facilities, and

1 county care facilities that admit patients or have residents  
2 with histories of dangerous or disturbing behavior.

3 Sec. 10. Section 135C.39, unnumbered paragraph 2, Code  
4 Supplement 1989, is amended by striking the paragraph.

5 Sec. 11. NEW SECTION. 135C.45A NOTIFICATION PENALTY.

6 A person who notifies, or causes to be notified, a health  
7 care facility, of the time and date on which a survey or on-  
8 site inspection of the facility is scheduled, is subject to an  
9 administrative penalty of not less than one thousand dollars  
10 and not more than two thousand dollars.

11 Sec. 12. Section 135E.1, subsection 3, Code 1989, is  
12 amended to read as follows:

13 3. "Nursing home" means an institution or facility, or  
14 part thereof of an institution or facility, whether  
15 proprietary or nonprofit, licensed as an intermediate-care  
16 facility or a skilled nursing facility, but not including an  
17 intermediate care facility for the mentally retarded or an  
18 intermediate care facility for the mentally ill, defined as  
19 such for licensing purposes under state law or pursuant to the  
20 rules for nursing homes promulgated by the state board of  
21 health, in consultation with the department of inspections and  
22 appeals, whether proprietary or nonprofit administrative rule  
23 adopted pursuant to section 135C.2, including but not limited  
24 to, a nursing homes home owned or administered by the federal  
25 or state government or an agency or political subdivision of  
26 government.

27 Sec. 13. Section 225C.37, unnumbered paragraph 1, Code  
28 1989, is amended to read as follows:

29 A parent or legal guardian of a family member who is a  
30 resident of or being considered for placement in a state  
31 hospital-school, a community-based an intermediate care  
32 facility which is intended to serve for the mentally retarded  
33 individuals or persons with developmental disabilities, a  
34 child foster care group home, a child foster care family home,  
35 or a state mental health institute may apply to the local

1 office of the department for the family support subsidy  
2 program. The application shall include:

3 Sec. 14. Section 237.1, subsection 3, paragraph e, Code  
4 1989, is amended to read as follows:

5 e. Care furnished in a hospital licensed under chapter  
6 135B or care furnished in ~~an intermediate care facility or a~~  
7 skilled nursing facility licensed under chapter 135C.

8 Sec. 15. Section 249A.2, subsection 5, Code Supplement  
9 1989, is amended to read as follows:

10 5. "Discretionary medical assistance" means medical  
11 assistance or additional medical assistance provided to  
12 individuals whose income and resources are in excess of  
13 eligibility limitations but are insufficient to meet all of  
14 the costs of necessary medical care and services, provided  
15 that if the assistance includes services in institutions for  
16 mental diseases or intermediate care facility services  
17 facilities for the mentally retarded, or both, for any group  
18 of such individuals, the assistance also includes for all  
19 covered groups of such individuals at least the care and  
20 services enumerated in Title XIX of the federal Social  
21 Security Act, section 1905(a), paragraphs (1) through (5), and  
22 (17), as codified in 42 U.S.C. ~~see~~ § 1396d(a), pars. (1)  
23 through (5), and (17), or any seven of the care and services  
24 enumerated in Title XIX of the federal Social Security Act,  
25 section 1905(a), paragraphs (1) through (7) and (9) through  
26 (18), as codified in 42 U.S.C. ~~see~~ § 1396d(a), pars. (1)  
27 through (7), and (9) through (18).

28 Sec. 16. Section 422.45, subsection 22, paragraph a, Code  
29 Supplement 1989, is amended to read as follows:

30 a. Residential care facilities and intermediate care  
31 facilities for the mentally retarded and residential care  
32 facilities for the mentally ill licensed by the department of  
33 health inspections and appeals under chapter 135C.

34 Sec. 17. Section 514D.5, subsection 5, Code 1989, is  
35 amended to read as follows:

1 5. The commissioner shall adopt rules prohibiting the  
2 advertising of forms titled as "nursing home" forms or  
3 inferring coverage for custodial care in ~~an intermediate care~~  
4 a nursing facility as defined in section 135C.1 unless such  
5 forms provide coverage for custodial care in ~~an intermediate~~  
6 care a nursing facility as defined in section 135C.1.

7 Sec. 18. Section 514E.4, subsection 5, Code 1989, is  
8 amended to read as follows:

9 5. Services of a skilled nursing facility as defined in  
10 section 135C.1, ~~subsection 3, or services in an intermediate~~  
11 ~~care facility as defined in section 135E.1, subsection 2, to~~  
12 ~~the same extent as the services would be paid in a skilled~~  
13 ~~nursing facility,~~ for not more than one hundred eighty days in  
14 a calendar year.

15 Sec. 19. 1989 Iowa Acts, chapter 241, section 7, is  
16 repealed.

17 <sup>5225</sup>  
<sup>130217</sup> EXPLANATION

18 This bill relates to health care facilities by providing  
19 additional categories of health care facilities, eliminating  
20 the intermediate care facility and skilled nursing facility  
21 categories, and providing additional definitions, a penalty,  
22 and coordinating changes.

23 The bill establishes new definitions for nursing facility,  
24 intermediate care facility for the mentally retarded,  
25 qualified mental retardation professional, and  
26 interdisciplinary team.

27 The definition of health care facility is amended by  
28 striking the references to intermediate care facility and  
29 skilled nursing facility and adding references to intermediate  
30 care facility for the mentally ill and intermediate care  
31 facility for the mentally retarded. The definition of  
32 intermediate care facility for the mentally ill is amended to  
33 coordinate with the striking of the intermediate care facility  
34 definition. The section containing requirements for the  
35 nature of care required to be provided in a health care

1 facility is stricken and rewritten to coordinate with the  
2 amended definition of health care facility.

3 The department of inspections and appeals is granted  
4 authority related to citations applied to a health care  
5 facility in place of the Iowa department of public health.  
6 The department of inspections and appeals is granted authority  
7 to levy an administrative penalty of not less than \$1,000 and  
8 not more than \$2,000 when a person notifies a health care  
9 facility of the time and date of a survey or on-site  
10 inspection of the facility. A similar provision, limited to a  
11 survey or inspection in response to a complaint, is stricken.  
12 The repeal of the similar provision in the event a federal  
13 penalty is provided for the same action is repealed.

14 Coordinating amendments are provided in various Code  
15 sections to change references to an intermediate care facility  
16 and a skilled nursing facility to nursing facility.

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SENATE FILE 2307

S-5143

- 1 Amend Senate File 2307 as follows:
- 2 1. Page 3, line 32, by striking the word
- 3 "registered".

By JIM RIORDAN

S-5143 FILED FEBRUARY 20, 1990

*Placed 2/20 (p. 922)*

SENATE FILE 2307

S-5225

- 1 Amend Senate File 2307 as follows:
- 2 1. Page 2, by striking lines 5 through 11 and
- 3 inserting the following:
- 4 "NEW SUBSECTION. 21. "Intermediate care facility
- 5 for the mentally retarded" means an institution or
- 6 distinct part of an institution with a primary purpose
- 7 to provide health or rehabilitative services to three
- 8 or more individuals, who primarily have mental
- 9 retardation or a related condition and who are not
- 10 related to the administrator or owner within the third
- 11 degree of consanguinity, and which meets the
- 12 requirements of this chapter, federal standards for
- 13 intermediate care facilities for the mentally retarded
- 14 established pursuant to the federal Social Security
- 15 Act § 1905(c)(d), as codified in 42 U.S.C. § 1936d,
- 16 which are contained in 42 C.F.R. pt. 483, subpt. D, §
- 17 410-480."
- 18 2. By striking page 2, line 12, through page 3,
- 19 line 3.
- 20 3. Page 4, by striking lines 21 through 34.
- 21 4. Page 8, by inserting after line 16 the fol-
- 22 lowing:
- 23 "Sec. \_\_\_\_ . EFFECTIVE DATE.
- 24 This Act takes effect October 1, 1990."
- 25 5. Title page, by striking lines 1 and 2, and
- 26 inserting the following: "An Act relating to health
- 27 care facilities, providing a penalty, and providing an
- 28 effective date."
- 29 6. By renumbering as necessary.

By JIM RIORDAN

S-5225 FILED FEBRUARY 26, 1990

*w/d 3/7 (p. 922)*

## SENATE FILE 2307

S-5302

1 Amend Senate File 2307 as follows:

2 1. Page 1, lines 3 and 4, by striking the words  
3 "specifically including long-term care needs,  
4 including" and inserting the following: "specifically  
5 including long-term care needs, including".

6 2. By striking page 2, line 5, through page 3,  
7 line 3 and inserting the following:

8 "NEW SUBSECTION. 21. "Intermediate care facility  
9 for the mentally retarded" means an institution or  
10 distinct part of an institution with a primary purpose  
11 to provide health or rehabilitative services to three  
12 or more individuals, who primarily have mental  
13 retardation or a related condition and who are not  
14 related to the administrator or owner within the third  
15 degree of consanguinity, and which meets the  
16 requirements of this chapter and federal standards for  
17 intermediate care facilities for the mentally retarded  
18 established pursuant to the federal Social Security  
19 Act, § 1905(c)(d), as codified in 42 U.S.C. § 1936d  
20 which are contained in 42 C.F.R. pt. 483, subpt. D, §  
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22 3. Page 3, line 32, by striking the word  
23 "registered".

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25 5. Page 8, by inserting after line 16 the  
26 following:

27 "Sec. \_\_\_\_ . EFFECTIVE DATE.

28 This Act takes effect October 1, 1990."

29 6. Title page, by striking lines 1 and 2, and  
30 inserting the following: "An Act relating to health  
31 care facilities, providing a penalty, and providing an  
32 effective date."

33 7. By renumbering as necessary.

By JIM RIORDAN

S-5302 FILED MARCH 1, 1990

*Adopted 3/1 (p. 9.2.2)*

RIORDAN, CH.  
HANNON  
TINSMAN

SSB 2142  
HUMAN RESOURCES

SENATE FILE 2307  
BY (PROPOSED DEPARTMENT OF  
INSPECTIONS AND APPEALS BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to health care facilities and providing a  
2 penalty.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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31 or more individuals not related to the administrator or owner  
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33 engaged in providing health-related care and services,  
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35 primarily in providing treatment or care for mental illness or

1 mental retardation, for a period exceeding twenty-four  
2 consecutive hours for individuals who, because of a mental or  
3 physical condition, require nursing care and other services in  
4 addition to room and board.

5 NEW SUBSECTION. 21. "Intermediate care facility for the  
6 mentally retarded" means an institution, place, building, or  
7 agency designed to provide accommodation, board, and nursing  
8 care for a period exceeding twenty-four consecutive hours to  
9 three or more individuals, who primarily have mental  
10 retardation and who are not related to the administrator or  
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13 professional" means an individual who has at least one year of  
14 experience working directly with persons with mental  
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- 17 a. Is licensed as a physician under chapter 148 or 150A.
- 18 b. Is licensed as a registered nurse under chapter 152.
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  - 22 (3) Human services.
  - 23 (4) Occupational therapy.
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30 group of individuals who develop a single, integrated,  
31 individual program plan to meet the needs for services of an  
32 individual residing in an intermediate care facility for the  
33 mentally retarded. The group consists of the individual  
34 resident, the resident's legal guardian, if any, the  
35 resident's advocate, if desired by the resident, a referral

1 agency representative, staff members of the resident's  
2 facility, other providers of services to the resident, and  
3 other individuals relevant to the resident's needs.

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5 1, Code Supplement 1989, is amended to read as follows:

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8 ~~classification-for-facilities-intended-to-serve-mentally~~  
9 ~~retarded-individuals, and~~ within the residential care facility  
10 category, a special classification for residential facilities  
11 intended to serve mentally ill individuals. The department  
12 may also establish by administrative rule other  
13 ~~classifications-within-that-category, or special~~  
14 classifications within the residential care facility,  
15 intermediate care facility for the mentally ill, intermediate  
16 care facility for the mentally retarded, or skilled nursing  
17 facility categories, for facilities intended to serve  
18 individuals who have special health care problems or  
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2 order certifying that the individual being admitted requires  
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7 ill shall provide an organized twenty-four-hour program of  
8 services commensurate with the needs of its residents and  
9 under the immediate direction of a licensed registered nurse,  
10 who has had at least two years of recent experience in a  
11 chronic or acute psychiatric setting. Medical and nursing  
12 service must be provided under the direction of either a house  
13 physician or an individually selected physician. Surgery or  
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19 admission is made is licensed to provide and is capable of  
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22 retarded shall provide an organized twenty-four-hour program  
23 of services commensurate with the needs of its residents and  
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25 retardation professional. Medical and nursing services must  
26 be provided under the direction of either a house physician or  
27 an individually selected physician. Surgery or obstetrical  
28 care shall not be provided within the facility. An admission  
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35 Sec. 8. Section 135C.19, subsection 3, Code 1989, is

1 amended to read as follows:

2 3. If the facility cited subsequently advises the  
3 department of human services that the violation has been  
4 corrected to the satisfaction of the department of ~~health~~  
5 inspections and appeals, the department of human services must  
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8 disseminate to the public any information regarding citations  
9 issued by the department of ~~health~~ inspections and appeals,  
10 but shall forward or refer such inquiries to the department of  
11 health inspections and appeals.

12 Sec. 9. Section 135C.23, subsection 2, unnumbered  
13 paragraph 2, Code 1989, is amended to read as follows:

14 This section does not prohibit the admission of a patient  
15 with a history of dangerous or disturbing behavior to an  
16 intermediate care facility for the mentally ill, intermediate  
17 care facility for the mentally retarded, skilled nursing  
18 facility, or county care facility when the intermediate care  
19 facility for the mentally ill, intermediate care facility for  
20 the mentally retarded, skilled nursing facility, or county  
21 care facility has a program which has received prior approval  
22 from the department to properly care for and manage the  
23 patient. An intermediate care facility for the mentally ill,  
24 intermediate care facility for the mentally retarded, skilled  
25 nursing facility, or county care facility is required to  
26 transfer or discharge a resident with dangerous or disturbing  
27 behavior when the intermediate care facility for the mentally  
28 ill, intermediate care facility for the mentally retarded,  
29 skilled nursing facility, or county care facility cannot  
30 control the resident's dangerous or disturbing behavior. The  
31 department, in coordination with the state mental health and  
32 mental retardation commission, shall adopt rules pursuant to  
33 chapter 17A for programs to be required in intermediate care  
34 facilities for the mentally ill, intermediate care facilities  
35 for the mentally retarded, skilled nursing facilities, and

1 county care facilities that admit patients or have residents  
2 with histories of dangerous or disturbing behavior.

3 Sec. 10. Section 135C.39, unnumbered paragraph 2, Code  
4 Supplement 1989, is amended by striking the paragraph.

5 Sec. 11. NEW SECTION. 135C.45A NOTIFICATION PENALTY.

6 A person who notifies, or causes to be notified, a health  
7 care facility, of the time and date on which a survey or on-  
8 site inspection of the facility is scheduled, is subject to an  
9 administrative penalty of not less than one thousand dollars  
10 and not more than two thousand dollars.

11 Sec. 12. Section 135E.1, subsection 3, Code 1989, is  
12 amended to read as follows:

13 3. "Nursing home" means an institution or facility, or  
14 part thereof of an institution or facility, whether  
15 proprietary or nonprofit, licensed as an intermediate-care  
16 facility-or a skilled nursing facility, but not including an  
17 intermediate care facility for the mentally retarded or an  
18 intermediate care facility for the mentally ill, defined as  
19 such for licensing purposes under state law or pursuant-to-the  
20 rules-for-nursing-homes-promulgated-by-the-state-board-of  
21 health,-in-consultation-with-the-department-of-inspections-and  
22 appeals,-whether-proprietary-or-nonprofit administrative rule  
23 adopted pursuant to section 135C.2, including but not limited  
24 to, a nursing homes home owned or administered by the federal  
25 or state government or an agency or political subdivision of  
26 government.

27 Sec. 13. Section 225C.37, unnumbered paragraph 1, Code  
28 1989, is amended to read as follows:

29 A parent or legal guardian of a family member who is a  
30 resident of or being considered for placement in a state  
31 hospital-school, a-community-based an intermediate care  
32 facility which-is-intended-to-serve for the mentally retarded  
33 individuals-or-persons-with-developmental-disabilities, a  
34 child foster care group home, a child foster care family home,  
35 or a state mental health institute may apply to the local

1 office of the department for the family support subsidy  
2 program. The application shall include:

3 Sec. 14. Section 237.1, subsection 3, paragraph e, Code  
4 1989, is amended to read as follows:

5 e. Care furnished in a hospital licensed under chapter  
6 135B or care furnished in ~~an intermediate care facility or a~~  
7 ~~skilled~~ nursing facility licensed under chapter 135C.

8 Sec. 15. Section 249A.2, subsection 5, Code Supplement  
9 1989, is amended to read as follows:

10 5. "Discretionary medical assistance" means medical  
11 assistance or additional medical assistance provided to  
12 individuals whose income and resources are in excess of  
13 eligibility limitations but are insufficient to meet all of  
14 the costs of necessary medical care and services, provided  
15 that if the assistance includes services in institutions for  
16 mental diseases or intermediate care ~~facility-services~~  
17 facilities for the mentally retarded, or both, for any group  
18 of such individuals, the assistance also includes for all  
19 covered groups of such individuals at least the care and  
20 services enumerated in Title XIX of the federal Social  
21 Security Act, section 1905(a), paragraphs (1) through (5), and  
22 (17), as codified in 42 U.S.C. ~~see~~ § 1396d(a), pars. (1)  
23 through (5), and (17), or any seven of the care and services  
24 enumerated in Title XIX of the federal Social Security Act,  
25 section 1905(a), paragraphs (1) through (7) and (9) through  
26 (18), as codified in 42 U.S.C. ~~see~~ § 1396d(a), pars. (1)  
27 through (7), and (9) through (18).

28 Sec. 16. Section 422.45, subsection 22, paragraph a, Code  
29 Supplement 1989, is amended to read as follows:

30 a. Residential care facilities and intermediate care  
31 facilities for the mentally retarded and residential care  
32 facilities for the mentally ill licensed by the department of  
33 health inspections and appeals under chapter 135C.

34 Sec. 17. Section 514D.5, subsection 5, Code 1989, is  
35 amended to read as follows:

1 5. The commissioner shall adopt rules prohibiting the  
2 advertising of forms titled as "nursing home" forms or  
3 inferring coverage for custodial care in ~~an intermediate care~~  
4 a nursing facility as defined in section 135C.1 unless such  
5 forms provide coverage for custodial care in ~~an intermediate~~  
6 care a nursing facility as defined in section 135C.1.

7 Sec. 18. Section 514E.4, subsection 5, Code 1989, is  
8 amended to read as follows:

9 5. Services of a skilled nursing facility as defined in  
10 section 135C.1, ~~subsection 3, or services in an intermediate~~  
11 ~~care facility as defined in section 135C.1, subsection 2, to~~  
12 ~~the same extent as the services would be paid in a skilled~~  
13 ~~nursing facility,~~ for not more than one hundred eighty days in  
14 a calendar year.

15 Sec. 19. 1989 Iowa Acts, chapter 241, section 7, is  
16 repealed.

17

#### EXPLANATION

18 This bill relates to health care facilities by providing  
19 additional categories of health care facilities, eliminating  
20 the intermediate care facility and skilled nursing facility  
21 categories, and providing additional definitions, a penalty,  
22 and coordinating changes.

23 The bill establishes new definitions for nursing facility,  
24 intermediate care facility for the mentally retarded,  
25 qualified mental retardation professional, and  
26 interdisciplinary team.

27 The definition of health care facility is amended by  
28 striking the references to intermediate care facility and  
29 skilled nursing facility and adding references to intermediate  
30 care facility for the mentally ill and intermediate care  
31 facility for the mentally retarded. The definition of  
32 intermediate care facility for the mentally ill is amended to  
33 coordinate with the striking of the intermediate care facility  
34 definition. The section containing requirements for the  
35 nature of care required to be provided in a health care

1 facility is stricken and rewritten to coordinate with the  
2 amended definition of health care facility.

3 The department of inspections and appeals is granted  
4 authority related to citations applied to a health care  
5 facility in place of the Iowa department of public health.  
6 The department of inspections and appeals is granted authority  
7 to levy an administrative penalty of not less than \$1,000 and  
8 not more than \$2,000 when a person notifies a health care  
9 facility of the time and date of a survey or on-site  
10 inspection of the facility. A similar provision, limited to a  
11 survey or inspection in response to a complaint, is stricken.  
12 The repeal of the similar provision in the event a federal  
13 penalty is provided for the same action is repealed.

14 Coordinating amendments are provided in various Code  
15 sections to change references to an intermediate care facility  
16 and a skilled nursing facility to nursing facility.

17 BACKGROUND STATEMENT

18 SUBMITTED BY THE AGENCY

19 A legislative change to chapter 135C is being requested.  
20 The federal Omnibus Budget Reconciliation Act of 1987 (OBRA  
21 '87) redefined the levels of intermediate care facilities and  
22 skilled nursing facilities certified for medicaid and Medicare  
23 reimbursement. Intermediate care facilities and skilled  
24 nursing facilities were changed to nursing facilities. The  
25 standards for nursing facilities will be at the skilled level.  
26 This will result in currently medicaid-certified intermediate  
27 care facilities meeting stricter standards.

28 In order to ensure that terminology and standards for  
29 facilities are consistent throughout the state of Iowa,  
30 definitions for intermediate care facilities and skilled  
31 nursing facilities would be redefined as nursing facilities.  
32 The federal definition of nursing facilities is being used as  
33 the basis for the new definition for state licensure purposes.

34 As a result of redefining intermediate care facilities and  
35 skilled nursing facilities as nursing facilities, new or

1 revised definitions for intermediate care facilities for the  
2 mentally ill and intermediate care facilities for the mentally  
3 retarded are needed. These classifications were not affected  
4 by OBRA '87.

5 Another portion of this legislative request is to repeal  
6 the prospective repeal of the civil penalty for prior  
7 notification of surveys or on-site inspections of health care  
8 facilities. The repeal would have gone into effect when the  
9 OBRA '87 penalty became effective. OBRA '87 only applies to  
10 those facilities which are medicaid or Medicare certified.  
11 Thus, a sanction would not exist for state-licensed health  
12 care facilities, which includes residential care facilities.  
13 In addition, in order for federal OBRA '87 sanctions to be  
14 imposed by the state, state authority would be required.

15 The civil penalty has also been changed to an  
16 administrative penalty to allow the department of inspections  
17 and appeals to assess the penalty. The same administrative  
18 law process would apply to this sanction as other adverse  
19 actions taken by the department.

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