

Reprinted

FILED FEB 21 1995

SENATE FILE 174
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 108)

Passed Senate, ^(p. 715) Date 3/20/95 Passed House, Date _____
Vote: Ayes 50 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to health facilities under the purview of the
2 department of inspections and appeals.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 174

S-3098

1 Amend Senate File 174 as follows:
2 1. Page 1, by striking line 24 and inserting the
3 following: "in section 135C.1, by a caretaker
4 providing services to or employed by the health care
5 facility, whether within the health care facility or
6 at a location outside of the health care facility."
By ROBERT DVORSKY

S-3098 FILED MARCH 6, 1995
(p. 715) 3/20/95 Adopted

SC. 174

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

Reprinted

FILED FEB 21 1995

SENATE FILE 174
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 108)

Passed Senate, ^(p.715) Date 3/20/95 Passed House, Date _____
Vote: Ayes 50 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to health facilities under the purview of the
2 department of inspections and appeals.

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

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

SENATE FILE 174

S-3098

1 Amend Senate File 174 as follows:
2 1. Page 1, by striking line 24 and inserting the
3 following: "in section 135C.1, by a caretaker
4 providing services to or employed by the health care
5 facility, whether within the health care facility or
6 at a location outside of the health care facility."

By ROBERT DVORSKY

S-3098 FILED MARCH 6, 1995
(p.715) 3/20/95 adopted

SC. 174

1 Section 1. Section 135B.9, unnumbered paragraph 1, Code
2 1995, is amended to read as follows:

3 The department shall make or cause to be made inspections
4 as it deems necessary in order to determine compliance with
5 applicable rules. ~~A-licensee-or-applicant-for-a-license
6 desiring-to-make-a-specific-type-of-alteration-or-addition-to
7 its-facilities-or-to-construct-new-facilities-shall, before
8 commencing-the-alteration, addition, or new construction,
9 submit-plans-and-specifications-to-the-department-for
10 preliminary-inspection-and-approval-or-recommendations-with
11 respect-to-compliance-with-the-applicable-rules-and-standards.~~

12 Sec. 2. NEW SECTION. 135H.8A PROVISIONAL LICENSE.

13 The department may issue a provisional license, effective
14 for not more than one year, to a licensee whose psychiatric
15 institution does not meet the requirements of this chapter,
16 if, prior to issuance of the license, written plans to achieve
17 compliance with the applicable requirements are submitted to
18 and approved by the department. The plans shall specify the
19 deadline for achieving compliance.

20 Sec. 3. Section 235B.2, subsection 5, Code 1995, is
21 amended by adding the following new paragraph:

22 NEW PARAGRAPH. c. Sexual exploitation of a dependent
23 adult who is a resident of a health care facility, as defined
24 in section 135C.1, by a caretaker in a health care facility.

25 "Sexual exploitation" means any consensual or nonconsensual
26 sexual conduct with a dependent adult for the purpose of
27 arousing or satisfying the sexual desires of the caretaker or
28 dependent adult, which includes but is not limited to kissing;
29 touching of the clothed or unclothed inner thigh, breast,
30 groin, buttock, anus, pubes, or genitals; or a sex act, as
31 defined in section 702.17. Sexual exploitation does not
32 include touching which is part of a necessary examination,
33 treatment, or care by a caretaker acting within the scope of
34 the practice or employment of the caretaker, or touching
35 between spouses.



SENATE FILE 174

S-3079

- 1 Amend Senate File 174 as follows:
- 2 1. Page 1, by striking line 24 and inserting the
- 3 following: "in section 135C.1, by a caretaker
- 4 providing services to a dependent adult, whether
- 5 within the health care facility or at a location
- 6 outside of the health care facility."

WITHDRAWN
3-20-95 (p. 715) By ROBERT DVORSKY

S-3079 FILED FEBRUARY 28, 1995

SENATE FILE 174

S-3081

- 1 Amend Senate File 174 as follows:
- 2 1. Page 1, line 34, by striking the word
- 3 "caretaker," and inserting the following: "caretaker;
- 4 the exchange of a brief touch or hug between the
- 5 dependent adult and a caretaker for the purpose of
- 6 reassurance, comfort or casual friendship;".

By STEVEN D. HANSEN

S-3081 FILED MARCH 1, 1995

(p. 715) Adopted 3/20/95

WITNESS

1 Section 1. Section 135B.9, unnumbered paragraph 1, Code
2 1995, is amended to read as follows:

3 The department shall make or cause to be made inspections
4 as it deems necessary in order to determine compliance with
5 applicable rules. ~~A licensee or applicant for a license
6 desiring to make a specific type of alteration or addition to
7 its facilities or to construct new facilities shall, before
8 commencing the alteration, addition, or new construction,
9 submit plans and specifications to the department for
10 preliminary inspection and approval or recommendations with
11 respect to compliance with the applicable rules and standards.~~

12 Sec. 2. NEW SECTION. 135H.8A PROVISIONAL LICENSE.

13 The department may issue a provisional license, effective
14 for not more than one year, to a licensee whose psychiatric
15 institution does not meet the requirements of this chapter,
16 if, prior to issuance of the license, written plans to achieve
17 compliance with the applicable requirements are submitted to
18 and approved by the department. The plans shall specify the
19 deadline for achieving compliance.

20 Sec. 3. Section 235B.2, subsection 5, Code 1995, is
21 amended by adding the following new paragraph:

22 NEW PARAGRAPH. c. Sexual exploitation of a dependent
23 adult who is a resident of a health care facility, as defined
24 in section 135C.1, by a caretaker providing services to or
25 employed by the health care facility, whether within the
26 health care facility or at a location outside of the health
27 care facility.

28 "Sexual exploitation" means any consensual or nonconsensual
29 sexual conduct with a dependent adult for the purpose of
30 arousing or satisfying the sexual desires of the caretaker or
31 dependent adult, which includes but is not limited to kissing;
32 touching of the clothed or unclothed inner thigh, breast,
33 groin, buttock, anus, pubes, or genitals; or a sex act, as
34 defined in section 702.17. Sexual exploitation does not
35 include touching which is part of a necessary examination,

1 treatment, or care by a caretaker acting within the scope of
2 the practice or employment of the caretaker; the exchange of a
3 brief touch or hug between the dependent adult and a caretaker
4 for the purpose of reassurance, comfort or casual friendship;
5 or touching between spouses.

6 Sec. 4. Section 235B.3, subsection 3, Code 1995, is
7 amended to read as follows:

8 3. If a staff member or employee is required to report
9 pursuant to this section, the person shall immediately notify
10 the person in charge or the person's designated agent, and the
11 person in charge or the designated agent shall make the report
12 by the end of the next business day.

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35



Dvorsky
Neuhauser
Boettger

SS B-108
Human Resources

Succeeded By
SENATE/HOUSE FILE 114
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 facilities under the purview of the
2 department of inspections and appeals.

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

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

1 ~~Section 1, Section 135B.9, unnumbered paragraph 1, Code~~
2 ~~1995,~~ is amended to read as follows:

3 The department shall make or cause to be made inspections
4 as it deems necessary in order to determine compliance with
5 applicable rules. ~~A-licensee-or-applicant-for-a-license~~
6 ~~desiring-to-make-a-specific-type-of-alteration-or-addition-to~~
7 ~~its-facilities-or-to-construct-new-facilities-shall, before~~
8 ~~commencing-the-alteration, addition, or new construction,~~
9 ~~submit-plans-and-specifications-to-the-department-for~~
10 ~~preliminary-inspection-and-approval-or-recommendations-with~~
11 ~~respect-to-compliance-with-the-applicable-rules-and-standards.~~

12 Sec. 2. NEW SECTION. 135H.8A PROVISIONAL LICENSE.

13 The department may issue a provisional license, effective
14 for not more than one year, to a licensee whose psychiatric
15 institution does not meet the requirements of this chapter,
16 if, prior to issuance of the license, written plans to achieve
17 compliance with the applicable requirements are submitted to
18 and approved by the department. The plans shall specify the
19 deadline for achieving compliance.

20 Sec. 3. Section 235B.2, subsection 5, Code 1995, is
21 amended by adding the following new paragraph:

22 NEW PARAGRAPH. c. Sexual exploitation by a caretaker in a
23 health care facility as defined pursuant to section 135C.1.
24 "Sexual exploitation" means any sexual conduct with a
25 dependent adult for the purpose of arousing or satisfying the
26 sexual desires of the caretaker or dependent adult, which
27 includes but is not limited to kissing; touching of the
28 clothed or unclothed inner thigh, breast, groin, buttock,
29 anus, pubes, or genitals; or a sex act as defined in section
30 702.17. Actions utilized in providing necessary treatment or
31 care in accordance with accepted standards of practice is not
32 considered sexual exploitation.

33

EXPLANATION

34 This bill relates to health facilities under the purview of
35 the department of inspections and appeals. Section 1

1 eliminates a requirement that a hospital licensee or applicant
2 for a license submit plans to the department prior to
3 alteration, addition, or new construction, for inspection and
4 approval or recommendations by the department. Section 2
5 provides for provisional licensure of psychiatric medical
6 institutions for children. Section 3 defines sexual
7 exploitation by a caretaker in a health care facility as
8 dependent adult abuse for the purposes of the dependent adult
9 abuse chapter.

10 BACKGROUND STATEMENT

11 SUBMITTED BY THE AGENCY

12 Section 1 amends chapter 135B to remove outdated language
13 relating to preliminary inspection and approval of
14 construction plans for hospitals. The department has not
15 routinely reviewed construction plans since 1981, when funding
16 was reduced for this function.

17 Section 2 brings the licensing provisions for psychiatric
18 medical institutions for children (PMIC) in concert with
19 licensing provisions for a comprehensive residential facility.
20 Currently when a PMIC, which must also be licensed as either a
21 comprehensive residential facility or a substance abuse
22 facility, is in noncompliance with chapter 135H, the
23 department has two options for licensing -- fully licensing or
24 revoking the license. The comprehensive residential facility
25 licensing provisions allow for a provisional license in cases
26 of noncompliance. In order for the PMIC licensing provisions
27 to conform to the comprehensive licensing provision, this
28 language is necessary. In addition, this language will
29 provide flexibility to the department by allowing another
30 alternative for bringing facilities into compliance.

31 Section 3 adds a definition of "sexual exploitation by a
32 caretaker in a health care facility" to chapter 235B,
33 dependent adult abuse. This language covers concerns
34 regarding consensual sexual activity between a caretaker and a
35 resident in a health care facility. Under the current

S.F. _____ H.F. _____

1 definition of sexual abuse, consensual sexual activity in a
2 health care facility would not be considered sexual abuse.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 174

AN ACT

RELATING TO HEALTH FACILITIES UNDER THE PURVIEW OF THE DEPARTMENT OF INSPECTIONS AND APPEALS.

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

Section 1. Section 135B.9, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The department shall make or cause to be made inspections as it deems necessary in order to determine compliance with applicable rules. ~~A licensee or applicant for a license desiring to make a specific type of alteration or addition to its facilities or to construct new facilities shall, before commencing the alteration, addition, or new construction, submit plans and specifications to the department for~~

~~preliminary inspection and approval or recommendations with respect to compliance with the applicable rules and standards.~~

Sec. 2. NEW SECTION. 135H.8A PROVISIONAL LICENSE.

The department may issue a provisional license, effective for not more than one year, to a licensee whose psychiatric institution does not meet the requirements of this chapter, if, prior to issuance of the license, written plans to achieve compliance with the applicable requirements are submitted to and approved by the department. The plans shall specify the deadline for achieving compliance.

Sec. 3. Section 235B.2, subsection 5, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Sexual exploitation of a dependent adult who is a resident of a health care facility, as defined in section 135C.1, by a caretaker providing services to or employed by the health care facility, whether within the health care facility or at a location outside of the health care facility.

"Sexual exploitation" means any consensual or nonconsensual sexual conduct with a dependent adult for the purpose of arousing or satisfying the sexual desires of the caretaker or dependent adult, which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17. Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort or casual friendship; or touching between spouses.

Sec. 4. Section 235B.3, subsection 3, Code 1995, is amended to read as follows:

3. If a staff member or employee is required to report pursuant to this section, the person shall immediately notify

the person in charge or the person's designated agent, and the person in charge or the designated agent shall make the report by the end of the next business day.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 174, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 24, 1995

TERRY E. BRANSTAD
Governor