

**CHAPTER 139****DEPARTMENT OF PUBLIC HEALTH — MISCELLANEOUS PROVISIONS***H.F. 361*

**AN ACT** relating to areas under the purview of the Iowa department of public health related to substitute medical decision-making boards, home care aide drivers' licensure, the use of mammography machines, burial transit permits, substance abuse treatment programs, and the membership of the council on chemically exposed infants by adding representation by the department of corrections.

*Be It Enacted by the General Assembly of the State of Iowa:*

**Section 1. NEW SECTION. 125.15A LICENSURE — EMERGENCIES.**

1. The department may place an employee or agent to serve as a monitor in a licensed substance abuse treatment program or may petition the court for appointment of a receiver for a program when any of the following conditions exist:

- a. The program is operating without a license.
- b. The commission has suspended, revoked, or refused to renew the existing license of the program.
- c. The program is closing or has informed the department that it intends to close and adequate arrangements for the location of clients have not been made at least thirty days before the closing.
- d. The department determines that an emergency exists, whether or not it has initiated revocation or nonrenewal procedures, and because of the unwillingness or inability of the licensee to remedy the emergency, the department determines that a monitor or receiver is necessary. As used in this paragraph, "emergency" means a threat to the health, safety, or welfare of a client that the program is unwilling or unable to correct.

2. The monitor shall observe operation of the program, assist the program with advice regarding compliance with state regulations, and report periodically to the department on the operation of the program.

**Sec. 2. Section 135.28, unnumbered paragraph 1, Code 1993, is amended to read as follows:**

A state substitute medical decision-making board is established to formulate policy and guidelines for the operations of local substitute medical decision-making boards, and to act if a local substitute medical decision-making board does not exist. The department, with the approval of the state substitute medical decision-making board, shall adopt rules pursuant to chapter 17A for the appointment and operation of local substitute medical decision-making boards. Notwithstanding any other provision to the contrary regarding confidentiality of medical records, the state substitute medical decision-making board may issue subpoenas relating to the production of medical records of a patient under the board's review. A person participating in good faith in releasing medical record information in response to a board subpoena is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

**Sec. 3. Section 135.29, subsection 2, Code 1993, is amended to read as follows:**

2. Pursuant to rules adopted by the department, the local substitute medical decision-making board may act as a substitute decision maker for patients incapable of making their own medical care decisions if no other substitute decision maker is available to act. The local substitute medical decision-making board may exercise decision-making authority in situations where there is sufficient time to review the patient's condition, and a reasonably prudent person would consider a decision to be medically necessary. Such medically necessary decisions shall constitute good cause for subsequently filing a petition in the district court for appointment of a guardian pursuant to chapter 633, but the local substitute medical decision-making board shall continue to act in the patient's best interests until a guardian is appointed. Notwithstanding any other provision to the contrary regarding confidentiality of medical records, the local substitute decision-making board may issue subpoenas relating to the production of medical

records of a patient under the board's review. A person participating in good faith in releasing medical record information in response to a board subpoena is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

Sec. 4. Section 136C.15, subsection 2, paragraph d, Code 1993, is amended by striking the paragraph.

Sec. 5. NEW SECTION. 144.32 BURIAL TRANSIT PERMIT.

If a person other than a funeral director assumes custody of a dead body or fetus, the person shall secure a burial-transit permit. To be valid, the burial-transit permit must be issued by the county medical examiner, a funeral director, or the county registrar of the county where the certificate of death or fetal death was filed. The permit shall be obtained prior to the removal of the body or fetus from the place of death and the permit shall accompany the body or fetus to the place of final disposition.

To transfer a dead body or fetus outside of this state, the funeral director who first assumes custody of the dead body or fetus shall obtain a burial-transit permit prior to the transfer. The permit shall accompany the dead body or fetus to the place of final disposition.

A dead body or fetus brought into this state for final disposition shall be accompanied by a burial-transit permit under the law of the state in which the death occurred.

A burial-transit permit shall not be issued to a person other than a funeral director when the cause of death is or is suspected to be a communicable disease as defined by rule of the department.

Sec. 6. Section 235C.2, Code 1993, is amended by adding the following new subsection: NEW SUBSECTION. 4A. The director of the department of corrections or the director's designee, as a nonvoting ex officio member.

Sec. 7. Section 321.1, subsection 8, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person is not a chauffeur when the operation is by a home care aide in the course of the home care aide's duties.

Sec. 8. Section 321.176A, Code 1993, is amended by adding the following new subsection: NEW SUBSECTION. 7. A home care aide operating a motor vehicle in the course of the home care aide's duties.

Approved May 19, 1993

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## CHAPTER 140

### HIV-RELATED TESTS FOR CONVICTED SEXUAL ASSAULT OFFENDERS

*H.F. 418*

**AN ACT** relating to the testing of a person for the human immunodeficiency virus following conviction for certain offenses, making relief provisions applicable for violation of confidentiality, and providing a penalty.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. 709B.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "AIDS" means acquired immune deficiency syndrome as defined by the centers for disease control of the United States department of health and human services.
2. "Convicted offender" means a person convicted of a sexual assault.