

3. a. A license issued pursuant to this section shall only be used in the line of duty when it is necessary for the officer holding the license to assume a fictitious identity. An officer issued a license pursuant to this section shall report as soon as practical to the law enforcement agency employing the officer any traffic citation issued to the officer while using the officer's fictitious identity.

b. An officer using a license issued under this section shall not be prosecuted for a public offense under this chapter if the offense was committed in the line of duty and was necessary to protect the identity of the officer. However, this paragraph shall not apply to a violation of subsection 4, paragraph "a".

4. a. An officer who provides the department false information for the purposes of obtaining a license under this section commits a class "D" felony.

b. An officer who displays or uses a license issued pursuant to this section during the commission or attempted commission of a public offense other than a public offense referred to in subsection 3 or who knowingly permits another person to use the license issued under this section commits a class "D" felony.

c. An officer who displays or uses a license issued pursuant to this section in any manner which is not a public offense but which is not authorized under this section or who knowingly fails or refuses to surrender the license upon demand by the department commits an aggravated misdemeanor.

5. The fee for issuing a license under this section shall be the same as for licenses issued pursuant to section 321.189.

6. The department shall keep as confidential public records under section 22.7, all records regarding licenses issued under this section.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 1, 1997

CHAPTER 93

HEALTH FACILITIES AND SERVICES — CERTIFICATE OF NEED PROGRAM

S.F. 236

AN ACT relating to the certificate of need program.

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

Section 1. Section 135.61, subsection 14, Code 1997, is amended to read as follows:

14. "Institutional health facility" means any of the following, without regard to whether the facilities referred to are publicly or privately owned or are organized for profit or not or whether the facilities are part of or sponsored by a health maintenance organization:

- a. A hospital.
- b. A health care facility.
- ~~c. A kidney disease treatment center, including any freestanding hemodialysis unit but not including any home hemodialysis unit.~~
- d. An organized outpatient health facility.
- e. An outpatient surgical facility.
- f. A community mental health facility.
- g. A birth center.

Sec. 2. Section 135.61, subsection 18, paragraphs c, e, and g through m, Code 1997, are amended to read as follows:

c. Any capital expenditure, lease, or donation by or on behalf of an institutional health facility in excess of ~~eight~~ one million five hundred thousand dollars within a twelve-month period.

e. Any expenditure in excess of ~~three~~ five hundred thousand dollars by or on behalf of an institutional health facility for health services which are or will be offered in or through an institutional health facility at a specific time but which were not offered on a regular basis in or through that institutional health facility within the twelve-month period prior to that time.

g. Any acquisition by or on behalf of a health care provider or a group of health care providers of any piece of replacement equipment with a value in excess of ~~four~~ one million five hundred thousand dollars, whether acquired by purchase, lease, or donation.

h. Any acquisition by or on behalf of a health care provider or group of health care providers of any piece of equipment with a value in excess of ~~three~~ one million five hundred thousand dollars, whether acquired by purchase, lease, or donation, which results in the offering or development of a health service not previously provided. A mobile service provided on a contract basis is not considered to have been previously provided by a health care provider or group of health care providers.

i. Any acquisition by or on behalf of an institutional health facility or a health maintenance organization of any piece of replacement equipment with a value in excess of ~~four~~ one million five hundred thousand dollars, whether acquired by purchase, lease, or donation.

j. Any acquisition by or on behalf of an institutional health facility or health maintenance organization of any piece of equipment with a value in excess of ~~three~~ one million five hundred thousand dollars, whether acquired by purchase, lease, or donation, which results in the offering or development of a health service not previously provided. A mobile service provided on a contract basis is not considered to have been previously provided by an institutional health facility.

k. Any air transportation ~~system~~ service for transportation of patients or medical personnel offered through an institutional health facility at a specific time but which was not offered on a regular basis in or through that institutional health facility within the twelve-month period prior to the specific time.

l. Any mobile health service with a value in excess of ~~three~~ one million five hundred thousand dollars.

m. Any of the following:

(1) Cardiac catheterization service.

(2) Open heart surgical service.

(3) Organ transplantation service.

(4) Radiation therapy service applying ionizing radiation for the treatment of malignant disease using megavoltage external beam equipment.

Sec. 3. Section 135.62, subsection 2, paragraph c, Code 1997, is amended to read as follows:

c. MEETINGS. The council shall hold an organizational meeting in July of each odd-numbered year, or as soon thereafter as the new appointee or appointees are confirmed and have qualified. Other meetings shall be held ~~at least once each month, and may be held more frequently if~~ as necessary to enable the council to expeditiously discharge its duties. Meeting dates shall be set upon adjournment or by call of the chairperson upon five days' notice to the other members. Each member of the council shall receive a per diem as specified in section 7E.6 and reimbursement for actual expenses while engaged in official duties.

Sec. 4. Section 135.63, subsection 1, Code 1997, is amended to read as follows:

1. A new institutional health service or changed institutional health service shall not be offered or developed in this state without prior application to the department for and receipt

of a certificate of need, pursuant to this division. The application shall be made upon forms furnished or prescribed by the department and shall contain such information as the department may require under this division. The application shall be accompanied by a fee equivalent to three-tenths of one percent of the anticipated cost of the project with a minimum fee of six hundred dollars and a maximum fee of twenty-one thousand dollars. The fee shall be remitted by the department to the treasurer of state, who shall place it in the general fund of the state. If an application is voluntarily withdrawn within thirty calendar days after submission, seventy-five percent of the application fee shall be refunded; if the application is voluntarily withdrawn more than thirty but within sixty days after submission, fifty percent of the application fee shall be refunded; if the application is withdrawn voluntarily more than sixty days after submission, twenty-five percent of the application fee shall be refunded. Notwithstanding the required payment of an application fee under this subsection, an applicant for a new institutional health service or a changed institutional health service offered or developed by an intermediate care facility for persons with mental retardation or an intermediate care facility for persons with mental illness as defined pursuant to section 135C.1 is exempt from payment of the application fee.

Sec. 5. Section 135.63, subsection 2, paragraph a, Code 1997, is amended to read as follows:

a. Private offices and private clinics of an individual physician, dentist, or other practitioner or group of health care providers, except as provided by section 135.61, subsection 18, paragraphs "g", ~~and "h"~~, and "m", and subsections 20 and 21.

Sec. 6. Section 135.63, subsection 2, Code 1997, is amended by adding the following new paragraphs:

NEW PARAGRAPH. j. The construction, modification, or replacement of nonpatient care services, including parking facilities, heating, ventilation and air conditioning systems, computers, telephone systems, medical office buildings, and other projects of a similar nature, notwithstanding any provision in this division to the contrary.

NEW PARAGRAPH. k. The redistribution of beds by a hospital within the acute care category of bed usage, notwithstanding any provision in this division to the contrary, if all of the following conditions exist:

(1) The hospital reports to the department the number and type of beds to be redistributed on a form prescribed by the department at least thirty days before the redistribution.

(2) The hospital reports the new distribution of beds on its next annual report to the department.

If these conditions are not met, the redistribution of beds by the hospital is subject to review as a new institutional health service or changed institutional health service pursuant to section 135.61, subsection 18, paragraph "d", and is subject to sanctions under section 135.73.

NEW PARAGRAPH. l. The replacement or modernization of any institutional health facility if the replacement or modernization does not add new health services or additional bed capacity for existing health services, notwithstanding any provision in this division to the contrary.

NEW PARAGRAPH. m. Hemodialysis services provided by a hospital or freestanding facility, notwithstanding any provision in this division to the contrary.

NEW PARAGRAPH. n. Hospice services provided by a hospital, notwithstanding any provision in this division to the contrary.

NEW PARAGRAPH. o. The change in ownership, licensure, organizational structure, or designation of the type of institutional health facility if the health services offered by the successor institutional health facility are unchanged.

NEW PARAGRAPH. p. The conversion of an existing number of beds by an intermediate care facility for persons with mental retardation to a smaller facility environment, including but not limited to a community-based environment which does not result in an increased

number of beds, notwithstanding any provision in this division to the contrary, including subsection 4, if all of the following conditions exist:

(1) The intermediate care facility for persons with mental retardation reports the number and type of beds to be converted on a form prescribed by the department at least thirty days before the conversion.

(2) The intermediate care facility for persons with mental retardation reports the conversion of beds on its next annual report to the department.

Sec. 7. Section 135.63, subsection 4, unnumbered paragraph 1, Code 1997, is amended to read as follows:

For the period beginning July 1, 1995, and ending June 30, ~~1997~~ 1998, the department shall not process applications for and the council shall not consider a new or changed institutional health service for an intermediate care facility for persons with mental retardation except as provided in this subsection.

Sec. 8. Section 135.63, subsection 4, paragraph a, unnumbered paragraph 1, Code 1997, is amended to read as follows:

For the period beginning July 1, 1995, and ending June 30, ~~1997~~ 1998, the department and council shall process applications and consider applications if either of the following conditions are met:

Sec. 9. Section 135.65, subsection 1, Code 1997, is amended to read as follows:

1. Before applying for a certificate of need, the sponsor of a proposed new institutional health service or changed institutional health service shall submit to the department a letter of intent to offer or develop a service requiring a certificate of need. The letter shall be submitted as soon as possible after initiation of the applicant's planning process, and in any case not less than ~~sixty~~ thirty days before applying for a certificate of need and before substantial expenditures to offer or develop the service are made. The letter shall include a brief description of the proposed new or changed service, its location, and its estimated cost.

Sec. 10. Section 135.71, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A certificate of need shall be valid for a maximum of one year from the date of issuance. Upon the expiration of the certificate, or at any earlier time while the certificate is valid the holder thereof shall provide the department such information on the development of the project covered by the certificate as the department may request. The council shall determine at the end of the certification period whether sufficient progress is being made on the development of the project ~~and whether there has been compliance with any conditions on which issuance of the certificate was premised~~. The certificate of need may be extended by the council for additional periods of time as are reasonably necessary to expeditiously complete the project, but may be revoked by the council at the end of the first or any subsequent certification period for insufficient progress in developing the project ~~or noncompliance with any conditions on which issuance of the certificate was premised~~.

Sec. 11. REVIEW OF CERTIFICATE OF NEED PROGRAM.

1. a. The Iowa department of public health shall complete a comprehensive review of the certificate of need program and shall submit a written report of the findings and recommendations as to the continued relevance of the program to the general assembly by January 15, 2000.

b. Four members of the general assembly shall be appointed to assist the Iowa department of public health in completing the review. The terms of the legislative members shall be for one year beginning and ending as provided in section 69.19 or until their successors are appointed. Appointments shall comply with sections 69.16 and 69.16A. Vacancies shall be filled in the same manner as the original appointment. Each legislative member shall receive compensation pursuant to section 2.10. The legislative members shall be

appointed as follows:

(1) Two members of the senate appointed by the majority leader of the senate after consultation with the minority leader of the senate.

(2) Two members of the house of representatives appointed by the speaker of the house after consultation with the majority leader and the minority leader of the house.

2. The Iowa department of public health, the department of human services, and the department of inspections and appeals shall conduct a review of the regulation of psychiatric medical institutions for children and intermediate care facilities for persons with mental retardation. The review shall include a review of the moratorium language in section 135.63, subsection 4, relating to intermediate care facilities for persons with mental retardation. The departments shall submit jointly to the general assembly by January 15, 1998, a written report with recommendations to eliminate duplicative regulation of these institutional programs.

Approved May 1, 1997

CHAPTER 94
MILK AND MILK PRODUCTS
S.F. 451

AN ACT relating to milk and milk products, providing for the issuance of licenses and permits, fees, and providing penalties.

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

Section 1. NEW SECTION. 192.101A DEFINITIONS.

As used in this chapter, all terms shall have the same meaning as defined in the "Grade A Pasteurized Milk Ordinance, 1995 Revision". However, notwithstanding the ordinance, the following definitions shall apply:

1. "Bulk milk tanker" means a mobile bulk container used to transport milk or fluid milk products from a dairy farm to a milk plant or from a milk plant to another milk plant, including an over-the-road semitrailer or a tanker that is permanently mounted on a motor vehicle.

2. "Milk grader" means a person, including dairy industry milk intake personnel, other than a milk hauler, who collects a milk sample from a bulk tank or a bulk milk tanker.

3. "Milk hauler" means a person who takes farm samples or transports raw milk or raw milk products to or from a milk plant, receiving station, or transfer station, including a dairy industry milk field person. However, a milk hauler does not include a person who drives a bulk milk tanker, if the person does not take a milk sample or handle raw milk or raw milk products.

Sec. 2. Section 192.104, Code 1997, is amended to read as follows:

192.104 COLORING REJECTED MILK.

~~It shall be the duty of the A milk hauler or cream a milk grader to thoroughly may mix with all rejected milk or cream, a harmless coloring matter as will in rejected milk to prevent all such~~ the rejected milk from being offered for sale.

Sec. 3. Section 192.108, Code 1997, is amended to read as follows:

192.108 ADMINISTRATION OF THE CHAPTER — INSPECTIONS REQUIRED.

The department shall administer this chapter and rules adopted pursuant to this chapter.