

**CHAPTER 101****MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES  
— FACILITIES — PROGRAMS — COMMISSION**

H.F. 387

**AN ACT** relating to mental health and developmental disabilities by expanding an exemption to health care licensing requirements for certain residential programs that receive funding under a medical assistance home and community-based services waiver and approval from the department of human services, and revising membership requirements for the mental health and developmental disabilities commission, and providing an effective date.

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

Section 1. Section 135C.2, subsection 3, paragraph c, Code 2003, is amended to read as follows:

c. The rules adopted for intermediate care facilities for persons with mental retardation shall be consistent with, but no more restrictive than, the federal standards for intermediate care facilities for persons with mental retardation established pursuant to the federal Social Security Act, § 1905(c)(d), as codified in 42 U.S.C. § 1396d, in effect on January 1, 1989. However, in order for an intermediate care facility for persons with mental retardation to be licensed, the state fire marshal must certify to the department an intermediate care facility for persons with mental retardation as meeting that the facility meets the applicable provisions of the rules adopted for such facilities by the state fire marshal. The state fire marshal's rules shall be based upon such a facility's compliance with either the provisions applicable to health care occupancies ~~chapter~~ or the residential board and care ~~chapter~~ occupancies of the life safety code of the national fire protection association, ~~1985~~ 2000 edition. The department shall adopt additional rules for intermediate care facilities for persons with mental retardation pursuant to section 135C.14, subsection 8.

Sec. 2. Section 135C.6, subsection 8, Code 2003, is amended to read as follows:

8. The following residential programs to which the department of human services applies accreditation, certification, or standards of review shall not be required to be licensed as a health care facility under this chapter:

a. Residential programs providing care to not more than four individuals and receiving moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver for persons with mental retardation or other medical assistance program under chapter 249A ~~shall not be required to be licensed as a health care facility under this chapter~~. In approving a residential program under this subsection ~~paragraph~~, the department of human services shall consider the geographic location of the program so as to avoid an overconcentration of such programs in an area. In order to be approved under this subsection ~~paragraph~~, a residential program shall not be required to involve the conversion of a licensed residential care facility for persons with mental retardation.

b. Not more than forty residential care facilities for persons with mental retardation that are licensed to serve not more than five individuals may be authorized by the department of human services to convert to operation as a residential program under the provisions of a medical assistance home and community-based services waiver for persons with mental retardation. A converted residential program operating under this paragraph is subject to the conditions stated in paragraph "a" except that the program shall not serve more than five individuals.

c. A residential program approved by the department of human services pursuant to this paragraph "c" to receive moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver for persons with mental retardation may provide care to not more than five individuals. The department shall approve a residential program under this paragraph that complies with all of the following conditions:

(1) Approval of the program will not result in an overconcentration of such programs in an area.

(2) The county in which the residential program is located submits to the department of human services a letter of support for approval of the program.

(3) The county in which the residential program is located provides to the department of human services verification in writing that the program is needed to address one or more of the following:

(a) The quantity of services currently available in the county is insufficient to meet the need.

(b) The quantity of affordable rental housing in the county is insufficient.

(c) Implementation of the program will cause a reduction in the size or quantity of larger congregate programs.

Sec. 3. Section 225C.5, subsection 1, paragraph c, Code 2003, is amended to read as follows:

c. One member shall be an active board member of a community mental health center selected from nominees submitted by the Iowa association of community providers.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 1, 2003

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## CHAPTER 102

### NEWBORN AND INFANT HEARING SCREENING

*H.F. 454*

**AN ACT** relating to mandatory universal newborn and infant hearing screening.

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

#### DIVISION XV

#### UNIVERSAL NEWBORN AND INFANT HEARING SCREENING

Section 1. NEW SECTION. 135.131 UNIVERSAL NEWBORN AND INFANT HEARING SCREENING.

1. For the purposes of this section, unless the context otherwise requires:

a. "Birth center" means birth center as defined in section 135.61.

b. "Birthing hospital" means a private or public hospital licensed pursuant to chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services.

2. Beginning January 1, 2004, all newborns and infants born in this state shall be screened for hearing loss in accordance with this section. The person required to perform the screening shall use at least one of the following procedures:

a. Automated or diagnostic auditory brainstem response.

b. Otoacoustic emissions.

c. Any other technology approved by the department.

3. Beginning January 1, 2004, a birthing hospital shall screen every newborn delivered in the hospital for hearing loss prior to discharge of the newborn from the birthing hospital. A birthing hospital that transfers a newborn for acute care prior to completion of the hearing screening shall notify the receiving facility of the status of the hearing screening. The receiving facility shall be responsible for completion of the newborn hearing screening. The birthing