

Sec. 5. Section 158.14, Code 1989, is amended to read as follows:  
158.14 MANICURISTS.

1. A licensed barbershop may employ a person who is not a licensed cosmetologist manicurist to manicure the fingernails of any person.

2. An unlicensed person who was employed by a licensed barbershop to manicure fingernails prior to the effective date of this Act may continue such employment without meeting licensing requirements under chapter 157.

Sec. 6. Section 714.18, subsection 1, Code 1989, is amended to read as follows:

1. A continuous corporate surety bond to the state of Iowa in the sum of fifty thousand dollars or ten percent of the total annual tuition collected, whichever is less, conditioned for the faithful performance of all contracts and agreements with students made by such person, firm, association, or corporation, or their salespersons; ~~provided, however, that the~~ A person, firm, association, or corporation desiring to file a surety bond based on a percentage of annual tuition shall provide to the director of the department of education, in the form prescribed by the director, a notarized statement attesting to the total amount of tuition collected in the preceding twelve-month period. The director shall determine the sufficiency of the statement and the amount of the bond. Tuition information submitted pursuant to this subsection shall be kept confidential.

If the person, firm, association, or corporation has filed a performance bond with an agency of the United States government pursuant to federal law, the director of the department of education shall reduce the bond required by this subsection by an amount equal to the amount of the federal bond.

~~PARAGRAPH DIVIDED.~~ The aggregate liability of the surety for all breaches of the conditions of the bond shall, ~~in no event, not~~ exceed the sum of said the bond. The surety on the bond ~~shall have the right to~~ may cancel said the bond upon giving thirty days' written notice to the director of the department of education and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of ~~said the~~ cancellation.

The director of the department of education may accept a letter of credit from a bank in lieu of the corporate surety bond required by this subsection.

Sec. 7. Section 714.19, subsection 9, Code 1989, is amended by striking the subsection.

Approved May 27, 1989

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## CHAPTER 241

### HEALTH CARE FACILITIES

S.F. 31

**AN ACT** relating to the violation of a law or rule of a health care facility, providing a penalty, and providing for the repeal of a penalty.

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

Section 1. Section 135C.14, subsection 8, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Facility policies and procedures regarding the treatment, care, and rights of residents. The rules shall apply the federal resident's bill of rights contained in ~~42 C.F.R. 442.311, as amended to January 1, 1981~~ the federal Omnibus Budget Reconciliation Act of 1987, Pub. L. No. 100-203, and the regulations adopted pursuant to the Act and contained in 42 C.F.R. § 483.10, 483.12, 483.13, and 483.15, as amended to February 2, 1989, to all health care facilities as defined in

this chapter and shall include procedures for implementing and enforcing the federal rules. The department shall also adopt rules relating to the following:

Sec. 2. Section 135C.14, subsection 8, Code 1989, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** e. For the recoupment of funds or property to residents when the resident's personal funds or property have been used without the resident's written consent or the written consent of the resident's guardian.

Sec. 3. Section 135C.37, Code 1989, is amended to read as follows:

**135C.37 COMPLAINTS ALLEGING VIOLATIONS – CONFIDENTIALITY.**

A person may request an inspection of a health care facility by filing with the department, care review committee of the facility, or the long-term care resident's advocate as defined in section 249D.4, subsection 15, a complaint of an alleged violation of applicable requirements of this chapter or the rules adopted pursuant to this chapter. A person alleging abuse or neglect of a resident with a developmental disability or with mental illness may also file a complaint with the protection and advocacy agency designated pursuant to section 135B.9 or section 135C.2. A copy of a complaint filed with the care review committee or the long-term care resident's advocate shall be forwarded to the department. The complaint shall state in a reasonably specific manner the basis of the complaint, and a statement of the nature of the complaint shall be delivered to the facility involved at the time of ~~or prior to~~ the inspection. The name of the person who files a complaint with the department, care review committee, or the long-term care resident's advocate shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees involved in the investigation of the complaint.

Sec. 4. Section 135C.38, subsection 1, Code 1989, is amended to read as follows:

1. Upon receipt of a complaint made in accordance with section 135C.37, the department or care review committee shall make a preliminary review of the complaint. Unless the department or committee concludes that the complaint is intended to harass a facility or a licensee or is without reasonable basis, it shall within twenty working days of receipt of the complaint make or cause to be made an on-site inspection of the health care facility which is the subject of the complaint. The complaint investigation shall include, at a minimum, an interview with the complainant and the victim of the alleged violation, if the victim is able to communicate, if the complainant or victim is identifiable, and if the complainant or victim is available. Additionally, witnesses who have knowledge of facts related to the complaint shall be interviewed, if identifiable and available. The names of witnesses may be obtained from the complainant or the victim. The files may be reviewed to ascertain the names of staff persons on duty at the time relevant to the complaint. The department shall apply a preponderance of the evidence standard in determining whether or not a complaint is substantiated. For the purposes of this subsection, "a preponderance of the evidence standard" means that the evidence, considered and compared with the evidence opposed to it, produces the belief in a reasonable mind that the allegations are more likely true than not true. "A preponderance of the evidence standard" does not require that the investigator personally witnessed the alleged violation. The department may refer to the care review committee of a facility any complaint received by the department regarding that facility, for initial evaluation and appropriate action by the committee. In any case, the complainant shall be promptly informed of the result of any action taken by the department or committee in the matter. The complainant shall also be notified of the name, address, and telephone number of the designated protection and advocacy agency if the alleged violation involves a facility with one or more residents with developmental disabilities or mental illness. Upon conclusion of the investigation, the department shall notify the complainant of the results. The notification shall include a statement of the factual findings as determined by the investigator, the statutory or regulatory provisions alleged to have been violated, and a summary of the reasons for which the complaint was or was not substantiated. A person who is dissatisfied with any aspect of the department's

handling of the complaint may contact the long-term care resident's advocate, established pursuant to section 249D.42, or may contact the protection and advocacy agency designated pursuant to section 135C.2 if the complaint relates to a resident with a developmental disability or a mental illness.

Sec. 5. Section 135C.39, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who notifies, or causes to be notified, a health care facility, of the time and date on which a survey or on-site inspection is scheduled, is subject to a civil penalty of not less than one thousand dollars nor more than two thousand dollars.

Sec. 6. Section 249D.33, Code 1989, is amended by adding the following new subsection:  
NEW SUBSECTION. 21. Submit a report to the department of elder affairs every six months, of the name of each health care facility in its area for which the care review committee has failed to submit the report required by rules adopted pursuant to section 249D.44.

Sec. 7. Section 5 of this Act is repealed at such time as a penalty is provided by the federal government for notification or causing the notification of a health care facility of the time and date on which a survey or on-site inspection is scheduled.

Approved May 27, 1989

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## CHAPTER 242

### ENVIRONMENTAL TESTS AND WASTE MINIMIZATION

*S.F. 470*

**AN ACT** relating to waste minimization and disposal.

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

Section 1. NEW SECTION. 455B.116 RESULTS OF ENVIRONMENTAL TESTS — PUBLIC RECORDS.

The results of any test, which test is relative to the purview of the department, and which test is conducted or performed by an independent entity at the request of a government body, as defined in section 22.1, or an agent or attorney for a government body, are public records pursuant to chapter 22.

A government body shall not be required to provide such test results to any person under this section until the agency head and agency's governing body have received a copy of the test results. A government body shall not be required to provide such test results if the confidentiality of such information is protected pursuant to section 22.7. However, following receipt of test results by an agency head and the agency's governing body, the agency head or agency's governing body shall not take action regarding such test results unless the test results have been made public knowledge for a period of not less than seven days.

Sec. 2. Section 455B.481, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. In order to meet capacity assurance requirements of section 104k of the federal Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, and further the objectives of waste minimization, the department, in cooperation with the small business assistance center at the university of northern Iowa, shall work with generators of hazardous wastes in the state to develop and implement aggressive waste