

Sec. 11. Section 215.26, Code 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 5. "Liquefied petroleum gas" means liquids that do not remain in a liquid state at atmospheric pressures and temperatures composed predominantly of any of the following hydrocarbons, or mixtures of hydrocarbons: propane, propylene, butanes including normal butane or isobutane, and butylenes.

Sec. 12. Section 215A.9, unnumbered paragraph 1, Code 1989, is amended to read as follows:
The department shall charge, assess, and cause to be collected at the time of inspection an inspection fee of ten dollars for the first moisture measuring device required to be inspected under this chapter, and for each additional moisture measuring device inspected at the same time the fee shall be five dollars in accordance with the fee schedule established pursuant to section 214.3, subsection 3.

Approved March 27, 1990

CHAPTER 1085

CHRONIC SUBSTANCE ABUSE

H.F. 2508

AN ACT relating to the commitment and treatment of chronic substance abusers.

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

Section 1. Section 125.2, Code Supplement 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. "Chronic substance abuser" means a person who meets all of the following criteria:

a. Habitually lacks self control as to the use of chemical substances to the extent that the person is likely to seriously endanger the person's health, or to physically injure the person's self or others, if allowed to remain at liberty without treatment.

b. Lacks sufficient judgment to make responsible decisions with respect to the person's hospitalization or treatment.

NEW SUBSECTION. 14A. "Substance abuse" means the use of chemical substances by persons suffering from chemical dependency, persons who are incapacitated by a chemical substance, substance abusers, or chronic substance abusers.

Sec. 2. Section 125.2, subsection 2, Code Supplement 1989, is amended to read as follows:

2. "Chemical substance" means alcohol, wine, spirits, and beer as defined in chapter 123 and ~~drugs controlled substances as defined in section 203B.2~~ 204.101, subsection 7, which when used improperly could result in chemical dependency.

Sec. 3. Section 125.9, subsections 2 and 4, Code 1989, are amended to read as follows:

2. Make contracts necessary or incidental to the performance of the duties and the execution of the powers of the director, including contracts with public and private agencies, organizations and individuals to pay them for services rendered or furnished to substance abusers, chronic substance abusers, or intoxicated persons.

4. Co-ordinate the activities of the department and co-operate with substance abuse programs in this and other states, and make contracts and other joint or co-operative arrangements with state, local or private agencies in this and other states for the treatment of substance abusers, chronic substance abusers, and intoxicated persons and for the common advancement of substance abuse programs.

Sec. 4. Section 125.10, Code 1989, is amended to read as follows:

125.10 DUTIES OF DIRECTOR.

The director shall:

1. Prepare and submit a state plan subject to approval by the commission and in accordance with the provisions of 42 U.S.C. sec. 4573. The state plan shall designate the department as the sole agency for supervising the administration of the plan.

2. Develop, encourage, and foster state-wide, regional and local plans and programs for the prevention of substance abuse and the treatment of substance abusers, chronic substance abusers, and intoxicated persons in co-operation with public and private agencies, organizations and individuals, and provide technical assistance and consultation services for these purposes.

3. Co-ordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in the prevention of substance abuse and the treatment of substance abusers, chronic substance abusers, and intoxicated persons.

4. Co-operate with the department of human services in establishing and conducting programs to provide treatment for substance abusers, chronic substance abusers, and intoxicated persons.

5. Co-operate with the department of education, boards of education, schools, police departments, courts, and other public and private agencies, organizations, and individuals in establishing programs for the prevention of substance abuse and the treatment of substance abusers, chronic substance abusers, and intoxicated persons, and in preparing relevant curriculum materials thereon for use at all levels of school education.

6. Prepare, publish, evaluate and disseminate educational material dealing with the nature and effects of chemical substances.

7. Develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of substance abusers, chronic substance abusers, and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of chemical substances.

8. Organize and implement, in co-operation with local treatment programs, training programs for all persons engaged in treatment of substance abusers, chronic substance abusers, and intoxicated persons.

9. Sponsor and implement research in co-operation with local treatment programs into the causes and nature of substance abuse and treatment of substance abusers, chronic substance abusers, and intoxicated persons, and serve as a clearing house for information relating to substance abuse.

10. Specify uniform methods for keeping statistical information by public and private agencies, organizations and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment.

11. Develop and implement, with the counsel and approval of the commission, a comprehensive plan for treatment of substance abusers, chronic substance abusers, and intoxicated persons; ~~said plan to be co-ordinated with health systems agencies.~~

12. Assist in the development of, and co-operate with, substance abuse education and treatment programs for employees of state and local governments and businesses and industries in the state.

13. Utilize the support and assistance of interested persons in the community, particularly recovered substance abusers and chronic substance abusers, to encourage substance abusers and chronic substance abusers to voluntarily undergo treatment.

14. Co-operate with the commissioner of public safety in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated.

15. Encourage general hospitals and other appropriate health facilities to admit without discrimination substance abusers, chronic substance abusers, and intoxicated persons and to

provide them with adequate and appropriate treatment, ~~and~~. The director may negotiate and implement contracts with hospitals and other appropriate health facilities with adequate detoxification facilities.

16. Encourage all health and disability insurance programs to include substance abuse as a covered illness.

17. Review all state health, welfare, education and treatment proposals to be submitted for federal funding under federal legislation, and advise the governor on provisions to be included relating to substance abuse, ~~and~~ substance abusers, chronic substance abusers, and intoxicated persons.

Sec. 5. Section 125.12, subsections 1 and 3, Code 1989, are amended to read as follows:

1. The commission shall review a comprehensive and co-ordinated program for the treatment of substance abusers, chronic substance abusers, intoxicated persons, and concerned family members. Subject to the review of the commission, the director shall divide the state into appropriate regions for the conduct of the program and establish standards for the development of the program on the regional level. In establishing the regions, consideration shall be given to city and county lines, population concentrations, and existing substance abuse treatment services. In determining the regions, the director is not required to follow the regional map as prepared by the former office for planning and programming.

3. The director shall provide for adequate and appropriate treatment for substance abusers, chronic substance abusers, intoxicated persons, and concerned family members admitted under sections 125.33 and 125.34, or under section 125.75, 125.81, or 125.91. Treatment shall not be provided at a correctional institution except for inmates.

Sec. 6. Section 125.13, subsection 1, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

Except as provided in subsection 2 of this section, a person ~~may~~ shall not maintain or conduct any chemical substitutes or antagonists program, residential program, or nonresidential outpatient program, the primary purpose of which is the treatment and rehabilitation of substance abusers or chronic substance abusers without having first obtained a written license for the program from the department.

Sec. 7. Section 125.13, subsection 2, paragraphs a and c, Code Supplement 1989, are amended to read as follows:

a. A hospital providing care or treatment to substance abusers or chronic substance abusers licensed under chapter 135B which is accredited by the joint commission on the accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the commission. All survey reports from the accrediting or licensing body must be sent to the department.

c. Private institutions conducted by and for persons who adhere to the faith of any well recognized church or religious denomination for the purpose of providing care, treatment, counseling, or rehabilitation to substance abusers or chronic substance abusers and who rely solely on prayer or other spiritual means for healing in the practice of religion of such church or denomination.

Sec. 8. Section 125.32, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The department shall adopt and may amend and repeal rules for acceptance of persons into the treatment program, subject to chapter 17A, considering available treatment resources and facilities, for the purpose of early and effective treatment of substance abusers, chronic substance abusers, intoxicated persons, and concerned family members. In establishing the rules the department shall be guided by the following standards:

Sec. 9. Section 125.33, subsections 1, 3, and 4, Code 1989, are amended to read as follows:

1. A substance abuser or chronic substance abuser may apply for voluntary treatment or rehabilitation services directly to a facility or to a licensed physician and surgeon or osteopathic

physician and surgeon. If the proposed patient is a minor or an incompetent person, a parent, a legal guardian or other legal representative may make the application. The licensed physician and surgeon or osteopathic physician and surgeon or any employee or person acting under the direction or supervision of the physician and surgeon or osteopathic physician and surgeon, or the facility shall not report or disclose the name of the person or the fact that treatment was requested or has been undertaken to any law enforcement officer or law enforcement agency; nor shall such information be admissible as evidence in any court, grand jury, or administrative proceeding unless authorized by the person seeking treatment. If the person seeking such treatment or rehabilitation is a minor who has personally made application for treatment, the fact that the minor sought treatment or rehabilitation or is receiving treatment or rehabilitation services shall not be reported or disclosed to the parents or legal guardian of such minor without the minor's consent, and the minor may give legal consent to receive such treatment and rehabilitation.

3. A substance abuser or chronic substance abuser seeking treatment or rehabilitation and who is either addicted or dependent on a chemical substance may first be examined and evaluated by a licensed physician and surgeon or osteopathic physician and surgeon who may prescribe a proper course of treatment and medication, if needed. The licensed physician and surgeon or osteopathic physician and surgeon may further prescribe a course of treatment or rehabilitation and authorize another licensed physician and surgeon or osteopathic physician and surgeon or facility to provide the prescribed treatment or rehabilitation services. Treatment or rehabilitation services may be provided to a person individually or in a group. A facility providing or engaging in treatment or rehabilitation shall not report or disclose to a law enforcement officer or law enforcement agency the name of any person receiving or engaged in the treatment or rehabilitation; nor shall a person receiving or participating in treatment or rehabilitation report or disclose the name of any other person engaged in or receiving treatment or rehabilitation or that the program is in existence, to a law enforcement officer or law enforcement agency. Such information shall not be admitted in evidence in any court, grand jury, or administrative proceeding. However, a person engaged in or receiving treatment or rehabilitation may authorize the disclosure of the person's name and individual participation.

4. If a patient receiving inpatient or residential care leaves a facility, the patient shall be encouraged to consent to appropriate outpatient or halfway house treatment. If it appears to the administrator in charge of the facility that the patient is a substance abuser or chronic substance abuser who requires help, the director may arrange for assistance in obtaining supportive services.

Sec. 10. Section 125.43, Code 1989, is amended to read as follows:

125.43 FUNDING AT MENTAL HEALTH INSTITUTES.

Chapter 230 governs the determination of the costs and payment for treatment provided to substance abusers or chronic substance abusers in a mental health institute under the department of human services, except that the charges are not a lien on real estate owned by persons legally liable for support of the substance abuser or chronic substance abuser and the daily per diem shall be billed at twenty-five percent. The superintendent of a state hospital shall total only those expenditures which can be attributed to the cost of providing inpatient treatment to substance abusers or chronic substance abusers for purposes of determining the daily per diem. Section 125.44 governs the determination of who is legally liable for the cost of care, maintenance, and treatment of a substance abuser or chronic substance abuser and of the amount for which the person is liable.

Sec. 11. Section 125.44, Code Supplement 1989, is amended to read as follows:

125.44 AGREEMENTS WITH FACILITIES — LIABILITY FOR COSTS.

The director may, consistent with the comprehensive substance abuse program, enter into written agreements with a facility as defined in section 125.2 to pay for one hundred percent of the cost of the care, maintenance, and treatment of a substance abuser ~~abusers~~ and chronic substance abusers, except when section 125.43A applies. All payments for state patients shall

be made in accordance with the limitations of this section. Such contracts shall be for a period of no more than one year.

The contract may be in the form and contain provisions as agreed upon by the parties. The contract shall provide that the facility shall admit and treat substance abusers and chronic substance abusers regardless of where they have residence. If one payment for care, maintenance, and treatment is not made by the patient or those legally liable for the patient, the payment shall be made by the department directly to the facility. Payments shall be made each month and shall be based upon the rate of payment for services negotiated between the department and the contracting facility. If a facility projects a temporary cash flow deficit, the department may make cash advances at the beginning of each fiscal year to the facility. The repayment schedule for advances shall be part of the contract between the department and the facility. This section does not pertain to patients treated at the mental health institutes.

If the appropriation to the department is insufficient to meet the requirements of this section, the department shall request a transfer of funds and section 8.39 shall apply.

The substance abuser or chronic substance abuser is legally liable to the facility for the total amount of the cost of providing care, maintenance, and treatment for the substance abuser or chronic substance abuser while a voluntary or committed patient in a facility. This section does not prohibit any individual from paying any portion of the cost of treatment.

The department is liable for the cost of care, treatment, and maintenance of a substance abuser ~~abusers~~ and chronic substance abusers admitted to the facility voluntarily or pursuant to section 125.75, 125.81, or 125.91 or section 321J.3 or 204.409, subsection 2 only to those facilities that have a contract with the department under this section, only for the amount computed according to and within the limits of liability prescribed by this section, and only when the substance abuser or chronic substance abuser is unable to pay the costs and there is no other person, firm, corporation, or insurance company bound to pay the costs.

The department's maximum liability for the costs of care, treatment, and maintenance of substance abusers and chronic substance abusers in a contracting facility is limited to the total amount agreed upon by the parties and specified in the contract under this section.

Sec. 12. Section 125.46, Code 1989, is amended to read as follows:

125.46 COUNTY OF RESIDENCE DETERMINED.

The facility shall, when a substance abuser or chronic substance abuser is admitted, or as soon thereafter as it receives the proper information, determine and enter upon its records the Iowa county of residence of the substance abuser or chronic substance abuser, or that the person resides in some other state or country, or that the person is unclassified with respect to residence.

Sec. 13. Section 125.75, Code 1989, is amended to read as follows:

125.75 INVOLUNTARY COMMITMENT OR TREATMENT – APPLICATION.

Proceedings for the involuntary commitment or treatment of a chronic substance abuser to a facility may be commenced by the county attorney or an interested person by filing a verified application with the clerk of the district court of the county where the respondent is presently located or which is the respondent's place of residence. The clerk or the clerk's designee shall assist the applicant in completing the application. The application shall:

1. State the applicant's belief that the respondent is a chronic substance abuser.
2. State any other pertinent facts.
3. Be accompanied by one or more of the following:
 - a. A written statement of a licensed physician in support of the application.
 - b. One or more supporting affidavits corroborating the application.
 - c. Corroborative information obtained and reduced to writing by the clerk or the clerk's designee, but only when circumstances make it infeasible to obtain, or when the clerk considers it appropriate to supplement, the information under either paragraph "a" or paragraph "b".

Sec. 14. Section 125.80, subsections 3 and 4, Code 1989, are amended to read as follows:

3. If the report of a court-designated physician is to the effect that the respondent is not a chronic substance abuser, the court, without taking further action, may terminate the proceeding and dismiss the application on its own motion and without notice.

4. If the report of a court-designated physician is to the effect that the respondent is a chronic substance abuser, the court shall schedule a commitment hearing as soon as possible. The hearing shall be held not more than forty-eight hours after the report is filed, excluding Saturdays, Sundays, and holidays, unless an extension for good cause is requested by the respondent, or as soon thereafter as possible if the court considers that sufficient grounds exist for delaying the hearing.

Sec. 15. Section 125.81, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If a person filing an application requests that a respondent be taken into immediate custody, and the judge upon reviewing the application and accompanying documentation, finds probable cause to believe that the respondent is a chronic substance abuser who is likely to injure the person or other persons if allowed to remain at liberty, the judge may enter a written order directing that the respondent be taken into immediate custody by the sheriff, and be detained until the commitment hearing, which shall be held no more than five days after the date of the order, except that if the fifth day after the date of the order is a Saturday, Sunday, or a holiday, the hearing may be held on the next business day. The judge may order the respondent detained for the period of time until the hearing is held, and no longer except as provided in section 125.88, in accordance with subsection 1 if possible, and if not, then in accordance with subsection 2 or, only if neither of these alternatives is available in accordance with subsection 3. Detention may be:

Sec. 16. Section 125.82, subsection 4, Code 1989, is amended to read as follows:

4. The respondent's welfare is paramount, and the hearing shall be tried as a civil matter and conducted in as informal a manner as is consistent with orderly procedure. Discovery as permitted under the Iowa rules of civil procedure is available to the respondent. The court shall receive all relevant and material evidence, but the court is not bound by the rules of evidence. A presumption in favor of the respondent exists, and the burden of evidence and support of the contentions made in the application shall be upon the person who filed the application. If upon completion of the hearing the court finds that the contention that the respondent is a chronic substance abuser has not been sustained by clear and convincing evidence, the court shall deny the application and terminate the proceeding.

Sec. 17. Section 125.83, Code 1989, is amended to read as follows:

125.83 PLACEMENT FOR EVALUATION.

If upon completion of the commitment hearing, the court finds that the contention that the respondent is a chronic substance abuser has been sustained by clear and convincing evidence, the court shall order the respondent placed at a facility or under the care of a suitable facility on an outpatient basis as expeditiously as possible for a complete evaluation and appropriate treatment. The court shall furnish to the facility at the time of admission or outpatient placement, a written statement of facts setting forth the evidence on which the finding is based. The administrator of the facility shall report to the court no more than fifteen days after the individual is admitted to or placed under the care of the facility, which shall include the chief medical officer's recommendation concerning substance abuse treatment. An extension of time may be granted for a period not to exceed seven days upon a showing of good cause. A copy of the report shall be sent to the respondent's attorney who may contest the need for an extension of time if one is requested. If the request is contested, the court shall make an inquiry as it deems appropriate and may either order the respondent released from the facility or grant extension of time for further evaluation.

Sec. 18. Section 125.84, subsections 2, 3, and 4, Code 1989, are amended to read as follows:

2. That the respondent is a chronic substance abuser who is in need of full-time custody, care, and treatment in a facility, and is considered likely to benefit from treatment. If the report so states, the court may order the respondent's continued placement and commitment to a facility for appropriate treatment.

3. That the respondent is a chronic substance abuser who is in need of treatment, but does not require full-time placement in a facility. If the report so states, the report shall include the chief medical officer's recommendation for treatment of the respondent on an outpatient or other appropriate basis, and the court may enter an order directing the respondent to submit to the recommended treatment. The order shall provide that if the respondent fails or refuses to submit to treatment, as directed by the court's order, the court may order that the respondent be taken into immediate custody as provided by section 125.81 and, following notice and hearing held in accordance with the procedures of sections 125.77 and 125.82, may order the respondent treated as a patient requiring full-time custody, care, and treatment as provided in subsection 2, and may order the respondent involuntarily committed to a facility.

4. That the respondent is a chronic substance abuser who is in need of treatment, but in the opinion of the chief medical officer is not responding to the treatment provided. If the report so states, the report shall include the facility administrator's recommendation for alternative placement, and the court may order the respondent's transfer to the recommended placement or to another placement after consultation with respondent's attorney and the facility administrator who made the report under this subsection.

Sec. 19. Section 125.91, subsection 3, Code 1989, is amended to read as follows:

3. Upon arrival at the facility, the magistrate shall at once review the validity of the detention. Unless convinced upon initial inquiry that there are no grounds for further detention of the person, the magistrate shall ensure that the person has or is provided legal counsel at the earliest practical time in the manner prescribed by section 125.78, subsection 1, and shall arrange for the counsel to be present, if practical, before proceeding further under this subsection. The magistrate shall immediately notify counsel of the respondent's emergency detention. Counsel shall be afforded an opportunity to visit the respondent and to make appropriate preparations before or after the magistrate's order is issued. If the magistrate finds, upon review of the information presented by the administrator under subsection 2 and of other information or evidence the magistrate deems relevant, that there is probable cause to believe that the circumstances described in subsection 1 are applicable, the magistrate shall enter a written order detaining the person at the facility, or, if the facility where the person is at the time is not an appropriate facility, detaining and transporting the person to an appropriate facility. The magistrate's order shall state the circumstances under which the person was detained or otherwise delivered to a facility, and the grounds supporting the finding of probable cause to believe that person is a chronic substance abuser likely to physically injure the person or others if not detained. The order shall be filed with the clerk in the county where it is anticipated that an application will be filed under section 125.75, and a certified copy of the order shall be delivered to the administrator of the facility where the person is detained, at the earliest practical time.

Sec. 20. Section 229.21, subsections 3 and 4, Code 1989, are amended to read as follows:

3. When an application for involuntary hospitalization under this chapter or an application for involuntary commitment or treatment of chronic substance abusers under sections 125.75 to 125.94 is filed with the clerk of the district court in any county for which a judicial hospitalization referee has been appointed, and no district judge is accessible in the county, the clerk shall immediately notify the referee in the manner required by section 229.7 or section 125.77. The referee shall discharge all of the duties imposed upon judges of the district court or magistrates by sections 229.7 to 229.19 or sections 125.75 to 125.94 in the proceeding so initiated. If an emergency hospitalization proceeding is initiated under section 229.22 a judicial hospitalization referee may perform the duties imposed upon a magistrate by that

section. However, any commitment to a facility regulated and operated under chapter 135C, shall be in accordance with section 135C.23.

4. Any respondent with respect to whom the judicial hospitalization referee has found the contention that the respondent is seriously mentally impaired or a chronic substance abuser sustained by clear and convincing evidence presented at a hearing held under section 229.12 or section 125.82, may appeal from the referee's finding to a judge of the district court by giving the clerk notice in writing, within seven days after the referee's finding is made, that an appeal therefrom is taken. The appeal may be signed by the respondent or by the respondent's next friend, guardian or attorney. When so appealed, the matter shall stand for trial de novo. Upon appeal, the court shall schedule a hospitalization or commitment hearing before a district judge at the earliest practicable time.

Sec. 21. Section 230.15, unnumbered paragraph 2, Code 1989, is amended to read as follows:

A substance abuser or chronic substance abuser is legally liable for the total amount of the cost of providing care, maintenance, and treatment for the substance abuser or chronic substance abuser while a voluntary or committed patient. When a portion of the cost is paid by a county, the substance abuser or chronic substance abuser is legally liable to the county for the amount paid. The substance abuser or chronic substance abuser shall assign any claim for reimbursement under any contract of indemnity, by insurance or otherwise, providing for the abuser's care, maintenance, and treatment in a state hospital to the state. Any payments received by the state from or on behalf of a substance abuser or chronic substance abuser shall be in part credited to the county in proportion to the share of the costs paid by the county. Nothing in this section shall be construed to prevent a relative or other person from voluntarily paying the full actual cost or any portion of the care and treatment of any mentally ill person, ~~or~~ substance abuser, or chronic substance abuser as established by the department of human services.

Approved March 27, 1990

CHAPTER 1086

PROFESSIONAL LICENSURE

H.F. 2518

AN ACT relating to licensure and discipline of certain practice professionals and providing a penalty.

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

Section 1. Section 147.4, Code 1989, is amended to read as follows:

147.4 GROUNDS FOR REFUSING.

The department may refuse to grant a license to practice a profession to any person otherwise qualified upon any of the grounds for which a license may be revoked ~~by the district court~~ or suspended.

Sec. 2. Section 147.7, Code 1989, is amended to read as follows:

147.7 DISPLAY OF LICENSE.

Every person licensed under this title to practice a profession shall keep the license publicly displayed in the primary place in which the person practices.

Sec. 3. Section 147.9, Code 1989, is amended to read as follows:

147.9 CHANGE OF RESIDENCE.

When any person licensed to practice a profession under this title changes a residence or place of practice the person shall notify the department.