



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

May 17, 2004

The Honorable Chester Culver
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

House File 2378, an Act relating to the disposition of medical assistance special needs trusts, including the payment rate for nursing facility levels of care.

House File 2551, an Act relating to programs under the authority of the Department of Public Health.

House File 2555, an Act providing for specified changes regarding programs under the purview of the Department of Public Health, providing a penalty, and making an appropriation.

The above House Files are hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Vilsack".

Thomas J. Vilsack
Governor

TJV:jmc
cc: Secretary of the Senate
Chief Clerk of the House





HOUSE FILE 2555

AN ACT

PROVIDING FOR SPECIFIED CHANGES REGARDING PROGRAMS UNDER THE
PURVIEW OF THE DEPARTMENT OF PUBLIC HEALTH, PROVIDING A
PENALTY, AND MAKING AN APPROPRIATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 135.39A GIFTS AND GRANTS FUND --
APPROPRIATION.

The department is authorized to accept gifts, grants, or allotments of funds from any source to be used for programs authorized by this chapter or any other chapter which the department is responsible for administering. A public health gifts and grants fund is created as a separate fund in the state treasury under the control of the department. The fund shall consist of gift or grant moneys obtained from any source, including the federal government. The moneys collected under this section and deposited in the fund are appropriated to the department for the public health purposes specified in the gift or grant. Moneys in the fund shall not be subject to appropriation or expenditure for any other

purpose. Notwithstanding section 8.33, moneys in the public health gifts and grants fund at the end of each fiscal year shall not revert to any other fund but shall remain in the public health gifts and grants fund for expenditure for subsequent fiscal years.

Sec. 2. Section 135.103, Code 2003, is amended to read as follows:

135.103 GRANT PROGRAM.

The department shall implement a childhood lead poisoning prevention grant program which provides matching federal, state, or other funds to local boards of health or cities for the program after standards and requirements for the local program are developed. ~~The state shall provide funds to approved programs on the basis of three dollars for each one dollar designated by the local board of health or city for the program for the first two years of a program, and funds on the basis of one dollar for each one dollar designated by the local board of health or city for the program for the third and subsequent years of the program if such funding is determined necessary by the department for such subsequent years.~~ The department may also use federal, state, or other funds provided for the childhood lead poisoning prevention grant program to purchase environmental and blood testing services from a public health laboratory.

Sec. 3. Section 135.104, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The program by a local board of health or city receiving matching funding for an approved childhood lead poisoning prevention grant program shall include:

Sec. 4. Section 136B.1, subsection 2, Code 2003, is amended to read as follows:

2. The department shall establish programs and adopt rules for the certification of persons who test for the presence of radon gas and radon progeny in ~~buildings and for~~ buildings, the credentialing of persons abating the level of radon in buildings, and standards for radon abatement systems.

Sec. 5. Section 136B.3, Code 2003, is amended to read as follows:

136B.3 TESTING AND REPORTING OF RADON LEVEL.

The department or its duly authorized agents shall from time to time perform inspections and testing of the premises of a property to determine the level at which it is contaminated with radon gas or radon progeny as a spot-check of the validity of measurements or the adequacy of abatement measures performed by persons certified or credentialed under section 136B.1. Following testing the department shall provide the owner of the property with a written report of its results including the concentration of radon gas or radon progeny contamination present, an interpretation of the results, and recommendation of appropriate action. A person certified or credentialed under section 136B.1 shall also be advised of the department's results, discrepancies revealed by the spot-check, actions required of the person, and actions the department intends to take with respect to the person's continued certification or credentialing.

Sec. 6. Section 139A.2, subsection 20, Code Supplement 2003, is amended to read as follows:

20. "Quarantine" means the limitation of freedom of movement of persons or animals that have been exposed to a ~~communicable~~ quarantinable disease within specified limits marked by placards for a period of time equal to the longest usual incubation period of the disease in such manner as to prevent the spread of a ~~communicable~~ quarantinable disease which affects people.

Sec. 7. Section 148.3, subsection 3, Code 2003, is amended to read as follows:

3. Present to the medical examiners satisfactory evidence that the applicant has successfully completed one year of postgraduate internship or resident training in a hospital approved for such training by the medical examiners. Beginning July 1, 2006, an applicant who holds a valid certificate issued by the educational commission for foreign medical graduates shall submit satisfactory evidence of successful completion of two years of such training.

Sec. 8. Section 152.1, subsection 6, paragraph b, Code Supplement 2003, is amended to read as follows:

b. Execute regimen prescribed by a physician, an advanced registered nurse practitioner, or a physician assistant.

Sec. 9. Section 154A.18, Code 2003, is amended to read as follows:

154A.18 DISPLAY OF LICENSE.

A person shall not engage in business as a hearing aid dispenser, or display a sign, or in any other way advertise or claim to be a hearing aid dispenser after January 1, 1975, unless the person holds a valid license issued by the department as provided in this chapter. The license shall be conspicuously posted in the person's ~~office-or-place-of~~ business primary location of practice. ~~The department shall issue duplicate licenses to valid license holders operating more than one office.~~ A license confers upon the holder the right to ~~operate-a-business~~ practice as a hearing aid dispenser.

Sec. 10. Section 155.9, subsection 3, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The board may also accept the voluntary surrender of such license without necessity of a hearing. In the event of the inability of the regular administrator of a nursing home to perform the administrator's duties or through death or other cause the nursing home is without a licensed administrator, a provisional administrator may be appointed on a temporary basis by the nursing home owner or owners, to perform such duties for a period not to exceed ~~six months~~ one year.

Sec. 11. NEW SECTION. 156.16 UNLICENSED PRACTICE -- INJUNCTIONS, CIVIL PENALTIES, CONSENT AGREEMENTS.

1. If the board has reasonable grounds to believe that a person or establishment which is not licensed under this chapter has engaged, or is about to engage, in an act or practice which requires licensure under this chapter, or otherwise violates a provision of this chapter, the board may issue an order to require the unlicensed person or establishment to comply with the provisions of this chapter, and may impose a civil penalty not to exceed one thousand dollars for each violation of this chapter by an unlicensed person or establishment. Each day of a continued violation constitutes a separate offense.

2. The board may conduct an investigation as needed to determine whether probable cause exists to initiate the proceedings described in this section. To aid in such an

investigation or in connection with any other proceeding under this section, the board may issue subpoenas to compel witnesses to testify or persons to produce evidence consistent with the provisions of section 272C.6, subsection 3.

3. The board, in determining the amount of a civil penalty to be imposed, may consider any of the following:

- a. Whether the amount imposed will be a substantial economic deterrent to the violation.
- b. The circumstances leading to the violation.
- c. The severity of the violation and the risk of harm to the public.
- d. The economic benefits gained by the violator as a result of noncompliance.
- e. The interest of the public.

4. The board, before issuing an order under this section, shall provide the person or establishment written notice and the opportunity to request a hearing. The hearing must be requested within thirty days after receipt of the notice and shall be conducted in the same manner as provided for disciplinary proceedings involving a licensee under this chapter.

5. The board may request the attorney general to bring an action to enforce the subpoena.

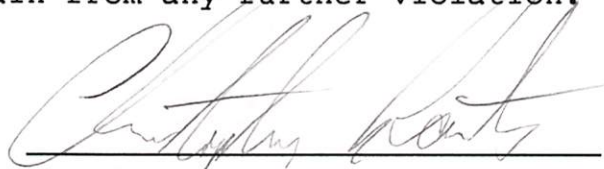
6. A person or establishment aggrieved by the issuance of an order or the imposition of a civil penalty under this section may seek judicial review pursuant to section 17A.19.

7. If a person or establishment fails to pay a civil penalty within thirty days after entry of an order imposing the civil penalty, or, if the order is stayed pending an appeal, within ten days after the court enters a final judgment in favor of the board, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

8. An action to enforce an order under this section may be joined with an action for an injunction pursuant to section 147.83.

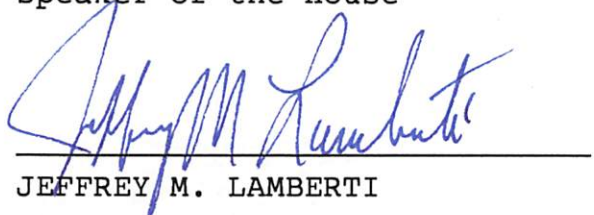
9. The board, in its discretion and in lieu of issuing or enforcing an order or imposing a civil penalty for an initial violation under this section, may enter into a consent

agreement with a violator, or with a person who aided or abetted a violator, which acknowledges the violation and the violator's agreement to refrain from any further violation.



CHRISTOPHER C. RANTS

Speaker of the House



JEFFREY M. LAMBERTI

President of the Senate

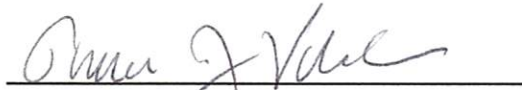
I hereby certify that this bill originated in the House and is known as House File 2555, Eightieth General Assembly.



MARGARET THOMSON

Chief Clerk of the House

Approved May 17, 2004



THOMAS J. VILSACK

Governor