

The Human Resources 3/29

Amend per 54.33  
Do Pass 3/11 (p. 861) FILED MAR 20 1979

SENATE FILE 431

By COMMITTEE ON HUMAN RESOURCES  
*approved 3/19 (p. 872)*

Passed Senate, Date 3-26-79 (p. 950) Passed House, Date 4/1/80 (p. 1519)

Vote: Ayes 46 Nays 0 Vote: Ayes 85 Nays 0

Approved May 19, 1980  
*Passed Senate 4/25/80 (p. 1749)*  
33-12

## A BILL FOR

1 An Act relating to complaints alleging violations of  
2 provisions relating to health care facilities.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
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5483 >

1 Section 1. Section one hundred thirty-five C point thirty-  
2 seven (135C.37), Code 1979, is amended to read as follows:

3 135C.37 COMPLAINTS ALLEGING VIOLATIONS. Any person may  
4 request an inspection of any health care facility by filing  
5 with the department ~~or care-review-committee-of-the-facility~~  
6 a complaint of an alleged violation of applicable requirements  
7 of this chapter or the rules adopted pursuant to it. The  
8 complaint shall state in a reasonably specific manner the  
9 basis of the complaint, and a copy thereof shall be ~~forwarded~~  
10 delivered to the facility involved ~~within-twenty-four-hours~~  
11 ~~of-receipt-of-the-complaint-by-the-department-or-the-committee~~  
12 on or prior to the inspection.

13 EXPLANATION

14 This bill strikes the twenty-four hour requirement for  
15 forwarding a copy of a complaint against a health care facility  
16 to the facility and allows the delivery of a copy of the  
17 complaint on or prior to the inspection of the facility.

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SENATE FILE 431

H-5433

1 Amend Senate File 431 as passed by the Senate as  
2 follows:

3 1. Page 1, by inserting before line 1 the  
4 following:

5 "Section 1. Section one hundred thirty-five C  
6 point nineteen (135C.19), subsection one (1), Code  
7 1979, is amended to read as follows:

8 1. Following any inspection of a health care  
9 facility by the department, the findings of the  
10 inspection with respect to compliance by the facility  
11 with requirements for licensing under this chapter  
12 shall be made available to the public in a readily  
13 available form and place ~~forty-five~~ not later than  
14 twenty-one days after the findings are made available  
15 to the applicant or licensee. ~~However, if the~~  
16 ~~applicant or licensee requests a hearing pursuant~~  
17 ~~to section 135C.11, the findings of the inspection~~  
18 ~~shall not be made public until the hearing has been~~  
19 ~~completed.~~ When the findings are made available to  
20 the public, they shall include no reference to any  
21 cited violation which has been corrected to the  
22 department's satisfaction unless the same reference  
23 also clearly notes that the violation has been  
24 corrected. Other information relating to any health  
25 care facility, obtained by the department through  
26 reports, investigations, complaints, or as otherwise  
27 authorized by this chapter, which is not a part of  
28 the department's findings from an inspection of the  
29 facility, shall not be ~~disclosed publicly~~ made  
30 available to the public except in proceedings involving  
31 the citation of a facility for a violation, in the  
32 manner provided by section 135C.40, or the denial,  
33 suspension or revocation of a license under this  
34 chapter."

35 2. Page 1, by striking lines 1 through 12 and  
36 inserting in lieu thereof the following:

37 "Sec. 2. Section one hundred thirty-five C point  
38 thirty-seven (135C.37), Code 1979, is amended to read  
39 as follows:

40 135C.37 COMPLAINTS ALLEGING VIOLATIONS. Any  
41 person may request an inspection of any health care  
42 facility by filing with the department or care review  
43 committee of the facility a complaint of an alleged  
44 violation of applicable requirements of this chapter  
45 or the rules adopted pursuant to it. A copy of a  
46 complaint filed with the care review committee shall  
47 be forwarded to the department. The complaint shall  
48 state in a reasonably specific manner the basis of  
49 the complaint, and a ~~copy thereof~~ statement of the  
50 nature of the complaint shall be forwarded delivered

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Page Two

1 to the facility involved ~~within-twenty-four-hours~~  
2 ~~of-receipt-of-the-complaint-by-the-department-or-the~~  
3 ~~committee at the time of or prior to the inspection.~~

4 Sec. 3. Section one hundred thirty-five C point  
5 thirty-eight (135C.38), subsection two (2), Code 1979,  
6 is amended to read as follows:

7 2. An inspection made pursuant to a complaint  
8 filed under section 135C.37 shall ~~not~~ need not be limited  
9 to the matter or matters complained of, ~~and~~; however  
10 the inspection shall not be a general inspection  
11 unless the complaint inspection coincides with a  
12 scheduled general inspection. Upon arrival at the  
13 facility to be inspected, the inspector shall identify  
14 himself or herself to ~~an-employee~~ the person in charge  
15 of the facility and state that an inspection is to  
16 be made, before beginning the inspection. Upon request  
17 of either the complainant or the department or  
18 committee, the complainant or his or her representative  
19 or both may be allowed the privilege of accompanying  
20 the inspector during any on-site inspection made  
21 pursuant to this section. The inspector may cancel  
22 the privilege at any time if the inspector determines  
23 that the privacy of any resident of the facility to  
24 be inspected would otherwise be violated. The dignity  
25 of the resident shall be given first priority by the  
26 inspector and others."

596  
5981  
H-5433 FILED BY COMMITTEE ON HUMAN RESOURCES  
MARCH 11, 1980 CLARK, Chair

*Adopted as amended  
by 5973 and 5981  
4/11 (p. 1519)*

SENATE FILE 431

H-5962

1 Amend House amendment, H-5433, to Senate File 431,  
2 as follows:

3 1. Page 1, by inserting before line 5 the follow-  
4 ing:

5 "Section 1. Section one hundred thirty-five C  
6 point eleven (135C.11), subsection two (2), Code 1979,  
7 is amended to read as follows:

8 2. The procedure governing hearings authorized  
9 by this section shall be in accordance with the rules  
10 promulgated by the department. A full and complete  
11 record shall be kept of all proceedings, and all  
12 testimony shall be reported but need not be transcribed  
13 unless judicial review is sought pursuant to section  
14 135C.13. ~~A copy of copies~~ Copies of the transcript  
15 may be obtained by an interested party upon payment  
16 of the cost of preparing ~~such copy of~~ the copies.  
17 Witnesses may be subpoenaed by either party and shall  
18 be allowed fees at a rate prescribed by the ~~aforesaid~~  
19 department's rules. The commissioner may, ~~with the~~  
20 advice and consent of ~~after~~ advising the care review  
21 committee established pursuant to section 135C.25,  
22 either proceed in accordance with section three (3)  
23 of this Act, or remove all residents and suspend the  
24 license or licenses of any health care facility, prior  
25 to a hearing, when he the commissioner finds that  
26 the health or safety of residents of the health care  
27 facility requires such action on an emergency basis.  
28 The fact that no care review committee has been  
29 appointed for a particular facility shall not bar  
30 the commissioner from exercising the emergency powers  
31 granted by this subsection with respect to that  
32 facility.

33 Sec. 2. Section one hundred thirty-five C point  
34 twelve (135C.12), Code 1979, is amended to read as  
35 follows:

36 135C.12 CONDITIONAL OPERATION. ~~In any case where~~  
37 If the department shall have has the authority under  
38 section one hundred thirty-five C point ten (135C.10)  
39 of the Code to deny, suspend or revoke a license,  
40 the department shall have the authority to  
41 conditionally or commissioner may, as an alternative  
42 to those actions:

43 1. Apply to the district court of the county in  
44 which the licensee's health care facility is located  
45 for appointment by the court of a receiver for the  
46 facility pursuant to section three (3) of this Act.

47 2. Conditionally issue or continue a license  
48 dependent upon the performance by the licensee of  
49 such reasonable conditions within such a reasonable  
50 period of time as may be set by the department so

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Page Two

1 as to permit the licensee to commence or continue  
2 the operation of the health care facility pending  
3 his full compliance with this chapter or any  
4 ~~regulations-issued-hereunder---in-such-case--if the~~  
5 regulations or minimum standards promulgated under  
6 this chapter. If the licensee does not make diligent  
7 efforts to comply with such the conditions as  
8 prescribed, the department may, under the proceedings  
9 hereinbefore prescribed by this chapter, suspend or  
10 revoke the license. No health care facility shall  
11 be operated on a conditional license for more than  
12 one year.

13 3. The department, in evaluating corrections of  
14 deficiencies in a facility in receivership or operating  
15 on a conditional license, may determine what is  
16 satisfactory compliance, provided that in so doing  
17 it shall employ established criteria which shall be  
18 uniformly applied to all facilities of the same license  
19 category."

20 2. Page 2, by inserting after line 26 the follow-  
21 ing:

22 "Sec. \_\_\_\_ Chapter one hundred thirty-five C  
23 (135C), Code 1979, is amended by adding the following  
24 new section:

25 NEW SECTION. OPERATION OF FACILITY UNDER  
26 RECEIVERSHIP. When so authorized by section one  
27 hundred thirty-five C point eleven (135C.11),  
28 subsection two (2), or section one hundred thirty-  
29 five C point twelve (135C.12), subsection one (1),  
30 of the Code, the commissioner may file a verified  
31 application in the district court of the county where  
32 a health care facility licensed under this chapter  
33 is located, requesting that an individual nominated  
34 by the commissioner be appointed as receiver for the  
35 facility with responsibility to bring the operation  
36 and condition of the facility into conformity with  
37 this chapter and the rules or minimum standards  
38 promulgated under this chapter.

39 1. The court shall expeditiously hold a hearing  
40 on the application, at which the commissioner shall  
41 present evidence in support of the application. The  
42 licensee against whose facility the petition is filed  
43 may also present evidence, and both parties may  
44 subpoena witnesses. The court may appoint a receiver  
45 for the health care facility in advance of the hearing  
46 if the commissioner's verified application states  
47 that an emergency exists which presents an imminent  
48 danger of resultant death or physical harm to the  
49 residents of the facility. If the licensee against  
50 whose facility the receivership petition is filed

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1 informs the court at or before the time set for the  
2 hearing that the licensee does not object to the  
3 application, the court shall waive the hearing and  
4 at once appoint a receiver for the facility.

5 2. The court, on the basis of the verified  
6 application and evidence presented at the hearing,  
7 if one is held, shall direct in its order either that  
8 the receiver assume the duties of administrator of  
9 the health care facility or that the receiver supervise  
10 the facility's administrator in conducting the day-  
11 to-day business of the facility. The receiver shall  
12 be empowered to control the facility's financial  
13 resources and to apply its revenues as the receiver  
14 deems necessary to the operation of the facility in  
15 compliance with this chapter and the rules or minimum  
16 standards promulgated under this chapter, but shall  
17 be accountable to the court for management of the  
18 facility's financial resources.

19 3. A receivership established under this section  
20 may be terminated by the district court which  
21 established it, after a hearing upon an application  
22 for termination. The application may be filed:

23 a. Jointly by the receiver and the current licensee  
24 of the health care facility which is in receivership,  
25 stating that the deficiencies in the operation,  
26 maintenance or other circumstances which were the  
27 grounds for establishment of the receivership have  
28 been corrected and that there are reasonable grounds  
29 to believe that the facility will be operated in com-  
30 pliance with this chapter and the rules or minimum  
31 standards promulgated under this chapter.

32 b. By the current licensee of the facility,  
33 alleging that termination of the receivership is  
34 merited for the reasons set forth in paragraph a of  
35 this subsection, but that the receiver has declined  
36 to join in the petition for termination of the  
37 receivership.

38 c. By the receiver, stating that all residents  
39 of the facility have been relocated elsewhere and  
40 that there are reasonable grounds to believe it will  
41 not be feasible to again operate the facility on a  
42 sound financial basis and in compliance with this  
43 chapter and the rules or minimum standards promulgated  
44 under this chapter, and asking that the court approve  
45 surrender of the facility's license to the department  
46 and subsequent return of control of the facility's  
47 premises to the owners of the premises.

48 4. Payment of the expenses of a receivership  
49 established under this section shall be the  
50 responsibility of the facility for which the receiver

APRIL 10, 1980  
PAGE TWENTY-SEVEN

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1 is appointed, unless the court directs otherwise.  
2 5. This section does not:  
3 a. Preclude the sale or lease of a health care  
4 facility, and the transfer or assignment of the  
5 facility's license in the manner prescribed by section  
6 one hundred thirty-five C point eight (135C.8) of  
7 the Code, while the facility is in receivership,  
8 provided these actions are not taken without approval  
9 of the receiver.  
10 b. Affect the civil or criminal liability of the  
11 licensee of the facility placed in receivership, for  
12 any acts or omissions of the licensee which occurred  
13 before the receiver was appointed."  
14 3. By renumbering the sections of the Act as  
15 necessary.

H-5962 FILED  
APRIL 9, 1980  
*W/d 4/11 (p. 1514)*

BY ANDERSON of Jasper  
CLARK of Cerro Gordo  
De GROOT of Lyon

SENATE FILE 431

H-5787

1 Amend the Committee on Human Resources amendment,  
2 H-5433, to Senate File 431, as passed by the Senate,  
3 as follows:  
4 1. Page 1, line 11, by inserting after the word  
5 "chapter" the words "shall be transmitted to the  
6 chairperson of the care review committee of the  
7 facility not later than fifteen days following the  
8 inspection and".  
9 2. Page 1, line 15, by striking the words "or  
10 licensee" and inserting in lieu thereof the words  
11 ", or licensee, or the chairperson of the care review  
12 committee of the facility".

H-5787 FILED  
MARCH 31, 1980  
*W/d 4/11 (p. 1517)*

BY MILLER of Buchanan  
CLARK of Cerro Gordo

SENATE FILE 431

H-5981

1 Amend House amendment, H-5433, to Senate File 431,  
2 as follows:

3 1. Page 1, by inserting before line 5 the follow-  
4 ing:

5 "Section 1. Section one hundred thirty-five C  
6 point eleven (135C.11), subsection two (2), Code 1979,  
7 is amended to read as follows:

8 2. The procedure governing hearings authorized  
9 by this section shall be in accordance with the rules  
10 promulgated by the department. A full and complete  
11 record shall be kept of all proceedings, and all  
12 testimony shall be reported but need not be transcribed  
13 unless judicial review is sought pursuant to section  
14 135C.13. ~~A copy of~~ Copies of the transcript  
15 may be obtained by an interested party upon payment  
16 of the cost of preparing ~~such copy of~~ the copies.  
17 Witnesses may be subpoenaed by either party and shall  
18 be allowed fees at a rate prescribed by the ~~afesaid~~  
19 department's rules. The commissioner may, ~~with the~~  
20 advice and consent of after advising the care review  
21 committee established pursuant to section 135C.25,  
22 either proceed in accordance with section six (6)  
23 of this Act, or remove all residents and suspend the  
24 license or licenses of any health care facility, prior  
25 to a hearing, when he the commissioner finds that  
26 the health or safety of residents of the health care  
27 facility requires such action on an emergency basis.  
28 The fact that no care review committee has been  
29 appointed for a particular facility shall not bar  
30 the commissioner from exercising the emergency powers  
31 granted by this subsection with respect to that  
32 facility.

33 Sec. 2. Section one hundred thirty-five C point  
34 twelve (135C.12), Code 1979, is amended to read as  
35 follows:

36 135C.12 CONDITIONAL OPERATION. ~~In any case where~~  
37 If the department shall have has the authority under  
38 section one hundred thirty-five C point ten (135C.10)  
39 of the Code to deny, suspend or revoke a license,  
40 the department shall have the authority to  
41 conditionally or commissioner may, as an alternative  
42 to those actions:

43 1. Apply to the district court of the county in  
44 which the licensee's health care facility is located  
45 for appointment by the court of a receiver for the  
46 facility pursuant to section six (6) of this Act.

47 2. Conditionally issue or continue a license  
48 dependent upon the performance by the licensee of  
49 such reasonable conditions within such a reasonable  
50 period of time as may be set by the department so

1 as to permit the licensee to commence or continue  
2 the operation of the health care facility pending  
3 his full compliance with this chapter or any  
4 ~~regulations-issued-hereunder---~~~~in-such-case,-if the~~  
5 regulations or minimum standards promulgated under  
6 this chapter. If the licensee does not make diligent  
7 efforts to comply with such the conditions as  
8 prescribed, the department may, under the proceedings  
9 hereinbefore prescribed by this chapter, suspend or  
10 revoke the license. No health care facility shall  
11 be operated on a conditional license for more than  
12 one year.

13 3. The department, in evaluating corrections of  
14 deficiencies in a facility in receivership or operating  
15 on a conditional license, may determine what is  
16 satisfactory compliance, provided that in so doing  
17 it shall employ established criteria which shall be  
18 uniformly applied to all facilities of the same license  
19 category."

20 2. Page 2, by inserting after line 26 the follow-  
21 ing:

22 "Sec. 6. Chapter one hundred thirty-five C (135C),  
23 Code 1979, is amended by adding the following new  
24 section:

25 NEW SECTION. OPERATION OF FACILITY UNDER  
26 RECEIVERSHIP. When so authorized by section one  
27 hundred thirty-five C point eleven (135C.11),  
28 subsection two (2), or section one hundred thirty-  
29 five C point twelve (135C.12), subsection one (1),  
30 of the Code, the commissioner may file a verified  
31 application in the district court of the county where  
32 a health care facility licensed under this chapter  
33 is located, requesting that an individual nominated  
34 by the commissioner be appointed as receiver for the  
35 facility with responsibility to bring the operation  
36 and condition of the facility into conformity with  
37 this chapter and the rules or minimum standards  
38 promulgated under this chapter.

39 1. The court shall expeditiously hold a hearing  
40 on the application, at which the commissioner shall  
41 present evidence in support of the application. The  
42 licensee against whose facility the petition is filed  
43 may also present evidence, and both parties may  
44 subpoena witnesses. The court may appoint a receiver  
45 for the health care facility in advance of the hearing  
46 if the commissioner's verified application states  
47 that an emergency exists which presents an imminent  
48 danger of resultant death or physical harm to the  
49 residents of the facility. If the licensee against  
50 whose facility the receivership petition is filed

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Page Three

1 informs the court at or before the time set for the  
2 hearing that the licensee does not object to the  
3 application, the court shall waive the hearing and  
4 at once appoint a receiver for the facility.

5 2. The court, on the basis of the verified  
6 application and evidence presented at the hearing,  
7 may order the facility placed under receivership,  
8 and if so ordered, the court shall direct either that  
9 the receiver assume the duties of administrator of  
10 the health care facility or that the receiver supervise  
11 the facility's administrator in conducting the day-  
12 to-day business of the facility. The receiver shall  
13 be empowered to control the facility's financial  
14 resources and to apply its revenues as the receiver  
15 deems necessary to the operation of the facility in  
16 compliance with this chapter and the rules or minimum  
17 standards promulgated under this chapter, but shall  
18 be accountable to the court for management of the  
19 facility's financial resources.

20 3. A receivership established under this section  
21 may be terminated by the district court which  
22 established it, after a hearing upon an application  
23 for termination. The application may be filed:

24 a. Jointly by the receiver and the current licensee  
25 of the health care facility which is in receivership,  
26 stating that the deficiencies in the operation,  
27 maintenance or other circumstances which were the  
28 grounds for establishment of the receivership have  
29 been corrected and that there are reasonable grounds  
30 to believe that the facility will be operated in com-  
31 pliance with this chapter and the rules or minimum  
32 standards promulgated under this chapter.

33 b. By the current licensee of the facility,  
34 alleging that termination of the receivership is  
35 merited for the reasons set forth in paragraph a of  
36 this subsection, but that the receiver has declined  
37 to join in the petition for termination of the  
38 receivership.

39 c. By the receiver, stating that all residents  
40 of the facility have been relocated elsewhere and  
41 that there are reasonable grounds to believe it will  
42 not be feasible to again operate the facility on a  
43 sound financial basis and in compliance with this  
44 chapter and the rules or minimum standards promulgated  
45 under this chapter, and asking that the court approve  
46 surrender of the facility's license to the department  
47 and subsequent return of control of the facility's  
48 premises to the owners of the premises.

49 4. Payment of the expenses of a receivership  
established under this section shall be the

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Page Four

- 1 responsibility of the facility for which the receiver
- 2 is appointed, unless the court directs otherwise.
- 3 5. This section does not:
- 4 a. Preclude the sale or lease of a health care
- 5 facility, and the transfer or assignment of the
- 6 facility's license in the manner prescribed by section
- 7 one hundred thirty-five C point eight (135C.8) of
- 8 the Code, while the facility is in receivership,
- 9 provided these actions are not taken without approval
- 10 of the receiver.
- 11 b. Affect the civil or criminal liability of the
- 12 licensee of the facility placed in receivership, for
- 13 any acts or omissions of the licensee which occurred
- 14 before the receiver was appointed."
- 15 3. By renumbering the sections of the Act as
- 16 necessary.

H-5981 FILED  
APRIL 10, 1980  
*Adopted 4/11 (p. 1517)*

BY ANDERSON of Jasper  
CLARK of Cerro Gordo  
De GROOT of Lyon

SENATE FILE 431

H-5973

- 1 Amend the Committee on Human Resources amendment,
- 2 H-5433, to Senate File 431, as passed by the Senate,
- 3 as follows:
- 4 1. Page 1, line 15 by inserting after the word
- 5 "licensee." the following new sentence: "However,
- 6 the findings from an inspection shall be sent to the
- 7 chairperson of the care review committee of the
- 8 facility at the same time they are sent to the
- 9 applicant or licensee."

H-5973 FILED  
APRIL 10, 1980  
*Adopted 4/11 (p. 1518)*

BY MILLER of Buchanan  
CLARK of Cerro Gordo

H-6004

1 Amend House amendment, H-5433, to Senate File 431,  
2 as follows:

3 1. Page 1, by inserting before line 5 the following:

4 "Section 1. Section one hundred thirty-five C (135C)  
5 is amended by adding the following new section:

6 NEW SECTION. If an assistance payment made by the  
7 department of social services to a health care facility  
8 licensed under chapter one hundred thirty-five C (135C) of  
9 the Code on behalf of an individual who is a resident of  
10 the facility includes an amount designated for use in  
11 meeting the recipient's personal needs, and the recipient  
12 requests that the facility establish a personal needs  
13 account for the recipient, the department shall require  
14 the facility to place the full amount designated for  
15 the recipient's personal needs in the account immediately  
16 upon receipt of the assistance payment. The department  
17 shall promulgate rules to ensure that money is drawn from  
18 the account only by the individual on whose behalf the  
19 assistance payment is made, or on that individual's behalf  
20 for use in meeting the individual's bona fide personal  
21 needs. The department shall cause each personal needs  
22 account so established to be audited at least annually by  
23 an auditor who is not an employee of the health care  
facility."

24 2. By renumbering the sections of the Act as  
25 necessary.

H-6004 FILED APRIL 11, 1980  
RULED NOT GERMANE, MOTION TO  
SUSPEND RULES, LOST (p. 1519)

BY HOWELL of Floyd

HOUSE AMENDMENT TO SENATE FILE 431

S-5730

1 Amend Senate File 431 as passed by the Senate as  
2 follows:

3 1. Page 1, by inserting before line 1 the  
4 following:

5 "Section 1. Section one hundred thirty-five C  
6 point eleven (135C.11), subsection two (2), Code 1979,  
7 is amended to read as follows:

8 2. The procedure governing hearings authorized  
9 by this section shall be in accordance with the rules  
10 promulgated by the department. A full and complete  
11 record shall be kept of all proceedings, and all  
12 testimony shall be reported but need not be transcribed  
13 unless judicial review is sought pursuant to section  
14 135C.13. ~~A copy or copies~~ Copies of the transcript  
15 may be obtained by an interested party upon payment  
16 of the cost of preparing ~~such copy or~~ the copies.

17 Witnesses may be subpoenaed by either party and shall  
18 be allowed fees at a rate prescribed by the ~~aforsaid~~  
19 department's rules. The commissioner may, ~~with the~~

20 ~~advice and consent of~~ after advising the care review  
21 committee established pursuant to section 135C.25,

584- 22 either proceed in accordance with section six (6)  
23 of this Act, or remove all residents and suspend the

24 license or licenses of any health care facility, prior  
25 to a hearing, when he the commissioner finds that  
26 the health or safety of residents of the health care  
27 facility requires such action on an emergency basis.

28 The fact that no care review committee has been  
29 appointed for a particular facility shall not bar  
30 the commissioner from exercising the emergency powers  
31 granted by this subsection with respect to that  
32 facility.

33 Sec. 2. Section one hundred thirty-five C point  
34 twelve (135C.12), Code 1979, is amended to read as  
35 follows:

36 135C.12 CONDITIONAL OPERATION. In any case where  
37 If the department shall have has the authority under  
38 section one hundred thirty-five C point ten (135C.10)  
39 of the Code to deny, suspend or revoke a license,  
40 the department shall have the authority to  
41 conditionally or commissioner may, as an alternative  
42 to those actions:

584- 43 1. Apply to the district court of the county in  
44 which the licensee's health care facility is located  
45 for appointment by the court of a receiver for the  
46 facility pursuant to section six (6) of this Act.

47 2. Conditionally issue or continue a license  
48 dependent upon the performance by the licensee of  
49 such reasonable conditions within such a reasonable  
50 period of time as may be set by the department so

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Page 2

1 as to permit the licensee to commence or continue  
2 the operation of the health care facility pending  
3 his full compliance with this chapter or any  
4 ~~regulations-issued-hereunder---in-such-case,-if the~~  
5 regulations or minimum standards promulgated under  
6 this chapter. If the licensee does not make diligent  
7 efforts to comply with such the conditions as  
8 prescribed, the department may, under the proceedings  
9 ~~hereinbefore~~ prescribed by this chapter, suspend or  
10 revoke the license. No health care facility shall  
11 be operated on a conditional license for more than  
12 one year.

13 3. The department, in evaluating corrections of  
14 deficiencies in a facility in receivership or operating  
15 on a conditional license, may determine what is  
16 satisfactory compliance, provided that in so doing  
17 it shall employ established criteria which shall be  
18 uniformly applied to all facilities of the same license  
19 category.

20 Sec. 3. Section one hundred thirty-five C point  
21 nineteen (135C.19), subsection one (1), Code 1979,  
22 is amended to read as follows:

23 1. Following any inspection of a health care  
24 facility by the department, the findings of the  
25 inspection with respect to compliance by the facility  
26 with requirements for licensing under this chapter  
27 shall be made available to the public in a readily  
28 available form and place forty-five not later than  
29 twenty-one days after the findings are made available  
30 to the applicant or licensee. However, the findings  
31 from an inspection shall be sent to the chairperson  
32 of the care review committee of the facility at the  
33 same time they are sent to the applicant or licensee.  
34 ~~However,-if-the-applicant-or-licensee-requests-a~~  
35 ~~hearing-pursuant-to-section-135C.11,-the-findings~~  
36 ~~of-the-inspection-shall-not-be-made-public-until-the~~  
37 ~~hearing-has-been-completed-~~ When the findings are  
38 made available to the public, they shall include no  
39 reference to any cited violation which has been  
40 corrected to the department's satisfaction unless  
41 the same reference also clearly notes that the  
42 violation has been corrected. Other information  
43 relating to any health care facility, obtained by  
44 the department through reports, investigations,  
45 complaints, or as otherwise authorized by this chapter,  
46 which is not a part of the department's findings from  
47 an inspection of the facility, shall not be disclosed  
48 publicly made available to the public except in  
49 proceedings involving the citation of a facility for  
50 a violation, in the manner provided by section 135C.40,

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1 or the denial, suspension or revocation of a license  
2 under this chapter."

3 2. Page 1, by striking lines 1 through 12 and  
4 inserting in lieu thereof the following:

5 "Sec. 4. Section one hundred thirty-five C point  
6 thirty-seven (135C.37), Code 1979, is amended to read  
7 as follows:

8 135C.37 COMPLAINTS ALLEGING VIOLATIONS. Any  
9 person may request an inspection of any health care  
10 facility by filing with the department or care review  
11 committee of the facility a complaint of an alleged  
12 violation of applicable requirements of this chapter  
13 or the rules adopted pursuant to it. A copy of a  
14 complaint filed with the care review committee shall  
15 be forwarded to the department. The complaint shall  
16 state in a reasonably specific manner the basis of  
17 the complaint, and a copy thereof statement of the  
18 nature of the complaint shall be forwarded delivered  
19 to the facility involved within twenty-four hours  
20 of receipt of the complaint by the department or the  
21 committee at the time of or prior to the inspection.

22 Sec. 5. Section one hundred thirty-five C point  
23 thirty-eight (135C.38), subsection two (2), Code 1979,  
24 is amended to read as follows:

25 2. An inspection made pursuant to a complaint  
26 filed under section 135C.37 shall need not be limited  
27 to the matter or matters complained of; and; however  
28 the inspection shall not be a general inspection  
29 unless the complaint inspection coincides with a  
30 scheduled general inspection. Upon arrival at the  
31 facility to be inspected, the inspector shall identify  
32 himself or herself to an employee the person in charge  
33 of the facility and state that an inspection is to  
34 be made, before beginning the inspection. Upon request  
35 of either the complainant or the department or  
36 committee, the complainant or his or her representative  
37 or both may be allowed the privilege of accompanying  
38 the inspector during any on-site inspection made  
39 pursuant to this section. The inspector may cancel  
40 the privilege at any time if the inspector determines  
41 that the privacy of any resident of the facility to  
42 be inspected would otherwise be violated. The dignity  
43 of the resident shall be given first priority by the  
44 inspector and others."

584 45 Sec. 6. Chapter one hundred thirty-five C (135C),  
46 Code 1979, is amended by adding the following new  
47 section:

48 NEW SECTION. OPERATION OF FACILITY UNDER  
49 RECEIVERSHIP. When so authorized by section one  
50 hundred thirty-five C point eleven (135C.11),

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1 subsection two (2), or section one hundred thirty-  
2 five C point twelve (135C.12), subsection one (1),  
3 of the Code, the commissioner may file a verified  
4 application in the district court of the county where  
5 a health care facility licensed under this chapter  
6 is located, requesting that an individual nominated  
7 by the commissioner be appointed as receiver for the  
8 facility with responsibility to bring the operation  
9 and condition of the facility into conformity with  
10 this chapter and the rules or minimum standards  
11 promulgated under this chapter.

12 1. The court shall expeditiously hold a hearing  
13 on the application, at which the commissioner shall  
14 present evidence in support of the application. The  
15 licensee against whose facility the petition is filed  
16 may also present evidence, and both parties may  
17 subpoena witnesses. The court may appoint a receiver  
18 for the health care facility in advance of the hearing  
19 if the commissioner's verified application states  
20 that an emergency exists which presents an imminent  
21 danger of resultant death or physical harm to the  
22 residents of the facility. If the licensee against  
23 whose facility the receivership petition is filed  
24 informs the court at or before the time set for the  
25 hearing that the licensee does not object to the  
26 application, the court shall waive the hearing and  
27 at once appoint a receiver for the facility.

28 2. The court, on the basis of the verified  
29 application and evidence presented at the hearing,  
30 may order the facility placed under receivership,  
31 and if so ordered, the court shall direct either that  
32 the receiver assume the duties of administrator of  
33 the health care facility or that the receiver supervise  
34 the facility's administrator in conducting the day-  
35 to-day business of the facility. The receiver shall  
36 be empowered to control the facility's financial  
37 resources and to apply its revenues as the receiver  
38 deems necessary to the operation of the facility in  
39 compliance with this chapter and the rules or minimum  
40 standards promulgated under this chapter, but shall  
41 be accountable to the court for management of the  
42 facility's financial resources.

43 3. A receivership established under this section  
44 may be terminated by the district court which  
45 established it, after a hearing upon an application  
46 for termination. The application may be filed:

47 a. Jointly by the receiver and the current licensee  
48 of the health care facility which is in receivership,  
49 stating that the deficiencies in the operation,  
50 maintenance or other circumstances which were the

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1 grounds for establishment of the receivership have  
2 been corrected and that there are reasonable grounds  
3 to believe that the facility will be operated in com-  
4 pliance with this chapter and the rules or minimum  
5 standards promulgated under this chapter.

6 b. By the current licensee of the facility,  
7 alleging that termination of the receivership is  
8 merited for the reasons set forth in paragraph a of  
9 this subsection, but that the receiver has declined  
10 to join in the petition for termination of the  
11 receivership.

12 c. By the receiver, stating that all residents  
13 of the facility have been relocated elsewhere and  
14 that there are reasonable grounds to believe it will  
15 not be feasible to again operate the facility on a  
16 sound financial basis and in compliance with this  
17 chapter and the rules or minimum standards promulgated  
18 under this chapter, and asking that the court approve  
19 surrender of the facility's license to the department  
20 and subsequent return of control of the facility's  
21 premises to the owners of the premises.

22 4. Payment of the expenses of a receivership  
23 established under this section shall be the  
24 responsibility of the facility for which the receiver  
25 is appointed, unless the court directs otherwise.

26 5. This section does not:

27 a. Preclude the sale or lease of a health care  
28 facility, and the transfer or assignment of the  
29 facility's license in the manner prescribed by section  
30 one hundred thirty-five C point eight (135C.8) of  
31 the Code, while the facility is in receivership,  
32 provided these actions are not taken without approval  
33 of the receiver.

34 b. Affect the civil or criminal liability of the  
35 licensee of the facility placed in receivership, for  
36 any acts or omissions of the licensee which occurred  
37 before the receiver was appointed."

38 3. By renumbering the sections of the Act as  
39 necessary.

S-5730 FILED  
APRIL 15, 1980

RECEIVED FROM THE HOUSE

*Senate concurred 4/25 (p. 1749)*

S-5843

1 Amend House amendment, S-5730, to Senate File 431  
 2 as follows:

3 1. Page 1, line 22, by striking the word and  
 4 figure "six (6)" and inserting in lieu thereof the  
 5 word and figure "two (2)".

6 2. Page 1, by striking lines 43 through 46 and  
 7 inserting in lieu thereof the following:

8 "1. Remove the administrator of the health care  
 9 facility."

10 3. Page 2, lines 14 and 15, by striking the words  
 11 "in receivership or operating on a conditional  
 12 license".

13 4. By striking page 3, line 45 through page 5,  
 14 line 37.

15 5. Page 5, by inserting after line 37 the  
 16 following:

17 "Sec. \_\_\_\_\_. Section one hundred thirty-five C point  
 18 ten (135C.10), Code 1979, is amended by adding the  
 19 following new subsection:

20 NEW SUBSECTION. The department shall be prohibited  
 21 from recommending the initiation of decertification  
 22 proceedings against any facility which could lead  
 23 to denial of benefits under chapter two hundred forty-  
 24 nine A (249A) of the Code until proceedings to deny,  
 25 suspend or revoke a facility's license have been  
 26 finalized."

S-5843 FILED  
 APRIL 23, 1980  
*W/O 4/25 (p. 1748)*

BY W. R. HANSEN  
 BERL E. PRIEBE

S-5943

1 Amend the House amendment S-5730 to Senate File  
 2 431 as follows:

3 1. Page 2, by striking lines 28 and 29 and inserting  
 4 in lieu thereof the words "available form and place  
 5 forty-five days after the findings are made available".

S-5943 FILED & WITHDRAWN  
 APRIL 25, 1980 *(p. 1748)*

BY JOE BROWN

SENATE FILE 431

AN ACT

RELATING TO COMPLAINTS ALLEGING VIOLATIONS OF PROVISIONS  
RELATING TO HEALTH CARE FACILITIES.

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

Section 1. Section one hundred thirty-five C point eleven (135C.11), subsection two (2), Code 1979, is amended to read as follows:

2. The procedure governing hearings authorized by this section shall be in accordance with the rules promulgated by the department. A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless judicial review is sought pursuant to section 135C.13. ~~A copy or copies~~ Copies of the transcript may be obtained by an interested party upon payment of the cost of preparing ~~such copy or~~ the copies. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the ~~aforsaid~~ department's rules. The commissioner may, ~~with the advise and consent of~~ after advising the care review committee established pursuant to section 135C.25, either proceed in accordance with section six (6) of this Act, or remove all residents and suspend the license or licenses of any health care facility, prior to a hearing, when he the commissioner finds that the health or safety of residents of the health care facility requires such action on an emergency basis. The fact that no care review committee has been appointed for a particular facility shall not bar the commissioner from exercising the emergency powers granted by this subsection with respect to that facility.

Sec. 2. Section one hundred thirty-five C point twelve (135C.12), Code 1979, is amended to read as follows:

135C.12 CONDITIONAL OPERATION. ~~in any case where~~ If the department ~~shall have~~ has the authority under section one hundred thirty-five C point ten (135C.10) of the Code to deny, suspend or revoke a license, the department ~~shall have the authority to conditionally~~ or commissioner may, as an alternative to those actions:

1. Apply to the district court of the county in which the licensee's health care facility is located for appointment by the court of a receiver for the facility pursuant to section six (6) of this Act.

2. Conditionally issue or continue a license dependent upon the performance by the licensee of such reasonable conditions within such a reasonable period of time as may be set by the department so as to permit the licensee to commence or continue the operation of the health care facility pending his full compliance with this chapter or any regulations issued hereunder,--in such case, if the regulations or minimum standards promulgated under this chapter. If the licensee does not make diligent efforts to comply with such the conditions as prescribed, the department may, under the proceedings hereinbefore prescribed by this chapter, suspend or revoke the license. No health care facility shall be operated on a conditional license for more than one year.

3. The department, in evaluating corrections of deficiencies in a facility in receivership or operating on a conditional license, may determine what is satisfactory compliance, provided that in so doing it shall employ established criteria which shall be uniformly applied to all facilities of the same license category.

Sec. 3. Section one hundred thirty-five C point nineteen (135C.19), subsection one (1), Code 1979, is amended to read as follows:

1. Following any inspection of a health care facility by the department, the findings of the inspection with respect to compliance by the facility with requirements for licensing under this chapter shall be made available to the public in a readily available form and place ~~forty-five not later than twenty-one~~ days after the findings are made available to the applicant or licensee. However, the findings from an inspection shall be sent to the chairperson of the care review committee of the facility at the same time they are sent to the applicant or licensee. However, if the applicant or licensee requests a hearing pursuant to section 135C.11, the findings of the inspection shall not be made public until the hearing has been completed. When the findings are made available to the public, they shall include no reference to any cited violation which has been corrected to the department's satisfaction unless the same reference also clearly notes that the violation has been corrected. Other information relating to any health care facility, obtained by the department through reports, investigations, complaints, or as otherwise authorized by this chapter, which is not a part of the department's findings from an inspection of the facility, shall not be ~~disclosed publicly~~ made available to the public except in proceedings involving the citation of a facility for a violation, in the manner provided by section 135C.40, or the denial, suspension or revocation of a license under this chapter.

Sec. 4. Section one hundred thirty-five C point thirty-seven (135C.37), Code 1979, is amended to read as follows:

135C.37 COMPLAINTS ALLEGING VIOLATIONS. Any person may request an inspection of any health care facility by filing with the department or care review committee of the facility a complaint of an alleged violation of applicable requirements of this chapter or the rules adopted pursuant to it. A copy of a complaint filed with the care review committee shall

be forwarded to the department. The complaint shall state in a reasonably specific manner the basis of the complaint, and a ~~copy thereof~~ statement of the nature of the complaint shall be forwarded delivered to the facility involved ~~within twenty-four hours of receipt of the complaint by the department or the committee~~ at the time of or prior to the inspection.

Sec. 5. Section one hundred thirty-five C point thirty-eight (135C.38), subsection two (2), Code 1979, is amended to read as follows:

2. An inspection made pursuant to a complaint filed under section 135C.37 ~~shall need not~~ be limited to the matter or matters complained of, ~~and~~; however the inspection shall not be a general inspection unless the complaint inspection coincides with a scheduled general inspection. Upon arrival at the facility to be inspected, the inspector shall identify himself or herself to ~~an employee~~ the person in charge of the facility and state that an inspection is to be made, before beginning the inspection. Upon request of either the complainant or the department or committee, the complainant or his or her representative or both may be allowed the privilege of accompanying the inspector during any on-site inspection made pursuant to this section. The inspector may cancel the privilege at any time if the inspector determines that the privacy of any resident of the facility to be inspected would otherwise be violated. The dignity of the resident shall be given first priority by the inspector and others.

Sec. 6. Chapter one hundred thirty-five C (135C), Code 1979, is amended by adding the following new section:

NEW SECTION. OPERATION OF FACILITY UNDER RECEIVERSHIP. When so authorized by section one hundred thirty-five C point eleven (135C.11), subsection two (2), or section one hundred thirty-five C point twelve (135C.12), subsection one (1), of the Code, the commissioner may file a verified application

in the district court of the county where a health care facility licensed under this chapter is located, requesting that an individual nominated by the commissioner be appointed as receiver for the facility with responsibility to bring the operation and condition of the facility into conformity with this chapter and the rules or minimum standards promulgated under this chapter.

1. The court shall expeditiously hold a hearing on the application, at which the commissioner shall present evidence in support of the application. The licensee against whose facility the petition is filed may also present evidence, and both parties may subpoena witnesses. The court may appoint a receiver for the health care facility in advance of the hearing if the commissioner's verified application states that an emergency exists which presents an imminent danger of resultant death or physical harm to the residents of the facility. If the licensee against whose facility the receivership petition is filed informs the court at or before the time set for the hearing that the licensee does not object to the application, the court shall waive the hearing and at once appoint a receiver for the facility.

2. The court, on the basis of the verified application and evidence presented at the hearing, may order the facility placed under receivership, and if so ordered, the court shall direct either that the receiver assume the duties of administrator of the health care facility or that the receiver supervise the facility's administrator in conducting the day-to-day business of the facility. The receiver shall be empowered to control the facility's financial resources and to apply its revenues as the receiver deems necessary to the operation of the facility in compliance with this chapter and the rules or minimum standards promulgated under this chapter, but shall be accountable to the court for management of the facility's financial resources.

3. A receivership established under this section may be terminated by the district court which established it, after a hearing upon an application for termination. The application may be filed:

a. Jointly by the receiver and the current licensee of the health care facility which is in receivership, stating that the deficiencies in the operation, maintenance or other circumstances which were the grounds for establishment of the receivership have been corrected and that there are reasonable grounds to believe that the facility will be operated in compliance with this chapter and the rules or minimum standards promulgated under this chapter.

b. By the current licensee of the facility, alleging that termination of the receivership is merited for the reasons set forth in paragraph a of this subsection, but that the receiver has declined to join in the petition for termination of the receivership.

c. By the receiver, stating that all residents of the facility have been relocated elsewhere and that there are reasonable grounds to believe it will not be feasible to again operate the facility on a sound financial basis and in compliance with this chapter and the rules or minimum standards promulgated under this chapter, and asking that the court approve surrender of the facility's license to the department and subsequent return of control of the facility's premises to the owners of the premises.

4. Payment of the expenses of a receivership established under this section shall be the responsibility of the facility for which the receiver is appointed, unless the court directs otherwise.

5. This section does not:

a. Preclude the sale or lease of a health care facility, and the transfer or assignment of the facility's license in the manner prescribed by section one hundred thirty-five C

point eight (135C.8) of the Code, while the facility is in receivership, provided these actions are not taken without approval of the receiver.

b. Affect the civil or criminal liability of the licensee of the facility placed in receivership, for any acts or omissions of the licensee which occurred before the receiver was appointed.

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TERRY E. BRANSTAD  
President of the Senate

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WILLIAM H. HARBOR  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 431, Sixty-eighth General Assembly.

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FRANK J. STORK  
Secretary of the Senate

Approved May 23, 1980

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ROBERT D. RAY  
Governor