

Reprinted 4/12/81

APR 1 1981

HOUSE FILE 821

Place On Calendar

BY COMMITTEE ON STATE GOVERNMENT

(Formerly Study Bill 103)

Passed House, Date 4-7-81 (p. 1115) Passed Senate, Date 4-21-81 (P. 1347)

Vote: Ayes 93 Nays 6 Vote: Ayes 50 Nays 0

Approved 5-4-81

*Amended to House (p. 1116) 4/2 (p. 1125)
Passed House 4-9-81 (p. 1145) 4/9*

A BILL FOR

1 An Act relating to substance abuse programs by making changes
2 in facility licensing and auditing requirements by abolish-
3 ing the state advisory council on substance abuse, by
4 allowing contracts for education and prevention services,
5 by authorizing inspections, by extending operations of
6 the Iowa department of substance abuse through 1983, by
7 providing for a program evaluation of the department and
8 providing penalties.

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

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821

1 Section 1. Section 125.2, subsection 2, Code 1981, is
2 amended to read as follows:

3 2. "Facility" means a hospital, institution, detoxifi-
4 cation center, or installation providing care, maintenance
5 and treatment for substance abusers ~~and licensed by the de-~~
6 ~~partment under~~ that meets the licensing requirements imposed
7 by section 125.13.

8 Sec. 2. Section 125.3, Code 1981, is amended to read as
9 follows:

10 125.3 ESTABLISHED.

11 ~~1-~~ There is established the Iowa department of substance
12 abuse which shall develop, implement and administer a
13 comprehensive substance abuse program pursuant to sections
14 125.1 to 125.43. There is established within the department
15 a commission on substance abuse to establish policies governing
16 the performance of the department in the discharge of duties
17 imposed on it by this chapter. The commission shall consist
18 of nine members appointed by the governor. Appointments shall
19 be made on the basis of interest in and knowledge of substance
20 abuse, however two of the members shall be persons who, in
21 their regular work, have direct contact with substance abuse
22 clients. ~~All members shall be~~ Only eligible electors of the
23 state of Iowa shall be appointed.

24 ~~2--The governor shall make the initial appointments to~~
25 ~~the commission and the advisory council for terms commencing~~
26 ~~July 1, 1977.--The provisions of sections 125.6 and 125.11~~
27 ~~shall apply to the payment of per diem and expenses to~~
28 ~~commission and advisory council members as if the provisions~~
29 ~~of said sections were in effect on July 1, 1977.--The~~
30 ~~provisions of this subsection shall be effective July 1, 1977.~~

31 Sec. 3. Section 125.10, subsection 1, Code 1981, is amended
32 to read as follows:

33 1. Prepare and submit a state plan subject to approval
34 by the commission and in accordance with the provisions of
35 ~~title XLII, United States Code, section~~ 42 U.S.C. sec. 4573.

1 The state plan shall designate the department as the sole
2 agency for supervising the administration of the plan and
3 ~~shall provide for the appointment of a citizens advisory~~
4 ~~council on substance abuse.~~

5 Sec. 4. Section 125.12, Code 1981, is amended by adding
6 the following new subsection:

7 NEW SUBSECTION. The director may contract with public
8 or private agencies to provide education and prevention
9 services consistent with the comprehensive program required
10 by this section.

11 Sec. 5. Section 125.13, subsection 2, unnumbered paragraph
12 1, Code 1981, is amended to read as follows:

13 The licensing requirements of this chapter ~~except the~~
14 ~~requirements imposed by section 125.217 shall~~ do not apply
15 to any of the following:

16 Sec. 6. Section 125.13, subsection 2, paragraph a, Code
17 1981, is amended to read as follows:

18 a. Hospitals providing any care or treatment to substance
19 abusers required ~~on January 17, 1978, by other provisions of~~
20 ~~law to be licensed~~ to have a license under chapter 135B.

21 Sec. 7. Section 125.13, subsection 2, Code 1981, is amended
22 by adding the following new lettered paragraph:

23 NEW LETTERED PARAGRAPH. Individuals in private practice
24 who are providing substance abuse treatment services indepen-
25 dent from a program that is required to be licensed under
26 subsection 1.

27 Sec. 8. Section 125.14, Code 1981, is amended to read
28 as follows:

29 125.14 LICENSES--RENEWAL--FEES. The commission shall
30 meet to consider all cases involving issuance, denial,
31 suspension, or revocation of a license. Upon approval of
32 an application for licensing by the commission, a license
33 shall be issued by the department. Licenses shall expire
34 ~~one year~~ no later than two years from the date of issuance
35 and shall be renewed upon timely application made in the same

1 manner as for original issuance of a license unless notice
2 of nonrenewal is given to the licensee at least thirty days
3 prior to the expiration of the license. The department shall
4 not charge a fee for licensing or renewal.

5 Sec. 9. Section 125.21, unnumbered paragraph 1, Code 1981,
6 is amended to read as follows:

7 The commission ~~shall have~~ has exclusive power in this state
8 to approve and license chemical substitutes and antagonists
9 programs, and monitor chemical substitutes and antagonists
10 programs ~~in this state~~ to insure that the programs are
11 operating within the rules established pursuant to this chapter
12 ~~and the.~~ The commission shall ~~be obliged to~~ grant such
13 approval and license if the requirements of the rules are
14 met and no state funding is requested. This section does
15 not require approval or licensing of chemical substitutes
16 and antagonists programs conducted by persons exempt from
17 the licensing requirements of this chapter by section 125.13,
18 subsection 2.

19 Sec. 10. Section 125.55, Code 1981, is amended to read
20 as follows:

21 125.55 AUDITS. All licensed substance abuse programs
22 ~~shall be~~ are subject to ~~regular~~ annual audit either by the
23 auditor of state ~~or to special audits requested by the director~~
24 or in lieu of the examination by state accountants the
25 substance abuse program may contract with or employ certified
26 public accountants to conduct the audit. The audit format
27 shall be as prescribed by the auditor of state. The
28 notification requirements and the powers granted to the auditor
29 of state in sections 11.18 and 11.19 apply to audits conducted
30 by certified public accountants. The certified public
31 accountant shall submit a copy of the audit to the director.
32 A licensed substance abuse program is also subject to special
33 audits as the director requests.

34 Sec. 11. Section 125.56, Code 1981, is amended to read
35 as follows:

1 125.56 FUTURE STATUS OF DEPARTMENT AFTER ~~1981~~ 1982. The
2 ~~provisions of this chapter are~~ This chapter is repealed effec-
3 tive July 1, ~~1982~~ 1983.

4 The ~~first~~ second session of the Sixty-ninth General Assembly
5 meeting in the year ~~1981~~ 1982 shall review the activities
6 and performance of the department and shall not later than
7 July 1, ~~1981~~ 1982 make a determination concerning the status
8 and duties of the department.

9 Sec. 12. Chapter 125, Code 1981, is amended by adding
10 the following new section:

11 NEW SECTION. INSPECTION--PENALTIES.

12 1. If the department has probable cause to believe that
13 an institution, place, building, or agency not licensed as
14 a substance abuse treatment and rehabilitation facility is
15 in fact a substance abuse treatment and rehabilitation facility
16 as defined by this chapter, and is not exempt from licensing
17 by section 125.13, subsection 2, the commission may order
18 an inspection of the institution, place, building, or agency.
19 If the inspector upon presenting proper identification is
20 denied entry for the purpose of making the inspection, the
21 inspector may, with the assistance of the county attorney
22 of the county in which the premises are located, apply to
23 the district court for an order requiring the owner or occupant
24 to permit entry and inspection of the premises to determine
25 whether there have been violations of this chapter. The
26 investigation may include review of records, reports, and
27 documents maintained by the facility and interviews with staff
28 members consistent with the confidentiality safeguards of
29 state and federal law.

30 2. A person establishing, conducting, managing, or
31 operating a substance abuse treatment and rehabilitation
32 facility without a license is guilty of a serious misdemeanor.
33 Each day of continued violation after conviction or notice
34 from the department by certified mail of a violation shall
35 be considered a separate offense or chargeable offense. A

1 person establishing, conducting, managing or operating a
2 substance abuse treatment and rehabilitation facility without
3 a license may be temporarily or permanently restrained
4 therefrom by a court of competent jurisdiction in an action
5 brought by the state.

34386 3. Notwithstanding the existence or pursuit of any other
7 remedy, the department may, in the manner provided by law,
8 maintain an action in the name of the state for injunction
9 or other process against a person or governmental unit to
10 restrain or prevent the establishment, conduct, management
11 or operation of a substance abuse treatment and rehabilitation
12 facility without a license.

34387 13 Sec. 13. Section 125.11, Code 1981, is repealed.

14 Sec. 14. The program evaluation division of the legisla-
15 tive fiscal bureau shall conduct a study of the administra-
16 tion, structure and funding of the Iowa department of substance
17 abuse. The program evaluation division of the legislative
18 fiscal bureau shall submit a report of its findings to the
19 second session of the Sixty-ninth General Assembly not later
20 than February 1, 1982.

21 EXPLANATION

22 This bill makes the following changes in chapter 125
23 relating to the department of substance abuse:

24 1. It abolishes the citizens advisory council as
25 recommended by the Governor's Economy Committee (#279).

26 2. It exempts from department approval and licensing,
27 chemical substitutes and antagonists programs provided by
28 facilities otherwise exempt from licensing. (Included in
29 Governor's Economy Committee recommendation #278.)

30 3. It allows two-year license renewal rather than an-
31 nual.

32 4. It allows inspections of a facility when the department
33 has probable cause to believe the facility should be licensed.
34 It also provides for injunctive relief and includes penalties
35 for operating without a license.

1 5. It allows the director of the department to contract
2 for education and prevention services.

3 6. It allows certified public accountants to conduct
4 annual facility audits subject to the requirements of the
5 auditor of state.

6 7. It exempts independent individuals other than medical
7 practitioners providing substance abuse treatment services
8 from licensing requirements.

9 8. It extends operations of the department to July 1,
10 1983.

11 9. It requires the program evaluation division of the
12 legislative fiscal bureau to study the funding, structure
13 and administration of the department and report to the general
14 assembly in 1982.

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FISCAL NOTE
House File 821
Requested by Representative Crawford
April 7, 1981

In compliance with a written request there is hereby submitted a Fiscal Note for H. F. 821 pursuant to Joint Rule 16.

House File 821, an Act relating to substance abuse programs by making changes in facility licensing and auditing requirements by abolishing the state advisory council on substance abuse, by allowing contracts for education and prevention services, by authorizing inspections, by extending operations of the Iowa department of substance abuse through 1983, by providing for a program evaluation of the department and providing penalties.

The fiscal impact of this bill is minimal. The major expense incurred would be the evaluation of the department, which is estimated to cost \$32,000. It should be noted that this expense is covered in the general fund appropriation to the Program Evaluation Division of the Legislative Fiscal Bureau and would not be an additional cost.

The remaining provisions in the bill should result in fiscal savings. The abolishment of the state advisory council is estimated to save \$1,000 per year. Additional savings may occur through the change in licensing requirements by reducing the amount of paperwork and staff time required to renew licenses. The savings are not significant because staff has already been reduced to the minimal level of service required.

The flexibility afforded individual programs to contract for their own audits allows them to contract "in-kind" and possibly save the expense of paying the state auditor. This is another area where savings may occur, although it is minimal.

The only additional expense anticipated is in the provision granting the authority to perform inspections. At this point in time, there have been very few complaints requiring inspections. It is expected that there would be no sudden increase in complaints, but if there were, the cost incurred would only be for increased travel and per diem expenses.

Sources: Iowa Department of Substance Abuse
Governor's Economy Committee Report 1979
Program Evaluation Division,
Legislative Fiscal Bureau

FILED APRIL 8, 1981

BY GERRY D. RANKIN
Legislative Fiscal Bureau

HOUSE FILE 821

II-3521

1 Amend House File 821 as follows:

2 1. Page 1, by striking lines 3 through 7 and
3 inserting in lieu thereof the following:

4 "2. "Facility" means a hospital, institution,
5 detoxification center, or installation providing care,
6 ~~maintenance and residential or outpatient treatment~~
7 including chemical substitutes and antagonists programs
8 for substance abusers on a regular basis and licensed
9 by the department under section 125.13."

10 2. Page 1, by striking lines 11 through 23 and
11 inserting in lieu thereof the following:

12 ~~"1. There is established the~~ The Iowa department
13 ~~of substance abuse which shall develop, implement~~
14 ~~and administer a comprehensive substance abuse program~~
15 ~~pursuant to sections 125.1 to 125.43~~ is established
16 to approve and monitor substance abuse treatment
17 programs, distribute state financial assistance for
18 treatment and other programs and coordinate program
19 efforts of public and private agencies. There is
20 established within the department a commission on
21 substance abuse to establish policies governing the
22 performance of the department in the discharge of
23 duties imposed on it by this chapter. The commission
24 shall consist of nine members appointed by the
25 governor. Appointments shall be made on the basis
26 of interest in and knowledge of substance abuse,
27 however two of the members shall be persons who, in
28 their regular work, have direct contact with substance
29 abuse clients. All members shall be eligible electors
30 of the state of Iowa."

31 3. Page 1, by inserting after line 30 the
32 following:

33 "Sec. ____ Section 125.9, subsection 1, Code 1981,
34 is amended by striking the subsection."

35 4. Page 1, by striking line 31 through page 2,
36 line 4 and inserting in lieu thereof the following:

37 "Sec. ____ Section 125.10, subsections 1 and 2,
38 Code 1981, are amended to read as follows:

39 1. ~~Prepare and submit a state plan~~ subject to
40 approval by the commission and in accordance with
41 ~~the provisions of title XLII, United States Code,~~
42 ~~section 4573~~ cooperation with local programs a state
43 plan for substance abuse prevention and treatment
44 as required by federal law. ~~The state plan shall~~
45 ~~designate the department as the sole agency for~~
46 ~~supervising the administration of the plan and shall~~
47 ~~provide for the appointment of a citizens advisory~~
48 ~~council on substance abuse.~~

49 2. ~~Develop, encourage, and foster state-wide,~~
50 ~~regional and local~~ Coordinate substance abuse plans

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Page Two

~~1 and programs for the prevention of substance abuse~~
~~2 and the treatment of substance abusers and intoxicated~~
~~3 persons in co-operation with public and private~~
~~4 agencies, organizations and individuals, of licensed~~
~~5 facilities and public agencies and provide technical~~
~~6 assistance and consultation services for these purposes~~
~~7 to facilities, educators, public agencies, and other~~
~~8 persons regarding substance abuse programs."~~

9 5. Page 2, by inserting before line 5 the
10 following:

11 "Sec. ____ . Section 125.10, subsection 11, Code
12 1981, is amended by striking the subsection."

13 6. Page 2, by inserting after line 10 the following
14 paragraph:

15 "The director may and shall at the request of a
16 county board of supervisors, contract with the board
17 of supervisors for providing substance abuse
18 prevention, education, referral and post-treatment
19 services in the county. Two or more counties may
20 combine to provide the programs named in the contract
21 under this paragraph and the boards of supervisors
22 shall exercise joint control over the programs. The
23 board of supervisors may employ a program director
24 for substance abuse programs who shall be directly
25 responsible to and shall serve at the pleasure of
26 the board. The director shall distribute funds
27 appropriated by the general assembly for substance
28 abuse prevention, education, referral, and post-
29 treatment services to county boards of supervisors
30 who enter into contracts under this paragraph on the
31 basis of population or as otherwise provided by the
32 general assembly."

33 7. Page 2, by inserting before line 11 the
34 following:

35 "Sec. ____ . Section 125.12, subsections 1 and 4,
36 Code 1981, are amended by striking the subsections."

37 8. Page 2, by inserting before line 11 the
38 following section:

39 "Sec. ____ . Section 125.13, subsection 1, Code
40 1981, is amended to read as follows:

41 1. Except as provided in subsection 2 of this
42 section, ~~a person may not maintain or conduct any~~
43 ~~chemical substitutes or antagonists program,~~
44 ~~residential program or nonresidential outpatient~~
45 ~~program, the primary purpose of which is the treatment~~
46 ~~and rehabilitation of substance abusers shall not~~
47 operate a facility without having first obtained a
48 written license for the program from the department."

49 9. Page 3, line 21, by striking the word "programs"
50 and inserting in lieu thereof the words "pregrams"

Page Seventeen
April 7, 1981

H-3521
Page Three

- 1 facilities".
- 2 10. Page 3, line 25, by striking the word "program"
- 3 and inserting in lieu thereof the word "facility".
- 4 11. Page 3, line 32, by striking the word "program"
- 5 and inserting in lieu thereof the word "facility".
- 6 12. Page 5, line 13, by striking the word and
- 7 figure "Section 125.11" and inserting in lieu thereof
- 8 the words and figures "Sections 125.11, 125.25 and
- 9 125.32".
- 10 13. Page 5, line 13, by striking the word "is"
- 11 and inserting in lieu thereof the word "are".

H-3521 FILED
APRIL 6, 1981

BY WELDEN of Hardin
DE GROOT of Lyon

A- H/D 4/7/81 (p 1112)
B- " " " " " " " "

HOUSE FILE 821

H-3515

- § 1 Amend House File 821 as follows:
- 2 1. Page 2, by striking lines 5 through 10.
 - 3 2. Page 2, by inserting after line 20 the
 - 4 following:
 - 5 "Sec. ____: Section 125.13, subsection 2, paragraph
 - 6 d, Code 1981, is amended by striking the paragraph
 - 7 and inserting in lieu thereof the following:
 - 8 d. A program that provides only education,
 - 9 prevention, referral or post treatment services."
 - 10 3. Page 2, by striking lines 31 through 33 and
 - 11 inserting in lieu thereof the words "suspension, or
 - 12 revocation of a license. ~~Upon approval of an~~
 - 13 ~~application for licensing by the commission, a license~~
 - 14 ~~shall be issued by the~~ The department shall issue
 - 15 a license to an applicant who the commission determines
 - 16 meets the licensing requirements of this chapter.
 - 17 Licenses shall expire".
 - 18 4. Page 4, by striking line 9 through page 5,
 - 19 line 12.

H-3515 FILED
APRIL 6, 1981

BY DE GROOT of Lyon
WELDEN of Hardin

A B D - Adapted 3/7/81 (p 1113)
C - Love (p 1114)

HOUSE FILE 821

H-3466

- 1 Amend House File 821 as follows:
- 2 1. Page 1, by striking lines 3 through 7 and
- 3 inserting in lieu thereof the following:
- 4 "2. "Facility" means a ~~hospital~~, an institution,
- 5 a detoxification center, or an installation providing
- 6 care, maintenance and treatment for substance abusers
- 7 and licensed by the department under section 125.13,
- 8 hospitals licensed under chapter 135B, or the state
- 9 mental health institutes designated by chapter 226."

H-3466 FILED APRIL 2, 1981

BY POFFENBERGER of Dallas

Adopted 4/7/81 (p. 1110)

HOUSE FILE 821

H-3468

- 1 Amend House File 821 as follows:
- 2 1. Page 4, by striking lines 13 through 17 and
- 3 inserting in lieu thereof the words, "an institution,
- 4 place, building, or agency that does not have a license
- 5 under section 125.13 and is not exempt from licensing
- 6 under subsection 2 of section 125.13 is in fact
- 7 providing substance abuse treatment and rehabilitation
- 8 programs and services, the commission may order".
- 9 2. Page 4, by striking lines 30 through 32 and
- 10 inserting in lieu thereof the following:
- 11 "2. A person required to obtain a license for
- 12 a substance abuse treatment and rehabilitation program
- 13 under section 125.13 who establishes, conducts,
- 14 manages, or operates a program without a license is
- 15 guilty of a serious misdemeanor."
- 16 3. Page 4, line 35, by striking the words "or
- 17 chargeable offense".
- 18 4. Page 5, line 2, by striking the word "facility"
- 19 and inserting in lieu thereof the word "program".
- 20 5. Page 5, line 12, by striking the word "facility"
- 21 and inserting in lieu thereof the word "program".

H-3468 FILED

APRIL 2, 1981

H/O 4/7/81 (p. 1114)

BY TRUCANO of Polk

CLARK of Cerro Gordo

ANDERSON of Jasper

HOUSE FILE 821

H-3558

- 1 Amend House File 821 as follows:
- 2 1. Page 5, by inserting after line 12 the
- 3 following:
- 4 "This section does not apply to facilities or
- 5 programs which are not receiving state dollars."

H-3558 FILED

APRIL 8, 1981

Adopted 4/9/81 (p. 1145)

BY CUSACK of Scott

TRUCANO of Polk

DE GROOT of Lyon

State Government
Slater, Chairperson
Gentleman
Briels

*Book 4/13/81
Do Pass 4/16 (p. 1317)*

HOUSE FILE 821

BY COMMITTEE ON STATE GOVERNMENT

(As Amended and Passed by the House)

Passed House, Date 4-9-81 (p. 1145) Passed Senate, Date 4-21-81 (p. 1347)

Vote: Ayes 91 Nays 4 Vote: Ayes 50 Nays 0

Approved May 4, 1981

A BILL FOR

1 An Act relating to substance abuse programs by making changes
 2 in facility licensing and auditing requirements by abolish-
 3 ing the state advisory council on substance abuse, by
 4 allowing contracts for education and prevention services,
 5 by authorizing inspections, by extending operations of
 6 the Iowa department of substance abuse through 1983, by
 7 providing for a program evaluation of the department and
 8 providing penalties.

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

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House Amendments _____

1 Section 1. Section 125.2, subsection 2, Code 1981, is
2 amended to read as follows:

3 2. "Facility" means a-hospital, an institution, a
4 detoxification center, or an installation providing care,
5 maintenance and treatment for substance abusers and licensed
6 by the department under section 125.13, hospitals licensed
7 under chapter 135B, or the state mental health institutes,
8 designated by chapter 226.

9 Sec. 2. Section 125.3, Code 1981, is amended to read as
10 follows:

11 125.3 ESTABLISHED.

12 ~~1.~~ There is established the Iowa department of substance
13 abuse which shall develop, implement and administer a
14 comprehensive substance abuse program pursuant to sections
15 125.1 to 125.43. There is established within the department
16 a commission on substance abuse to establish policies governing
17 the performance of the department in the discharge of duties
18 imposed on it by this chapter. The commission shall consist
19 of nine members appointed by the governor. Appointments shall
20 be made on the basis of interest in and knowledge of substance
21 abuse, however two of the members shall be persons who, in
22 their regular work, have direct contact with substance abuse
23 clients. ~~All-members-shall-be~~ Only eligible electors of the
24 state of Iowa shall be appointed.

25 ~~2.--The-governor-shall-make-the-initial-appointments-to~~
26 ~~the-commission-and-the-advisory-council-for-terms-commencing~~
27 ~~July-17-1977.--The-provisions-of-sections-125-6-and-125-11~~
28 ~~shall-apply-to-the-payment-of-per-diem-and-expenses-to~~
29 ~~commission-and-advisory-council-members-as-if-the-provisions~~
30 ~~of-said-sections-were-in-effect-on-July-17-1977.--The~~
31 ~~provisions-of-this-subsection-shall-be-effective-July-17-1977.~~

32 Sec. 3. Section 125.10, subsection 1, Code 1981, is amended
33 to read as follows:

34 1. Prepare and submit a state plan subject to approval
35 by the commission and in accordance with the provisions of

1 ~~title-XLIII, United States Code, section~~ 42 U.S.C. sec. 4573.

2 The state plan shall designate the department as the sole
3 agency for supervising the administration of the plan and
4 ~~shall provide for the appointment of a citizens advisory~~
5 ~~council on substance abuse.~~

6 Sec. 4. Section 125.13, subsection 2, unnumbered paragraph
7 1, Code 1981, is amended to read as follows:

8 The licensing requirements of this chapter, ~~except the~~
9 ~~requirements imposed by section 125.21, shall~~ do not apply
10 to any of the following:

11 Sec. 5. Section 125.13, subsection 2, paragraph a, Code
12 1981, is amended to read as follows:

13 a. Hospitals providing any care or treatment to substance
14 abusers required ~~on January 1, 1978, by other provisions of~~
15 ~~law to be licensed~~ to have a license under chapter 135B.

16 Sec. 6. Section 125.13, subsection 2, paragraph d, Code
17 1981, is amended by striking the paragraph and inserting in
18 lieu thereof the following:

19 d. A program that provides only education, prevention,
20 referral or post treatment services.

21 Sec. 7. Section 125.13, subsection 2, Code 1981, is amended
22 by adding the following new lettered paragraph:

23 NEW LETTERED PARAGRAPH. Individuals in private practice
24 who are providing substance abuse treatment services indepen-
25 dent from a program that is required to be licensed under
26 subsection 1.

27 Sec. 8. Section 125.14, Code 1981, is amended to read
28 as follows:

29 125.14 LICENSES--RENEWAL--FEES. The commission shall
30 meet to consider all cases involving issuance, denial,
31 suspension, or revocation of a license. Upon approval of
32 an application for licensing by the commission, a license
33 shall be issued by the The department shall issue a license
34 to an applicant who the commission determines meets the
35 licensing requirements of this chapter. Licenses shall expire

1 ~~one-year~~ no later than two years from the date of issuance
2 and shall be renewed upon timely application made in the same
3 manner as for original issuance of a license unless notice
4 of nonrenewal is given to the licensee at least thirty days
5 prior to the expiration of the license. The department shall
6 not charge a fee for licensing or renewal.

7 Sec. 9. Section 125.21, unnumbered paragraph 1, Code 1981,
8 is amended to read as follows:

9 The commission ~~shall-have~~ has exclusive power in this state
10 to approve and license chemical substitutes and antagonists
11 programs, and monitor chemical substitutes and antagonists
12 programs ~~in-this-state~~ to insure that the programs are
13 operating within the rules established pursuant to this chapter
14 ~~and-the.~~ The commission shall be-obliged-to grant such
15 approval and license if the requirements of the rules are
16 met and no state funding is requested. This section does
17 not require approval or licensing of chemical substitutes
18 and antagonists programs conducted by persons exempt from
19 the licensing requirements of this chapter by section 125.13,
20 subsection 2.

21 Sec. 10. Section 125.55, Code 1981, is amended to read
22 as follows:

23 125.55 AUDITS. All licensed substance abuse programs
24 ~~shall-be~~ are subject to regular annual audit either by the
25 auditor of state ~~or-to-special-audits-requested-by-the-director~~
26 or in lieu of the examination by state accountants the
27 substance abuse program may contract with or employ certified
28 public accountants to conduct the audit. The audit format
29 shall be as prescribed by the auditor of state. The
30 notification requirements and the powers granted to the auditor
31 of state in sections 11.18 and 11.19 apply to audits conducted
32 by certified public accountants. The certified public
33 accountant shall submit a copy of the audit to the director.
34 A licensed substance abuse program is also subject to special
35 audits as the director requests.

1 Sec. 11. Section 125.56, Code 1981, is amended to read
2 as follows:

3 125.56 FUTURE STATUS OF DEPARTMENT AFTER ~~1981~~ 1982. The
4 ~~provisions of this chapter are~~ This chapter is repealed effec-
5 tive July 1, ~~1982~~ 1983.

6 The ~~first~~ second session of the Sixty-ninth General Assembly
7 meeting in the year ~~1981~~ 1982 shall review the activities
8 and performance of the department and shall not later than
9 July 1, ~~1981~~ 1982 make a determination concerning the status
10 and duties of the department.

11 Sec. 12. Chapter 125, Code 1981, is amended by adding
12 the following new section:

13 NEW SECTION. INSPECTION--PENALTIES.

14 1. If the department has probable cause to believe that
15 an institution, place, building, or agency not licensed as
16 a substance abuse treatment and rehabilitation facility is
17 in fact a substance abuse treatment and rehabilitation facility
18 as defined by this chapter, and is not exempt from licensing
19 by section 125.13, subsection 2, the commission may order
20 an inspection of the institution, place, building, or agency.
21 If the inspector upon presenting proper identification is
22 denied entry for the purpose of making the inspection, the
23 inspector may, with the assistance of the county attorney
24 of the county in which the premises are located, apply to
25 the district court for an order requiring the owner or occupant
26 to permit entry and inspection of the premises to determine
27 whether there have been violations of this chapter. The
28 investigation may include review of records, reports, and
29 documents maintained by the facility and interviews with staff
30 members consistent with the confidentiality safeguards of
31 state and federal law.

32 2. A person establishing, conducting, managing, or
33 operating a substance abuse treatment and rehabilitation
34 facility without a license is guilty of a serious misdemeanor.
35 Each day of continued violation after conviction or notice

1 from the department by certified mail of a violation shall
2 be considered a separate offense or chargeable offense. A
3 person establishing, conducting, managing or operating a
4 substance abuse treatment and rehabilitation facility without
5 a license may be temporarily or permanently restrained
6 therefrom by a court of competent jurisdiction in an action
7 brought by the state.

8 3. Notwithstanding the existence or pursuit of any other
9 remedy, the department may, in the manner provided by law,
10 maintain an action in the name of the state for injunction
11 or other process against a person or governmental unit to
12 restrain or prevent the establishment, conduct, management
13 or operation of a substance abuse treatment and rehabilitation
14 facility without a license.

15 This section does not apply to facilities or programs which
16 are not receiving state dollars.

17 Sec. 13.. Section 125.11, Code 1981, is repealed.

18 Sec. 14. The program evaluation division of the legisla-
19 tive fiscal bureau shall conduct a study of the administra-
20 tion structure and funding of the Iowa department of substance
21 abuse. The program evaluation division of the legislative
22 fiscal bureau shall submit a report of its findings to the
23 second session of the Sixty-ninth General Assembly not later
24 than February 1, 1982.

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2. A person establishing, conducting, managing, or operating a substance abuse treatment and rehabilitation facility without a license is guilty of a serious misdemeanor. Each day of continued violation after conviction or notice from the department by certified mail of a violation shall be considered a separate offense or chargeable offense. A person establishing, conducting, managing or operating a substance abuse treatment and rehabilitation facility without a license may be temporarily or permanently restrained therefrom by a court of competent jurisdiction in an action brought by the state.

3. Notwithstanding the existence or pursuit of any other remedy, the department may, in the manner provided by law, maintain an action in the name of the state for injunction or other process against a person or governmental unit to restrain or prevent the establishment, conduct, management or operation of a substance abuse treatment and rehabilitation facility without a license.

This section does not apply to facilities or programs which are not receiving state dollars.

Sec. 13. Section 125.11, Code 1981, is repealed.

Sec. 14. The program evaluation division of the legislative fiscal bureau shall conduct a study of the administration, structure and funding of the Iowa department of substance abuse. The program evaluation division of the legislative fiscal bureau shall submit a report of its findings to the second session of the Sixty-ninth General Assembly not later than February 1, 1982.

DELWYN STROMER
Speaker of the House

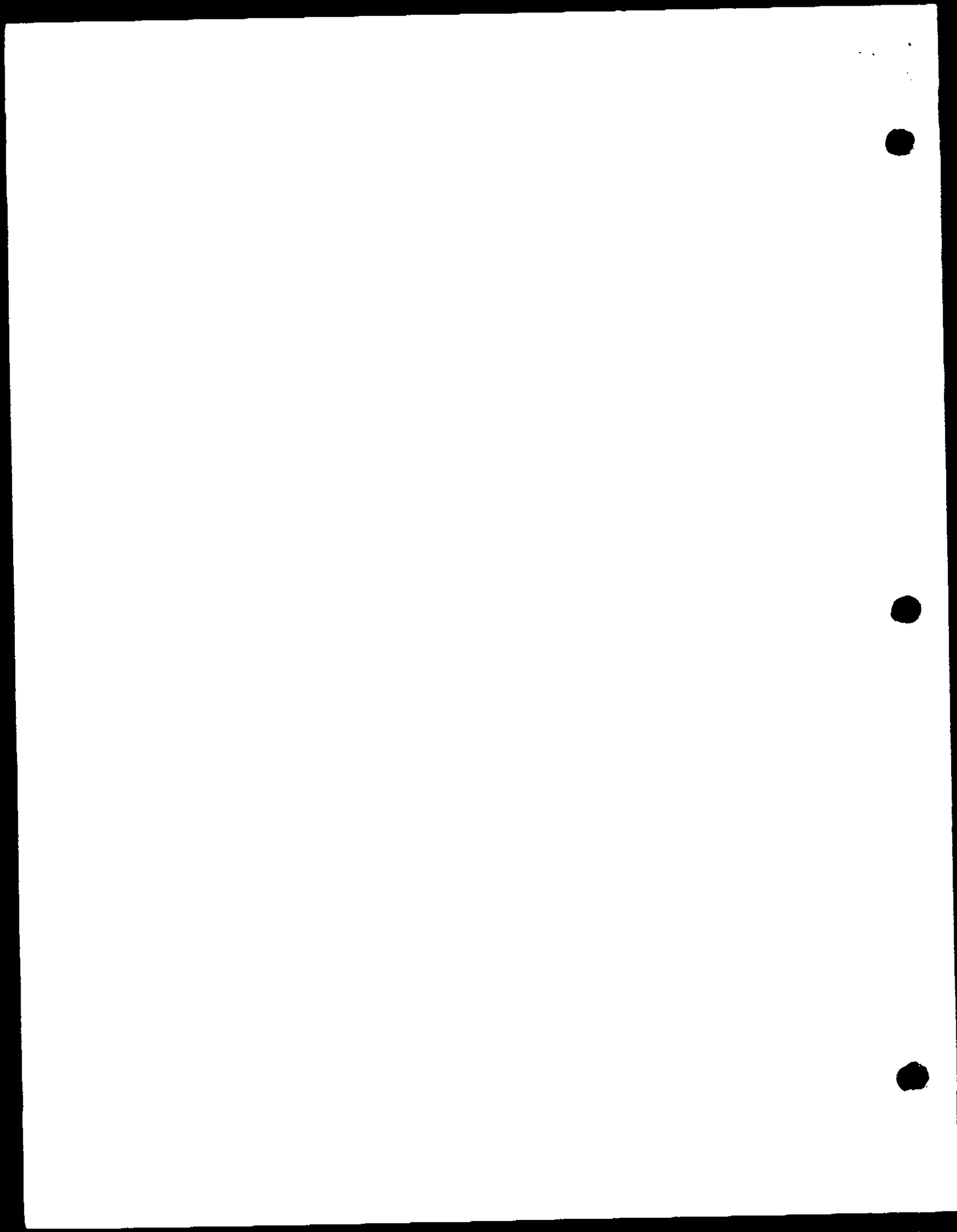
TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 821, Sixty-ninth General Assembly.

PAT H. HARPER
Chief Clerk of the House

Approved 5/4, 1981

ROBERT D. RAY
Governor



HOUSE FILE 821

AN ACT

RELATING TO SUBSTANCE ABUSE PROGRAMS BY MAKING CHANGES IN FACILITY LICENSING AND AUDITING REQUIREMENTS BY ABOLISHING THE STATE ADVISORY COUNCIL ON SUBSTANCE ABUSE, BY ALLOWING CONTRACTS FOR EDUCATION AND PREVENTION SERVICES, BY AUTHORIZING INSPECTIONS, BY EXTENDING OPERATIONS OF THE IOWA DEPARTMENT OF SUBSTANCE ABUSE THROUGH 1983, BY PROVIDING FOR A PROGRAM EVALUATION OF THE DEPARTMENT AND PROVIDING PENALTIES.

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

Section 1. Section 125.2, subsection 2, Code 1981, is amended to read as follows:

2. "Facility" means ~~a hospital~~, an institution, a detoxification center, or an installation providing care, maintenance and treatment for substance abusers and licensed by the department under section 125.13, hospitals licensed under chapter 135B, or the state mental health institutes designated by chapter 226.

Sec. 2. Section 125.3, Code 1981, is amended to read as follows:

125.3 ESTABLISHED.

There is established the Iowa department of substance abuse which shall develop, implement and administer a comprehensive substance abuse program pursuant to sections 125.1 to 125.43. There is established within the department a commission on substance abuse to establish policies governing the performance of the department in the discharge of duties imposed on it by this chapter. The commission shall consist of nine members appointed by the governor. Appointments shall

be made on the basis of interest in and knowledge of substance abuse, however two of the members shall be persons who, in their regular work, have direct contact with substance abuse clients. ~~All members shall be~~ Only eligible electors of the state of Iowa shall be appointed.

~~2. The governor shall make the initial appointments to the commission and the advisory council for terms commencing July 1, 1977. The provisions of sections 125.6 and 125.11 shall apply to the payment of per diem and expenses to commission and advisory council members as if the provisions of said sections were in effect on July 1, 1977. The provisions of this subsection shall be effective July 1, 1977.~~

Sec. 3. Section 125.10, subsection 1, Code 1981, is amended to read as follows:

1. Prepare and submit a state plan subject to approval by the commission and in accordance with the provisions of ~~title XIII, United States Code, section 42 U.S.C. sec. 4573.~~ The state plan shall designate the department as the sole agency for supervising the administration of the plan and ~~shall provide for the appointment of a citizens advisory council on substance abuse.~~

Sec. 4. Section 125.13, subsection 2, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The licensing requirements of this chapter, ~~except the requirements imposed by section 125.21, shall do~~ not apply to any of the following:

Sec. 5. Section 125.13, subsection 2, paragraph a, Code 1981, is amended to read as follows:

a. Hospitals providing any care or treatment to substance abusers required ~~on January 1, 1978, by other provisions of law to be licensed~~ to have a license under chapter 135B.

Sec. 6. Section 125.13, subsection 2, paragraph d, Code 1981, is amended by striking the paragraph and inserting in lieu thereof the following:

d. A program that provides only education, prevention, referral or post treatment services.

Sec. 7. Section 125.13, subsection 2, Code 1981, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. Individuals in private practice who are providing substance abuse treatment services independent from a program that is required to be licensed under subsection 1.

Sec. 8. Section 125.14, Code 1981, is amended to read as follows:

125.14 LICENSES--RENEWAL--FEES. The commission shall meet to consider all cases involving issuance, denial, suspension, or revocation of a license. ~~Upon approval of an application for licensing by the commission, a license shall be issued by the~~ The department shall issue a license to an applicant who the commission determines meets the licensing requirements of this chapter. Licenses shall expire ~~one year no later than two years~~ from the date of issuance and shall be renewed upon timely application made in the same manner as for original issuance of a license unless notice of nonrenewal is given to the licensee at least thirty days prior to the expiration of the license. The department shall not charge a fee for licensing or renewal.

Sec. 9. Section 125.21, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The commission ~~shall have~~ has exclusive power in this state to approve and license chemical substitutes and antagonists programs, and monitor chemical substitutes and antagonists programs ~~in this state~~ to insure that the programs are operating within the rules established pursuant to this chapter ~~and the~~. The commission shall be obliged to grant such approval and license if the requirements of the rules are met and no state funding is requested. This section does not require approval or licensing of chemical substitutes and antagonists programs conducted by persons exempt from

the licensing requirements of this chapter by section 125.13, subsection 2.

Sec. 10. Section 125.55, Code 1981, is amended to read as follows:

125.55 AUDITS. All licensed substance abuse programs ~~shall be~~ are subject to ~~regular~~ annual audit ~~either by the auditor of state or to special audits requested by the director or in lieu of the examination by state accountants~~ the substance abuse program may contract with or employ certified public accountants to conduct the audit. The audit format shall be as prescribed by the auditor of state. The notification requirements and the powers granted to the auditor of state in sections 11.18 and 11.19 apply to audits conducted by certified public accountants. The certified public accountant shall submit a copy of the audit to the director. A licensed substance abuse program is also subject to special audits as the director requests.

Sec. 11. Section 125.56, Code 1981, is amended to read as follows:

125.56 FUTURE STATUS OF DEPARTMENT AFTER ~~1981~~ 1982. ~~The provisions of this chapter are~~ This chapter is repealed effective July 1, ~~1982~~ 1983.

The ~~first~~ second session of the Sixty-ninth General Assembly meeting in the year ~~1981~~ 1982 shall review the activities and performance of the department and shall not later than July 1, ~~1981~~ 1982 make a determination concerning the status and duties of the department.

Sec. 12. Chapter 125, Code 1981, is amended by adding the following new section:

NEW SECTION. INSPECTION--PENALTIES.

1. If the department has probable cause to believe that an institution, place, building, or agency not licensed as a substance abuse treatment and rehabilitation facility is in fact a substance abuse treatment and rehabilitation facility as defined by this chapter, and is not exempt from licensing