

FEB 28 1984

HOUSE FILE 2340

Place On Calendar

*Substituted for  
SF 2221 3/15*

BY COMMITTEE ON HUMAN  
RESOURCES

(Formerly Study Bill 537)

Passed House, Date 3-6-84 (p. 733) Passed Senate, Date 4-2-84 (p. 1241)

Vote: Ayes 87 Nays 11 Vote: Ayes 45 Nays 0

Approved May 7, 1984

*Repassed Senate 4-12-84 (p. 1474)  
45-4*

## A BILL FOR

1 An Act relating to the investigations and findings of a  
2 complaint filed against a health care facility.

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

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HF 2340

1 Section 1. Section 135C.16, subsection 3, Code Supplement  
2 1983, is amended to read as follows:

3 3. An inspector of the department may enter any licensed  
4 health care facility without a warrant, and may examine all  
5 records pertaining to the care provided residents of the  
6 facility. An inspector of the department may contact or  
7 interview any resident, employee, or any other person who  
8 might have knowledge about the operation of a health care  
9 facility. An inspector of the department of human services  
10 shall have the same right with respect to any facility where  
11 one or more residents are cared for entirely or partially  
12 at public expense and the state fire marshal or a deputy  
13 appointed pursuant to section 135C.9, subsection 1, paragraph  
14 "b" shall have the same right of entry into any facility and  
15 the right to inspect any records pertinent to fire safety  
16 practices and conditions within that facility. If any such  
17 inspector has probable cause to believe that any institution,  
18 ~~place,~~ building, or agency not licensed as a health care  
19 facility is in fact a health care facility as defined by this  
20 chapter, and upon ~~properly-identifying-himself-he~~ producing  
21 identification that the individual is an inspector is denied  
22 entry thereto for the purpose of making an inspection, he  
23 the inspector may, with the assistance of the county attorney  
24 of the county in which the purported health care facility  
25 is located, apply to the district court for an order requiring  
26 the owner or occupant to permit entry and inspection of the  
27 premises to determine whether there have been any violations  
28 of this chapter.

29 Sec. 2. Section 135C.19, subsection 1, Code 1983, is  
30 amended by striking the subsection and inserting in lieu  
31 thereof the following:

32 1. Following an inspection of a health care facility by  
33 the department pursuant to this chapter, the department's  
34 final findings with respect to compliance by the facility  
35 with requirements for licensing shall be made available to

1 the public in a readily available form and place. Other  
2 information relating to a health care facility obtained by  
3 the department which does not constitute the department's  
4 findings from an inspection of the facility shall not be made  
5 available to the public except in proceedings involving the  
6 citation of a facility for a violation under section 135C.40,  
7 or the denial, suspension, or revocation of a license under  
8 this chapter. The name of a person who files a complaint  
9 with the department shall be confidential.

10 Sec. 3. Section 135C.37, Code 1983, is amended to read  
11 as follows:

12 135C.37 COMPLAINTS ALLEGING VIOLATIONS. Any A person  
13 may request an inspection of any a health care facility by  
14 filing with the department or care review committee of the  
15 facility a complaint of an alleged violation of applicable  
16 requirements of this chapter or the rules adopted pursuant  
17 to it. A copy of a complaint filed with the care review  
18 committee shall be forwarded to the department. The complaint  
19 shall state in a reasonably specific manner the basis of the  
20 complaint, and a statement of the nature of the complaint  
21 shall be delivered to the facility involved at the time of  
22 or prior to the inspection. The name of the person who files  
23 a complaint with the department or care review committee shall  
24 be kept confidential and shall not be subject to discovery,  
25 subpoena, or other means of legal compulsion for its release  
26 to a person other than department employees involved in the  
27 investigation of the complaint.

28 Sec. 4. Section 135C.40, subsection 1, Code 1983, is  
29 amended to read as follows:

30 1. If the commissioner determines, based on the findings  
31 of an inspection or investigation of a health care facility,  
32 that the facility is in violation of this chapter or rules  
33 adopted under this chapter, the commissioner within five  
34 working days after making the determination, ~~shall~~ may issue  
35 a written citation to the facility. The citation shall be

1 served upon the facility personally or by certified mail,  
2 except that a citation for a Class III violation may be sent  
3 by ordinary mail. Each citation shall specifically describe  
4 the nature of the violation, identifying the Code section  
5 or subsection or the rule or standard violated, and the  
6 classification of the violation under section 135C.36. Where  
7 appropriate, the citation shall also state the period of time  
8 allowed for correction of the violation, which shall in each  
9 case be the shortest period of time the department deems  
10 feasible. Failure to correct a violation within the time  
11 specified, unless the licensee shows that the failure was  
12 due to circumstances beyond the licensee's control, shall  
13 subject the facility to a further penalty of fifty dollars  
14 for each day that the violation continues after the time  
15 specified for correction.

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EXPLANATION

17 This bill amends the confidentiality provisions relating  
18 to the filing of a complaint against a health care facility.  
19 An inspector of the health department is permitted to interview  
20 persons with knowledge about the operation of the facility.  
21 The bill also provides that the commissioner of public health  
22 has the option to issue a written citation to a health facility  
23 in violation of the law.

24 The bill takes effect July 1 following its enactment.

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HOUSE FILE 2340

H-6085

1 Amend amendment H-6049, the Senate amendment to  
 2 House File 2340, as passed by the House as follows:  
 3 1. Page 1, by inserting after line 1, the following:  
 4 "1. Page 1, by striking lines 7 through 9, and  
 5 inserting in lieu thereof the following: "interview any  
 6 resident, employee, party responsible for a resident,  
 7 resident's minister, or any health care professional who  
 8 might have knowledge of the health care facility. An  
 9 inspector of the department of human services"."  
 10 2. Page 1, line 7, by inserting after the word "order."  
 11 the following: "Anonymous complaints shall not be  
 12 investigated unless they are of a life-threatening  
 13 situation or three or more anonymous complaints are  
 14 filed against an individual facility within the calendar  
 15 year."

H-6085 FILED APRIL 4, 1984 BY CLARK of Cerro Gordo  
*2/10 4/9 (p. 1781)*

HOUSE FILE 2340

S-5320

1 Amend House File 2340 as follows:  
 2 1. Page 2, by striking lines 24 through 27, and  
 3 inserting in lieu thereof the words "be kept  
 4 confidential, except as authorized by a court of  
 5 competent jurisdiction. The department may seek an  
 6 appropriate protective order where discovery is  
 7 permitted by court order."

S-5320 FILED BY TOM MANN, JR.  
 MARCH 8, 1984  
*Adopted 4/2 (p. 1241)*

SENATE AMENDMENT TO HOUSE FILE 2340

H-6049

1 Amend House File 2340 as follows:  
 2 1. Page 2, by striking lines 24 through 27, and  
 3 inserting in lieu thereof the words "be kept  
 4 confidential, except as authorized by a court of  
 5 competent jurisdiction. The department may seek an  
 6 appropriate protective order where discovery is  
 7 permitted by court order."

H-6049 FILED APRIL 3, 1984 RECEIVED FROM THE SENATE  
*House refused to process 4/9 (p. 1781)*  
*Senate received 4/12 (p. 1478)*

HOUSE FILE 2340

AN ACT

RELATING TO THE INVESTIGATIONS AND FINDINGS OF A COMPLAINT  
FILED AGAINST A HEALTH CARE FACILITY.

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

Section 1. Section 135C.16, subsection 3, Code Supplement 1983, is amended to read as follows:

3. An inspector of the department may enter any licensed health care facility without a warrant, and may examine all records pertaining to the care provided residents of the facility. An inspector of the department may contact or interview any resident, employee, or any other person who might have knowledge about the operation of a health care facility. An inspector of the department of human services shall have the same right with respect to any facility where one or more residents are cared for entirely or partially at public expense and the state fire marshal or a deputy appointed pursuant to section 135C.9, subsection 1, paragraph

"b" shall have the same right of entry into any facility and the right to inspect any records pertinent to fire safety practices and conditions within that facility. If any such inspector has probable cause to believe that any institution, ~~place~~ building, or agency not licensed as a health care facility is in fact a health care facility as defined by this chapter, and upon ~~properly-identifying-himself-he~~ producing identification that the individual is an inspector is denied entry thereto for the purpose of making an inspection, he ~~the inspector~~ may, with the assistance of the county attorney of the county in which the purported health care facility is located, apply to the district court for an order requiring the owner or occupant to permit entry and inspection of the premises to determine whether there have been any violations of this chapter.

Sec. 2. Section 135C.19, subsection 1, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

1. Following an inspection of a health care facility by the department pursuant to this chapter, the department's final findings with respect to compliance by the facility with requirements for licensing shall be made available to the public in a readily available form and place. Other information relating to a health care facility obtained by the department which does not constitute the department's findings from an inspection of the facility shall not be made available to the public except in proceedings involving the citation of a facility for a violation under section 135C.40, or the denial, suspension, or revocation of a license under this chapter. The name of a person who files a complaint with the department shall be confidential.

Sec. 3. Section 135C.37, Code 1983, is amended to read as follows:

135C.37 COMPLAINTS ALLEGING VIOLATIONS. Any ~~a~~ person may request an inspection of any ~~a~~ 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 statement of the nature of the complaint shall be delivered to the facility involved at the time of or prior to the inspection. The name of the person who files a complaint with the department or care review committee shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees involved in the investigation of the complaint.

Sec. 4. Section 135C.40, subsection 1, Code 1983, is amended to read as follows:

1. If the commissioner determines, based on the findings of an inspection or investigation of a health care facility, that the facility is in violation of this chapter or rules adopted under this chapter, the commissioner within five working days after making the determination, ~~shall~~ may issue a written citation to the facility. The citation shall be served upon the facility personally or by certified mail, except that a citation for a Class III violation may be sent by ordinary mail. Each citation shall specifically describe the nature of the violation, identifying the Code section or subsection or the rule or standard violated, and the classification of the violation under section 135C.36. Where appropriate, the citation shall also state the period of time allowed for correction of the violation, which shall in each case be the shortest period of time the department deems feasible. Failure to correct a violation within the time specified, unless the licensee shows that the failure was due to circumstances beyond the licensee's control, shall subject the facility to a further penalty of fifty dollars

for each day that the violation continues after the time specified for correction.

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DORALD D. AVENSON  
Speaker of the House

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ROBERT T. ANDERSON  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2340, Seventieth General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved *May 8*, 1984

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TERRY F. BRANSTAD  
Governor