

*Reprinted*

FEB 20 1990

HOUSE FILE 2489

Place On Calendar

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 672)

Passed House, Date 2/27/90 (p. 671) Passed Senate, Date \_\_\_\_\_  
Vote: Ayes 93 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

- 1 An Act relating to health care facilities, providing a penalty,
- 2 and providing an effective date.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

**HOUSE FILE 2489**

**H-5264**

- 1 Amend House File 2489 as follows:
- 2 1. Page 3, line 10, by striking the word
- 3 "registered".

By FEY of Scott

**H-5264 FILED FEBRUARY 21, 1990**

*Adopted 2/27 (p. 671)*

**HOUSE FILE 2489**

**H-5279**

- 1 Amend House File 2489 as follows:
- 2 1. Page 1, lines 3 and 4, by striking the words
- 3 "specifically including long-term care needs,
- 4 including" and inserting the following: "specifically
- 5 including long-term care needs, including".

By SPEAR of Lee

**H-5279 FILED FEBRUARY 21, 1990**

*Adopted 2/27 (p. 670)*

HF 2489

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1 Section 1. Section 135B.33, subsection 5, Code 1989, is  
2 amended to read as follows:

52793 5. An analysis of community health needs, specifically  
4 including long-term care needs, including ~~intermediate-care~~  
5 ~~facility-and-skilled~~ nursing facility care, pediatric and  
6 maternity services, and the health facilities' potential role  
7 in facilitating the provision of services to meet these needs.

8 Sec. 2. Section 135C.1, subsections 2 and 3, Code 1989,  
9 are amended by striking the subsections.

10 Sec. 3. Section 135C.1, subsection 4, Code 1989, is  
11 amended to read as follows:

12 4. "Health care facility" or "facility" means any a  
13 residential care facility, intermediate-care-facility, or  
14 skilled a nursing facility, an intermediate care facility for  
15 the mentally ill, or an intermediate care facility for the  
16 mentally retarded.

17 Sec. 4. Section 135C.1, subsection 18, Code 1989, is  
18 amended by striking the subsection and inserting in lieu  
19 thereof the following:

20 18. "Intermediate care facility for the mentally ill"  
21 means an institution, place, building, or agency designed to  
22 provide accommodation, board, and nursing care for a period  
23 exceeding twenty-four consecutive hours to three or more  
24 individuals, who primarily have mental illness and who are not  
25 related to the administrator or owner within the third degree  
26 of consanguinity.

27 Sec. 5. Section 135C.1, Code 1989, is amended by adding  
28 the following new subsections:

29 NEW SUBSECTION. 20. "Nursing facility" means an  
30 institution or a distinct part of an institution housing three  
31 or more individuals not related to the administrator or owner  
32 within the third degree of consanguinity, which is primarily  
33 engaged in providing health-related care and services,  
34 including rehabilitative services, but which is not engaged  
35 primarily in providing treatment or care for mental illness or

1 mental retardation, for a period exceeding twenty-four  
2 consecutive hours for individuals who, because of a mental or  
3 physical condition, require nursing care and other services in  
4 addition to room and board.

5 NEW SUBSECTION. 21. "Intermediate care facility for the  
6 mentally retarded" means an institution or distinct part of an  
7 institution with a primary purpose to provide health or  
8 rehabilitative services to three or more individuals, who  
9 primarily have mental retardation or a related condition and  
10 who are not related to the administrator or owner within the  
11 third degree of consanguinity, and which meets the  
12 requirements of this chapter and federal standards for  
13 intermediate care facilities for the mentally retarded  
14 established pursuant to the federal Social Security Act, §  
15 1905(c)(d), as codified in 42 U.S.C. § 1936d which are  
16 contained in 42 C.F.R. pt. 483, subpt. D, § 410-480.

17 Sec. 6. Section 135C.2, subsection 3, unnumbered paragraph  
18 1, Code Supplement 1989, is amended to read as follows:

19 The department shall establish by administrative rule,  
20 ~~within the intermediate care facility category, a special~~  
21 ~~classification for facilities intended to serve mentally~~  
22 ~~retarded individuals, and~~ within the residential care facility  
23 category, a special classification for residential facilities  
24 intended to serve mentally ill individuals. The department  
25 may also establish by administrative rule other  
26 ~~classifications within that category, or special~~  
27 classifications within the residential care facility,  
28 intermediate care facility for the mentally ill, intermediate  
29 care facility for the mentally retarded, or skilled nursing  
30 facility categories, for facilities intended to serve  
31 individuals who have special health care problems or  
32 conditions in common. Rules establishing a special  
33 classification shall define the problem or condition to which  
34 the special classification is relevant and establish  
35 requirements for an approved program of care commensurate with

1 the problem or condition, and may grant special variances or  
2 considerations to facilities licensed within the special  
3 classification ~~so-established~~.

4 Sec. 7. Section 135C.3, Code 1989, is amended by striking  
5 the section and inserting in lieu thereof the following:

6 135C.3 NATURE OF CARE.

7 1. A licensed nursing facility shall provide an organized  
8 twenty-four-hour program of services commensurate with the  
9 needs of its residents and under the immediate direction of a  
526410 licensed registered nurse. Medical and nursing services must  
11 be provided under the direction of either a house physician or  
12 an individually selected physician. Surgery or obstetrical  
13 care shall not be provided within the facility. An admission  
14 to the nursing facility must be based on a physician's written  
15 order certifying that the individual being admitted requires  
16 no greater degree of nursing care than the facility to which  
17 the admission is made is licensed to provide and is capable of  
18 providing.

19 2. A licensed intermediate care facility for the mentally  
20 ill shall provide an organized twenty-four-hour program of  
21 services commensurate with the needs of its residents and  
22 under the immediate direction of a licensed registered nurse,  
23 who has had at least two years of recent experience in a  
24 chronic or acute psychiatric setting. Medical and nursing  
25 service must be provided under the direction of either a house  
26 physician or an individually selected physician. Surgery or  
27 obstetrical care shall not be provided within the facility.  
28 An admission to the intermediate care facility for the  
29 mentally ill must be based on a physician's written order  
30 certifying that the individual being admitted requires no  
31 greater degree of nursing care than the facility to which the  
32 admission is made is licensed to provide and is capable of  
33 providing.

34 Sec. 8. Section 135C.19, subsection 3, Code 1989, is  
35 amended to read as follows:

1 3. If the facility cited subsequently advises the  
2 department of human services that the violation has been  
3 corrected to the satisfaction of the department of health  
4 inspections and appeals, the department of human services must  
5 maintain this advisory in the same file with the copy of the  
6 citation. The department of human services shall not  
7 disseminate to the public any information regarding citations  
8 issued by the department of health inspections and appeals,  
9 but shall forward or refer such inquiries to the department of  
10 health inspections and appeals.

11 Sec. 9. Section 135C.23, subsection 2, unnumbered  
12 paragraph 2, Code 1989, is amended to read as follows:

13 This section does not prohibit the admission of a patient  
14 with a history of dangerous or disturbing behavior to an  
15 intermediate care facility for the mentally ill, intermediate  
16 care facility for the mentally retarded, skilled nursing  
17 facility, or county care facility when the intermediate care  
18 facility for the mentally ill, intermediate care facility for  
19 the mentally retarded, skilled nursing facility, or county  
20 care facility has a program which has received prior approval  
21 from the department to properly care for and manage the  
22 patient. An intermediate care facility for the mentally ill,  
23 intermediate care facility for the mentally retarded, skilled  
24 nursing facility, or county care facility is required to  
25 transfer or discharge a resident with dangerous or disturbing  
26 behavior when the intermediate care facility for the mentally  
27 ill, intermediate care facility for the mentally retarded,  
28 skilled nursing facility, or county care facility cannot  
29 control the resident's dangerous or disturbing behavior. The  
30 department, in coordination with the state mental health and  
31 mental retardation commission, shall adopt rules pursuant to  
32 chapter 17A for programs to be required in intermediate care  
33 facilities for the mentally ill, intermediate care facilities  
34 for the mentally retarded, skilled nursing facilities, and  
35 county care facilities that admit patients or have residents

1 with histories of dangerous or disturbing behavior.

2 Sec. 10. Section 135C.39, unnumbered paragraph 2, Code  
3 Supplement 1989, is amended by striking the paragraph.

4 Sec. 11. NEW SECTION. 135C.45A NOTIFICATION PENALTY.

5 A person who notifies, or causes to be notified, a health  
6 care facility, of the time and date on which a survey or on-  
7 site inspection of the facility is scheduled, is subject to an  
8 administrative penalty of not less than one thousand dollars  
9 and not more than two thousand dollars.

10 Sec. 12. Section 135E.1, subsection 3, Code 1989, is  
11 amended to read as follows:

12 3. "Nursing home" means an institution or facility, or  
13 part thereof of an institution or facility, whether  
14 proprietary or nonprofit, licensed as an-intermediate-care  
15 facility-or a skilled nursing facility, but not including an  
16 intermediate care facility for the mentally retarded or an  
17 intermediate care facility for the mentally ill, defined as  
18 such for licensing purposes under state law or pursuant-to-the  
19 rules-for-nursing-homes-promulgated-by-the-state-board-of  
20 health,-in-consultation-with-the-department-of-inspections-and  
21 appeals,-whether-proprietary-or-nonprofit administrative rule  
22 adopted pursuant to section 135C.2, including but not limited  
23 to, a nursing homes home owned or administered by the federal  
24 or state government or an agency or political subdivision of  
25 government.

26 Sec. 13. Section 225C.37, unnumbered paragraph 1, Code  
27 1989, is amended to read as follows:

28 A parent or legal guardian of a family member who is a  
29 resident of or being considered for placement in a state  
30 hospital-school, a-community-based an intermediate care  
31 facility which-is-intended-to-serve for the mentally retarded  
32 individuals-or-persons-with-developmental-disabilities, a  
33 child foster care group home, a child foster care family home,  
34 or a state mental health institute may apply to the local  
35 office of the department for the family support subsidy

1 program. The application shall include:

2 Sec. 14. Section 237.1, subsection 3, paragraph e, Code  
3 1989, is amended to read as follows:

4 e. Care furnished in a hospital licensed under chapter  
5 135B or care furnished in ~~an-intermediate-care-facility-or~~ a  
6 ~~skilled~~ nursing facility licensed under chapter 135C.

7 Sec. 15. Section 249A.2, subsection 5, Code Supplement  
8 1989, is amended to read as follows:

9 5. "Discretionary medical assistance" means medical  
10 assistance or additional medical assistance provided to  
11 individuals whose income and resources are in excess of  
12 eligibility limitations but are insufficient to meet all of  
13 the costs of necessary medical care and services, provided  
14 that if the assistance includes services in institutions for  
15 mental diseases or intermediate care ~~facility-services~~  
16 facilities for the mentally retarded, or both, for any group  
17 of such individuals, the assistance also includes for all  
18 covered groups of such individuals at least the care and  
19 services enumerated in Title XIX of the federal Social  
20 Security Act, section 1905(a), paragraphs (1) through (5), and  
21 (17), as codified in 42 U.S.C. ~~sec.~~ § 1396d(a), pars. (1)  
22 through (5), and (17), or any seven of the care and services  
23 enumerated in Title XIX of the federal Social Security Act,  
24 section 1905(a), paragraphs (1) through (7) and (9) through  
25 (18), as codified in 42 U.S.C. ~~sec.~~ § 1396d(a), pars. (1)  
26 through (7), and (9) through (18).

27 Sec. 16. Section 422.45, subsection 22, paragraph a, Code  
28 Supplement 1989, is amended to read as follows:

29 a. Residential care facilities and intermediate care  
30 facilities for the mentally retarded and residential care  
31 facilities for the mentally ill licensed by the department of  
32 health inspections and appeals under chapter 135C.

33 Sec. 17. Section 514D.5, subsection 5, Code 1989, is  
34 amended to read as follows:

35 5. The commissioner shall adopt rules prohibiting the

1 advertising of forms titled as "nursing home" forms or  
2 inferring coverage for custodial care in ~~an intermediate care~~  
3 a nursing facility as defined in section 135C.1 unless such  
4 forms provide coverage for custodial care in ~~an intermediate~~  
5 care a nursing facility as defined in section 135C.1.

6 Sec. 18. Section 514E.4, subsection 5, Code 1989, is  
7 amended to read as follows:

8 5. Services of a skilled nursing facility as defined in  
9 ~~section 135C.1, subsection 3, or services in an intermediate~~  
10 ~~care facility as defined in section 135C.1, subsection 2, to~~  
11 ~~the same extent as the services would be paid in a skilled~~  
12 ~~nursing facility,~~ for not more than one hundred eighty days in  
13 a calendar year.

14 Sec. 19. 1989 Iowa Acts, chapter 241, section 7, is  
15 repealed.

16 Sec. 20. EFFECTIVE DATE.

17 This Act takes effect October 1, 1990.

18 EXPLANATION

19 This bill relates to health care facilities by providing  
20 additional categories of health care facilities, eliminating  
21 the intermediate care facility and skilled nursing facility  
22 categories, and providing additional definitions, a penalty,  
23 and coordinating changes.

24 The bill establishes new definitions for nursing facility  
25 and intermediate care facility for the mentally retarded.

26 The definition of health care facility is amended by  
27 striking the references to intermediate care facility and  
28 skilled nursing facility and adding references to intermediate  
29 care facility for the mentally ill and intermediate care  
30 facility for the mentally retarded. The definition of  
31 intermediate care facility for the mentally ill is amended to  
32 coordinate with the striking of the intermediate care facility  
33 definition. The section containing requirements for the  
34 nature of care required to be provided in a health care  
35 facility is stricken and rewritten to coordinate with the

1 amended definition of health care facility.

2 The department of inspections and appeals is granted  
3 authority related to citations applied to a health care  
4 facility in place of the Iowa department of public health.  
5 The department of inspections and appeals is granted authority  
6 to levy an administrative penalty of not less than \$1,000 and  
7 not more than \$2,000 when a person notifies a health care  
8 facility of the time and date of a survey or on-site  
9 inspection of the facility. A similar provision, limited to a  
10 survey or inspection in response to a complaint, is stricken.  
11 The repeal of the similar provision in the event a federal  
12 penalty is provided for the same action is repealed.

13 Coordinating amendments are provided in various Code  
14 sections to change references to an intermediate care facility  
15 and a skilled nursing facility to nursing facility. The bill  
16 takes effect October 1, 1990.

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HOUSE FILE 2489  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 672)

(As Amended and Passed by the House February 27, 1990)  
*Substituted for S.F. 2307 3/1 (p. 922)*

Passed House, Date 2/27/90 (p. 671) Passed Senate, Date 3/13/90 (p. 1015)  
Vote: Ayes 93 Nays 0 Vote: Ayes 46 Nays 0  
Approved March 26, 1990

A BILL FOR

1 An Act relating to health care facilities, providing a penalty,  
2 and providing an effective date.

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

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House Amendments \_\_\_\_\_

1 Section 1. Section 135B.33, subsection 5, Code 1989, is  
2 amended to read as follows:

3 5. An analysis of community health needs, specifically  
4 including long-term care needs, including-intermediate-care  
5 facility-and-skilled nursing facility care, pediatric and  
6 maternity services, and the health facilities' potential role  
7 in facilitating the provision of services to meet these needs.

8 Sec. 2. Section 135C.1, subsections 2 and 3, Code 1989,  
9 are amended by striking the subsections.

10 Sec. 3. Section 135C.1, subsection 4, Code 1989, is  
11 amended to read as follows:

12 4. "Health care facility" or "facility" means any a  
13 residential care facility, intermediate-care-facility, or  
14 skilled a nursing facility, an intermediate care facility for  
15 the mentally ill, or an intermediate care facility for the  
16 mentally retarded.

17 Sec. 4. Section 135C.1, subsection 18, Code 1989, is  
18 amended by striking the subsection and inserting in lieu  
19 thereof the following:

20 18. "Intermediate care facility for the mentally ill"  
21 means an institution, place, building, or agency designed to  
22 provide accommodation, board, and nursing care for a period  
23 exceeding twenty-four consecutive hours to three or more  
24 individuals, who primarily have mental illness and who are not  
25 related to the administrator or owner within the third degree  
26 of consanguinity.

27 Sec. 5. Section 135C.1, Code 1989, is amended by adding  
28 the following new subsections:

29 NEW SUBSECTION. 20. "Nursing facility" means an  
30 institution or a distinct part of an institution housing three  
31 or more individuals not related to the administrator or owner  
32 within the third degree of consanguinity, which is primarily  
33 engaged in providing health-related care and services,  
34 including rehabilitative services, but which is not engaged  
35 primarily in providing treatment or care for mental illness or

1 mental retardation, for a period exceeding twenty-four  
2 consecutive hours for individuals who, because of a mental or  
3 physical condition, require nursing care and other services in  
4 addition to room and board.

5 NEW SUBSECTION. 21. "Intermediate care facility for the  
6 mentally retarded" means an institution or distinct part of an  
7 institution with a primary purpose to provide health or  
8 rehabilitative services to three or more individuals, who  
9 primarily have mental retardation or a related condition and  
10 who are not related to the administrator or owner within the  
11 third degree of consanguinity, and which meets the  
12 requirements of this chapter and federal standards for  
13 intermediate care facilities for the mentally retarded  
14 established pursuant to the federal Social Security Act, §  
15 1905(c)(d), as codified in 42 U.S.C. § 1936d which are  
16 contained in 42 C.F.R. pt. 483, subpt. D, § 410-480.

17 Sec. 6. Section 135C.2, subsection 3, unnumbered paragraph  
18 1, Code Supplement 1989, is amended to read as follows:

19 The department shall establish by administrative rule,  
20 ~~within-the-intermediate-care-facility-category,-a-special~~  
21 ~~classification-for-facilities-intended-to-serve-mentally~~  
22 ~~retarded-individuals,-and~~ within the residential care facility  
23 category, a special classification for residential facilities  
24 intended to serve mentally ill individuals. The department  
25 may also establish by administrative rule ~~other~~  
26 ~~classifications-within-that-category,-or~~ special  
27 classifications within the residential care facility,  
28 intermediate care facility for the mentally ill, intermediate  
29 care facility for the mentally retarded, or skilled nursing  
30 facility categories, for facilities intended to serve  
31 individuals who have special health care problems or  
32 conditions in common. Rules establishing a special  
33 classification shall define the problem or condition to which  
34 the special classification is relevant and establish  
35 requirements for an approved program of care commensurate with

1 the problem or condition, and may grant special variances or  
2 considerations to facilities licensed within the special  
3 classification ~~so-established~~.

4 Sec. 7. Section 135C.3, Code 1989, is amended by striking  
5 the section and inserting in lieu thereof the following:

6 135C.3 NATURE OF CARE.

7 1. A licensed nursing facility shall provide an organized  
8 twenty-four-hour program of services commensurate with the  
9 needs of its residents and under the immediate direction of a  
\*10 licensed nurse. Medical and nursing services must be provided  
11 under the direction of either a house physician or an  
12 individually selected physician. Surgery or obstetrical care  
13 shall not be provided within the facility. An admission to  
14 the nursing facility must be based on a physician's written  
15 order certifying that the individual being admitted requires  
16 no greater degree of nursing care than the facility to which  
17 the admission is made is licensed to provide and is capable of  
18 providing.

19 2. A licensed intermediate care facility for the mentally  
20 ill shall provide an organized twenty-four-hour program of  
21 services commensurate with the needs of its residents and  
22 under the immediate direction of a licensed registered nurse,  
23 who has had at least two years of recent experience in a  
24 chronic or acute psychiatric setting. Medical and nursing  
25 service must be provided under the direction of either a house  
26 physician or an individually selected physician. Surgery or  
27 obstetrical care shall not be provided within the facility.  
28 An admission to the intermediate care facility for the  
29 mentally ill must be based on a physician's written order  
30 certifying that the individual being admitted requires no  
31 greater degree of nursing care than the facility to which the  
32 admission is made is licensed to provide and is capable of  
33 providing.

34 Sec. 8. Section 135C.19, subsection 3, Code 1989, is  
35 amended to read as follows:

1 3. If the facility cited subsequently advises the  
2 department of human services that the violation has been  
3 corrected to the satisfaction of the department of ~~health~~  
4 inspections and appeals, the department of human services must  
5 maintain this advisory in the same file with the copy of the  
6 citation. The department of human services shall not  
7 disseminate to the public any information regarding citations  
8 issued by the department of ~~health inspections and appeals~~,  
9 but shall forward or refer such inquiries to the department of  
10 health inspections and appeals.

11 Sec. 9. Section 135C.23, subsection 2, unnumbered  
12 paragraph 2, Code 1989, is amended to read as follows:

13 This section does not prohibit the admission of a patient  
14 with a history of dangerous or disturbing behavior to an  
15 intermediate care facility for the mentally ill, intermediate  
16 care facility for the mentally retarded, skilled nursing  
17 facility, or county care facility when the intermediate care  
18 facility for the mentally ill, intermediate care facility for  
19 the mentally retarded, skilled nursing facility, or county  
20 care facility has a program which has received prior approval  
21 from the department to properly care for and manage the  
22 patient. An intermediate care facility for the mentally ill,  
23 intermediate care facility for the mentally retarded, skilled  
24 nursing facility, or county care facility is required to  
25 transfer or discharge a resident with dangerous or disturbing  
26 behavior when the intermediate care facility for the mentally  
27 ill, intermediate care facility for the mentally retarded,  
28 skilled nursing facility, or county care facility cannot  
29 control the resident's dangerous or disturbing behavior. The  
30 department, in coordination with the state mental health and  
31 mental retardation commission, shall adopt rules pursuant to  
32 chapter 17A for programs to be required in intermediate care  
33 facilities for the mentally ill, intermediate care facilities  
34 for the mentally retarded, skilled nursing facilities, and  
35 county care facilities that admit patients or have residents

1 with histories of dangerous or disturbing behavior.

2 Sec. 10. Section 135C.39, unnumbered paragraph 2, Code  
3 Supplement 1989, is amended by striking the paragraph.

4 Sec. 11. NEW SECTION. 135C.45A NOTIFICATION PENALTY.

5 A person who notifies, or causes to be notified, a health  
6 care facility, of the time and date on which a survey or on-  
7 site inspection of the facility is scheduled, is subject to an  
8 administrative penalty of not less than one thousand dollars  
9 and not more than two thousand dollars.

10 Sec. 12. Section 135E.1, subsection 3, Code 1989, is  
11 amended to read as follows:

12 3. "Nursing home" means an institution or facility, or  
13 part thereof of an institution or facility, whether  
14 proprietary or nonprofit, licensed as an-intermediate-care  
15 facility-or a skilled nursing facility, but not including an  
16 intermediate care facility for the mentally retarded or an  
17 intermediate care facility for the mentally ill, defined as  
18 such for licensing purposes under state law or pursuant-to-the  
19 rules-for-nursing-homes-promulgated-by-the-state-board-of  
20 health,-in-consultation-with-the-department-of-inspections-and  
21 appeals,-whether-proprietary-or-nonprofit administrative rule  
22 adopted pursuant to section 135C.2, including but not limited  
23 to, a nursing homes home owned or administered by the federal  
24 or state government or an agency or political subdivision of  
25 government.

26 Sec. 13. Section 225C.37, unnumbered paragraph 1, Code  
27 1989, is amended to read as follows:

28 A parent or legal guardian of a family member who is a  
29 resident of or being considered for placement in a state  
30 hospital-school, ~~a-community-based~~ an intermediate care  
31 facility ~~which-is-intended-to-serve~~ for the mentally retarded  
32 ~~individuals-or-persons-with-developmental-disabiilities,~~ a  
33 child foster care group home, a child foster care family home,  
34 or a state mental health institute may apply to the local  
35 office of the department for the family support subsidy

1 program. The application shall include:

2 Sec. 14. Section 237.1, subsection 3, paragraph e, Code  
3 1989, is amended to read as follows:

4 e. Care furnished in a hospital licensed under chapter  
5 135B or care furnished in ~~an intermediate care facility or a~~  
6 ~~skilled~~ nursing facility licensed under chapter 135C.

7 Sec. 15. Section 249A.2, subsection 5, Code Supplement  
8 1989, is amended to read as follows:

9 5. "Discretionary medical assistance" means medical  
10 assistance or additional medical assistance provided to  
11 individuals whose income and resources are in excess of  
12 eligibility limitations but are insufficient to meet all of  
13 the costs of necessary medical care and services, provided  
14 that if the assistance includes services in institutions for  
15 mental diseases or intermediate care ~~facility-services~~  
16 facilities for the mentally retarded, or both, for any group  
17 of such individuals, the assistance also includes for all  
18 covered groups of such individuals at least the care and  
19 services enumerated in Title XIX of the federal Social  
20 Security Act, section 1905(a), paragraphs (1) through (5), and  
21 (17), as codified in 42 U.S.C. ~~sec.~~ § 1396d(a), pars. (1)  
22 through (5), and (17), or any seven of the care and services  
23 enumerated in Title XIX of the federal Social Security Act,  
24 section 1905(a), paragraphs (1) through (7) and (9) through  
25 (18), as codified in 42 U.S.C. ~~sec.~~ § 1396d(a), pars. (1)  
26 through (7), and (9) through (18).

27 Sec. 16. Section 422.45, subsection 22, paragraph a, Code  
28 Supplement 1989, is amended to read as follows:

29 a. Residential care facilities and intermediate care  
30 facilities for the mentally retarded and residential care  
31 facilities for the mentally ill licensed by the department of  
32 health inspections and appeals under chapter 135C.

33 Sec. 17. Section 514D.5, subsection 5, Code 1989, is  
34 amended to read as follows:

35 5. The commissioner shall adopt rules prohibiting the

1 advertising of forms titled as "nursing home" forms or  
2 inferring coverage for custodial care in ~~an-intermediate-care~~  
3 a nursing facility as defined in section 135C.1 unless such  
4 forms provide coverage for custodial care in ~~an-intermediate~~  
5 care a nursing facility as defined in section 135C.1.

6 Sec. 18. Section 514E.4, subsection 5, Code 1989, is  
7 amended to read as follows:

8 5. Services of a skilled nursing facility as defined in  
9 section 135C.1, ~~subsection-3-or-services-in-an-intermediate~~  
10 ~~care-facility-as-defined-in-section-135C.1-subsection-2-to~~  
11 ~~the-same-extent-as-the-services-would-be-paid-in-a-skilled~~  
12 ~~nursing-facility,~~ for not more than one hundred eighty days in  
13 a calendar year.

14 Sec. 19. 1989 Iowa Acts, chapter 241, section 7, is  
15 repealed.

16 Sec. 20. EFFECTIVE DATE.

17 This Act takes effect October 1, 1990.

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HUMAN RESOURCES

Now

Health Care

Fey, Chair  
Hammond  
Haveland  
Nielsen

Flosier  
Carpenter  
Hester

HOUSE FILE 2489

BY (PROPOSED DEPARTMENT OF  
INSPECTIONS AND APPEALS BILL)

Passed House, Date \_\_\_\_\_

Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to health care facilities and providing a  
2 penalty.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 135B.33, subsection 5, Code 1989, is  
2 amended to read as follows:

3 5. An analysis of community health needs, specifically  
4 including long-term care needs, including ~~intermediate-care~~  
5 ~~facility-and-skilled~~ nursing facility care, pediatric and  
6 maternity services, and the health facilities' potential role  
7 in facilitating the provision of services to meet these needs.

8 Sec. 2. Section 135C.1, subsections 2 and 3, Code 1989,  
9 are amended by striking the subsections.

10 Sec. 3. Section 135C.1, subsection 4, Code 1989, is  
11 amended to read as follows:

12 4. "Health care facility" or "facility" means any a  
13 residential care facility, ~~intermediate-care-facility,~~ or  
14 skilled a nursing facility, an intermediate care facility for  
15 the mentally ill, or an intermediate care facility for the  
16 mentally retarded.

17 Sec. 4. Section 135C.1, subsection 18, Code 1989, is  
18 amended by striking the subsection and inserting in lieu  
19 thereof the following:

20 18. "Intermediate care facility for the mentally ill"  
21 means an institution, place, building, or agency designed to  
22 provide accommodation, board, and nursing care for a period  
23 exceeding twenty-four consecutive hours to three or more  
24 individuals, who primarily have mental illness and who are not  
25 related to the administrator or owner within the third degree  
26 of consanguinity.

27 Sec. 5. Section 135C.1, Code 1989, is amended by adding  
28 the following new subsections:

29 NEW SUBSECTION. 20. "Nursing facility" means an  
30 institution or a distinct part of an institution housing three  
31 or more individuals not related to the administrator or owner  
32 within the third degree of consanguinity, which is primarily  
33 engaged in providing health-related care and services,  
34 including rehabilitative services, but which is not engaged  
35 primarily in providing treatment or care for mental illness or

1 mental retardation, for a period exceeding twenty-four  
2 consecutive hours for individuals who, because of a mental or  
3 physical condition, require nursing care and other services in  
4 addition to room and board.

5 NEW SUBSECTION. 21. "Intermediate care facility for the  
6 mentally retarded" means an institution, place, building, or  
7 agency designed to provide accommodation, board, and nursing  
8 care for a period exceeding twenty-four consecutive hours to  
9 three or more individuals, who primarily have mental  
10 retardation and who are not related to the administrator or  
11 owner within the third degree of consanguinity.

12 NEW SUBSECTION. 22. "Qualified mental retardation  
13 professional" means an individual who has at least one year of  
14 experience working directly with persons with mental  
15 retardation or other developmental disability and who has any  
16 of the following professional qualifications:

- 17 a. Is licensed as a physician under chapter 148 or 150A.
- 18 b. Is licensed as a registered nurse under chapter 152.
- 19 c. Has a bachelor's degree in any of the following areas:
  - 20 (1) Audiology.
  - 21 (2) Dietary services.
  - 22 (3) Human services.
  - 23 (4) Occupational therapy.
  - 24 (5) Physical therapy.
  - 25 (6) Psychology.
  - 26 (7) Recreation or leisure services.
  - 27 (8) Social work.
  - 28 (9) Speech-language pathology.

29 NEW SUBSECTION. 23. "Interdisciplinary team" means a  
30 group of individuals who develop a single, integrated,  
31 individual program plan to meet the needs for services of an  
32 individual residing in an intermediate care facility for the  
33 mentally retarded. The group consists of the individual  
34 resident, the resident's legal guardian, if any, the  
35 resident's advocate, if desired by the resident, a referral

1 agency representative, staff members of the resident's  
2 facility, other providers of services to the resident, and  
3 other individuals relevant to the resident's needs.

4 Sec. 6. Section 135C.2, subsection 3, unnumbered paragraph  
5 1, Code Supplement 1989, is amended to read as follows:

6 The department shall establish by administrative rule,  
7 ~~within-the-intermediate-care-facility-category, a special~~  
8 ~~classification-for-facilities-intended-to-serve-mentally~~  
9 ~~retarded-individuals, and~~ within the residential care facility  
10 category, a special classification for residential facilities  
11 intended to serve mentally ill individuals. The department  
12 may also establish by administrative rule other  
13 ~~classifications-within-that-category, or~~ special  
14 classifications within the residential care facility,  
15 intermediate care facility for the mentally ill, intermediate  
16 care facility for the mentally retarded, or skilled nursing  
17 facility categories, for facilities intended to serve  
18 individuals who have special health care problems or  
19 conditions in common. Rules establishing a special  
20 classification shall define the problem or condition to which  
21 the special classification is relevant and establish  
22 requirements for an approved program of care commensurate with  
23 the problem or condition, and may grant special variances or  
24 considerations to facilities licensed within the special  
25 classification ~~so-established~~.

26 Sec. 7. Section 135C.3, Code 1989, is amended by striking  
27 the section and inserting in lieu thereof the following:

28 135C.3 NATURE OF CARE.

29 1. A licensed nursing facility shall provide an organized  
30 twenty-four-hour program of services commensurate with the  
31 needs of its residents and under the immediate direction of a  
32 licensed registered nurse. Medical and nursing services must  
33 be provided under the direction of either a house physician or  
34 an individually selected physician. Surgery or obstetrical  
35 care shall not be provided within the facility. An admission

1 to the nursing facility must be based on a physician's written  
2 order certifying that the individual being admitted requires  
3 no greater degree of nursing care than the facility to which  
4 the admission is made is licensed to provide and is capable of  
5 providing.

6 2. A licensed intermediate care facility for the mentally  
7 ill shall provide an organized twenty-four-hour program of  
8 services commensurate with the needs of its residents and  
9 under the immediate direction of a licensed registered nurse,  
10 who has had at least two years of recent experience in a  
11 chronic or acute psychiatric setting. Medical and nursing  
12 service must be provided under the direction of either a house  
13 physician or an individually selected physician. Surgery or  
14 obstetrical care shall not be provided within the facility.  
15 An admission to the intermediate care facility for the  
16 mentally ill must be based on a physician's written order  
17 certifying that the individual being admitted requires no  
18 greater degree of nursing care than the facility to which the  
19 admission is made is licensed to provide and is capable of  
20 providing.

21 3. A licensed intermediate care facility for the mentally  
22 retarded shall provide an organized twenty-four-hour program  
23 of services commensurate with the needs of its residents and  
24 under the immediate direction of a qualified mental  
25 retardation professional. Medical and nursing services must  
26 be provided under the direction of either a house physician or  
27 an individually selected physician. Surgery or obstetrical  
28 care shall not be provided within the facility. An admission  
29 to the intermediate care facility for the mentally retarded  
30 shall be based on a written order by an interdisciplinary team  
31 certifying that the individual being admitted requires no  
32 greater degree of nursing care than the facility to which the  
33 admission is made is licensed to provide and is capable of  
34 providing.

35 Sec. 8. Section 135C.19, subsection 3, Code 1989, is

1 amended to read as follows:

2 3. If the facility cited subsequently advises the  
3 department of human services that the violation has been  
4 corrected to the satisfaction of the department of health  
5 inspections and appeals, the department of human services must  
6 maintain this advisory in the same file with the copy of the  
7 citation. The department of human services shall not  
8 disseminate to the public any information regarding citations  
9 issued by the department of health inspections and appeals,  
10 but shall forward or refer such inquiries to the department of  
11 health inspections and appeals.

12 Sec. 9. Section 135C.23, subsection 2, unnumbered  
13 paragraph 2, Code 1989, is amended to read as follows:

14 This section does not prohibit the admission of a patient  
15 with a history of dangerous or disturbing behavior to an  
16 intermediate care facility for the mentally ill, intermediate  
17 care facility for the mentally retarded, skilled nursing  
18 facility, or county care facility when the intermediate care  
19 facility for the mentally ill, intermediate care facility for  
20 the mentally retarded, skilled nursing facility, or county  
21 care facility has a program which has received prior approval  
22 from the department to properly care for and manage the  
23 patient. An intermediate care facility for the mentally ill,  
24 intermediate care facility for the mentally retarded, skilled  
25 nursing facility, or county care facility is required to  
26 transfer or discharge a resident with dangerous or disturbing  
27 behavior when the intermediate care facility for the mentally  
28 ill, intermediate care facility for the mentally retarded,  
29 skilled nursing facility, or county care facility cannot  
30 control the resident's dangerous or disturbing behavior. The  
31 department, in coordination with the state mental health and  
32 mental retardation commission, shall adopt rules pursuant to  
33 chapter 17A for programs to be required in intermediate care  
34 facilities for the mentally ill, intermediate care facilities  
35 for the mentally retarded, skilled nursing facilities, and

1 county care facilities that admit patients or have residents  
2 with histories of dangerous or disturbing behavior.

3 Sec. 10. Section 135C.39, unnumbered paragraph 2, Code  
4 Supplement 1989, is amended by striking the paragraph.

5 Sec. 11. NEW SECTION. 135C.45A NOTIFICATION PENALTY.

6 A person who notifies, or causes to be notified, a health  
7 care facility, of the time and date on which a survey or on-  
8 site inspection of the facility is scheduled, is subject to an  
9 administrative penalty of not less than one thousand dollars  
10 and not more than two thousand dollars.

11 Sec. 12. Section 135E.1, subsection 3, Code 1989, is  
12 amended to read as follows:

13 3. "Nursing home" means an institution or facility, or  
14 part thereof of an institution or facility, whether  
15 proprietary or nonprofit, licensed as an-intermediate-care  
16 facility-or a skilled nursing facility, but not including an  
17 intermediate care facility for the mentally retarded or an  
18 intermediate care facility for the mentally ill, defined as  
19 such for licensing purposes under state law or pursuant-to-the  
20 rules-for-nursing-homes-promulgated-by-the-state-board-of  
21 health-in-consultation-with-the-department-of-inspections-and  
22 appeals, whether proprietary or nonprofit administrative rule  
23 adopted pursuant to section 135C.2, including but not limited  
24 to, a nursing homes home owned or administered by the federal  
25 or state government or an agency or political subdivision of  
26 government.

27 Sec. 13. Section 225C.37, unnumbered paragraph 1, Code  
28 1989, is amended to read as follows:

29 A parent or legal guardian of a family member who is a  
30 resident of or being considered for placement in a state  
31 hospital-school, a-community-based an intermediate care  
32 facility which-is-intended-to-serve for the mentally retarded  
33 individuals-or-persons-with-developmental-disabilities, a  
34 child foster care group home, a child foster care family home,  
35 or a state mental health institute may apply to the local

1 office of the department for the family support subsidy  
2 program. The application shall include:

3 Sec. 14. Section 237.1, subsection 3, paragraph e, Code  
4 1989, is amended to read as follows:

5 e. Care furnished in a hospital licensed under chapter  
6 135B or care furnished in ~~an intermediate care facility or a~~  
7 ~~skilled~~ nursing facility licensed under chapter 135C.

8 Sec. 15. Section 249A.2, subsection 5, Code Supplement  
9 1989, is amended to read as follows:

10 5. "Discretionary medical assistance" means medical  
11 assistance or additional medical assistance provided to  
12 individuals whose income and resources are in excess of  
13 eligibility limitations but are insufficient to meet all of  
14 the costs of necessary medical care and services, provided  
15 that if the assistance includes services in institutions for  
16 mental diseases or intermediate care ~~facility-services~~  
17 facilities for the mentally retarded, or both, for any group  
18 of such individuals, the assistance also includes for all  
19 covered groups of such individuals at least the care and  
20 services enumerated in Title XIX of the federal Social  
21 Security Act, section 1905(a), paragraphs (1) through (5), and  
22 (17), as codified in 42 U.S.C. ~~sec. §~~ 1396d(a), pars. (1)  
23 through (5), and (17), or any seven of the care and services  
24 enumerated in Title XIX of the federal Social Security Act,  
25 section 1905(a), paragraphs (1) through (7) and (9) through  
26 (18), as codified in 42 U.S.C. ~~sec. §~~ 1396d(a), pars. (1)  
27 through (7), and (9) through (18).

28 Sec. 16. Section 422.45, subsection 22, paragraph a, Code  
29 Supplement 1989, is amended to read as follows:

30 a. Residential care facilities and intermediate care  
31 facilities for the mentally retarded and residential care  
32 facilities for the mentally ill licensed by the department of  
33 health inspections and appeals under chapter 135C.

34 Sec. 17. Section 514D.5, subsection 5, Code 1989, is  
35 amended to read as follows:

1 5. The commissioner shall adopt rules prohibiting the  
2 advertising of forms titled as "nursing home" forms or  
3 inferring coverage for custodial care in ~~an intermediate care~~  
4 a nursing facility as defined in section 135C.1 unless such  
5 forms provide coverage for custodial care in ~~an intermediate~~  
6 care a nursing facility as defined in section 135C.1.

7 Sec. 18. Section 514E.4, subsection 5, Code 1989, is  
8 amended to read as follows:

9 5. Services of a skilled nursing facility as defined in  
10 section 135C.1, ~~subsection 37 or services in an intermediate~~  
11 ~~care facility as defined in section 135C.17 subsection 27 to~~  
12 ~~the same extent as the services would be paid in a skilled~~  
13 ~~nursing facility,~~ for not more than one hundred eighty days in  
14 a calendar year.

15 Sec. 19. 1989 Iowa Acts, chapter 241, section 7, is  
16 repealed.

17 EXPLANATION

18 This bill relates to health care facilities by providing  
19 additional categories of health care facilities, eliminating  
20 the intermediate care facility and skilled nursing facility  
21 categories, and providing additional definitions, a penalty,  
22 and coordinating changes.

23 The bill establishes new definitions for nursing facility,  
24 intermediate care facility for the mentally retarded,  
25 qualified mental retardation professional, and  
26 interdisciplinary team.

27 The definition of health care facility is amended by  
28 striking the references to intermediate care facility and  
29 skilled nursing facility and adding references to intermediate  
30 care facility for the mentally ill and intermediate care  
31 facility for the mentally retarded. The definition of  
32 intermediate care facility for the mentally ill is amended to  
33 coordinate with the striking of the intermediate care facility  
34 definition. The section containing requirements for the  
35 nature of care required to be provided in a health care

1 facility is stricken and rewritten to coordinate with the  
2 amended definition of health care facility.

3 The department of inspections and appeals is granted  
4 authority related to citations applied to a health care  
5 facility in place of the Iowa department of public health.  
6 The department of inspections and appeals is granted authority  
7 to levy an administrative penalty of not less than \$1,000 and  
8 not more than \$2,000 when a person notifies a health care  
9 facility of the time and date of a survey or on-site  
10 inspection of the facility. A similar provision, limited to a  
11 survey or inspection in response to a complaint, is stricken.  
12 The repeal of the similar provision in the event a federal  
13 penalty is provided for the same action is repealed.

14 Coordinating amendments are provided in various Code  
15 sections to change references to an intermediate care facility  
16 and a skilled nursing facility to nursing facility.

17 BACKGROUND STATEMENT

18 SUBMITTED BY THE AGENCY

19 A legislative change to chapter 135C is being requested.

20 The federal Omnibus Budget Reconciliation Act of 1987 (OBRA  
21 '87) redefined the levels of intermediate care facilities and  
22 skilled nursing facilities certified for medicaid and Medicare  
23 reimbursement. Intermediate care facilities and skilled  
24 nursing facilities were changed to nursing facilities. The  
25 standards for nursing facilities will be at the skilled level.  
26 This will result in currently medicaid-certified intermediate  
27 care facilities meeting stricter standards.

28 In order to ensure that terminology and standards for  
29 facilities are consistent throughout the state of Iowa,  
30 definitions for intermediate care facilities and skilled  
31 nursing facilities would be redefined as nursing facilities.  
32 The federal definition of nursing facilities is being used as  
33 the basis for the new definition for state licensure purposes.

34 As a result of redefining intermediate care facilities and  
35 skilled nursing facilities as nursing facilities, new or

1 revised definitions for intermediate care facilities for the  
2 mentally ill and intermediate care facilities for the mentally  
3 retarded are needed. These classifications were not affected  
4 by OBRA '87.

5 Another portion of this legislative request is to repeal  
6 the prospective repeal of the civil penalty for prior  
7 notification of surveys or on-site inspections of health care  
8 facilities. The repeal would have gone into effect when the  
9 OBRA '87 penalty became effective. OBRA '87 only applies to  
10 those facilities which are medicaid or Medicare certified.  
11 Thus, a sanction would not exist for state-licensed health  
12 care facilities, which includes residential care facilities.  
13 In addition, in order for federal OBRA '87 sanctions to be  
14 imposed by the state, state authority would be required.

15 The civil penalty has also been changed to an  
16 administrative penalty to allow the department of inspections  
17 and appeals to assess the penalty. The same administrative  
18 law process would apply to this sanction as other adverse  
19 actions taken by the department.

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HOUSE FILE 2489

AN ACT

RELATING TO HEALTH CARE FACILITIES, PROVIDING A PENALTY, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 135B.33, subsection 5, Code 1989, is amended to read as follows:

5. An analysis of community health needs, specifically including long-term care needs, including-intermediate-care facility-and-skilled nursing facility care, pediatric and maternity services, and the health facilities' potential role in facilitating the provision of services to meet these needs.

Sec. 2. Section 135C.1, subsections 2 and 3, Code 1989, are amended by striking the subsections.

Sec. 3. Section 135C.1, subsection 4, Code 1989, is amended to read as follows:

4. "Health care facility" or "facility" means any a residential care facility, ~~intermediate-care-facility,~~ or skilled a nursing facility, an intermediate care facility for

the mentally ill, or an intermediate care facility for the mentally retarded.

Sec. 4. Section 135C.1, subsection 18, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

18. "Intermediate care facility for the mentally ill" means an institution, place, building, or agency designed to provide accommodation, board, and nursing care for a period exceeding twenty-four consecutive hours to three or more individuals, who primarily have mental illness and who are not related to the administrator or owner within the third degree of consanguinity.

Sec. 5. Section 135C.1, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 20. "Nursing facility" means an institution or a distinct part of an institution housing three or more individuals not related to the administrator or owner within the third degree of consanguinity, which is primarily engaged in providing health-related care and services, including rehabilitative services, but which is not engaged primarily in providing treatment or care for mental illness or mental retardation, for a period exceeding twenty-four consecutive hours for individuals who, because of a mental or physical condition, require nursing care and other services in addition to room and board.

NEW SUBSECTION. 21. "Intermediate care facility for the mentally retarded" means an institution or distinct part of an institution with a primary purpose to provide health or rehabilitative services to three or more individuals, who primarily have mental retardation or a related condition and who are not related to the administrator or owner within the third degree of consanguinity, and which meets the requirements of this chapter and federal standards for intermediate care facilities for the mentally retarded established pursuant to the federal Social Security Act, §

1905(c)(d), as codified in 42 U.S.C. § 1936d which are contained in 42 C.F.R. pt. 483, subpt. D, § 410-480.

Sec. 6. Section 135C.2, subsection 3, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

The department shall establish by administrative rule, ~~within the intermediate care facility category, a special classification for facilities intended to serve mentally retarded individuals, and~~ within the residential care facility category, a special classification for residential facilities intended to serve mentally ill individuals. The department may also establish by administrative rule other ~~classifications within that category, or~~ special classifications within the residential care facility, intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, or skilled nursing care facility categories, for facilities intended to serve individuals who have special health care problems or conditions in common. Rules establishing a special classification shall define the problem or condition to which the special classification is relevant and establish requirements for an approved program of care commensurate with the problem or condition, and may grant special variances or considerations to facilities licensed within the special classification so established.

Sec. 7. Section 135C.3, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

135C.3 NATURE OF CARE.

1. A licensed nursing facility shall provide an organized twenty-four-hour program of services commensurate with the needs of its residents and under the immediate direction of a licensed nurse. Medical and nursing services must be provided under the direction of either a house physician or an individually selected physician. Surgery or obstetrical care shall not be provided within the facility. An admission to the nursing facility must be based on a physician's written

order certifying that the individual being admitted requires no greater degree of nursing care than the facility to which the admission is made is licensed to provide and is capable of providing.

2. A licensed intermediate care facility for the mentally ill shall provide an organized twenty-four-hour program of services commensurate with the needs of its residents and under the immediate direction of a licensed registered nurse, who has had at least two years of recent experience in a chronic or acute psychiatric setting. Medical and nursing service must be provided under the direction of either a house physician or an individually selected physician. Surgery or obstetrical care shall not be provided within the facility. An admission to the intermediate care facility for the mentally ill must be based on a physician's written order certifying that the individual being admitted requires no greater degree of nursing care than the facility to which the admission is made is licensed to provide and is capable of providing.

Sec. 8. Section 135C.19, subsection 3, Code 1989, is amended to read as follows:

3. If the facility cited subsequently advises the department of human services that the violation has been corrected to the satisfaction of the department of health inspections and appeals, the department of human services must maintain this advisory in the same file with the copy of the citation. The department of human services shall not disseminate to the public any information regarding citations issued by the department of health inspections and appeals, but shall forward or refer such inquiries to the department of health inspections and appeals.

Sec. 9. Section 135C.23, subsection 2, unnumbered paragraph 2, Code 1989, is amended to read as follows:

This section does not prohibit the admission of a patient with a history of dangerous or disturbing behavior to an

intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, skilled nursing facility, or county care facility when the intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, skilled nursing facility, or county care facility has a program which has received prior approval from the department to properly care for and manage the patient. An intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, skilled nursing facility, or county care facility is required to transfer or discharge a resident with dangerous or disturbing behavior when the intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, skilled nursing facility, or county care facility cannot control the resident's dangerous or disturbing behavior. The department, in coordination with the state mental health and mental retardation commission, shall adopt rules pursuant to chapter 17A for programs to be required in intermediate care facilities for the mentally ill, intermediate care facilities for the mentally retarded, skilled nursing facilities, and county care facilities that admit patients or have residents with histories of dangerous or disturbing behavior.

Sec. 10. Section 135C.39, unnumbered paragraph 2, Code Supplement 1989, is amended by striking the paragraph.

Sec. 11. NEW SECTION. 135C.45A NOTIFICATION PENALTY.

A person who notifies, or causes to be notified, a health care facility, of the time and date on which a survey or on-site inspection of the facility is scheduled, is subject to an administrative penalty of not less than one thousand dollars and not more than two thousand dollars.

Sec. 12. Section 135E.1, subsection 3, Code 1989, is amended to read as follows:

3. "Nursing home" means an institution or facility, or part thereof of an institution or facility, whether proprietary or nonprofit, licensed as an intermediate-care

facility or a skilled nursing facility, but not including an intermediate care facility for the mentally retarded or an intermediate care facility for the mentally ill, defined as such for licensing purposes under state law or pursuant to the rules for nursing homes promulgated by the state board of health, in consultation with the department of inspections and appeals, whether proprietary or nonprofit administrative rule adopted pursuant to section 135C.2, including but not limited to, a nursing homes home owned or administered by the federal or state government or an agency or political subdivision of government.

Sec. 13. Section 225C.37, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A parent or legal guardian of a family member who is a resident of or being considered for placement in a state hospital-school, a community-based an intermediate care facility which is intended to serve for the mentally retarded individuals or persons with developmental disabilities, a child foster care group home, a child foster care family home, or a state mental health institute may apply to the local office of the department for the family support subsidy program. The application shall include:

Sec. 14. Section 237.1, subsection 3, paragraph e, Code 1989, is amended to read as follows:

e. Care furnished in a hospital licensed under chapter 135B or care furnished in an intermediate care facility or a skilled nursing facility licensed under chapter 135C.

Sec. 15. Section 249A.2, subsection 5, Code Supplement 1989, is amended to read as follows:

5. "Discretionary medical assistance" means medical assistance or additional medical assistance provided to individuals whose income and resources are in excess of eligibility limitations but are insufficient to meet all of the costs of necessary medical care and services, provided that if the assistance includes services in institutions for

mental diseases or intermediate care ~~facility-services~~ facilities for the mentally retarded, or both, for any group of such individuals, the assistance also includes for all covered groups of such individuals at least the care and services enumerated in Title XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (5), and (17), as codified in 42 U.S.C. sec. § 1396d(a), pars. (1) through (5), and (17), or any seven of the care and services enumerated in Title XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (7) and (9) through (18), as codified in 42 U.S.C. sec. § 1396d(a), pars. (1) through (7), and (9) through (18).

Sec. 16. Section 422.45, subsection 22, paragraph a, Code Supplement 1989, is amended to read as follows:

a. Residential care facilities and intermediate care facilities for the mentally retarded and residential care facilities for the mentally ill licensed by the department of health inspections and appeals under chapter 135C.

Sec. 17. Section 514D.5, subsection 5, Code 1989, is amended to read as follows:

5. The commissioner shall adopt rules prohibiting the advertising of forms titled as "nursing home" forms or inferring coverage for custodial care in an ~~intermediate care~~ a nursing facility as defined in section 135C.1 unless such forms provide coverage for custodial care in an ~~intermediate care~~ a nursing facility as defined in section 135C.1.

Sec. 18. Section 514E.4, subsection 5, Code 1989, is amended to read as follows:

5. Services of a ~~skilled nursing facility~~ as defined in section 135C.1, ~~subsection 3, or services in an intermediate care facility as defined in section 135C.1, subsection 2, to the same extent as the services would be paid in a skilled nursing facility,~~ for not more than one hundred eighty days in a calendar year.

Sec. 19. 1989 Iowa Acts, chapter 241, section 7, is repealed.

Sec. 20. EFFECTIVE DATE.

This Act takes effect October 1, 1990.

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DONALD D. AVENSON  
Speaker of the House

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JO ANN ZIMMERMAN  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2489, Seventy-third General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved March 26, 1990

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TERRY E. BRANSTAD  
Governor