

(P. 558) 3-15-93 Senate. State. Gov.
4-8-93 Senate - Amend / by Law 45.3456
5/2/93 Motion to Rk by Baker

MAR 3 1993

Place On Calendar

HOUSE FILE 361

BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HSB 156)

Passed House, Date ^{P. 521} 3-8-93

Passed Senate, Date ^(P. 558) 5/2/93

Vote: Ayes 98 Nays 0

Vote: Ayes 48 Nays 0

Approved May 19, 1993

Repassed 5/2/93 97%
(P. 1983)

A BILL FOR

1 An Act relating to areas under the purview of the Iowa department
2 of public health including those relating to the use of
3 mammography machines, burial transit permits, and the
4 membership of the council on chemically exposed infants by
5 adding representation by the department of corrections.

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

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HF 361

1 Section 1. Section 136C.15, subsection 2, paragraph d,
2 Code 1993, is amended by striking the paragraph.

3 Sec. 2. NEW SECTION. 144.32 BURIAL TRANSIT PERMIT.

4 If a person other than a funeral director assumes custody
5 of a dead body or fetus, the person shall secure a burial-
6 transit permit. To be valid, the burial-transit permit must
7 be issued by the county medical examiner, a funeral director,
8 or the county registrar of the county where the certificate of
9 death or fetal death was filed. The permit shall be obtained
10 prior to the removal of the body or fetus from the place of
11 death and the permit shall accompany the body or fetus to the
12 place of final disposition.

13 To transfer a dead body or fetus outside of this state, the
14 funeral director who first assumes custody of the dead body or
15 fetus shall obtain a burial-transit permit prior to the
16 transfer. The permit shall accompany the dead body or fetus
17 to the place of final disposition.

18 A dead body or fetus brought into this state for final
19 disposition shall be accompanied by a burial-transit permit
20 under the law of the state in which the death occurred.

21 Sec. 3. Section 235C.2, Code 1993, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 4A. The director of the department of
24 corrections or the director's designee, as a nonvoting ex
25 officio member.

26 EXPLANATION

27 This bill provides for technical corrections in various
28 programs and services under the purview of the Iowa department
29 of public health.

30 Section 1 eliminates language which limits the use of a
31 radiation machine used to perform mammography exclusively to
32 that use.

33 Section 2 establishes provisions for burial transit
34 permits, similar provisions for which were eliminated from the
35 Code in 1991.

1 Section 3 includes a representative of the department of
2 corrections as a member of the council for chemically exposed
3 infants.

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HOUSE FILE 361

3456

Amend House File 361, as passed by the House, as follows:

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

"Section 1. NEW SECTION. 125.15A LICENSURE -- EMERGENCIES.

1. The department may place an employee or agent to serve as a monitor in a licensed substance abuse treatment program or may petition the court for appointment of a receiver for a program when any of the following conditions exist:

a. The program is operating without a license.

b. The commission has suspended, revoked, or refused to renew the existing license of the program.

c. The program is closing or has informed the department that it intends to close and adequate arrangements for the location of clients have not been made at least thirty days before the closing.

d. The department determines that an emergency exists, whether or not it has initiated revocation or nonrenewal procedures, and because of the unwillingness or inability of the licensee to remedy the emergency, the department determines that a monitor or receiver is necessary. As used in this paragraph, "emergency" means a threat to the health, safety, or welfare of a client that the program is unwilling or unable to correct.

2. The monitor shall observe operation of the program, assist the program with advice regarding compliance with state regulations, and report periodically to the department on the operation of the program.

Sec. ____ . Section 135.28, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A state substitute medical decision-making board is established to formulate policy and guidelines for the operations of local substitute medical decision-making boards, and to act if a local substitute medical decision-making board does not exist. The department, with the approval of the state substitute medical decision-making board, shall adopt rules pursuant to chapter 17A for the appointment and operation of local substitute medical decision-making boards.

Notwithstanding any other provision to the contrary regarding confidentiality of medical records, the state substitute medical decision-making board may issue subpoenas relating to the production of medical records of a patient under the board's review. A person participating in good faith in releasing medical record information in response to a board

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1 subpoena is immune from any liability, civil or
2 criminal, which might otherwise be incurred or
3 imposed.

4 Sec. ____ . Section 135.29, subsection 2, Code 1993,
5 is amended to read as follows:

6 2. Pursuant to rules adopted by the department,
7 the local substitute medical decision-making board may
8 act as a substitute decision maker for patients
9 incapable of making their own medical care decisions
10 if no other substitute decision maker is available to
11 act. The local substitute medical decision-making
12 board may exercise decision-making authority in
13 situations where there is sufficient time to review
14 the patient's condition, and a reasonably prudent
15 person would consider a decision to be medically
16 necessary. Such medically necessary decisions shall
17 constitute good cause for subsequently filing a
18 petition in the district court for appointment of a
19 guardian pursuant to chapter 633, but the local
20 substitute medical decision-making board shall
21 continue to act in the patient's best interests until
22 a guardian is appointed. Notwithstanding any other
23 provision to the contrary regarding confidentiality of
24 medical records, the local substitute decision-making
25 board may issue subpoenas relating to the production
26 of medical records of a patient under the board's
27 review. A person participating in good faith in
28 releasing medical record information in response to a
29 board subpoena is immune from any liability, civil or
30 criminal, which might otherwise be incurred or
31 imposed."

32 2. Page 1, by inserting after line 20 the
33 following:

34 "A burial transit permit shall not be issued to a
35 person other than a funeral director when the cause of
36 death is or is suspected to be a communicable disease
37 as defined by rule of the department."

38 3. Page 1, by inserting after line 25, the
39 following:

40 "Sec. ____ . Section 321.1, subsection 8, Code 1993,
41 is amended by adding the following new unnumbered
42 paragraph:

43 NEW UNNUMBERED PARAGRAPH. A person is not a
44 chauffeur when the operation is by a homemaker-home
45 health aide in the course of the homemaker-home health
46 aide's duties.

47 Sec. ____ . Section 321.176A, Code 1993, is amended
48 by adding the following new subsection:

49 NEW SUBSECTION. 7. A homemaker-home health aide
50 operating a motor vehicle in the course of the

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1 homemaker-home health aide's duties."

2 4. Title page, by striking line 2, and inserting

3 the following: "of public health related to

4 substitute medical decision-making boards, homemaker-

5 home health aide drivers' licensure, the use of".

6 5. Title page, line 3, by inserting after the

7 word "permits," the following: "substance abuse

8 treatment programs,".

9 6. By renumbering as necessary.

By COMMITTEE ON STATE GOVERNMENT

MICHAEL E. GRONSTAL, Chairperson

S-3456 FILED APRIL 8, 1993

Adopted
5/2/93
(p. 1557)

HOUSE FILE 361

S-3596

- 1 Amend the amendment, S-3456, to House File 361, as
2 passed by the House, as follows:
3 1. Page 2, by striking lines 44 and 45, and
4 inserting the following: "chauffeur when the
5 operation is by a home care aide in the course of the
6 home care".
7 2. Page 2, line 49, by striking the words
8 "homemaker-home health" and inserting the following:
9 "home care".
10 3. Page 3, by striking line 1 and inserting the
11 following: "home care aide's duties."
12 4. Page 3, lines 4 and 5, by striking the words
13 "homemaker-home health" and inserting the following:
14 "home care".

O/orden 5/2/93

By ELAINE SZYMONIAK

S-3596 FILED APRIL 22, 1993

HOUSE FILE 361

S-3597

- 1 Amend House File 361, as passed by the House, as
2 follows:
3 1. Page 1, line 4, by inserting after the word
4 "director" the following: "or the funeral director's
5 agent".
6 2. Page 1, line 14, by inserting after the word
7 "director" the following: "or the funeral director's
8 agent".
9 3. Page 1, line 19, by inserting after the word
10 "permit" the following: "if required".

By MICHAEL E. GRONSTAL .

S-3597 FILED APRIL 22, 1993

O/orden 5/2/93

HOUSE FILE 361

S-3517

1 Amend House File 361, as passed by the House, as
2 follows:

3 1. Page 1, by inserting after line 25 the
4 following:

5 "Sec. ____ . EFFECTIVE DATE. If House File 518 is
6 enacted by the Seventy-fifth General Assembly, 1993
7 Session, section 54 of House File 518, relating to
8 indoor air, being deemed of immediate importance,
9 takes effect upon enactment of this Act."

10 2. Title page, line 3, by inserting after the
11 word "permits," the following: "indoor air,".

12 3. Title page, line 5, by inserting after the
13 word "corrections" the following: ", and providing an
14 effective date".

o/ order 5/2/93 P. 1557 BY JEAN LLOYD-JONES

S-3517 FILED APRIL 19, 1993

HOUSE FILE 361

S-3536

1 Amend House File 361, as passed by the House, as
2 follows:

3 1. Page 1, by inserting after line 25. the
4 following:

5 "Sec. 100. TREATMENT FUNDING APPLICATION DEADLINE
6 DELAYED. This section relates to the deadline date
7 established by the Iowa department of public health,
8 division of substance abuse and health promotion, for
9 applications for funding of comprehensive outpatient,
10 residential, and halfway treatment services in the
11 memorandum issued by the division on January 7, 1993,
12 to applicants for treatment funds. Notwithstanding
13 the application deadline date of February 25, 1993, as
14 established in the memorandum, the application
15 deadline date shall be on or after May 15, 1993, and
16 any other dates established by the division relating
17 to applications for treatment funds shall be revised
18 to accommodate the change in the application deadline.
19 If the effective date of this Act is after February
20 25, 1993, the division shall accept and consider
21 applications beginning on the effective date of this
22 Act and continuing through May 15, 1993.

23 Sec. ____ . EFFECTIVE DATE. Section 100 of this
24 Act, being deemed of immediate importance, takes
25 effect upon enactment."

26 2. Title page, line 3, by inserting after the
27 word "permits," the following: "treatment funding,".

28 3. Title page, line 5, by inserting after the
29 word "corrections" the following: ", and providing an
30 effective date."

31 4. By renumbering as necessary.

By BERL E. PRIEBE
JIM LIND

o/ order 5/2/93
S-3536 FILED APRIL 20, 1993

HOUSE FILE 361

S-3506

- 1 Amend House File 361, as passed by the House, as
2 follows:
3 1. Page 1, by inserting after line 2, the
4 following:
5 "Sec. ____ . Section 141.23A, Code 1993, is amended
6 to read as follows:
7 141.23A HUMAN IMMUNODEFICIENCY VIRUS
8 EPIDEMIOLOGICAL ~~BLINDED-STUDY~~ STUDIES.
9 1. Notwithstanding section 141.8 regarding
10 informed consent and reporting requirements, and
11 section 141.22 regarding informed consent and
12 preliminary and posttest counseling, the Iowa
13 department of public health or-its-agent, with the
14 approval of the state board of health, may conduct
15 ~~through-the-expenditure-of-federal-grant-moneys~~
16 ~~allocated-for-this-purpose-an~~ blinded epidemiological
17 ~~blinded-study-of-newborns~~ studies to determine the
18 incidence and prevalence of the human immunodeficiency
19 virus infection. ~~All~~ In blinded studies, all personal
20 identifiers shall be permanently stripped from the
21 specimens selected prior to testing for the human
22 immunodeficiency virus infection.
23 For the purposes of this ~~section~~ subsection,
24 "~~epidemiological~~ blinded epidemiological study" means
25 a study in which blood specimens which were collected
26 for other purposes are selected according to
27 established criteria, are permanently stripped of
28 personal identifiers, and are then tested.
29 2. The Iowa department of public health, with the
30 approval of the state board of health, may conduct
31 nonblinded epidemiological studies to determine the
32 incidence and prevalence of the human immunodeficiency
33 virus infection. For the purposes of this subsection,
34 "nonblinded epidemiological study" means a study in
35 which specimens are collected, for the express purpose
36 of testing for the human immunodeficiency virus
37 infection, from persons who are selected in accordance
38 with established criteria, subject to section 141.8
39 regarding informed consent and reporting requirements
40 and section 141.22 regarding informed consent and
41 preliminary and posttest counseling."
42 2. Title page, line 3, by inserting after the
43 word "permits," the following: "epidemiological
44 studies,".
45 3. By renumbering as necessary.

By RALPH ROSENBERG

S-3506 FILED APRIL 15, 1993

O/ordw
5/2/93

HOUSE FILE 361

S-3752

1 Amend the amendment, S-3456, to House File 361, as
2 passed by the House, as follows:

3 1. Page 2, by inserting after line 31 the
4 following:

5 "Sec. 100. Section 135.100, Code 1993, is amended
6 by adding the following new subsections:

7 NEW SUBSECTION. 1A. "Lead abatement" means any
8 action designated to reduce exposure to lead in a
9 residence or tenancy and may include, but is not
10 limited to, relocation of occupants, repair,
11 encapsulation, or removal of lead-based paint or lead-
12 contaminated dust, soil, or drinking water,
13 replacement of surfaces containing lead-based paint,
14 and cleanup measures or ongoing maintenance measures.
15 "Lead abatement" does not include repainting with a
16 lead-free coating without repairing, removing,
17 replacing, or encapsulating the underlying lead-based
18 paint. Relocation of occupants as a form of lead
19 abatement need not be performed by a lead abatement
20 contractor.

21 NEW SUBSECTION. 1B. "Lead abatement contractor"
22 means a person who performs lead abatement work.

23 NEW SUBSECTION. 1C. "Lead hazard" means a source
24 of lead, including but not limited to paint, dust,
25 air, soil, or water that the department determines has
26 caused or is likely to cause elevated blood-lead
27 levels in children.

28 NEW SUBSECTION. 1D. "Lead inspector" means a
29 person who performs inspections to detect the presence
30 of lead-based paint and lead hazards.

31 NEW SUBSECTION. 1E. "Lead-based paint" means any
32 paint, lacquer, glaze, or other liquid surface coating
33 and putty or plaster already applied to a surface
34 which contains a quantity of lead in excess of one
35 milligram of lead per square centimeter of surface or
36 in excess of five-tenths of one percent of lead by
37 weight.

38 NEW SUBSECTION. 1F. "Lead-poisoned child" means a
39 child with an elevated blood-lead level as currently
40 defined by the centers for disease control of the
41 United States department of health and human services.

42 Sec. 101. Section 135.104, subsection 3, Code
43 1993, is amended to read as follows:

44 3. A screening program for children, with emphasis
45 on children less than ~~five~~ six years of age.

46 Sec. 102. Section 135.105, Code 1993, is amended
47 by adding the following new subsection:

48 NEW SUBSECTION. 3. Adopt rules by January 1,
49 1994, to provide for lead hazard inspections and to
50 require the abatement of lead hazards in the case of a

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1 lead-poisoned child. The department shall consult
2 with federal, state, and local governments and
3 agencies in developing the rules. The rules shall be
4 consistent with the recommendations of the centers for
5 disease control of the United States department of
6 health and human services.

7 Sec. 103. NEW SECTION. 135.105A LEAD INSPECTOR
8 AND LEAD ABATEMENT CONTRACTOR TRAINING AND
9 CERTIFICATION ESTABLISHED.

10 The department shall establish a program for the
11 training and certification of lead inspectors and lead
12 abatement contractors. The department shall consult
13 with federal, state, and local governments and
14 agencies in developing the training and certification
15 program. The department shall maintain a listing,
16 available to the public and to local health depart-
17 ments, of lead inspectors and lead abatement
18 contractors who have successfully completed the
19 training program and have been certified by the
20 department. The department shall adopt rules by
21 January 1, 1994, regarding training and certification
22 requirements and establish fees in amounts sufficient
23 to defray the costs of the training and certification
24 program. The rules shall also prohibit a certified
25 lead inspector from also obtaining certification as a
26 lead abatement contractor.

27 Sec. 104. NEW SECTION. 135.105B DEVELOPMENT OF
28 STANDARDS FOR LEAD INSPECTION AND ABATEMENT.

29 1. The department shall develop standards by
30 January 1, 1994, regarding inspection for lead-based
31 paint and lead hazards and for abatement of lead
32 hazards, including lead-based paint and lead hazards
33 found in privately owned homes and rental property.
34 The department shall consult with federal, state, and
35 local governments and agencies in developing the
36 standards.

37 2. The methods developed for lead inspections and
38 abatement shall include, but are not limited to, the
39 following:

40 a. That lead inspections performed are adequate to
41 detect the presence of lead-based paint and lead
42 hazards. The methods shall provide for the use of
43 laboratories, if necessary, approved by the
44 department, in connection with any lead inspection
45 which relies on the use of a laboratory to detect the
46 presence of lead in samples of substances from
47 premises.

48 b. Techniques approved by the department to abate
49 lead hazards, taking into account reliability,
50 effectiveness, and affordability. The standards shall

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1 include provisions for the protection of personal
2 health and safety, hazard awareness, proper cleanup
3 procedures, and other measures necessary to protect
4 residents and workers.

5 3. Procedures for follow-up inspections and
6 recordkeeping to ensure that abatement is completed.

7 Sec. 105. NEW SECTION. 135.105C REQUIREMENTS --
8 PROVISIONS -- PENALTY.

9 1. A person shall not train lead inspectors or
10 lead abatement contractors unless the person is
11 trained and certified in accordance with the rules
12 established for training and certification by the
13 department.

14 2. A lead abatement inspector shall perform
15 inspections and a lead abatement contractor shall
16 perform lead abatement work only in compliance with
17 the standards established by the department.

18 3. A person shall not perform lead abatement work
19 for compensation unless the person is certified as a
20 lead abatement contractor, and a person shall not
21 perform lead inspections for compensation unless the
22 person is certified as a lead inspector.

23 4. Beginning February 1, 1994, a person who
24 violates this section is guilty of a serious
25 misdemeanor."

26 2. Page 3, by inserting after line 1 the
27 following:

28 "Sec. ____ . CONTINGENCY. Implementation of
29 sections 103 through 105 of this Act is contingent
30 upon the receipt of federal funding specifically for
31 the implementation of a program to train and certify
32 lead inspectors and lead abatement contractors."

33 3. Page 3, line 3, by inserting after the word
34 "to" the following: "lead abatement,".

35 4. By renumbering as necessary.

By FLORENCE BUHR

S-3752 FILED APRIL 30, 1993

O/orden
5/2/93
(p.1557)

HOUSE FILE 361

S-3757

1 Amend the amendment, S-3456, to House File 361, as
2 passed by the House, as follows:

3 1. Page 2, by inserting after line 31, the
4 following:

5 "Sec. ____ . Section 136C.3, subsection 2,
6 unnumbered paragraph 2, Code 1993, is amended to read
7 as follows:

8 The department shall establish a technical advisory
9 ~~committee-made-up-of-two-radiologic-technologists,-two~~
10 ~~physicians,-including-one-radiologist-and-one-private~~
11 ~~practitioner,-and-a-representative-of-the-department-~~
12 ~~The-advisory-committee-shall~~ committees as necessary
13 to assist the department in developing and
14 establishing criteria for continuing education and
15 examinations for persons using radiation machines and
16 radioactive materials governed by this chapter."

17 . Page 1, by inserting after line 2 the
18 following:

19 Sec. ____ . Section 142B.1, subsection 3, Code 1993,
20 is amended to read as follows:

21 3. "Public place" means any enclosed indoor area
22 used by the general public or serving as a place of
23 ~~work containing-two-hundred-fifty-or-more-square-feet~~
24 ~~of-floor-space,~~ including, but not limited to, all
25 ~~restaurants with-a-seating-capacity-greater-than~~
26 ~~fifty,~~ all retail stores, lobbies and malls, offices,
27 including waiting rooms, and other commercial
28 establishments; public conveyances with departures,
29 travel, and destination entirely within this state;
30 educational facilities; hospitals, clinics, nursing
31 homes, and other health care and medical facilities;
32 licensed child care centers, as defined in section
33 237A.1; and auditoriums, elevators, theaters,
34 libraries, art museums, concert halls, indoor arenas,
35 and meeting rooms. "Public place" does not include a
36 retail store at which fifty percent or more of the
37 sales result from the sale of tobacco or tobacco
38 products, the portion of a retail store where tobacco
39 or tobacco products are sold, a private, enclosed
40 office occupied exclusively by smokers even though the
41 office may be visited by nonsmokers, a room used
42 primarily as the residence of students or other
43 persons at an educational facility, a sleeping room in
44 a motel or hotel, or each resident's room in a health
45 care facility. The person in custody or control of
46 the facility shall provide a sufficient number of
47 rooms in which smoking is not permitted to accommodate
48 all persons who desire such rooms.

49 Sec. ____ . Section 142B.2, subsection 3, unnumbered
50 paragraph 1, Code 1993, is amended to read as follows:

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1 Where-smoking-areas-are-designated,-existing
2 physical-barriers-and-existing-ventilation-systems
3 shall-be-used-to-minimize-the-toxic-effect-of-smoke-in
4 adjacent-nonsmoking-areas:--In-the-case-of-public
5 places-consisting-of-a-single-room,-the-provisions-of
6 this-law-shall-be-considered-met-if-one-side-of-the
7 room-is-reserved-and-posted-as-a-no-smoking-area A
8 designated smoking area shall only be designated if
9 transmission of environmental tobacco smoke to
10 adjacent areas can be completely eliminated. No
11 public place other than a bar shall be designated as a
12 smoking area in its entirety. If a bar has within its
13 premises a nonsmoking area, this designation shall be
14 posted on all entrances normally used by the public.
15 Sec. ____ . Section 142B.6, unnumbered paragraph 3,
16 Code 1993, is amended to read as follows:
17 The Iowa department of public health shall adopt
18 rules to enforce this chapter. Enforcement of this
19 chapter shall be implemented in an equitable manner
20 throughout the state. For-the-purpose-of-equitable
21 and-uniform-implementation,-application,-and
22 enforcement-of-state-and-local-laws-and-regulations,
23 the-provisions-of-this-chapter-shall-supersede-any
24 local-law-or-regulation-which-is-inconsistent-with-or
25 conflicts-with-the-provisions-of-this-chapter.""
26 2. Page 3, line 8, by inserting after the word
27 "programs," the following: "operation of radiation
28 equipment, indoor air,".

By JEAN LLOYD-JONES
ELAINE SZYMONIAK

S-3757 FILED MAY 1, 1993
RULED OUT OF ORDER

HOUSE FILE 361

S-3780

1 Amend the amendment, S-3456, to House File 361, as
2 passed by the House, as follows:

3 1. By striking page 1, line 3 through page 3,
4 line 9 and inserting the following:

5 "_____. By striking everything after the enacting
6 clause and inserting the following:

7 "Section 1. NEW SECTION. 125.15A LICENSURE --
8 EMERGENCIES.

9 1. The department may place an employee or agent
10 to serve as a monitor in a licensed substance abuse
11 treatment program or may petition the court for
12 appointment of a receiver for a program when any of
13 the following conditions exist:

14 a. The program is operating without a license.

15 b. The commission has suspended, revoked, or
16 refused to renew the existing license of the program.

17 c. The program is closing or has informed the
18 department that it intends to close and adequate
19 arrangements for the location of clients have not been
20 made at least thirty days before the closing.

21 d. The department determines that an emergency
22 exists, whether or not it has initiated revocation or
23 nonrenewal procedures, and because of the
24 unwillingness or inability of the licensee to remedy
25 the emergency, the department determines that a
26 monitor or receiver is necessary. As used in this
27 paragraph, "emergency" means a threat to the health,
28 safety, or welfare of a client that the program is
29 unwilling or unable to correct.

30 2. The monitor shall observe operation of the
31 program, assist the program with advice regarding
32 compliance with state regulations, and report
33 periodically to the department on the operation of the
34 program.

35 Sec. 2. Section 135.28, unnumbered paragraph 1,
36 Code 1993, is amended to read as follows:

37 A state substitute medical decision-making board is
38 established to formulate policy and guidelines for the
39 operations of local substitute medical decision-making
40 boards, and to act if a local substitute medical
41 decision-making board does not exist. The department,
42 with the approval of the state substitute medical
43 decision-making board, shall adopt rules pursuant to
44 chapter 17A for the appointment and operation of local
45 substitute medical decision-making boards.

46 Notwithstanding any other provision to the contrary
47 regarding confidentiality of medical records, the
48 state substitute medical decision-making board may
49 issue subpoenas relating to the production of medical
50 records of a patient under the board's review. A

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1 person participating in good faith in releasing
2 medical record information in response to a board
3 subpoena is immune from any liability, civil or
4 criminal, which might otherwise be incurred or
5 imposed.

6 Sec. 3. Section 135.29, subsection 2, Code 1993,
7 is amended to read as follows:

8 2. Pursuant to rules adopted by the department,
9 the local substitute medical decision-making board may
10 act as a substitute decision maker for patients
11 incapable of making their own medical care decisions
12 if no other substitute decision maker is available to
13 act. The local substitute medical decision-making
14 board may exercise decision-making authority in
15 situations where there is sufficient time to review
16 the patient's condition, and a reasonably prudent
17 person would consider a decision to be medically
18 necessary. Such medically necessary decisions shall
19 constitute good cause for subsequently filing a
20 petition in the district court for appointment of a
21 guardian pursuant to chapter 633, but the local
22 substitute medical decision-making board shall
23 continue to act in the patient's best interests until
24 a guardian is appointed. Notwithstanding any other
25 provision to the contrary regarding confidentiality of
26 medical records, the local substitute decision-making
27 board may issue subpoenas relating to the production
28 of medical records of a patient under the board's
29 review. A person participating in good faith in
30 releasing medical record information in response to a
31 board subpoena is immune from any liability, civil or
32 criminal, which might otherwise be incurred or
33 imposed.

34 Sec. 4. Section 136C.15, subsection 2, paragraph
35 d, Code 1993, is amended by striking the paragraph.

36 Sec. 5. NEW SECTION. 144.32 BURIAL TRANSIT
37 PERMIT.

38 If a person other than a funeral director assumes
39 custody of a dead body or fetus, the person shall
40 secure a burial-transit permit. To be valid, the
41 burial-transit permit must be issued by the county
42 medical examiner, a funeral director, or the county
43 registrar of the county where the certificate of death
44 or fetal death was filed. The permit shall be
45 obtained prior to the removal of the body or fetus
46 from the place of death and the permit shall accompany
47 the body or fetus to the place of final disposition.

48 To transfer a dead body or fetus outside of this
49 state, the funeral director who first assumes custody
50 of the dead body or fetus shall obtain a burial-

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1 transit permit prior to the transfer. The permit
2 shall accompany the dead body or fetus to the place of
3 final disposition.

4 A dead body or fetus brought into this state for
5 final disposition shall be accompanied by a burial-
6 transit permit under the law of the state in which the
7 death occurred.

8 A burial transit permit shall not be issued to a
9 person other than a funeral director when the cause of
10 death is or is suspected to be a communicable disease
11 as defined by rule of the department.

12 Sec. 6. Section 235C.2, Code 1993, is amended by
13 adding the following new subsection:

14 NEW SUBSECTION. 4A. The director of the
15 department of corrections or the director's designee,
16 as a nonvoting ex officio member.

17 Sec. 7. Section 321.1, subsection 8, Code 1993, is
18 amended by adding the following new unnumbered
19 paragraph:

20 NEW UNNUMBERED PARAGRAPH. A person is not a
21 chauffeur when the operation is by a home care aide in
22 the course of the home care aide's duties.

23 Sec. 8. Section 321.176A, Code 1993, is amended by
24 adding the following new subsection:

25 NEW SUBSECTION. 7. A home care aide operating a
26 motor vehicle in the course of the home care aide's
27 duties."

28 _____. Title page, by striking line 2, and
29 inserting the following: "of public health related to
30 substitute medical decision-making boards, home care
31 aide drivers' licensure, the use of".

32 _____. Title page, line 3, by inserting after the
33 word "permits," the following: "substance abuse
34 treatment programs, "."

35 2. By renumbering as necessary.

By FLORENCE BUHR

S-3780 FILED MAY 2, 1993

ADOPTED

SENATE AMENDMENT TO HOUSE FILE 361

H-4407

1 Amend the amendment, S-3456, to House File 361, as
2 passed by the House, as follows:

3 1. By striking page 1, line 3 through page 3,
4 line 9 and inserting the following:

5 " . By striking everything after the enacting
6 clause and inserting the following:

7 "Section 1. NEW SECTION. 125.15A LICENSURE --
8 EMERGENCIES.

9 1. The department may place an employee or agent
10 to serve as a monitor in a licensed substance abuse
11 treatment program or may petition the court for
12 appointment of a receiver for a program when any of
13 the following conditions exist:

14 a. The program is operating without a license.

15 b. The commission has suspended, revoked, or
16 refused to renew the existing license of the program.

17 c. The program is closing or has informed the
18 department that it intends to close and adequate
19 arrangements for the location of clients have not been
20 made at least thirty days before the closing.

21 d. The department determines that an emergency
22 exists, whether or not it has initiated revocation or
23 nonrenewal procedures, and because of the
24 unwillingness or inability of the licensee to remedy
25 the emergency, the department determines that a
26 monitor or receiver is necessary. As used in this
27 paragraph, "emergency" means a threat to the health,
28 safety, or welfare of a client that the program is
29 unwilling or unable to correct.

30 2. The monitor shall observe operation of the
31 program, assist the program with advice regarding
32 compliance with state regulations, and report
33 periodically to the department on the operation of the
34 program.

35 Sec. 2. Section 135.28, unnumbered paragraph 1,
36 Code 1993, is amended to read as follows:

37 A state substitute medical decision-making board is
38 established to formulate policy and guidelines for the
39 operations of local substitute medical decision-making
40 boards, and to act if a local substitute medical
41 decision-making board does not exist. The department,
42 with the approval of the state substitute medical
43 decision-making board, shall adopt rules pursuant to
44 chapter 17A for the appointment and operation of local
45 substitute medical decision-making boards.

46 Notwithstanding any other provision to the contrary
47 regarding confidentiality of medical records, the
48 state substitute medical decision-making board may
49 issue subpoenas relating to the production of medical
50 records of a patient under the board's review. A

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person participating in good faith in releasing medical record information in response to a board subpoena is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

Sec. 3. Section 135.29, subsection 2, Code 1993, is amended to read as follows:

2. Pursuant to rules adopted by the department, the local substitute medical decision-making board may act as a substitute decision maker for patients incapable of making their own medical care decisions if no other substitute decision maker is available to act. The local substitute medical decision-making board may exercise decision-making authority in situations where there is sufficient time to review the patient's condition, and a reasonably prudent person would consider a decision to be medically necessary. Such medically necessary decisions shall constitute good cause for subsequently filing a petition in the district court for appointment of a guardian pursuant to chapter 633, but the local substitute medical decision-making board shall continue to act in the patient's best interests until a guardian is appointed. Notwithstanding any other provision to the contrary regarding confidentiality of medical records, the local substitute decision-making board may issue subpoenas relating to the production of medical records of a patient under the board's review. A person participating in good faith in releasing medical record information in response to a board subpoena is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

Sec. 4. Section 136C.15, subsection 2, paragraph d, Code 1993, is amended by striking the paragraph.

Sec. 5. NEW SECTION. 144.32 BURIAL TRANSIT PERMIT.

If a person other than a funeral director assumes custody of a dead body or fetus, the person shall secure a burial-transit permit. To be valid, the burial-transit permit must be issued by the county medical examiner, a funeral director, or the county registrar of the county where the certificate of death or fetal death was filed. The permit shall be obtained prior to the removal of the body or fetus from the place of death and the permit shall accompany the body or fetus to the place of final disposition.

To transfer a dead body or fetus outside of this state, the funeral director who first assumes custody of the dead body or fetus shall obtain a burial-

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1 transit permit prior to the transfer. The permit
2 shall accompany the dead body or fetus to the place of
3 final disposition.

4 A dead body or fetus brought into this state for
5 final disposition shall be accompanied by a burial-
6 transit permit under the law of the state in which the
7 death occurred.

8 A burial transit permit shall not be issued to a
9 person other than a funeral director when the cause of
10 death is or is suspected to be a communicable disease
11 as defined by rule of the department.

12 Sec. 6. Section 235C.2, Code 1993, is amended by
13 adding the following new subsection:

14 NEW SUBSECTION. 4A. The director of the
15 department of corrections or the director's designee,
16 as a nonvoting ex officio member.

17 Sec. 7. Section 321.1, subsection 8, Code 1993, is
18 amended by adding the following new unnumbered
19 paragraph:

20 NEW UNNUMBERED PARAGRAPH. A person is not a
21 chauffeur when the operation is by a home care aide in
22 the course of the home care aide's duties.

23 Sec. 8. Section 321.176A, Code 1993, is amended by
24 adding the following new subsection:

25 NEW SUBSECTION. 7. A home care aide operating a
26 motor vehicle in the course of the home care aide's
27 duties."

28 _____. Title page, by striking line 2, and
29 inserting the following: "of public health related to
30 substitute medical decision-making boards, home care
31 aide drivers' licensure, the use of".

32 _____. Title page, line 3, by inserting after the
33 word "permits," the following: "substance abuse
34 treatment programs,"."

35 2. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-4407 FILED MAY 2, 1993

CONCURRED

Erte, Chair
Carpenter
Running

HSB 156

STATE GOVERNMENT

HOUSE FILE 361

BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL
BY CHAIRPERSON CARPENTER)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to technical changes in certain areas of the Code
2 under the purview of the Iowa department of public health.

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

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1 Section 1. Section 136C.15, subsection 2, paragraph d,
2 Code 1993, is amended by striking the paragraph.

3 Sec. 2. NEW SECTION. 144.32 BURIAL TRANSIT PERMIT.

4 If a person other than a funeral director assumes custody
5 of a dead body or fetus, the person shall secure a burial-
6 transit permit. To be valid, the burial-transit permit must
7 be issued by the county medical examiner, a funeral director,
8 or the county registrar of the county where the certificate of
9 death or fetal death was filed. The permit shall be obtained
10 prior to the removal of the body or fetus from the place of
11 death and the permit shall accompany the body or fetus to the
12 place of final disposition.

13 To transfer a dead body or fetus outside of this state, the
14 funeral director who first assumes custody of the dead body or
15 fetus shall obtain a burial-transit permit prior to the
16 transfer. The permit shall accompany the dead body or fetus
17 to the place of final disposition.

18 A dead body or fetus brought into this state for final
19 disposition shall be accompanied by a burial-transit permit
20 under the law of the state in which the death occurred.

21 Sec. 3. Section 235C.2, Code 1993, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 4A. The director of the department of
24 corrections or the director's designee, as a nonvoting ex
25 officio member.

26 EXPLANATION

27 This bill provides for technical corrections in various
28 programs and services under the purview of the Iowa department
29 of public health.

30 Section 1 eliminates language which limits the use of a
31 radiation machine used to perform mammography exclusively to
32 that use.

33 Section 2 establishes provisions for burial transit
34 permits, similar provisions for which were eliminated from the
35 Code in 1991.

1 Section 3 includes a representative of the department of
2 corrections as a member of the council for chemically exposed
3 infants.

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HOUSE FILE 361

AN ACT

RELATING TO AREAS UNDER THE PURVIEW OF THE IOWA DEPARTMENT OF PUBLIC HEALTH RELATED TO SUBSTITUTE MEDICAL DECISION-MAKING BOARDS, HOME CARE AIDE DRIVERS' LICENSURE, THE USE OF MAMMOGRAPHY MACHINES, BURIAL TRANSIT PERMITS, SUBSTANCE ABUSE TREATMENT PROGRAMS, AND THE MEMBERSHIP OF THE COUNCIL ON CHEMICALLY EXPOSED INFANTS BY ADDING REPRESENTATION BY THE DEPARTMENT OF CORRECTIONS.

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

Section 1. NEW SECTION. 125.15A LICENSURE -- EMERGENCIES.

1. The department may place an employee or agent to serve as a monitor in a licensed substance abuse treatment program or may petition the court for appointment of a receiver for a program when any of the following conditions exist:

- a. The program is operating without a license.
- b. The commission has suspended, revoked, or refused to renew the existing license of the program.
- c. The program is closing or has informed the department that it intends to close and adequate arrangements for the location of clients have not been made at least thirty days before the closing.
- d. The department determines that an emergency exists, whether or not it has initiated revocation or nonrenewal procedures, and because of the unwillingness or inability of the licensee to remedy the emergency, the department determines that a monitor or receiver is necessary. As used in this paragraph, "emergency" means a threat to the health, safety, or welfare of a client that the program is unwilling or unable to correct.

2. The monitor shall observe operation of the program, assist the program with advice regarding compliance with state regulations, and report periodically to the department on the operation of the program.

Sec. 2. Section 135.28, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A state substitute medical decision-making board is established to formulate policy and guidelines for the operations of local substitute medical decision-making boards, and to act if a local substitute medical decision-making board does not exist. The department, with the approval of the state substitute medical decision-making board, shall adopt rules pursuant to chapter 17A for the appointment and operation of local substitute medical decision-making boards. Notwithstanding any other provision to the contrary regarding confidentiality of medical records, the state substitute medical decision-making board may issue subpoenas relating to the production of medical records of a patient under the board's review. A person participating in good faith in releasing medical record information in response to a board subpoena is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

Sec. 3. Section 135.29, subsection 2, Code 1993, is amended to read as follows:

2. Pursuant to rules adopted by the department, the local substitute medical decision-making board may act as a substitute decision maker for patients incapable of making their own medical care decisions if no other substitute decision maker is available to act. The local substitute medical decision-making board may exercise decision-making authority in situations where there is sufficient time to review the patient's condition, and a reasonably prudent person would consider a decision to be medically necessary. Such medically necessary decisions shall constitute good cause for subsequently filing a petition in the district court for appointment of a guardian pursuant to chapter 633, but the

local substitute medical decision-making board shall continue to act in the patient's best interests until a guardian is appointed. Notwithstanding any other provision to the contrary regarding confidentiality of medical records, the local substitute decision-making board may issue subpoenas relating to the production of medical records of a patient under the board's review. A person participating in good faith in releasing medical record information in response to a board subpoena is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

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To transfer a dead body or fetus outside of this state, the funeral director who first assumes custody of the dead body or fetus shall obtain a burial-transit permit prior to the transfer. The permit shall accompany the dead body or fetus to the place of final disposition.

A dead body or fetus brought into this state for final disposition shall be accompanied by a burial-transit permit under the law of the state in which the death occurred.

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Sec. 8. Section 321.176A, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A home care aide operating a motor vehicle in the course of the home care aide's duties.

HAROLD VAN MAANEN
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 361, Seventy-fifth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 19, 1993

TERRY E. BRANSTAD
Governor