Senate Study Bill 108

Conference Committee Text

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1 1 Section 1. Section 135B.9, unnumbered paragraph 1, Code
1 2 1995, is amended to read as follows:
1 3 The department shall make or cause to be made inspections
1 4 as it deems necessary in order to determine compliance with
1 5 applicable rules.

~~A licensee or applicant for a license~~

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~~desiring to make a specific type of alteration or addition to~~

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~~its facilities or to construct new facilities shall, before~~

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~~commencing the alteration, addition, or new construction,~~

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~~submit plans and specifications to the department for~~

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~~preliminary inspection and approval or recommendations with~~

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~~respect to compliance with the applicable rules and standards.~~

1 12 Sec. 2. NEW SECTION. 135H.8A PROVISIONAL LICENSE.
1 13 The department may issue a provisional license, effective
1 14 for not more than one year, to a licensee whose psychiatric
1 15 institution does not meet the requirements of this chapter,
1 16 if, prior to issuance of the license, written plans to achieve
1 17 compliance with the applicable requirements are submitted to
1 18 and approved by the department. The plans shall specify the
1 19 deadline for achieving compliance.
1 20 Sec. 3. Section 235B.2, subsection 5, Code 1995, is
1 21 amended by adding the following new paragraph:
1 22 NEW PARAGRAPH. c. Sexual exploitation by a caretaker in a
1 23 health care facility as defined pursuant to section 135C.1.
1 24 "Sexual exploitation" means any sexual conduct with a
1 25 dependent adult for the purpose of arousing or satisfying the
1 26 sexual desires of the caretaker or dependent adult, which
1 27 includes but is not limited to kissing; touching of the
1 28 clothed or unclothed inner thigh, breast, groin, buttock,
1 29 anus, pubes, or genitals; or a sex act as defined in section
1 30 702.17. Actions utilized in providing necessary treatment or
1 31 care in accordance with accepted standards of practice is not
1 32 considered sexual exploitation.
1 33 EXPLANATION
1 34 This bill relates to health facilities under the purview of
1 35 the department of inspections and appeals. Section 1

2 1 eliminates a requirement that a hospital licensee or applicant
2 2 for a license submit plans to the department prior to
2 3 alteration, addition, or new construction, for inspection and
2 4 approval or recommendations by the department. Section 2
2 5 provides for provisional licensure of psychiatric medical
2 6 institutions for children. Section 3 defines sexual
2 7 exploitation by a caretaker in a health care facility as
2 8 dependent adult abuse for the purposes of the dependent adult
2 9 abuse chapter.
2 10 BACKGROUND STATEMENT
2 11 SUBMITTED BY THE AGENCY
2 12 Section 1 amends chapter 135B to remove outdated language
2 13 relating to preliminary inspection and approval of
2 14 construction plans for hospitals. The department has not
2 15 routinely reviewed construction plans since 1981, when funding
2 16 was reduced for this function.
2 17 Section 2 brings the licensing provisions for psychiatric
2 18 medical institutions for children (PMIC) in concert with
2 19 licensing provisions for a comprehensive residential facility.
2 20 Currently when a PMIC, which must also be licensed as either a
2 21 comprehensive residential facility or a substance abuse
2 22 facility, is in noncompliance with chapter 135H, the
2 23 department has two options for licensing &endash; fully licensing or
2 24 revoking the license. The comprehensive residential facility
2 25 licensing provisions allow for a provisional license in cases
2 26 of noncompliance. In order for the PMIC licensing provisions
2 27 to conform to the comprehensive licensing provision, this
2 28 language is necessary. In addition, this language will
2 29 provide flexibility to the department by allowing another
2 30 alternative for bringing facilities into compliance.
2 31 Section 3 adds a definition of "sexual exploitation by a
2 32 caretaker in a health care facility" to chapter 235B,
2 33 dependent adult abuse. This language covers concerns
2 34 regarding consensual sexual activity between a caretaker and a
2 35 resident in a health care facility. Under the current
3 1 definition of sexual abuse, consensual sexual activity in a
3 2 health care facility would not be considered sexual abuse.
3 3 LSB 1184DP 76
3 4 pf/cf/24.1