

REPRINTED

SENATE FILE 236
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 127)

Passed Senate, ^(A631) Date 3-17-97 Passed House, Date 4-8-97 ^(P1037)
Vote: Ayes 50 Nays 0 Vote: Ayes 91 Nays 9
Approved May 1, 1997

A BILL FOR

1 An Act relating to the certificate of need program.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 135.61, subsection 14, Code 1997, is
2 amended to read as follows:

3 14. "Institutional health facility" means any of the
4 following, without regard to whether the facilities referred
5 to are publicly or privately owned or are organized for profit
6 or not or whether the facilities are part of or sponsored by a
7 health maintenance organization:

8 a. A hospital.

9 b. A health care facility.

10 ~~c. A kidney disease treatment center, including any~~
11 ~~freestanding hemodialysis unit but not including any home~~
12 ~~hemodialysis unit.~~

13 d. c. An organized outpatient health facility.

14 e. d. An outpatient surgical facility.

15 f. e. A community mental health facility.

16 g. f. A birth center.

17 Sec. 2. Section 135.61, subsection 18, paragraphs c, e,
18 and g through m, Code 1997, are amended to read as follows:

19 c. Any capital expenditure, lease, or donation by or on
20 behalf of an institutional health facility in excess of eight
21 one million five hundred thousand dollars within a twelve-
22 month period.

23 e. Any expenditure in excess of three five hundred
24 thousand dollars by or on behalf of an institutional health
25 facility for health services which are or will be offered in
26 or through an institutional health facility at a specific time
27 but which were not offered on a regular basis in or through
28 that institutional health facility within the twelve-month
29 period prior to that time.

30 g. Any acquisition by or on behalf of a health care
31 provider or a group of health care providers of any piece of
32 replacement equipment with a value in excess of four one
33 million five hundred thousand dollars, whether acquired by
34 purchase, lease, or donation.

35 h. Any acquisition by or on behalf of a health care

1 provider or group of health care providers of any piece of
2 equipment with a value in excess of three one million five
3 hundred thousand dollars, whether acquired by purchase, lease,
4 or donation, which results in the offering or development of a
5 health service not previously provided. A mobile service
6 provided on a contract basis is not considered to have been
7 previously provided by a health care provider or group of
8 health care providers.

9 i. Any acquisition by or on behalf of an institutional
10 health facility or a health maintenance organization of any
11 piece of replacement equipment with a value in excess of four
12 one million five hundred thousand dollars, whether acquired by
13 purchase, lease, or donation.

14 j. Any acquisition by or on behalf of an institutional
15 health facility or health maintenance organization of any
16 piece of equipment with a value in excess of three one million
17 five hundred thousand dollars, whether acquired by purchase,
18 lease, or donation, which results in the offering or
19 development of a health service not previously provided. A
20 mobile service provided on a contract basis is not considered
21 to have been previously provided by an institutional health
22 facility.

23 k. Any air transportation system service for
24 transportation of patients or medical personnel offered
25 through an institutional health facility at a specific time
26 but which was not offered on a regular basis in or through
27 that institutional health facility within the twelve-month
28 period prior to the specific time.

29 l. Any mobile health service with a value in excess of
30 three one million five hundred thousand dollars.

31 m. Any of the following:

- 32 (1) Cardiac catheterization service.
- 33 (2) Open heart surgical service.
- 34 (3) Organ transplantation service.
- 35 (4) Radiation therapy.

1 Sec. 3. Section 135.62, subsection 2, paragraph c, Code
2 1997, is amended to read as follows:

3 c. MEETINGS. The council shall hold an organizational
4 meeting in July of each odd-numbered year, or as soon
5 thereafter as the new appointee or appointees are confirmed
6 and have qualified. Other meetings shall be held ~~at least~~
7 ~~once each month, and may be held more frequently if as~~
8 necessary to enable the council to expeditiously discharge its
9 duties. Meeting dates shall be set upon adjournment or by
10 call of the chairperson upon five days' notice to the other
11 members. Each member of the council shall receive a per diem
12 as specified in section 7E.6 and reimbursement for actual
13 expenses while engaged in official duties.

14 Sec. 4. Section 135.63, subsection 1, Code 1997, is
15 amended to read as follows:

16 1. A new institutional health service or changed
17 institutional health service shall not be offered or developed
18 in this state without prior application to the department for
19 and receipt of a certificate of need, pursuant to this
20 division. The application shall be made upon forms furnished
21 or prescribed by the department and shall contain such
22 information as the department may require under this division.
23 The application shall be accompanied by a fee equivalent to
24 three-tenths of one percent of the anticipated cost of the
25 project with a minimum fee of six hundred dollars and a
26 maximum fee of twenty-one thousand dollars. The fee shall be
27 remitted by the department to the treasurer of state, who
28 shall place it in the general fund of the state. If an
29 application is voluntarily withdrawn within thirty calendar
30 days after submission, seventy-five percent of the application
31 fee shall be refunded; if the application is voluntarily
32 withdrawn more than thirty but within sixty days after
33 submission, fifty percent of the application fee shall be
34 refunded; if the application is withdrawn voluntarily more
35 than sixty days after submission, twenty-five percent of the

1 application fee shall be refunded. Notwithstanding the
2 required payment of an application fee under this subsection,
3 an applicant for a new institutional health service or a
4 changed institutional health service offered or developed by
5 an intermediate care facility for persons with mental
6 retardation or an intermediate care facility for persons with
7 mental illness as defined pursuant to section 135C.1 is exempt
8 from payment of the application fee.

9 Sec. 5. Section 135.63, subsection 2, paragraph a, Code
10 1997, is amended to read as follows:

11 a. Private offices and private clinics of an individual
12 physician, dentist, or other practitioner or group of health
13 care providers, except as provided by section 135.61,
14 subsection 18, paragraphs "g", and "h", and "m", and
15 subsections 20 and 21.

16 Sec. 6. Section 135.63, subsection 2, Code 1997, is
17 amended by adding the following new paragraphs:

18 NEW PARAGRAPH. j. The construction, modification, or
19 replacement of nonpatient care services, including parking
20 facilities, heating, ventilation and air conditioning systems,
21 computers, telephone systems, medical office buildings, and
22 other projects of a similar nature, notwithstanding any
23 provision in this division to the contrary.

24 NEW PARAGRAPH. k. The redistribution of beds by a
25 hospital within the acute care category of bed usage,
26 notwithstanding any provision in this division to the
27 contrary, if all of the following conditions exist:

28 (1) The hospital reports to the department the number and
29 type of beds to be redistributed on a form prescribed by the
30 department at least thirty days before the redistribution.

31 (2) The hospital reports the new distribution of beds on
32 its next annual report to the department.

33 If these conditions are not met, the redistribution of beds
34 by the hospital is subject to review as a new institutional
35 health service or changed institutional health service

1 pursuant to section 135.61, subsection 18, paragraph "d", and
2 is subject to sanctions under section 135.73.

3 NEW PARAGRAPH. l. An intermediate care facility for
4 persons with mental retardation, as defined in section 135C.1,
5 notwithstanding any provision in this division to the
6 contrary.

7 NEW PARAGRAPH. m. A psychiatric medical institution for
8 children, as defined in section 135H.1, notwithstanding any
9 provision in this division to the contrary.

10 NEW PARAGRAPH. n. The replacement or modernization of any
11 institutional health facility if the replacement or
12 modernization does not add new health services or additional
13 bed capacity for existing health services, notwithstanding any
14 provision in this division to the contrary.

15 NEW PARAGRAPH. o. Hemodialysis services provided by a
16 hospital or freestanding facility, notwithstanding any
17 provision in this division to the contrary.

18 NEW PARAGRAPH. p. Hospice services provided by a
19 hospital, notwithstanding any provision in this division to
20 the contrary.

21 Sec. 7. Section 135.65, subsection 1, Code 1997, is
22 amended to read as follows:

23 1. Before applying for a certificate of need, the sponsor
24 of a proposed new institutional health service or changed
25 institutional health service shall submit to the department a
26 letter of intent to offer or develop a service requiring a
27 certificate of need. The letter shall be submitted as soon as
28 possible after initiation of the applicant's planning process,
29 and in any case not less than ~~sixty~~ thirty days before
30 applying for a certificate of need and before substantial
31 expenditures to offer or develop the service are made. The
32 letter shall include a brief description of the proposed new
33 or changed service, its location, and its estimated cost.

34 Sec. 8. Section 135.71, unnumbered paragraph 1, Code 1997,
35 is amended to read as follows:

1 A certificate of need shall be valid for a maximum of one
2 year from the date of issuance. Upon the expiration of the
3 certificate, or at any earlier time while the certificate is
4 valid the holder thereof shall provide the department such
5 information on the development of the project covered by the
6 certificate as the department may request. The council shall
7 determine at the end of the certification period whether
8 sufficient progress is being made on the development of the
9 project ~~and-whether-there-has-been-compliance-with-any~~
10 ~~conditions-on-which-issuance-of-the-certificate-was-premised.~~
11 The certificate of need may be extended by the council for
12 additional periods of time as are reasonably necessary to
13 expeditiously complete the project, but may be revoked by the
14 council at the end of the first or any subsequent
15 certification period for insufficient progress in developing
16 the project ~~or-noncompliance-with-any-conditions-on-which~~
17 ~~issuance-of-the-certificate-was-premised.~~

18 Sec. 9. Section 135H.6, subsection 4, Code 1997, is
19 amended by striking the subsection.

20 Sec. 10. REVIEW OF CERTIFICATE OF NEED PROGRAM. The Iowa
21 department of public health shall complete a comprehensive
22 review of the certificate of need program and shall submit a
23 written report of the findings and recommendations as to the
24 continued relevance of the program to the general assembly by
25 January 15, 2000.

26 EXPLANATION

27 This bill makes changes to the certificate of need (CON)
28 program. Kidney disease treatment centers and hemodialysis
29 units are eliminated from the definition of an institutional
30 health facility with the intended result being to not review
31 these services under the program. The capital expenditure
32 threshold for review of a number of services and types of
33 equipment are increased and certain conditions are placed on
34 review of other services and expenditures. The bill provides
35 that private offices and clinics otherwise except from CON are

1 subject to CON if the office or clinic provides radiation
2 therapy. The bill exempts certain services and equipment from
3 CON including certain nonpatient care services such as parking
4 facilities, redistribution of acute care beds under certain
5 conditions, intermediate care facilities for persons with
6 mental retardation, psychiatric medical institutions for
7 children, replacement or modernization of an institutional
8 health facility under certain conditions, hemodialysis
9 services provided by a hospital or freestanding facility, and
10 hospice services provided by a hospital. The bill establishes
11 a minimum application fee of \$600 and a maximum fee of
12 \$21,000. The bill also shortens the period between the time a
13 letter of intent to offer or develop a service requiring a
14 certificate of need is submitted and initiation of the
15 application process is begun from 60 to 30 days. The bill
16 provides that the state health facilities council is to meet
17 as necessary rather than at least once monthly. The bill also
18 deletes a reference to CON review of psychiatric medical
19 institutions for children and directs the department to
20 conduct a review of the CON program and submit a report of
21 findings and recommendations as to the continued relevance of
22 the program to the general assembly by January 15, 2000.

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SENATE FILE 236
FISCAL NOTE

A fiscal note for Senate File 236 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 236 makes changes to the Certificate of Need Program. The Bill changes the definition of an institutional health facility and increases the capital expenditure threshold for certain services and expenditures. The Bill also exempts certain services and equipment from the Certificate of Need process and establishes minimum and maximum fees.

ASSUMPTIONS

1. The appropriation to the Department Public Health would be reduced by \$60,000 due to decreased staff workload related to the Certificate of Need Program.
2. The revised fee structure will result in a \$1,000 increase in fees collected.
3. The revised capital thresholds will result in a fee revenue decrease of \$129,000.

FISCAL IMPACT

The net effect to the General Fund would be a decrease of \$68,000 in FY 1998 and FY 1999.

SOURCE

Department of Public Health

(LSB 2205SV, VMT)

FILED MARCH 6, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 236

S-3130

- 1 Amend Senate File 236 as follows:
- 2 1. Page 2, by striking line 32 and inserting the
- 3 following:
- 4 "~~(1)~~--Cardiac-catheterization-service--"
- 5 2. Page 2, by striking line 33 and inserting the
- 6 following:
- 7 "~~(2)~~--Open-heart-surgical-service--"
- 8 3. By renumbering as necessary.

By MARY LOU FREEMAN

S-3130 FILED MARCH 17, 1997
WITHDRAWN 3-17-97 (p. 630)

SENATE FILE 236

S-3127

- 1 Amend Senate File 236 as follows:
- 2 1. Page 2, by striking line 35 and inserting the
- 3 following:
- 4 "(4) Radiation therapy service applying ionizing
- 5 radiation for the treatment of malignant disease using
- 6 megavoltage external beam equipment."

By JOHN REDWINE

S-3127 FILED MARCH 17, 1997
ADOPTED 3-17-97
(p. 630)

SENATE FILE 236

S-3131

1 Amend Senate File 236 as follows:

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

4 "DIVISION I".

5 2. Page 6, line 25, by striking the figure "2000"
6 and inserting the following: "1999".

7 3. Page 6, by inserting after line 25 the
8 following:

9 "DIVISION II

10 Sec. 101. Section 68B.35, subsection 2, paragraph
11 e, Code 1997, is amended to read as follows:

12 e. Members of the banking board, the ethics and
13 campaign disclosure board, the credit union review
14 board, the economic development board, the employment
15 appeal board, the environmental protection commission,
16 ~~the health facilities council~~, the Iowa business
17 investment corporation board of directors, the Iowa
18 finance authority, the Iowa seed capital corporation,
19 the Iowa public employees' retirement system
20 investment board, the lottery board, the natural
21 resource commission, the board of parole, the
22 petroleum underground storage tank fund board, the
23 public employment relations board, the state racing
24 and gaming commission, the state board of regents, the
25 tax review board, the transportation commission, the
26 office of consumer advocate, the utilities board, the
27 Iowa telecommunications and technology commission, and
28 any full-time members of other boards and commissions
29 as defined under section 7E.4 who receive an annual
30 salary for their service on the board or commission.

31 Sec. 102. Section 97B.41, subsection 8, paragraph
32 b, subparagraph (13), Code 1997, is amended to read as
33 follows:

34 (13) Members of the state transportation
35 ~~commission~~, and the board of parole, and ~~the state~~
36 ~~health facilities council~~ unless a member elects by
37 filing an application with the department to be
38 covered under this chapter.

39 Sec. 103. Section 135.74, subsections 1 and 3,
40 Code 1997, are amended to read as follows:

41 1. The department, after study and in consultation
42 with any advisory committees which may be established
43 pursuant to law, shall promulgate by rule pursuant to
44 chapter 17A uniform methods of financial reporting,
45 including such allocation methods as may be
46 prescribed, by which hospitals and health care
47 facilities shall respectively record their revenues,
48 expenses, other income, other outlays, assets and
49 liabilities, and units of service, according to
50 functional activity center. These uniform methods of

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Page 2

1 financial reporting shall not preclude a hospital or
2 health care facility from using any accounting methods
3 for its own purposes provided these accounting methods
4 can be reconciled to the uniform methods of financial
5 reporting prescribed by the department and can be
6 audited for validity and completeness. Each hospital
7 and each health care facility shall adopt the
8 appropriate system for its fiscal year, effective upon
9 such date as the department shall direct. In
10 determining the effective date for reporting
11 requirements, the department shall consider both the
12 immediate need for uniform reporting of information to
13 effectuate the purposes of this division sections
14 135.74 through 135.78 and the administrative and
15 economic difficulties which hospitals and health care
16 facilities may encounter in complying with the uniform
17 financial reporting requirement, but the effective
18 date shall not be later than January 1, 1980.

19 3. The department shall, where appropriate,
20 provide for modification, consistent with the purposes
21 of this division sections 135.74 through 135.78, of
22 reporting requirements to correctly reflect the
23 differences among hospitals and among health care
24 facilities referred to in subsection 2, and to avoid
25 otherwise unduly burdensome costs in meeting the
26 requirements of uniform methods of financial
27 reporting.

28 Sec. 104. Section 135.75, subsection 2, Code 1997,
29 is amended to read as follows:

30 2. Where more than one licensed hospital or health
31 care facility is operated by the reporting
32 organization, the information required by this section
33 shall be reported separately for each licensed
34 hospital or health care facility. The department
35 shall require preparation of specified financial
36 reports by a certified public accountant, and may
37 require attestation of responsible officials of the
38 reporting hospital or health care facility that the
39 reports submitted are to the best of their knowledge
40 and belief prepared in accordance with the prescribed
41 methods of reporting. The department shall have the
42 right to inspect the books, audits and records of any
43 hospital or health care facility as reasonably
44 necessary to verify reports submitted pursuant to this
45 division sections 135.74 through 135.78.

46 Sec. 105. Section 135.76, subsection 1, Code 1997,
47 is amended to read as follows:

48 1. The department shall from time to time
49 undertake analyses and studies relating to hospital
50 and health care facility costs and to the financial

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Page 3

1 status of hospitals or health care facilities, or
2 both, which are subject to the provisions of ~~this~~
3 ~~division sections 135.74 through 135.78.~~ It shall
4 further require the filing of information concerning
5 the total financial needs of each individual hospital
6 or health care facility and the resources currently or
7 prospectively available to meet these needs, including
8 the effect of proposals made by health systems
9 agencies. The department shall also prepare and file
10 such summaries and compilations or other supplementary
11 reports based on the information filed with it as
12 will, in its judgment, advance the purposes of ~~this~~
13 ~~division sections 135.74 through 135.78.~~

14 Sec. 106. Section 135.77, Code 1997, is amended to
15 read as follows:

16 135.77 REPORT TO GOVERNOR AND LEGISLATURE.

17 The department shall annually prepare and transmit
18 to the governor and to the general assembly, on or
19 before the date of the convening of each regular
20 session of the general assembly, a report of the
21 department's operations and activities pursuant to
22 ~~this-division sections 135.74 through 135.78~~ for the
23 preceding fiscal year. This report shall include a
24 compilation of all summaries and reports required by
25 ~~this-division sections 135.74 through 135.78~~ together
26 with such findings and recommendations as the
27 department deems necessary.

28 Sec. 107. Section 135C.2, subsection 5, unnumbered
29 paragraph 1, Code 1997, is amended to read as follows:

30 The department shall establish a special
31 classification within the residential care facility
32 category in order to foster the development of
33 residential care facilities which serve persons with
34 mental retardation, chronic mental illness, a
35 developmental disability, or brain injury, as
36 described under section 225C.26, and which contain
37 five or fewer residents. ~~A-facility-within-the~~
38 ~~special-classification-established-pursuant-to-this~~
39 ~~subsection-is-exempt-from-the-requirements-of-section~~
40 ~~135-63.~~ The department shall adopt rules which are
41 consistent with rules previously developed for the
42 waiver demonstration project pursuant to 1986 Iowa
43 Acts, chapter 1246, section 206, and which include all
44 of the following provisions:

45 Sec. 108. Section 231B.2, subsection 1, Code 1997,
46 is amended to read as follows:

47 1. The department shall establish by rule in
48 accordance with chapter 17A a special classification
49 for elder group homes. ~~An-elder-group-home~~
50 ~~established-pursuant-to-this-subsection-is-exempt-from~~

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S-3131

Page 4

1 ~~the requirements of section 135.63.~~

2 Sec. 109. Section 231C.3, subsection 1, Code 1997,
3 is amended to read as follows:

4 1. The department shall establish, by rule in
5 accordance with chapter 17A, a program for
6 certification and monitoring of assisted living
7 programs. An assisted living program which is
8 voluntarily accredited is not required to also be
9 certified by the department and the department shall
10 accept voluntary accreditation in lieu of
11 certification by the department. ~~An assisted living
12 program certified or voluntarily accredited under this
13 section is exempt from the requirements of section
14 135.63 relating to certificate of need requirements.~~

15 Sec. 110. Section 708.3A, subsection 5, is amended
16 to read as follows:

17 5. As used in this section, "health care provider"
18 means an emergency medical care provider as defined in
19 chapter 147A or a person licensed or registered under
20 chapter 148, 148C, 148D, 150, 150A, or 152 who is
21 providing or who is attempting to provide emergency
22 medical services, as defined in section 147A.1, or who
23 is providing or who is attempting to provide health
24 services ~~as defined in section 135.61~~ in a hospital.
25 A person who commits an assault under this section
26 against a health care provider in a hospital, or at
27 the scene or during out-of-hospital patient
28 transportation in an ambulance, is presumed to know
29 that the person against whom the assault is committed
30 is a health care provider.

31 Sec. 111. Sections 135.61 through 135.73, Code
32 1997, are repealed.

33 Sec. 112. Sections 101 through 110 take effect
34 July 1, 1999."

35 4. By renumbering as necessary.

By MARY LOU FREEMAN

S-3131 FILED MARCH 17, 1997
WITHDRAWN 3-17-97

(p. 630)

H. 3/19/97 Human Resources
H-3/26/97 Amend & Pass
H-1416

SENATE FILE 136
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 127)

(AS AMENDED AND PASSED BY THE SENATE MARCH 17, 1997)

 - New Language by the Senate

Passed Senate, ^(P.1155) Date 4-14-97 Passed House, ^(P.1037) Date 4-8-97
Vote: Ayes 49 Nays 0 Vote: Ayes 91 Nays 9
Approved May 1, 1997

^(P.1271) Passed 4-16-97
Vote 96-0

A BILL FOR

1 An Act relating to the certificate of need program.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 136

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2 amended to read as follows:

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4 following, without regard to whether the facilities referred
5 to are publicly or privately owned or are organized for profit
6 or not or whether the facilities are part of or sponsored by a
7 health maintenance organization:

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11 ~~freestanding hemodialysis unit but not including any home~~
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1 provider or group of health care providers of any piece of
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18 lease, or donation, which results in the offering or
19 development of a health service not previously provided. A
20 mobile service provided on a contract basis is not considered
21 to have been previously provided by an institutional health
22 facility.

23 k. Any air transportation system service for
24 transportation of patients or medical personnel offered
25 through an institutional health facility at a specific time
26 but which was not offered on a regular basis in or through
27 that institutional health facility within the twelve-month
28 period prior to the specific time.

29 l. Any mobile health service with a value in excess of
30 three one million five hundred thousand dollars.

31 m. Any of the following:

32 (1) Cardiac catheterization service.

33 (2) Open heart surgical service.

34 (3) Organ transplantation service.

35 (4) Radiation therapy service applying ionizing radiation

1 for the treatment of malignant disease using megavoltage
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11 duties. Meeting dates shall be set upon adjournment or by
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13 members. Each member of the council shall receive a per diem
14 as specified in section 7E.6 and reimbursement for actual
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24 information as the department may require under this division.
25 The application shall be accompanied by a fee equivalent to
26 three-tenths of one percent of the anticipated cost of the
27 project with a minimum fee of six hundred dollars and a
28 maximum fee of twenty-one thousand dollars. The fee shall be
29 remitted by the department to the treasurer of state, who
30 shall place it in the general fund of the state. If an
31 application is voluntarily withdrawn within thirty calendar
32 days after submission, seventy-five percent of the application
33 fee shall be refunded; if the application is voluntarily
34 withdrawn more than thirty but within sixty days after
35 submission, fifty percent of the application fee shall be

1 refunded; if the application is withdrawn voluntarily more
2 than sixty days after submission, twenty-five percent of the
3 application fee shall be refunded. Notwithstanding the
4 required payment of an application fee under this subsection,
5 an applicant for a new institutional health service or a
6 changed institutional health service offered or developed by
7 an intermediate care facility for persons with mental
8 retardation or an intermediate care facility for persons with
9 mental illness as defined pursuant to section 135C.1 is exempt
10 from payment of the application fee.

11 Sec. 5. Section 135.63, subsection 2, paragraph a, Code
12 1997, is amended to read as follows:

13 a. Private offices and private clinics of an individual
14 physician, dentist, or other practitioner or group of health
15 care providers, except as provided by section 135.61,
16 subsection 18, paragraphs "g", and "h", and "m", and
17 subsections 20 and 21.

18 Sec. 6. Section 135.63, subsection 2, Code 1997, is
19 amended by adding the following new paragraphs:

20 NEW PARAGRAPH. j. The construction, modification, or
21 replacement of nonpatient care services, including parking
22 facilities, heating, ventilation and air conditioning systems,
23 computers, telephone systems, medical office buildings, and
24 other projects of a similar nature, notwithstanding any
25 provision in this division to the contrary.

26 NEW PARAGRAPH. k. The redistribution of beds by a
27 hospital within the acute care category of bed usage,
28 notwithstanding any provision in this division to the
29 contrary, if all of the following conditions exist:

30 (1) The hospital reports to the department the number and
31 type of beds to be redistributed on a form prescribed by the
32 department at least thirty days before the redistribution.

33 (2) The hospital reports the new distribution of beds on
34 its next annual report to the department.

35 If these conditions are not met, the redistribution of beds

1 by the hospital is subject to review as a new institutional
2 health service or changed institutional health service
3 pursuant to section 135.61, subsection 18, paragraph "d", and
4 is subject to sanctions under section 135.73.

5 NEW PARAGRAPH. l. An intermediate care facility for
6 persons with mental retardation, as defined in section 135C.1,
7 notwithstanding any provision in this division to the
8 contrary.

9 NEW PARAGRAPH. m. A psychiatric medical institution for
10 children, as defined in section 135H.1, notwithstanding any
11 provision in this division to the contrary.

12 NEW PARAGRAPH. n. The replacement or modernization of any
13 institutional health facility if the replacement or
14 modernization does not add new health services or additional
15 bed capacity for existing health services, notwithstanding any
16 provision in this division to the contrary.

17 NEW PARAGRAPH. o. Hemodialysis services provided by a
18 hospital or freestanding facility, notwithstanding any
19 provision in this division to the contrary.

20 NEW PARAGRAPH. p. Hospice services provided by a
21 hospital, notwithstanding any provision in this division to
22 the contrary.

23 Sec. 7. Section 135.65, subsection 1, Code 1997, is
24 amended to read as follows:

25 1. Before applying for a certificate of need, the sponsor
26 of a proposed new institutional health service or changed
27 institutional health service shall submit to the department a
28 letter of intent to offer or develop a service requiring a
29 certificate of need. The letter shall be submitted as soon as
30 possible after initiation of the applicant's planning process,
31 and in any case not less than ~~sixty~~ thirty days before
32 applying for a certificate of need and before substantial
33 expenditures to offer or develop the service are made. The
34 letter shall include a brief description of the proposed new
35 or changed service, its location, and its estimated cost.

1 Sec. 8. Section 135.71, unnumbered paragraph 1, Code 1997,
2 is amended to read as follows:

3 A certificate of need shall be valid for a maximum of one
4 year from the date of issuance. Upon the expiration of the
5 certificate, or at any earlier time while the certificate is
6 valid the holder thereof shall provide the department such
7 information on the development of the project covered by the
8 certificate as the department may request. The council shall
9 determine at the end of the certification period whether
10 sufficient progress is being made on the development of the
11 project ~~and whether there has been compliance with any~~
12 ~~conditions on which issuance of the certificate was premised.~~
13 The certificate of need may be extended by the council for
14 additional periods of time as are reasonably necessary to
15 expeditiously complete the project, but may be revoked by the
16 council at the end of the first or any subsequent
17 certification period for insufficient progress in developing
18 the project ~~or noncompliance with any conditions on which~~
19 ~~issuance of the certificate was premised.~~

20 Sec. 9. Section 135H.6, subsection 4, Code 1997, is
21 amended by striking the subsection.

22 Sec. 10. REVIEW OF CERTIFICATE OF NEED PROGRAM. The Iowa
23 department of public health shall complete a comprehensive
24 review of the certificate of need program and shall submit a
25 written report of the findings and recommendations as to the
26 continued relevance of the program to the general assembly by
27 January 15, 2000.

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HOUSE AMENDMENT TO
SENATE FILE 236

S-3421

1 Amend Senate File 236, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 5, by striking lines 5 through 11.

4 2. Page 5, by inserting after line 22 the
5 following:

6 "NEW PARAGRAPH. g. The change in ownership,
7 licensure, organizational structure, or designation of
8 the type of institutional health facility if the
9 health services offered by the successor institutional
10 health facility are unchanged."

11 3. Page 5, by inserting before line 23 the
12 following:

13 "Sec. _____. Section 135.63, subsection 4,
14 unnumbered paragraph 1, Code 1997, is amended to read
15 as follows:

16 For the period beginning July 1, 1995, and ending
17 June 30, ~~1997~~ 1998, the department shall not process
18 applications for and the council shall not consider a
19 new or changed institutional health service for an
20 intermediate care facility for persons with mental
21 retardation except as provided in this subsection.

22 Sec. _____. Section 135.63, subsection 4, paragraph
23 a, unnumbered paragraph 1, Code 1997, is amended to
24 read as follows:

25 For the period beginning July 1, 1995, and ending
26 June 30, ~~1997~~ 1998, the department and council shall
27 process applications and consider applications if
28 either of the following conditions are met:"

29 4. Page 6, by striking lines 20 and 21.

30 5. Page 6, by striking lines 22 through 27 and
31 inserting the following:

32 "Sec. _____. REVIEW OF CERTIFICATE OF NEED PROGRAM.

33 1. a. The Iowa department of public health shall
34 complete a comprehensive review of the certificate of
35 need program and shall submit a written report of the
36 findings and recommendations as to the continued
37 relevance of the program to the general assembly by
38 January 15, 2000.

39 b. Four members of the general assembly shall be
40 appointed to assist the Iowa department of public
41 health in completing the review. The terms of the
42 legislative members shall be for one year beginning
43 and ending as provided in section 69.19 or until their
44 successors are appointed. Appointments shall comply
45 with sections 69.16 and 69.16A. Vacancies shall be
46 filled in the same manner as the original appointment.
47 Each legislative member shall receive compensation
48 pursuant to section 2.10. The legislative members
49 shall be appointed as follows:

50 (1) Two members of the senate appointed by the

S-3421

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Page 2

1 majority leader of the senate after consultation with
 2 the minority leader of the senate.
 3 (2) Two members of the house of representatives
 4 appointed by the speaker of the house after
 5 consultation with the majority leader and the minority
 6 leader of the house.
 7 2. The Iowa department of public health, the
 8 department of human services, and the department of
 9 inspections and appeals shall conduct a review of the
 10 regulation of psychiatric medical institutions for
 11 children and intermediate care facilities for persons
 12 with mental retardation. The review shall include a
 13 review of the moratorium language in section 135.53,
 14 subsection 4, relating to intermediate care facilities
 15 for persons with mental retardation. The departments
 16 shall submit jointly to the general assembly by
 17 January 15, 1998, a written report with
 18 recommendations to eliminate duplicative regulation of
 19 these institutional programs."
 20 6. By renumbering, relettering, or redesignating
 21 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-3421 FILED APRIL 8, 1997

Senate Concurred 4-14-97 (P. 1154)

SENATE FILE 236

S-3458

1 Amend the amendment, S-3421, to Senate File 236 as
 2 amended, passed, and reprinted by the Senate as
 3 follows:
 4 1. Page 1, line 10, by striking the word
 5 "unchanged." and inserting the following:
 6 "unchanged."
 7 2. Page 1, by inserting after line 10, the
 8 following:
 9 "NEW PARAGRAPH. r. The conversion of an existing
 10 number of beds by an intermediate care facility for
 11 persons with mental retardation to a smaller facility
 12 environment, including but not limited to a community-
 13 based environment which does not result in an
 14 increased number of beds, notwithstanding any
 15 provision in this division to the contrary, including
 16 subsection 4, if all of the following conditions
 17 exist:
 18 (1) The intermediate care facility for persons
 19 with mental retardation reports the number and type of
 20 beds to be converted on a form prescribed by the
 21 department at least thirty days before the conversion.
 22 (2) The intermediate care facility for persons
 23 with mental retardation reports the conversion of beds
 24 on its next annual report to the department."

By NANCY BOETTGER
 MAGGIE TINSMAN

*Adopted 4-14-97
 (P. 1154)*

S-3458 FILED APRIL 10, 1997

SENATE FILE 236

H-1416

1 Amend Senate File 236, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 5, by striking lines 5 through 11.
4 2. Page 5, by inserting after line 22 the
5 following:
6 "NEW PARAGRAPH. q. The change in ownership,
7 licensure, organizational structure, or designation of
8 the type of institutional health facility if the
9 health services offered by the successor institutional
10 health facility are unchanged."
11 3. Page 5, by inserting before line 23 the
12 following:
13 "Sec. ____ . Section 135.63, subsection 4,
14 unnumbered paragraph 1, Code 1997, is amended to read
15 as follows:
16 For the period beginning July 1, 1995, and ending
17 June 30, ~~1997~~ 1998, the department shall not process
18 applications for and the council shall not consider a
19 new or changed institutional health service for an
20 intermediate care facility for persons with mental
21 retardation except as provided in this subsection.
22 Sec. ____ . Section 135.63, subsection 4, paragraph
23 a, unnumbered paragraph 1, Code 1997, is amended to
24 read as follows:
25 For the period beginning July 1, 1995, and ending
26 June 30, ~~1997~~ 1998, the department and council shall
27 process applications and consider applications if
28 either of the following conditions are met:"
29 4. Page 6, by striking lines 20 and 21.
30 5. Page 6, by inserting after line 27 the
31 following:
32 "The Iowa department of public health, the
33 department of human services, and the department of
34 inspections and appeals shall conduct a review of the
35 regulation of psychiatric medical institutions for
36 children and intermediate care facilities for persons
37 with mental retardation. The review shall include a
38 review of the moratorium language in section 135.63,
39 subsection 4, relating to intermediate care facilities
40 for persons with mental retardation. The departments
41 shall submit jointly to the general assembly by
42 January 15, 1998, a written report with
43 recommendations to eliminate duplicative regulation of
44 these institutional programs."
45 6. By renumbering, relettering, or redesignating
46 and correcting internal references as necessary.

By COMMITTEE ON HUMAN RESOURCES
BODDICKER of Cedar, Chairperson

H-1416 FILED MARCH 26, 1997

adopted
4-8-97
(P. 1036)

SENATE FILE 236

H-1462

1 Amend the amendment, H-1416, to Senate File 236, as
2 amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, by striking lines 30 through 44 and
5 inserting the following:

6 "_____. Page 6, by striking lines 22 through 27 and
7 inserting the following:

8 "Sec. _____. REVIEW OF CERTIFICATE OF NEED PROGRAM.

9 1. a. The Iowa department of public health shall
10 complete a comprehensive review of the certificate of
11 need program and shall submit a written report of the
12 findings and recommendations as to the continued
13 relevance of the program to the general assembly by
14 January 15, 2000.

15 b. Four members of the general assembly shall be
16 appointed to assist the Iowa department of public
17 health in completing the review. The terms of the
18 legislative members shall be for one year beginning
19 and ending as provided in section 69.19 or until their
20 successors are appointed. Appointments shall comply
21 with sections 69.16 and 69.16A. Vacancies shall be
22 filled in the same manner as the original appointment.
23 Each legislative member shall receive compensation
24 pursuant to section 2.10. The legislative members
25 shall be appointed as follows:

26 (1) Two members of the senate appointed by the
27 majority leader of the senate after consultation with
28 the minority leader of the senate.

29 (2) Two members of the house of representatives
30 appointed by the speaker of the house after
31 consultation with the majority leader and the minority
32 leader of the house.

33 2. The Iowa department of public health, the
34 department of human services, and the department of
35 inspections and appeals shall conduct a review of the
36 regulation of psychiatric medical institutions for
37 children and intermediate care facilities for persons
38 with mental retardation. The review shall include a
39 review of the moratorium language in section 135.63,
40 subsection 4, relating to intermediate care facilities
41 for persons with mental retardation. The departments
42 shall submit jointly to the general assembly by
43 January 15, 1998, a written report with
44 recommendations to eliminate duplicative regulation of
45 these institutional programs."

46 2. By renumbering, relettering, or redesignating
47 and correcting internal references as necessary.

By MURPHY of Dubuque

BLODGETT of Cerro Gordo

H-1462 FILED MARCH 31, 1997

Adopted
4-8-97
(P. 1036)

SENATE AMENDMENT TO HOUSE AMENDMENT TO S. F. 236

H-1717

1 Amend the amendment, S-3421, to Senate File 236 as
2 amended, passed, and reprinted by the Senate as
3 follows:

4 1. Page 1, line 10, by striking the word
5 "unchanged." and inserting the following:
6 "unchanged."

7 2. Page 1, by inserting after line 10, the
8 following:

9 "NEW PARAGRAPH. r. The conversion of an existing
10 number of beds by an intermediate care facility for
11 persons with mental retardation to a smaller facility
12 environment, including but not limited to a community-
13 based environment which does not result in an
14 increased number of beds, notwithstanding any
15 provision in this division to the contrary, including
16 subsection 4, if all of the following conditions
17 exist:

18 (1) The intermediate care facility for persons
19 with mental retardation reports the number and type of
20 beds to be converted on a form prescribed by the
21 department at least thirty days before the conversion.

22 (2) The intermediate care facility for persons
23 with mental retardation reports the conversion of beds
24 on its next annual report to the department."

RECEIVED FROM THE SENATE

H-1717 FILED APRIL 15, 1997

None Concurd.
4-16-97
(P 1271)

Tinsman, Chair
Szymoniak
Boettger

SSB 127
Human Resources

Succeeded By
SENATE FILE SF/HF 236
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON BOETTGER)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the certificate of need program.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. _____ H.F. _____

1 Section 1. Section 135.61, subsection 14, Code 1997, is
2 amended to read as follows:

3 14. "Institutional health facility" means any of the
4 following, without regard to whether the facilities referred
5 to are publicly or privately owned or are organized for profit
6 or not or whether the facilities are part of or sponsored by a
7 health maintenance organization:

8 a. A hospital.

9 b. A health care facility.

10 ~~c. A kidney disease treatment center, including any~~
11 ~~freestanding hemodialysis unit but not including any home~~
12 ~~hemodialysis unit.~~

13 d c. An organized outpatient health facility.

14 e d. An outpatient surgical facility.

15 f e. A community mental health facility.

16 g f. A birth center.

17 Sec. 2. Section 135.61, subsection 18, paragraphs c, e,
18 and g through m, Code 1997, are amended to read as follows:

19 c. Any capital expenditure, lease, or donation by or on
20 behalf of an institutional health facility in excess of eight
21 one million five hundred thousand dollars within a twelve-
22 month period.

23 e. Any expenditure in excess of three five hundred
24 thousand dollars by or on behalf of an institutional health
25 facility for health services which are or will be offered in
26 or through an institutional health facility at a specific time
27 but which were not offered on a regular basis in or through
28 that institutional health facility within the twelve-month
29 period prior to that time.

30 g. Any acquisition by or on behalf of a health care
31 provider or a group of health care providers of any piece of
32 replacement equipment with a value in excess of four one
33 million five hundred thousand dollars, whether acquired by
34 purchase, lease, or donation.

35 h. Any acquisition by or on behalf of a health care

1 provider or group of health care providers of any piece of
2 equipment with a value in excess of three one million five
3 hundred thousand dollars, whether acquired by purchase, lease,
4 or donation, which results in the offering or development of a
5 health service not previously provided. A mobile service
6 provided on a contract basis is not considered to have been
7 previously provided by a health care provider or group of
8 health care providers.

9 i. Any acquisition by or on behalf of an institutional
10 health facility or a health maintenance organization of any
11 piece of replacement equipment with a value in excess of four
12 one million five hundred thousand dollars, whether acquired by
13 purchase, lease, or donation.

14 j. Any acquisition by or on behalf of an institutional
15 health facility or health maintenance organization of any
16 piece of equipment with a value in excess of three one million
17 five hundred thousand dollars, whether acquired by purchase,
18 lease, or donation, which results in the offering or
19 development of a health service not previously provided. A
20 mobile service provided on a contract basis is not considered
21 to have been previously provided by an institutional health
22 facility.

23 k. Any air transportation system service for
24 transportation of patients or medical personnel offered
25 through an institutional health facility at a specific time
26 but which was not offered on a regular basis in or through
27 that institutional health facility within the twelve-month
28 period prior to the specific time.

29 l. Any mobile health service with a value in excess of
30 three one million five hundred thousand dollars.

31 m. Any of the following:

- 32 (1) Cardiac catheterization service.
33 (2) Open heart surgical service.
34 (3) Organ transplantation service.
35 (4) Radiation therapy.

1 Sec. 3. Section 135.62, subsection 2, paragraph c, Code
2 1997, is amended to read as follows:

3 c. MEETINGS. The council shall hold an organizational
4 meeting in July of each odd-numbered year, or as soon
5 thereafter as the new appointee or appointees are confirmed
6 and have qualified. Other meetings shall be held ~~at-least~~
7 ~~once-each-month,-and-may-be-held-more-frequently-if~~ as
8 necessary to enable the council to expeditiously discharge its
9 duties. Meeting dates shall be set upon adjournment or by
10 call of the chairperson upon five days' notice to the other
11 members. Each member of the council shall receive a per diem
12 as specified in section 7E.6 and reimbursement for actual
13 expenses while engaged in official duties.

14 Sec. 4. Section 135.63, subsection 1, Code 1997, is
15 amended to read as follows:

16 1. A new institutional health service or changed
17 institutional health service shall not be offered or developed
18 in this state without prior application to the department for
19 and receipt of a certificate of need, pursuant to this
20 division. The application shall be made upon forms furnished
21 or prescribed by the department and shall contain such
22 information as the department may require under this division.
23 The application shall be accompanied by a fee equivalent to
24 three-tenths of one percent of the anticipated cost of the
25 project with a minimum fee of six hundred dollars and a
26 maximum fee of twenty-one thousand dollars. The fee shall be
27 remitted by the department to the treasurer of state, who
28 shall place it in the general fund of the state. If an
29 application is voluntarily withdrawn within thirty calendar
30 days after submission, seventy-five percent of the application
31 fee shall be refunded; if the application is voluntarily
32 withdrawn more than thirty but within sixty days after
33 submission, fifty percent of the application fee shall be
34 refunded; if the application is withdrawn voluntarily more
35 than sixty days after submission, twenty-five percent of the

1 application fee shall be refunded. Notwithstanding the
2 required payment of an application fee under this subsection,
3 an applicant for a new institutional health service or a
4 changed institutional health service offered or developed by
5 an intermediate care facility for persons with mental
6 retardation or an intermediate care facility for persons with
7 mental illness as defined pursuant to section 135C.1 is exempt
8 from payment of the application fee.

9 Sec. 5. Section 135.63, subsection 2, Code 1997, is
10 amended by adding the following new paragraphs:

11 NEW PARAGRAPH. j. The construction, modification, or
12 replacement of nonpatient care services, including parking
13 facilities, heating, ventilation and air conditioning systems,
14 computers, telephone systems, medical office buildings, and
15 other projects of a similar nature, notwithstanding any
16 provision in this division to the contrary.

17 NEW PARAGRAPH. k. The redistribution of beds by a
18 hospital within the acute care category of bed usage,
19 notwithstanding any provision in this division to the
20 contrary, if all of the following conditions exist:

21 (1) The hospital reports to the department the number and
22 type of beds to be redistributed on a form prescribed by the
23 department at least thirty days before the redistribution.

24 (2) The hospital reports the new distribution of beds on
25 its next annual report to the department.

26 If these conditions are not met, the redistribution of beds
27 by the hospital is subject to review as a new institutional
28 health service or changed institutional health service
29 pursuant to section 135.61, subsection 18, paragraph "d", and
30 is subject to sanctions under section 135.73.

31 NEW PARAGRAPH. l. An intermediate care facility for
32 persons with mental retardation, as defined in section 135C.1,
33 notwithstanding any provision in this division to the
34 contrary.

35 NEW PARAGRAPH. m. A psychiatric medical institution for

1 children, as defined in section 135H.1, notwithstanding any
2 provision in this division to the contrary.

3 NEW PARAGRAPH. n. The replacement or modernization of any
4 institutional health facility if the replacement or
5 modernization does not add new health services or additional
6 bed capacity for existing health services, notwithstanding any
7 provision in this division to the contrary.

8 NEW PARAGRAPH. o. Hemodialysis services provided by a
9 hospital or freestanding facility, notwithstanding any
10 provision in this division to the contrary.

11 NEW PARAGRAPH. p. Hospice services provided by a
12 hospital, notwithstanding any provision in this division to
13 the contrary.

14 Sec. 6. Section 135.65, subsection 1, Code 1997, is
15 amended to read as follows:

16 1. Before applying for a certificate of need, the sponsor
17 of a proposed new institutional health service or changed
18 institutional health service shall submit to the department a
19 letter of intent to offer or develop a service requiring a
20 certificate of need. The letter shall be submitted as soon as
21 possible after initiation of the applicant's planning process,
22 and in any case not less than sixty thirty days before
23 applying for a certificate of need and before substantial
24 expenditures to offer or develop the service are made. The
25 letter shall include a brief description of the proposed new
26 or changed service, its location, and its estimated cost.

27 Sec. 7. Section 135.71, unnumbered paragraph 1, Code 1997,
28 is amended to read as follows:

29 A certificate of need shall be valid for a maximum of one
30 year from the date of issuance. Upon the expiration of the
31 certificate, or at any earlier time while the certificate is
32 valid the holder thereof shall provide the department such
33 information on the development of the project covered by the
34 certificate as the department may request. The council shall
35 determine at the end of the certification period whether

1 sufficient progress is being made on the development of the
2 project ~~and whether there has been compliance with any~~
3 ~~conditions on which issuance of the certificate was premised.~~
4 The certificate of need may be extended by the council for
5 additional periods of time as are reasonably necessary to
6 expeditiously complete the project, but may be revoked by the
7 council at the end of the first or any subsequent
8 certification period for insufficient progress in developing
9 the project ~~or noncompliance with any conditions on which~~
10 ~~issuance of the certificate was premised.~~

11 Sec. 8. Section 135H.6, subsection 4, Code 1997, is
12 amended by striking the subsection.

13 Sec. 9. REVIEW OF CERTIFICATE OF NEED PROGRAM. The Iowa
14 department of public health shall complete a comprehensive
15 review of the certificate of need program and shall submit a
16 written report of the findings and recommendations as to the
17 continued relevance of the program to the general assembly by
18 January 15, 2000.

19

EXPLANATION

20 This bill makes changes to the certificate of need (CON)
21 program. Kidney disease treatment centers and hemodialysis
22 units are eliminated from the definition of an institutional
23 health facility with the intended result being to not review
24 these services under the program. The capital expenditure
25 threshold for review of a number of services and types of
26 equipment are increased and certain conditions are placed on
27 review of other services and expenditures. The bill exempts
28 certain services and equipment from CON including certain
29 nonpatient care services such as parking facilities,
30 redistribution of acute care beds under certain conditions,
31 intermediate care facilities for persons with mental
32 retardation, psychiatric medical institutions for children,
33 replacement or modernization of an institutional health
34 facility under certain conditions, hemodialysis services
35 provided by a hospital or freestanding facility, and hospice

1 services provided by a hospital. The bill establishes a
2 minimum application fee of \$600 and a maximum fee of \$21,000.
3 The bill also shortens the period between the time a letter of
4 intent to offer or develop a service requiring a certificate
5 of need is submitted and initiation of the application process
6 is begun from 60 to 30 days. The bill provides that the state
7 health facilities council is to meet as necessary rather than
8 at least once monthly. The bill also deletes a reference to
9 CON review of psychiatric medical institutions for children
10 and directs the department to conduct a review of the CON
11 program and submit a report of findings and recommendations as
12 to the continued relevance of the program to the general
13 assembly by January 15, 2000.

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SENATE FILE 236

AN ACT
RELATING TO THE CERTIFICATE OF NEED PROGRAM.

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

Section 1. Section 135.61, subsection 14, Code 1997, is amended to read as follows:

14. "Institutional health facility" means any of the following, without regard to whether the facilities referred to are publicly or privately owned or are organized for profit or not or whether the facilities are part of or sponsored by a health maintenance organization:

- a. A hospital.
- b. A health care facility.
- c. ~~A kidney disease treatment center, including any freestanding hemodialysis unit but not including any home hemodialysis unit;~~
- d. An organized outpatient health facility.
- e. An outpatient surgical facility.
- f. A community mental health facility.
- g. A birth center.

Sec. 2. Section 135.61, subsection 18, paragraphs c, e, and g through r, Code 1997, are amended to read as follows:

c. Any capital expenditure, lease, or donation by or on behalf of an institutional health facility in excess of eight one million five hundred thousand dollars within a twelve-month period.

e. Any expenditure in excess of three five hundred thousand dollars by or on behalf of an institutional health facility for health services which are or will be offered in or through an institutional health facility at a specific time but which were not offered on a regular basis in or through that institutional health facility within the twelve-month period prior to that time.

g. Any acquisition by or on behalf of a health care provider or a group of health care providers of any piece of replacement equipment with a value in excess of four one million five hundred thousand dollars, whether acquired by purchase, lease, or donation.

h. Any acquisition by or on behalf of a health care provider or group of health care providers of any piece of equipment with a value in excess of three one million five hundred thousand dollars, whether acquired by purchase, lease, or donation, which results in the offering or development of a health service not previously provided. A mobile service provided on a contract basis is not considered to have been previously provided by a health care provider or group of health care providers.

i. Any acquisition by or on behalf of an institutional health facility or a health maintenance organization of any piece of replacement equipment with a value in excess of four one million five hundred thousand dollars, whether acquired by purchase, lease, or donation.

j. Any acquisition by or on behalf of an institutional health facility or health maintenance organization of any piece of equipment with a value in excess of three one million five hundred thousand dollars, whether acquired by purchase, lease, or donation, which results in the offering or development of a health service not previously provided. A mobile service provided on a contract basis is not considered to have been previously provided by an institutional health facility.

k. Any air transportation system service for transportation of patients or medical personnel offered through an institutional health facility at a specific time but which was not offered on a regular basis in or through that institutional health facility within the twelve-month period prior to the specific time.

l. Any mobile health service with a value in excess of three one million five hundred thousand dollars.

m. Any of the following:

- (1) Cardiac catheterization service.
- (2) Open heart surgical service.
- (3) Organ transplantation service.
- (4) Radiation therapy service applying ionizing radiation for the treatment of malignant disease using megavoltage external beam equipment.

Sec. 3. Section 135.62, subsection 2, paragraph c, Code 1997, is amended to read as follows:

c. MEETINGS. The council shall hold an organizational meeting in July of each odd-numbered year, or as soon thereafter as the new appointee or appointees are confirmed and have qualified. Other meetings shall be held ~~at least once each month and may be held more frequently if~~ as necessary to enable the council to expeditiously discharge its duties. Meeting dates shall be set upon adjournment or by call of the chairperson upon five days' notice to the other members. Each member of the council shall receive a per diem as specified in section 78.6 and reimbursement for actual expenses while engaged in official duties.

Sec. 4. Section 135.61, subsection 1, Code 1997, is amended to read as follows:

1. A new institutional health service or changed institutional health service shall not be offered or developed in this state without prior application to the department for and receipt of a certificate of need, pursuant to this division. The application shall be made upon forms furnished or prescribed by the department and shall contain such information as the department may require under this division. The application shall be accompanied by a fee equivalent to three-tenths of one percent of the anticipated cost of the project with a minimum fee of six hundred dollars and a maximum fee of twenty-one thousand dollars. The fee shall be remitted by the department to the treasurer of state, who shall place it in the general fund of the state. If an application is voluntarily withdrawn within thirty calendar days after submission, seventy-five percent of the application

fee shall be refunded; if the application is voluntarily withdrawn more than thirty but within sixty days after submission, fifty percent of the application fee shall be refunded; if the application is withdrawn voluntarily more than sixty days after submission, twenty-five percent of the application fee shall be refunded. Notwithstanding the required payment of an application fee under this subsection, an applicant for a new institutional health service or a changed institutional health service offered or developed by an intermediate care facility for persons with mental retardation or an intermediate care facility for persons with mental illness as defined pursuant to section 135C.1 is exempt from payment of the application fee.

Sec. 5. Section 135.63, subsection 2, paragraph a, Code 1997, is amended to read as follows:

a. Private offices and private clinics of an individual physician, dentist, or other practitioner or group of health care providers, except as provided by section 135.61, subsection 18, paragraphs "g", and "h", and "m", and subsections 20 and 21.

Sec. 6. Section 135.63, subsection 2, Code 1997, is amended by adding the following new paragraphs:

NEW PARAGRAPH. j. The construction, modification, or replacement of nonpatient care services, including parking facilities, heating, ventilation and air conditioning systems, computers, telephone systems, medical office buildings, and other projects of a similar nature, notwithstanding any provision in this division to the contrary.

NEW PARAGRAPH. k. The redistribution of beds by a hospital within the acute care category of bed usage, notwithstanding any provision in this division to the contrary, if all of the following conditions exist:

- (1) The hospital reports to the department the number and type of beds to be redistributed on a form prescribed by the department at least thirty days before the redistribution.

(2) The hospital reports the new distribution of beds on its next annual report to the department.

If these conditions are not met, the redistribution of beds by the hospital is subject to review as a new institutional health service or changed institutional health service pursuant to section 135.61, subsection 18, paragraph "d", and is subject to sanctions under section 135.73.

NEW PARAGRAPH. 1. The replacement or modernization of any institutional health facility if the replacement or modernization does not add new health services or additional bed capacity for existing health services, notwithstanding any provision in this division to the contrary.

NEW PARAGRAPH. m. Hemodialysis services provided by a hospital or freestanding facility, notwithstanding any provision in this division to the contrary.

NEW PARAGRAPH. n. Hospice services provided by a hospital, notwithstanding any provision in this division to the contrary.

NEW PARAGRAPH. o. The change in ownership, licensure, organizational structure, or designation of the type of institutional health facility if the health services offered by the successor institutional health facility are unchanged.

NEW PARAGRAPH. p. The conversion of an existing number of beds by an intermediate care facility for persons with mental retardation to a smaller facility environment, including but not limited to a community-based environment which does not result in an increased number of beds, notwithstanding any provision in this division to the contrary, including subsection 4, if all of the following conditions exist:

(1) The intermediate care facility for persons with mental retardation reports the number and type of beds to be converted on a form prescribed by the department at least thirty days before the conversion.

(2) The intermediate care facility for persons with mental retardation reports the conversion of beds on its next annual report to the department.

Sec. 7. Section 135.63, subsection 4, unnumbered paragraph 1, Code 1997, is amended to read as follows:

For the period beginning July 1, 1995, and ending June 30, 1997 1998, the department shall not process applications for and the council shall not consider a new or changed institutional health service for an intermediate care facility for persons with mental retardation except as provided in this subsection.

Sec. 8. Section 135.63, subsection 4, paragraph a, unnumbered paragraph 1, Code 1997, is amended to read as follows:

For the period beginning July 1, 1995, and ending June 30, 1997 1998, the department and council shall process applications and consider applications if either of the following conditions are met:

Sec. 9. Section 135.65, subsection 1, Code 1997, is amended to read as follows:

1. Before applying for a certificate of need, the sponsor of a proposed new institutional health service or changed institutional health service shall submit to the department a letter of intent to offer or develop a service requiring a certificate of need. The letter shall be submitted as soon as possible after initiation of the applicant's planning process, and in any case not less than ~~sixty~~ thirty days before applying for a certificate of need and before substantial expenditures to offer or develop the service are made. The letter shall include a brief description of the proposed new or changed service, its location, and its estimated cost.

Sec. 10. Section 135.71, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A certificate of need shall be valid for a maximum of one year from the date of issuance. Upon the expiration of the certificate, or at any earlier time while the certificate is valid the holder thereof shall provide the department such information on the development of the project covered by the certificate as the department may request. The council shall

determine at the end of the certification period whether sufficient progress is being made on the development of the project ~~and whether there has been compliance with any conditions on which issuance of the certificate was premised.~~ The certificate of need may be extended by the council for additional periods of time as are reasonably necessary to expeditiously complete the project, but may be revoked by the council at the end of the first or any subsequent certification period for insufficient progress in developing the project ~~or noncompliance with any conditions on which issuance of the certificate was premised.~~

Sec. 11. REVIEW OF CERTIFICATE OF NEED PROGRAM.

1. a. The Iowa department of public health shall complete a comprehensive review of the certificate of need program and shall submit a written report of the findings and recommendations as to the continued relevance of the program to the general assembly by January 15, 2000.

b. Four members of the general assembly shall be appointed to assist the Iowa department of public health in completing the review. The terms of the legislative members shall be for one year beginning and ending as provided in section 69.19 or until their successors are appointed. Appointments shall comply with sections 69.16 and 69.16A. Vacancies shall be filled in the same manner as the original appointment. Each legislative member shall receive compensation pursuant to section 2.10. The legislative members shall be appointed as follows:

- (1) Two members of the senate appointed by the majority leader of the senate after consultation with the minority leader of the senate.
 - (2) Two members of the house of representatives appointed by the speaker of the house after consultation with the majority leader and the minority leader of the house.
2. The Iowa department of public health, the department of human services, and the department of inspections and appeals shall conduct a review of the regulation of psychiatric

medical institutions for children and intermediate care facilities for persons with mental retardation. The review shall include a review of the moratorium language in section 135.63, subsection 4, relating to intermediate care facilities for persons with mental retardation. The departments shall submit jointly to the general assembly by January 15, 1998, a written report with recommendations to eliminate duplicative regulation of these institutional programs.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 236, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved May 1, 1997

TERRY E. BRANSTAD
Governor