

FEB 15 1999
HUMAN RESOURCES

HOUSE FILE 278
BY MARTIN

WITHDRAWN

3-10-99 (p. 611)

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

A BILL FOR

1 An Act changing the name of care review committee to resident
2 advocate committee.

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

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HF 278

1 Section 1. Section 135C.11, subsection 2, Code 1999, is
2 amended to read as follows:

3 2. The procedure governing hearings authorized by this
4 section shall be in accordance with the rules promulgated by
5 the department. A full and complete record shall be kept of
6 all proceedings, and all testimony shall be reported but need
7 not be transcribed unless judicial review is sought pursuant
8 to section 135C.13. Copies of the transcript may be obtained
9 by an interested party upon payment of the cost of preparing
10 the copies. Witnesses may be subpoenaed by either party and
11 shall be allowed fees at a rate prescribed by the department's
12 rules. The director may, after advising the care-review
13 resident advocate committee established pursuant to section
14 135C.25, either proceed in accordance with section 135C.30, or
15 remove all residents and suspend the license or licenses of
16 any health care facility, prior to a hearing, when the
17 director finds that the health or safety of residents of the
18 health care facility requires such action on an emergency
19 basis. The fact that no care-review resident advocate
20 committee has been appointed for a particular facility shall
21 not bar the director from exercising the emergency powers
22 granted by this subsection with respect to that facility.

23 Sec. 2. Section 135C.13, Code 1999, is amended to read as
24 follows:

25 135C.13 JUDICIAL REVIEW.

26 Judicial review of any action of the director may be sought
27 in accordance with the terms of the Iowa administrative
28 procedure Act. Notwithstanding the terms of said Act,
29 petitions for judicial review may be filed in the district
30 court of the county where the facility or proposed facility is
31 located, and pending final disposition of the matter the
32 status quo of the applicant or licensee shall be preserved
33 except when the director, with the advice and consent of the
34 care-review resident advocate committee established pursuant
35 to section 135C.25, determines that the health, safety or

1 welfare of the residents of the facility is in immediate
2 danger, in which case the director may order the immediate
3 removal of such residents. The fact that no care-review
4 resident advocate committee has been appointed for a
5 particular facility shall not bar the director from exercising
6 the emergency powers granted by this subsection with respect
7 to that facility.

8 | Sec. 3. Section 135C.14, subsection 8, paragraph d, Code
9 1999, is amended to read as follows:

10 | d. The notification of care-review resident advocate
11 committees by the department of all complaints relating to
12 health care facilities and the involvement of the care-review
13 resident advocate committees in resolution of the complaints.

14 | Sec. 4. Section 135C.20A, subsection 2, Code 1999, is
15 amended to read as follows:

16 | 2. The report card form shall be developed by the
17 department in cooperation with representatives of the
18 department of elder affairs, the state long-term care
19 resident's advocate, representatives of care-review resident
20 advocate committees, representatives of protection and
21 advocacy entities, consumers, and other interested persons.

22 | Sec. 5. Section 135C.25, Code 1999, is amended to read as
23 follows:

24 | 135C.25 CARE-REVIEW RESIDENT ADVOCATE COMMITTEE
25 APPOINTMENTS -- DUTIES -- DISCLOSURE -- LIABILITY.

26 | 1. Each health care facility shall have a care-review
27 resident advocate committee whose members shall be appointed
28 by the director of the department of elder affairs or the
29 director's designee. A person shall not be appointed a member
30 of a care-review resident advocate committee for a health care
31 facility unless the person is a resident of the service area
32 where the facility is located. The care-review resident
33 advocate committee for any facility caring primarily for
34 persons with mental illness, mental retardation, or a
35 developmental disability shall only be appointed after

1 consultation with the administrator of the division of mental
2 health and developmental disabilities of the department of
3 human services on the proposed appointments. Recommendations
4 to the director or the director's designee for membership on
5 care-review resident advocate committees are encouraged from
6 any agency, organization, or individual. The administrator of
7 the facility shall not be appointed to the care-review
8 resident advocate committee and shall not be present at
9 committee meetings except upon request of the committee.

10 2. Each care-review resident advocate committee shall
11 periodically review the needs of each individual resident of
12 the facility and shall perform the functions pursuant to
13 sections 135C.38 and 231.44.

14 3. A health care facility shall disclose the names,
15 addresses, and phone numbers of a resident's family members,
16 if requested, to a care-review resident advocate committee
17 member, unless permission for this disclosure is refused in
18 writing by the family member. The facility shall provide a
19 form on which a family member may indicate a refusal to grant
20 this permission.

21 4. Neither the state nor any care-review resident advocate
22 committee member is liable for an action by a care-review
23 resident advocate committee member in the performance of duty,
24 if the action is undertaken and carried out in good faith.

25 Sec. 6. Section 135C.37, Code 1999, is amended to read as
26 follows:

27 135C.37 COMPLAINTS ALLEGING VIOLATIONS -- CONFIDENTIALITY.

28 A person may request an inspection of a health care
29 facility by filing with the department, care-review resident
30 advocate committee of the facility, or the long-term care
31 resident's advocate as defined in section 231.4, subsection
32 16, a complaint of an alleged violation of applicable
33 requirements of this chapter or the rules adopted pursuant to
34 this chapter. A person alleging abuse or neglect of a
35 resident with a developmental disability or with mental

1 illness may also file a complaint with the protection and
2 advocacy agency designated pursuant to section 135B.9 or
3 section 135C.2. A copy of a complaint filed with the care
4 review resident advocate committee or the long-term care
5 resident's advocate shall be forwarded to the department. The
6 complaint shall state in a reasonably specific manner the
7 basis of the complaint, and a statement of the nature of the
8 complaint shall be delivered to the facility involved at the
9 time of the inspection. The name of the person who files a
10 complaint with the department, care-review resident advocate
11 committee, or the long-term care resident's advocate shall be
12 kept confidential and shall not be subject to discovery,
13 subpoena, or other means of legal compulsion for its release
14 to a person other than department employees involved in the
15 investigation of the complaint.

16 Sec. 7. Section 135C.38, subsection 1, paragraphs a and c,
17 Code 1999, are amended to read as follows:

18 a. Upon receipt of a complaint made in accordance with
19 section 135C.37, the department or care-review resident
20 advocate committee shall make a preliminary review of the
21 complaint. Unless the department or committee concludes that
22 the complaint is intended to harass a facility or a licensee
23 or is without reasonable basis, it shall within twenty working
24 days of receipt of the complaint make or cause to be made an
25 on-site inspection of the health care facility which is the
26 subject of the complaint.

27 c. The department may refer to the care-review resident
28 advocate committee of a facility any complaint received by the
29 department regarding that facility, for initial evaluation and
30 appropriate action by the committee.

31 Sec. 8. Section 135C.38, subsection 4, Code 1999, is
32 amended to read as follows:

33 4. If upon an inspection of a facility by its care-review
34 resident advocate committee, pursuant to this section, the
35 committee advises the department of any circumstance believed

1 to constitute a violation of this chapter or of any rule
2 adopted pursuant to it, the committee shall similarly advise
3 the facility at the same time. If the facility's licensee or
4 administrator disagrees with the conclusion of the committee
5 regarding the supposed violation, an informal conference may
6 be requested and if requested shall be arranged by the
7 department as provided in section 135C.42 before a citation is
8 issued. If the department thereafter issues a citation
9 pursuant to the committee's finding, the facility shall not be
10 entitled to a second informal conference on the same violation
11 and the citation shall be considered affirmed. The facility
12 cited may proceed under section 135C.43 if it so desires.

13 Sec. 9. Section 225C.4, subsection 1, paragraph n, Code
14 1999, is amended to read as follows:

15 n. Provide consultation and technical assistance to
16 patients' advocates appointed pursuant to section 229.19, in
17 cooperation with the judicial branch and the ~~care-review~~
18 resident advocate committees appointed for health care
19 facilities pursuant to section 135C.25.

20 Sec. 10. Section 227.2, subsection 2, Code 1999, is
21 amended to read as follows:

22 2. A copy of the written report prescribed by subsection 1
23 shall be furnished to the county board of supervisors, to the
24 county mental health and mental retardation coordinating board
25 or to its advisory board if the county board of supervisors
26 constitutes ex officio the coordinating board, to the
27 administrator of the county care facility inspected and to its
28 ~~care-review~~ resident advocate committee, and to the department
29 of elder affairs.

30 Sec. 11. Section 227.4, Code 1999, is amended to read as
31 follows:

32 227.4 STANDARDS FOR CARE OF PERSONS WITH MENTAL ILLNESS OR
33 MENTAL RETARDATION IN COUNTY CARE FACILITIES.

34 The administrator, in cooperation with the department of
35 inspections and appeals, shall recommend, and the mental

1 health and developmental disabilities commission created in
2 section 225C.5 shall adopt standards for the care of and
3 services to persons with mental illness or mental retardation
4 residing in county care facilities. The standards shall be
5 enforced by the department of inspections and appeals as a
6 part of the licensure inspection conducted pursuant to chapter
7 135C. The objective of the standards is to ensure that
8 persons with mental illness or mental retardation who are
9 residents of county care facilities are not only adequately
10 fed, clothed, and housed, but are also offered reasonable
11 opportunities for productive work and recreational activities
12 suited to their physical and mental abilities and offering
13 both a constructive outlet for their energies and, if
14 possible, therapeutic benefit. When recommending standards
15 under this section, the administrator shall designate an
16 advisory committee representing administrators of county care
17 facilities, county mental health and developmental
18 disabilities regional planning councils, and county care
19 facility care-review resident advocate committees to assist in
20 the establishment of standards.

21 Sec. 12. Section 231.33, subsection 21, Code 1999, is
22 amended to read as follows:

23 21. Submit a report to the department of elder affairs
24 every six months, of the name of each health care facility in
25 its area for which the care-review resident advocate committee
26 has failed to submit the report required by rules adopted
27 pursuant to section 231.44.

28 Sec. 13. Section 231.42, subsection 6, Code 1999, is
29 amended to read as follows:

30 6. Administer the care-review resident advocate committee
31 program.

32 Sec. 14. Section 231.44, Code 1999, is amended to read as
33 follows:

34 231.44 CARE-REVIEW RESIDENT ADVOCATE COMMITTEE -- DUTIES
35 -- DISCLOSURE -- LIABILITY.

1 135C.25, 135C.38, and 231.44.

2 Sec. 16. Section 231B.2, subsection 2, paragraphs g and h,
3 Code 1999, are amended to read as follows:

4 g. The commission of elder affairs shall adopt by rule
5 procedures for appointing members of care-review resident
6 advocate committees for elder group homes.

7 h. Notwithstanding any other requirements relating to
8 performance of visitations or meetings of a care-review
9 resident advocate committee, a care-review resident advocate
10 committee appointed for an elder group home shall perform no
11 more than four visitations, annually, to fulfill the duties of
12 the care-review resident advocate committee in relation to the
13 elder group home.

14 Sec. 17. Section 235B.3, subsection 2, paragraph f, Code
15 1999, is amended to read as follows:

16 f. A person who performs inspections of elder group homes
17 for the department of elder affairs and a care-review resident
18 advocate committee member assigned to an elder group home
19 pursuant to chapter 231B.

20 Sec. 18. Section 669.14, subsection 12, Code 1999, is
21 amended to read as follows:

22 12. Any claim based upon the actions of a care-review
23 resident advocate committee member in the performance of duty
24 if the action is undertaken and carried out in good faith.

25 EXPLANATION

26 This bill changes the name of care review committee to
27 resident advocate committee throughout the Code.

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