

Boettger
Veenstra
Harper

SSB-1155
Human Resources

SENATE FILE _____ Succeeded By
BY (PROPOSED COMMITTEE ON CE/LC 300)
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 health care facility enforcement procedures.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

1 Section 1. Section 135C.19, subsection 1, Code 1999, is
2 amended to read as follows:

3 1. Following an inspection of a health care facility by
4 the department pursuant to this chapter, and, if requested by
5 the facility, the holding of an informal conference arranged
6 by the department pursuant to section 135C.42 to attempt to
7 correct or resolve any deficiency or violation found, the
8 department's final findings with respect to compliance by the
9 facility with requirements for licensing shall be made
10 available to the public in a readily available form and place.
11 Other information relating to a health care facility obtained
12 by the department which does not constitute the department's
13 findings from an inspection of the facility shall not be made
14 available to the public except in proceedings involving the
15 citation of a facility for a violation under section 135C.40,
16 or the denial, suspension, or revocation of a license under
17 this chapter. The name of a person who files a complaint with
18 the department shall be confidential.

19 Sec. 2. Section 135C.20A, subsection 1, Code 1999, is
20 amended to read as follows:

21 1. The department shall develop and utilize a report card
22 system for the recording of the final findings of any
23 inspection of a health care facility following, if requested
24 by the facility, the holding of an informal conference
25 arranged by the department pursuant to section 135C.42 to
26 attempt to resolve any deficiency or violation found. The
27 report card shall include but is not limited to a summary of
28 ~~the these final~~ findings of the inspection, ~~any violation~~
29 ~~found, any enforcement action taken~~ including any citations
30 ~~issued and penalties assessed, any actions taken to correct~~
31 ~~violations or deficiencies, and the nature and status of any~~
32 ~~action taken with respect to any~~ uncorrected violation for
33 which a citation was issued.

34 Sec. 3. Section 135C.40, Code 1999, is amended to read as
35 follows:

1 135C.40 CITATIONS WHEN VIOLATIONS FOUND -- PENALTIES --
2 EXCEPTION.

3 1. If the director determines, based on the findings of an
4 inspection or investigation of a health care facility, that
5 the facility is in violation of this chapter or rules adopted
6 under this chapter, the director within five working days
7 after making the determination, may shall issue a written
8 citation notice of violation to the facility. The notice
9 shall specifically describe the nature of the violation,
10 identifying the Code section or subsection or the rule or
11 standard violated, and the classification of the violation
12 under section 135C.36. The notice shall also, if appropriate,
13 state the time allowed for correction of the violation.

14 If, after receiving the notice, the facility fails to
15 correct the violation within the specified time or violates
16 the same provision, the director may issue a written citation
17 to the facility. The citation shall be served upon the
18 facility personally or by certified mail, except that a
19 citation for a Class III violation may be sent by ordinary
20 mail. Each citation shall specifically describe the nature of
21 the violation, identifying the Code section or subsection or
22 the rule or standard violated, and the classification of the
23 violation under section 135C.36. ~~Where appropriate, the~~ The
24 citation shall also state the period of time allowed for
25 correction of the violation, ~~which shall in each case be the~~
26 ~~shortest period of time the department deems feasible if~~
27 appropriate. Each violation shall be a separate offense. In
28 the case of a continuing violation, each day a violation
29 continues, after the time specified in the citation for
30 compliance, shall be a separate and distinct offense and
31 ~~Failure to correct a violation within the time specified,~~
32 ~~unless the licensee shows that the failure was due to~~
33 ~~circumstances beyond the licensee's control,~~ shall subject the
34 facility to a further penalty of fifty dollars for each day
35 that the violation continues after the time specified for

1 correction.

2 2. When a written notice or citation is served upon or
3 mailed to a health care facility under subsection 1 and the
4 licensee of the facility is not actually involved in the daily
5 operation of the facility, a copy of the written notice or
6 citation shall be mailed to the licensee. If the licensee is
7 a corporation, a copy of the written notice or citation shall
8 be sent to the corporation's office of record. If the written
9 notice or citation was issued pursuant to an inspection
10 resulting from a complaint filed under section 135C.37, a copy
11 of the written notice or citation shall be sent to the
12 complainant at the earliest time permitted by section 135C.19,
13 subsection 1.

14 3. a. No A health care facility shall not be issued a
15 written notice or cited for any violation caused by any
16 practitioner licensed pursuant to chapter 148, 150 or 150A if
17 that practitioner is not the licensee of and is not otherwise
18 financially interested in the facility, and the licensee or
19 the facility presents evidence that reasonable care and
20 diligence have been exercised in notifying the practitioner of
21 the practitioner's duty to the patients in the facility.

22 b. A health care facility shall not be issued a written
23 notice or cited for any violation or disciplined in any manner
24 for any action taken pursuant to any practitioner's order.

25 EXPLANATION

26 This bill provides that information provided to the public,
27 including report cards, regarding the results of a health care
28 facility inspection, is to be only that information regarding
29 final findings after the facility is provided the opportunity
30 of an informal conference with a representative of the
31 department of inspections and appeals to attempt to resolve or
32 correct any deficiency or violation found.

33 The bill also provides that notice is to be provided to a
34 health care facility regarding a violation prior to the
35 facility being issued a citation for a violation.

1155

S.F. _____ H.F. _____

1 The bill provides that a health care facility is not to be
2 issued a written notice or cited for a violation or
3 disciplined in any manner for following the order of a
4 practitioner.

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

REPRINTED

FILED MAR 3 1999

SENATE FILE 300
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 1155)

Passed Senate, Date ^(p. 632) 3-16-99 Passed House, Date _____
Vote: Ayes 50 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to health care facility enforcement procedures.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

SF 300

1 Section 1. Section 135C.19, subsection 1, Code 1999, is
2 amended to read as follows:

3 1. Following an inspection of a health care facility by
4 the department pursuant to this chapter, and, if requested by
5 the facility, the holding of an informal conference arranged
6 by the department pursuant to section 135C.42 to attempt to
7 correct or resolve any deficiency or violation found, the
8 department's final findings with respect to compliance by the
9 facility with requirements for licensing shall be made
10 available to the public in a readily available form and place.
11 Other information relating to a health care facility obtained
12 by the department which does not constitute the department's
13 findings from an inspection of the facility shall not be made
14 available to the public except in proceedings involving the
15 citation of a facility for a violation under section 135C.40,
16 or the denial, suspension, or revocation of a license under
17 this chapter. The name of a person who files a complaint with
18 the department shall be confidential.

19 Sec. 2. Section 135C.20A, subsection 1, Code 1999, is
20 amended to read as follows:

21 1. The department shall develop and utilize a report card
22 system for the recording of the final findings of any
23 inspection of a health care facility following, if requested
24 by the facility, the holding of an informal conference
25 arranged by the department pursuant to section 135C.42 to
26 attempt to resolve any deficiency or violation found. The
27 report card shall include but is not limited to a summary of
28 ~~the these final~~ findings of the inspection ~~any-violation~~
29 ~~found any-enforcement-action-taken~~ including any citations
30 ~~issued-and-penalties-assessed any-actions-taken-to-correct~~
31 ~~violations-or-deficiencies and-the-nature-and-status-of-any~~
32 ~~action-taken-with-respect-to-any~~ uncorrected violation for
33 which a citation was issued.

34 Sec. 3. Section 135C.40, Code 1999, is amended to read as
35 follows:

1 135C.40 CITATIONS WHEN VIOLATIONS FOUND -- PENALTIES --
2 EXCEPTION.

3 1. If the director determines, based on the findings of an
4 inspection or investigation of a health care facility, that
5 the facility is in violation of this chapter or rules adopted
6 under this chapter, the director within five working days
7 after making the determination, may shall issue a written
8 citation notice of violation to the facility. The notice
9 shall specifically describe the nature of the violation,
10 identifying the Code section or subsection or the rule or
11 standard violated, and the classification of the violation
12 under section 135C.36. The notice shall also, if appropriate,
13 state the time allowed for correction of the violation.

14 If, after receiving the notice, the facility fails to
15 correct the violation within the specified time or violates
16 the same provision, the director may issue a written citation
17 to the facility. The citation shall be served upon the
18 facility personally or by certified mail, except that a
19 citation for a Class III violation may be sent by ordinary
20 mail. Each citation shall specifically describe the nature of
21 the violation, identifying the Code section or subsection or
22 the rule or standard violated, and the classification of the
23 violation under section 135C.36. ~~Where appropriate, the~~ The
24 citation shall also state the period of time allowed for
25 correction of the violation, ~~which shall in each case be the~~
26 ~~shortest period of time the department deems feasible~~ if
27 appropriate. Each violation shall be a separate offense. In
28 the case of a continuing violation, each day a violation
29 continues, after the time specified in the citation for
30 compliance, shall be a separate and distinct offense and
31 ~~Failure to correct a violation within the time specified,~~
32 ~~unless the licensee shows that the failure was due to~~
33 ~~circumstances beyond the licensee's control,~~ shall subject the
34 facility to a further penalty of fifty dollars for each day
35 that the violation continues after the time specified for

1 correction.

2 2. When a written notice or citation is served upon or
3 mailed to a health care facility under subsection 1 and the
4 licensee of the facility is not actually involved in the daily
5 operation of the facility, a copy of the written notice or
6 citation shall be mailed to the licensee. If the licensee is
7 a corporation, a copy of the written notice or citation shall
8 be sent to the corporation's office of record. If the written
9 notice or citation was issued pursuant to an inspection
10 resulting from a complaint filed under section 135C.37, a copy
11 of the written notice or citation shall be sent to the
12 complainant at the earliest time permitted by section 135C.19,
13 subsection 1.

14 3. a. No A health care facility shall not be issued a
15 written notice or cited for any violation caused by any
16 practitioner licensed pursuant to chapter 148, 150 or 150A if
17 that practitioner is not the licensee of and is not otherwise
18 financially interested in the facility, and the licensee or
19 the facility presents evidence that reasonable care and
20 diligence have been exercised in notifying the practitioner of
21 the practitioner's duty to the patients in the facility.

22 b. A health care facility shall not be issued a written
23 notice or cited for any violation or disciplined in any manner
24 for any action taken pursuant to any practitioner's order.

25 EXPLANATION

26 This bill provides that information provided to the public,
27 including report cards, regarding the results of a health care
28 facility inspection, is to be only that information regarding
29 final findings after the facility is provided the opportunity
30 of an informal conference with a representative of the
31 department of inspections and appeals to attempt to resolve or
32 correct any deficiency or violation found.

33 The bill also provides that notice is to be provided to a
34 health care facility regarding a violation prior to the
35 facility being issued a citation for a violation.

1 The bill provides that a health care facility is not to be
2 issued a written notice or cited for a violation or
3 disciplined in any manner for following the order of a
4 practitioner.

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

SENATE FILE 300

S-3077

1 Amend Senate File 300 as follows:

2 1. Page 2, line 30, by striking the words
3 "offense and" and inserting the following: "offense."

4 2. Page 2, by striking lines 31 through 33 and
5 inserting the following: "Failure to correct a
6 violation within the time specified, unless the
7 licensee shows that the failure was due to
8 circumstances beyond the licensee's control, shall
9 subject the".

By NANCY BOETTGER

S-3077 FILED MARCH 16, 1999

ADOPTED (p.632)

SENATE FILE 300

S-3072

1 Amend Senate File 300 as follows:

2 1. Page 3, by striking lines 23 and 24, and
3 inserting the following: "notice or cited for any
4 violation by the department for adhering to a
5 practitioner's order."

By NANCY BOETTGER

S-3072 FILED MARCH 16, 1999

ADOPTED

(p.632)

**SENATE FILE 300
FISCAL NOTE**

A fiscal note for Senate File 300 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 300 amends Chapter 135C, Code of Iowa, as follows:

Section 135C.19(1) as amended requires the holding of an informal conference, if requested by a health facility, involving the facility and the Department of Inspections and Appeals to attempt to correct or resolve any deficiency or violation found by the Department before the Department's final findings are made public.

Section 135C.20A(1) as amended requires the holding of an informal conference, if requested by a health facility, involving the facility and the Department of Inspections and Appeals to attempt to correct or resolve any deficiency or violation found by the Department before the Department's final report card is issued and limits the content of the report card to uncorrected violations.

Section 135C.40 as amended requires the Director of the Department of Inspections and Appeals to issue a written notice of violations to a facility containing full details of any violation found by the Department. The notice must, if appropriate, specify the time allowed for correction of the violation.

Permits the Director to issue a written citation if the facility fails to correct the violation within the specified time or the facility violates the same provision.

Requires each violation to be a separate offense. Continuous violations are required to be deemed separate and distinct offenses for each day the violation continues after the specified time allowed for correction of the offense.

Permits the issuance of a written notice instead of a citation.

Specifies that a written notice shall not be given if a citation could not be given.

Prohibits the Department from issuing a facility a written notice or citation for adhering to a practitioner's order.

ASSUMPTIONS

1. The current number of requested hearings would double to 210 hearings.
2. An additional 1,600 hours of work would be required of salaried employees at no additional cost to the State.
3. An additional 700 hours of work would be required of non-salaried

-2-

employees at an additional cost to the State of \$32,000 in FY 2000 and \$33,000 in FY 2001.

- 4. Salaries will increase 3.0% for FY 2001 compared to FY 2000.
- 5. All violations would be corrected without the collection of a State fine.
- 6. Senate File 300 does not apply when in conflict with federal regulation.

FISCAL IMPACT

Senate File 300, as passed by the Senate, would cost the General Fund an estimated \$111,000 (\$79,000 decrease in fine revenue; \$32,000 increase in expenditures) in FY 2000. The cost to the General Fund in FY 2001 would be an estimated \$112,000 (\$79,000 decrease in fine revenue; \$33,000 increase in expenditures.)

	<u>Fiscal Year 2000</u>			<u>Fiscal Year 2001</u>		
	<u>Current</u>	<u>Proposed</u>	<u>Increase</u>	<u>Current</u>	<u>Proposed</u>	<u>Increase</u>
	<u>Law</u>	<u>Law</u>	<u>(Decrease)</u>	<u>Law</u>	<u>Law</u>	<u>(Decrease)</u>
<u>REVENUE</u>						
General Fund	\$ 90,000	\$ 90,000	\$ 0	\$ 90,000	\$ 90,000	\$ 0
State Fines	79,000	0	(79,000)	79,000	0	(79,000)
Total	\$169,000	\$ 90,000	\$ (79,000)	\$ 169,000	\$ 90,000	\$ (79,000)
<u>EXPENDITURES</u>						
Salaries	\$ 88,000	\$ 120,000	\$ 32,000	\$ 88,000	\$ 121,000	\$ 33,000
Total	\$ 88,000	\$ 120,000	\$ 32,000	\$ 88,000	\$ 121,000	\$ 33,000
NET EFFECT	\$ 81,000	\$ (30,000)	\$ (111,000)	\$ 81,000	\$ (31,000)	\$ (112,000)

SOURCES

Department of Inspections and Appeals

(LSB 2009sv, RNR)

FILED MARCH 22, 1999

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 300
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 1155)

(AS AMENDED AND PASSED BY THE SENATE MARCH 16, 1999)

_____ - New Language by the Senate

Passed Senate, Date _____ Passed House, Date _____

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

Approved _____

A BILL FOR

1 An Act relating to health care facility enforcement procedures.

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

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21

1 Section 1. Section 135C.19, subsection 1, Code 1999, is
2 amended to read as follows:

3 1. Following an inspection of a health care facility by
4 the department pursuant to this chapter, and, if requested by
5 the facility, the holding of an informal conference arranged
6 by the department pursuant to section 135C.42 to attempt to
7 correct or resolve any deficiency or violation found, the
8 department's final findings with respect to compliance by the
9 facility with requirements for licensing shall be made
10 available to the public in a readily available form and place.
11 Other information relating to a health care facility obtained
12 by the department which does not constitute the department's
13 findings from an inspection of the facility shall not be made
14 available to the public except in proceedings involving the
15 citation of a facility for a violation under section 135C.40,
16 or the denial, suspension, or revocation of a license under
17 this chapter. The name of a person who files a complaint with
18 the department shall be confidential.

19 Sec. 2. Section 135C.20A, subsection 1, Code 1999, is
20 amended to read as follows:

21 1. The department shall develop and utilize a report card
22 system for the recording of the final findings of any
23 inspection of a health care facility following, if requested
24 by the facility, the holding of an informal conference
25 arranged by the department pursuant to section 135C.42 to
26 attempt to resolve any deficiency or violation found. The
27 report card shall include but is not limited to a summary of
28 the these final findings of the inspection, ~~any violation~~
29 ~~found, any enforcement action taken~~ including any citations
30 ~~issued and penalties assessed, any actions taken to correct~~
31 ~~violations or deficiencies, and the nature and status of any~~
32 ~~action taken with respect to any~~ uncorrected violation for
33 which a citation was issued.

34 Sec. 3. Section 135C.40, Code 1999, is amended to read as
35 follows:

1 135C.40 CITATIONS WHEN VIOLATIONS FOUND -- PENALTIES --
2 EXCEPTION.

3 1. If the director determines, based on the findings of an
4 inspection or investigation of a health care facility, that
5 the facility is in violation of this chapter or rules adopted
6 under this chapter, the director within five working days
7 after making the determination, may shall issue a written
8 citation notice of violation to the facility. The notice
9 shall specifically describe the nature of the violation,
10 identifying the Code section or subsection or the rule or
11 standard violated, and the classification of the violation
12 under section 135C.36. The notice shall also, if appropriate,
13 state the time allowed for correction of the violation.

14 If, after receiving the notice, the facility fails to
15 correct the violation within the specified time or violates
16 the same provision, the director may issue a written citation
17 to the facility. The citation shall be served upon the
18 facility personally or by certified mail, except that a
19 citation for a Class III violation may be sent by ordinary
20 mail. Each citation shall specifically describe the nature of
21 the violation, identifying the Code section or subsection or
22 the rule or standard violated, and the classification of the
23 violation under section 135C.36. ~~Where appropriate, the~~ The
24 citation shall also state the period of time allowed for
25 correction of the violation, ~~which shall in each case be the~~
26 ~~shortest period of time the department deems feasible~~ if
27 appropriate. Each violation shall be a separate offense. In
28 the case of a continuing violation, each day a violation
29 continues, after the time specified in the citation for
30 compliance, shall be a separate and distinct offense. Failure
31 to correct a violation within the time specified, unless the
32 licensee shows that the failure was due to circumstances
33 beyond the licensee's control, shall subject the facility to a
34 further penalty of fifty dollars for each day that the
35 violation continues after the time specified for correction.

1 2. When a written notice or citation is served upon or
2 mailed to a health care facility under subsection 1 and the
3 licensee of the facility is not actually involved in the daily
4 operation of the facility, a copy of the written notice or
5 citation shall be mailed to the licensee. If the licensee is
6 a corporation, a copy of the written notice or citation shall
7 be sent to the corporation's office of record. If the written
8 notice or citation was issued pursuant to an inspection
9 resulting from a complaint filed under section 135C.37, a copy
10 of the written notice or citation shall be sent to the
11 complainant at the earliest time permitted by section 135C.19,
12 subsection 1.

13 3. a. No A health care facility shall not be issued a
14 written notice or cited for any violation caused by any
15 practitioner licensed pursuant to chapter 148, 150 or 150A if
16 that practitioner is not the licensee of and is not otherwise
17 financially interested in the facility, and the licensee or
18 the facility presents evidence that reasonable care and
19 diligence have been exercised in notifying the practitioner of
20 the practitioner's duty to the patients in the facility.

21 b. A health care facility shall not be issued a written
22 notice or cited for any violation by the department for
23 adhering to a practitioner's order.
24

25
26
27
28
29
30
31
32
33
34
35