

Senate Study Bill 1155

Bill Text

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1 1 Section 1. Section [135C.19](#), subsection 1, Code 1999, is
1 2 amended to read as follows:
1 3 1. Following an inspection of a health care facility by
1 4 the department pursuant to this chapter, and, if requested by
1 5 the facility, the holding of an informal conference arranged
1 6 by the department pursuant to section 135C.42 to attempt to
1 7 correct or resolve any deficiency or violation found, the
1 8 department's final findings with respect to compliance by the
1 9 facility with requirements for licensing shall be made
1 10 available to the public in a readily available form and place.
1 11 Other information relating to a health care facility obtained
1 12 by the department which does not constitute the department's
1 13 findings from an inspection of the facility shall not be made
1 14 available to the public except in proceedings involving the
1 15 citation of a facility for a violation under section 135C.40,
1 16 or the denial, suspension, or revocation of a license under
1 17 this chapter. The name of a person who files a complaint with
1 18 the department shall be confidential.

1 19 Sec. 2. Section [135C.20A](#), subsection 1, Code 1999, is
1 20 amended to read as follows:
1 21 1. The department shall develop and utilize a report card
1 22 system for the recording of the final findings of any
1 23 inspection of a health care facility following, if requested
1 24 by the facility, the holding of an informal conference
1 25 arranged by the department pursuant to section 135C.42 to
1 26 attempt to resolve any deficiency or violation found. The
1 27 report card shall include but is not limited to a summary of
1 28

~~the~~
~~these final~~ findings of the inspection

~~, any violation~~

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~~found, any enforcement action taken~~
~~including any~~

~~citations~~

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~~issued and penalties assessed, any actions taken to correct~~

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~~violations or deficiencies, and the nature and status of any~~

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~~action taken with respect to any~~
~~uncorrected violation for~~
1 33 which a citation was issued.

1 34 Sec. 3. Section [135C.40](#), Code 1999, is amended to read as
1 35 follows:

2 1 135C.40 CITATIONS WHEN VIOLATIONS FOUND PENALTIES

2 2 EXCEPTION.

2 3 1. If the director determines, based on the findings of an
2 4 inspection or investigation of a health care facility, that
2 5 the facility is in violation of this chapter or rules adopted
2 6 under this chapter, the director within five working days
2 7 after making the determination,

~~may~~

- shall issue a written

2 8

~~citation~~

- notice of violation to the facility. The notice

2 9 shall specifically describe the nature of the violation,

2 10 identifying the Code section or subsection or the rule or

2 11 standard violated, and the classification of the violation

2 12 under section 135C.36. The notice shall also, if appropriate,

2 13 state the time allowed for correction of the violation.

2 14 If, after receiving the notice, the facility fails to

2 15 correct the violation within the specified time or violates

2 16 the same provision, the director may issue a written citation

2 17 to the facility. The citation shall be served upon the

2 18 facility personally or by certified mail, except that a

2 19 citation for a Class III violation may be sent by ordinary

2 20 mail. Each citation shall specifically describe the nature of

2 21 the violation, identifying the Code section or subsection or

2 22 the rule or standard violated, and the classification of the

2 23 violation under section 135C.36.

~~Where appropriate, the~~

- The

2 24 citation shall also state the period of time allowed for

2 25 correction of the violation,

~~which shall in each case be the~~

-

2 26

~~shortest period of time the department deems feasible~~

- if

2 27 appropriate. Each violation shall be a separate offense. In

2 28 the case of a continuing violation, each day a violation

2 29 continues, after the time specified in the citation for

2 30 compliance, shall be a separate and distinct offense and

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~~Failure to correct a violation within the time specified,~~

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~~unless the licensee shows that the failure was due to~~

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~~circumstances beyond the licensee's control,~~

- shall subject the

2 34 facility to a further penalty of fifty dollars for each day

2 35 that the violation continues after the time specified for

3 1 correction.

3 2 2. When a written notice or citation is served upon or

3 3 mailed to a health care facility under subsection 1 and the

3 4 licensee of the facility is not actually involved in the daily

3 5 operation of the facility, a copy of the written notice or

3 6 citation shall be mailed to the licensee. If the licensee is

3 7 a corporation, a copy of the written notice or citation shall

3 8 be sent to the corporation's office of record. If the written

3 9 notice or citation was issued pursuant to an inspection
3 10 resulting from a complaint filed under section 135C.37, a copy
3 11 of the written notice or citation shall be sent to the
3 12 complainant at the earliest time permitted by section 135C.19,
3 13 subsection 1.
3 14 3. a.

~~No~~

- A health care facility shall not be issued a
3 15 written notice or cited for any violation caused by any
3 16 practitioner licensed pursuant to chapter 148, 150 or 150A if
3 17 that practitioner is not the licensee of and is not otherwise
3 18 financially interested in the facility, and the licensee or
3 19 the facility presents evidence that reasonable care and
3 20 diligence have been exercised in notifying the practitioner of
3 21 the practitioner's duty to the patients in the facility.

3 22 b. A health care facility shall not be issued a written
3 23 notice or cited for any violation or disciplined in any manner
3 24 for any action taken pursuant to any practitioner's order.

3 25 EXPLANATION

3 26 This bill provides that information provided to the public,
3 27 including report cards, regarding the results of a health care
3 28 facility inspection, is to be only that information regarding
3 29 final findings after the facility is provided the opportunity
3 30 of an informal conference with a representative of the
3 31 department of inspections and appeals to attempt to resolve or
3 32 correct any deficiency or violation found.

3 33 The bill also provides that notice is to be provided to a
3 34 health care facility regarding a violation prior to the
3 35 facility being issued a citation for a violation.

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

4 5 LSB 2009SC 78

4 6 pf/gg/8