

4/10/01 Rereferred To: Hammond Res.

MAR 19 2001
Place On Calendar

HOUSE FILE 648
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 510)

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

A BILL FOR

1 An Act relating to the delivery of services by certain health
2 care professionals and health facilities and providing
3 definitions.

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

HF 648

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1 Section 1. Section 135C.1, Code 2001, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 13A. "Nursing facility administrator"
4 means a person who administers, manages, supervises, or is in
5 general administrative charge of a nursing facility whether or
6 not such individual has an ownership interest in such facility
7 and whether or not the individual's functions and duties are
8 shared with one or more individuals.

9 NEW SUBSECTION. 15A. "Quality assessment and assurance
10 committee" means a committee consisting of those individuals
11 identified in 42 C.F.R. § 483.75(o)(1), who are responsible
12 for identifying issues which may adversely impact the quality
13 of care and services provided to residents, and developing and
14 implementing plans of action to correct identified quality
15 issues.

16 Sec. 2. Section 147.1, subsection 2, paragraph e,
17 subparagraph (6), Code 2001, is amended to read as follows:

18 (6) A health care entity, including but not limited to a
19 group medical practice or a health facility licensed under
20 chapter 135C, that provides health care services and follows a
21 formal peer review process for the purpose of furthering
22 quality health care.

23 Sec. 3. Section 147.135, subsection 2, Code 2001, is
24 amended to read as follows:

25 2. As used in this subsection, "peer review activity"
26 means the procedure by which peer review committees or quality
27 assessment and assurance committees, as defined in section
28 135C.1, monitor, evaluate, and recommend actions to improve
29 and assure the delivery and quality of services within the
30 committees' respective facilities, agencies, and professions,
31 including recommendations, consideration of recommendations,
32 actions with regard to recommendations, and implementation of
33 actions. As used in this subsection, "peer review records"
34 means all complaint files, investigation files, reports, and
35 other investigative information relating to the monitoring,

1 evaluation, and recommendation of actions to improve the
2 delivery and quality of health care services, licensee
3 discipline, or professional competence in the possession of a
4 peer review committee or an employee of a peer review
5 committee. As used in this subsection, "peer review
6 committee" does not include examining boards. Peer review
7 records are privileged and confidential, are not subject to
8 discovery, subpoena, or other means of legal compulsion for
9 release to a person other than an affected licensee or a peer
10 review committee and are not admissible in evidence in a
11 judicial or administrative proceeding other than a proceeding
12 involving licensee discipline or a proceeding brought by a
13 licensee who is the subject of a peer review record and whose
14 competence is at issue. A person shall not be liable as a
15 result of filing a report or complaint with a peer review
16 committee or providing information to such a committee, or for
17 disclosure of privileged matter to a peer review committee. A
18 person present at a meeting of a peer review committee shall
19 not be permitted to testify as to the findings,
20 recommendations, evaluations, or opinions of the peer review
21 committee in any judicial or administrative proceeding other
22 than a proceeding involving licensee discipline or a
23 proceeding brought by a licensee who is the subject of a peer
24 review committee meeting and whose competence is at issue.
25 Information or documents discoverable from sources other than
26 the peer review committee do not become nondiscoverable from
27 the other sources merely because they are made available to or
28 are in the possession of a peer review committee. However,
29 such information relating to licensee discipline may be
30 disclosed to an appropriate licensing authority in any
31 jurisdiction in which the licensee is licensed or has applied
32 for a license. If such information indicates a crime has been
33 committed, the information shall be reported to the proper law
34 enforcement agency. This subsection shall not preclude the
35 discovery of the identification of witnesses or documents

1 known to a peer review committee. Any final written decision
2 and finding of fact by a licensing board in a disciplinary
3 proceeding is a public record. Upon appeal by a licensee of a
4 decision of a licensing board, the entire case record shall be
5 submitted to the reviewing court. In all cases where
6 privileged and confidential information under this subsection
7 becomes discoverable, admissible, or part of a court record
8 the identity of an individual whose privilege has been
9 involuntarily waived shall be withheld.

10 Sec. 4. Section 147.136, Code 2001, is amended to read as
11 follows:

12 147.136 SCOPE OF RECOVERY.

13 In an action for damages for personal injury against a
14 physician and surgeon, osteopath, osteopathic physician and
15 surgeon, dentist, podiatric physician, optometrist,
16 pharmacist, chiropractor, nursing facility administrator, or
17 nurse licensed to practice that profession in this state, or
18 against a hospital or nursing facility licensed ~~for-operation~~
19 ~~in-this-state~~ under chapter 135C, based on the alleged
20 negligence of the practitioner in the practice of the
21 profession or occupation, or upon the alleged negligence of
22 ~~the~~ a hospital or nursing facility in patient care, in which
23 liability is admitted or established, the damages awarded
24 shall not include actual economic losses incurred or to be
25 incurred in the future by the claimant by reason of the
26 personal injury, including but not limited to, the cost of
27 reasonable and necessary medical care, rehabilitation
28 services, and custodial care, and the loss of services and
29 loss of earned income, to the extent that those losses are
30 replaced or are indemnified by insurance, or by governmental,
31 employment, or service benefit programs or from any other
32 source except the assets of the claimant or of the members of
33 the claimant's immediate family.

34 Sec. 5. Section 147.138, Code 2001, is amended to read as
35 follows:

1 147.138 CONTINGENT FEE OF ATTORNEY REVIEWED BY COURT.

2 In any action for personal injury or wrongful death against
3 any physician and surgeon, osteopath, osteopathic physician
4 and surgeon, dentist, podiatric physician, optometrist,
5 pharmacist, chiropractor, nursing facility administrator, or
6 nurse licensed under this chapter or against any hospital
7 licensed under chapter 135B, or nursing facility licensed
8 under chapter 135C, based upon the alleged negligence of the
9 licensee in the practice of that profession or occupation, or
10 upon the alleged negligence of the hospital or nursing
11 facility in patient care, the court shall determine the
12 reasonableness of any contingent fee arrangement between the
13 plaintiff and the plaintiff's attorney.

14 EXPLANATION

15 This bill provides a definition of "peer review activity"
16 and amends the definition of "peer review records" for
17 purposes of Code section 147.135, relating to the nonliability
18 of a person for acts, omissions, or decisions made in
19 connection with a person's service on a peer review committee.
20 The bill also amends the definition of "peer review committee"
21 to include members of nursing facilities licensed under Code
22 chapter 135.

23 The bill further adds nursing facilities and nursing
24 facility administrators to the list of existing health care
25 providers, subject to limitations of the recovery of actual
26 economic damages in malpractice actions, where such economic
27 damages are replaced or indemnified by a third-party source.
28 The bill further adds definitions of "quality assessment and
29 assurance committee" and "nursing facility administrator".

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