

MAR 3 2003
Place On Calendar

HOUSE FILE 387
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 200)

Passed House, Date 4/21/03 Passed Senate, Date Passed 4/17/03
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved 5/1/03

A BILL FOR

1 An Act relating to mental health and developmental disabilities
2 by revising life safety requirements for intermediate care
3 facilities for persons with mental retardation, expanding an
4 exemption to health care licensing requirements for certain
5 residential programs that receive funding under a medical
6 assistance home and community-based services waiver and
7 approval from the department of human services, and revising
8 membership requirements for the mental health and
9 developmental disabilities commission, and providing an
10 effective date.

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

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HF 387

1 Section 1. Section 135C.2, subsection 3, paragraph c, Code
2 2003, is amended to read as follows:

3 c. The rules adopted for intermediate care facilities for
4 persons with mental retardation shall be consistent with, but
5 no more restrictive than, the federal standards for
6 intermediate care facilities for persons with mental
7 retardation established pursuant to the federal Social
8 Security Act, § 1905(c)(d), as codified in 42 U.S.C. § 1396d,
9 in effect on January 1, 1989. However, in order for an
10 intermediate care facility for persons with mental retardation
11 to be licensed, the state fire marshal must certify to the
12 department ~~an-intermediate-care-facility-for-persons-with~~
13 ~~mental-retardation-as-meeting~~ that the facility meets the
14 applicable provisions of the rules adopted for such facilities
15 by the state fire marshal. The state fire marshal's rules
16 shall be based upon such a facility's compliance with either
17 the provisions applicable to health care occupancies chapter
18 or the residential board and care chapter occupancies of the
19 life safety code of the national fire protection association,
20 1985-edition. The department shall adopt additional rules for
21 intermediate care facilities for persons with mental
22 retardation pursuant to section 135C.14, subsection 8.

23 Sec. 2. Section 135C.6, subsection 8, Code 2003, is
24 amended to read as follows:

25 8. The following residential programs to which the
26 department of human services applies accreditation,
27 certification, or standards of review shall not be required to
28 be licensed as a health care facility under this chapter:

29 a. Residential programs providing care to not more than
30 four individuals and receiving moneys appropriated to the
31 department of human services under provisions of a federally
32 approved home and community-based services waiver for persons
33 with mental retardation or other medical assistance program
34 under chapter 249A ~~shall-not-be-required-to-be-licensed-as-a~~
35 ~~health-care-facility-under-this-chapter.~~ In approving a

1 residential program under this subsection paragraph, the
2 department of human services shall consider the geographic
3 location of the program so as to avoid an overconcentration of
4 such programs in an area. In order to be approved under this
5 subsection paragraph, a residential program shall not be
6 required to involve the conversion of a licensed residential
7 care facility for persons with mental retardation.

8 b. Not more than forty residential care facilities for
9 persons with mental retardation that are licensed to serve not
10 more than five individuals may be authorized by the department
11 of human services to convert to operation as a residential
12 program under the provisions of a medical assistance home and
13 community-based services waiver for persons with mental
14 retardation. A converted residential program operating under
15 this paragraph is subject to the conditions stated in
16 paragraph "a" except that the program shall not serve more
17 than five individuals.

18 c. A residential program approved by the department of
19 human services pursuant to this paragraph "c" to receive
20 moneys appropriated to the department of human services under
21 provisions of a federally approved home and community-based
22 services waiver for persons with mental retardation may
23 provide care to not more than five individuals. The
24 department shall approve a residential program under this
25 paragraph that complies with all of the following conditions:

26 (1) Approval of the program will not result in an
27 overconcentration of such programs in an area.

28 (2) The county in which the residential program is located
29 submits to the department of human services a letter of
30 support for approval of the program.

31 (3) The county in which the residential program is located
32 provides to the department of human services verification in
33 writing that the program is needed to address one or more of
34 the following:

35 (a) The quantity of services currently available in the

1 county is insufficient to meet the need.

2 (b) The quantity of affordable rental housing in the
3 county is insufficient.

4 (c) Implementation of the program will cause a reduction
5 in the size or quantity of larger congregate programs.

6 Sec. 3. Section 225C.5, subsection 1, paragraphs c and d,
7 Code 2003, are amended to read as follows:

8 c. One member shall be an active board member or employee
9 of a community mental health center selected from nominees
10 submitted by the Iowa association of community providers.

11 d. One member shall be an active board member or employee
12 of an agency serving persons with a developmental disability
13 selected from nominees submitted by the Iowa association of
14 community providers.

15 Sec. 4. EFFECTIVE DATE. This Act, being deemed of
16 immediate importance, takes effect upon enactment.

17 EXPLANATION

18 This bill relates to mental health and developmental
19 disabilities by revising requirements for intermediate care
20 facilities for persons with mental retardation (ICFMRs) in
21 Code section 135C.2 and expanding an exemption in Code section
22 135C.6 to health care licensing requirements for certain
23 residential programs that receive funding under a medical
24 assistance (Medicaid) home and community-based services (HCBS)
25 waiver and that receive approval from the department of human
26 services.

27 Current law in Code section 135C.2 provides that the
28 department of inspections and appeals' rules for ICFMRs cannot
29 be more restrictive than federal requirements for these
30 facilities as in effect in 1989 and the fire marshal's rules
31 are to be based upon the fire safety requirements published in
32 a 1985 edition of the life safety code. The bill removes the
33 reference to a particular year's edition of the life safety
34 code.

35 Current law in Code section 135C.6 applies a health care

1 licensing exemption to residential programs serving no more
2 than four individuals under the HCBS waiver. The bill
3 reenacts a provision repealed by 2002 Iowa Acts, chapter 1120.
4 This provision allows the licensing exemptions for conversion
5 of not more than 40 residential care facilities for persons
6 with mental retardation licensed to serve not more than five
7 individuals under Code chapter 135C to residential programs
8 operating under the HCBS waiver for persons with mental
9 retardation. The converted facilities are subject to the same
10 requirements as other such residential programs except not
11 more than five persons may receive services. The bill also
12 allows the exemption for residential programs approved by the
13 department to serve up to five individuals under an HCBS
14 waiver for persons with mental retardation, provided the
15 program has the support of the county in which the program is
16 located. The county must provide the support in writing and
17 verify certain conditions exist that would indicate a need for
18 the program.

19 The bill amends Code section 225C.5, relating to the mental
20 health and developmental disabilities commission, to provide
21 that membership slots designated for active board members of a
22 community mental health center and an agency serving persons
23 with a developmental disability may also be filled with center
24 and agency employees. The bill also provides that nominations
25 for both of these slots are provided by the Iowa association
26 of community providers.

27 The bill takes effect upon enactment.

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HOUSE FILE 387

S-3149

1 Amend House File 387, as passed by the House, as
2 follows:
3 1. Page 1, by striking lines 1 through 22.
4 2. Page 3, by striking lines 6 through 14, and
5 inserting the following:
6 "Sec. ____ . Section 225C.5, subsection 1, paragraph
7 c, Code 2003, is amended to read as follows:
8 c. One member shall be an active board member of a
9 community mental health center selected from nominees
10 submitted by the Iowa association of community
11 providers."
12 3. Title page, by striking lines 2 and 3, and
13 inserting the following: "by expanding an".
By COMMITTEE ON HUMAN RESOU
KEN VEENSTRA, CHAIRPERSON

S-3149 FILED APRIL 7, 2003

Adopted 4/17/03

HOUSE FILE 387

S-3252

1 Amend the amendment, S-3149, to House File 387, as
2 passed by the House, as follows:
3 1. Page 1, by striking line 3 and inserting the
4 following:
5 " ____ . Page 1, line 20, by striking the figure and
6 word "~~1985 edition~~" and inserting the following:
7 "~~1985~~ 2000 edition"."
By MAGGIE TINSMAN

S-3252 FILED APRIL 17, 2003
ADOPTED

SENATE AMENDMENT TO
HOUSE FILE 387

H-1367

1 Amend House File 387, as passed by the House, as
2 follows:
3 1. Page 1, line 20, by striking the figure and
4 word "~~1985 edition~~" and inserting the following:
5 "~~1985~~ 2000 edition".
6 2. Page 3, by striking lines 6 through 14, and
7 inserting the following:
8 "Sec. ____ . Section 225C.5, subsection 1, paragraph
9 c, Code 2003, is amended to read as follows:
10 c. One member shall be an active board member of a
11 community mental health center selected from nominees
12 submitted by the Iowa association of community
13 providers."
14 3. Title page, by striking lines 2 and 3, and
15 inserting the following: "by expanding an".

H-1367 FILED APRIL 18, 2003
House concurred 4/21/03

RECEIVED FROM THE SENATE

HOUSE FILE 387

AN ACT

RELATING TO MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES BY
EXPANDING AN EXEMPTION TO HEALTH CARE LICENSING REQUIREMENTS
FOR CERTAIN RESIDENTIAL PROGRAMS THAT RECEIVE FUNDING UNDER
A MEDICAL ASSISTANCE HOME AND COMMUNITY-BASED SERVICES
WAIVER AND APPROVAL FROM THE DEPARTMENT OF HUMAN SERVICES,
AND REVISING MEMBERSHIP REQUIREMENTS FOR THE MENTAL HEALTH
AND DEVELOPMENTAL DISABILITIES COMMISSION, AND PROVIDING AN
EFFECTIVE DATE.

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

Section 1. Section 135C.2, subsection 3, paragraph c, Code 2003, is amended to read as follows:

c. The rules adopted for intermediate care facilities for persons with mental retardation shall be consistent with, but no more restrictive than, the federal standards for intermediate care facilities for persons with mental retardation established pursuant to the federal Social Security Act, § 1905(c)(d), as codified in 42 U.S.C. § 1396d, in effect on January 1, 1989. However, in order for an intermediate care facility for persons with mental retardation

to be licensed, the state fire marshal must certify to the department ~~an intermediate care facility for persons with mental retardation as meeting that the facility meets the applicable provisions of the rules adopted for such facilities by the state fire marshal. The state fire marshal's rules shall be based upon such a facility's compliance with either the provisions applicable to health care occupancies chapter or the residential board and care chapter occupancies of the life safety code of the national fire protection association, 1985 2000 edition.~~ The department shall adopt additional rules for intermediate care facilities for persons with mental retardation pursuant to section 135C.14, subsection 8.

Sec. 2. Section 135C.6, subsection 8, Code 2003, is amended to read as follows:

8. The following residential programs to which the department of human services applies accreditation, certification, or standards of review shall not be required to be licensed as a health care facility under this chapter:

a. Residential programs providing care to not more than four individuals and receiving moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver for persons with mental retardation or other medical assistance program under chapter 249A ~~shall not be required to be licensed as a health care facility under this chapter.~~ In approving a residential program under this subsection paragraph, the department of human services shall consider the geographic location of the program so as to avoid an overconcentration of such programs in an area. In order to be approved under this subsection paragraph, a residential program shall not be required to involve the conversion of a licensed residential care facility for persons with mental retardation.

b. Not more than forty residential care facilities for persons with mental retardation that are licensed to serve not more than five individuals may be authorized by the department

of human services to convert to operation as a residential program under the provisions of a medical assistance home and community-based services waiver for persons with mental retardation. A converted residential program operating under this paragraph is subject to the conditions stated in paragraph "a" except that the program shall not serve more than five individuals.

c. A residential program approved by the department of human services pursuant to this paragraph "c" to receive moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver for persons with mental retardation may provide care to not more than five individuals. The department shall approve a residential program under this paragraph that complies with all of the following conditions:

- (1) Approval of the program will not result in an overconcentration of such programs in an area.
- (2) The county in which the residential program is located submits to the department of human services a letter of support for approval of the program.
- (3) The county in which the residential program is located provides to the department of human services verification in writing that the program is needed to address one or more of the following:
 - (a) The quantity of services currently available in the county is insufficient to meet the need.
 - (b) The quantity of affordable rental housing in the county is insufficient.
 - (c) Implementation of the program will cause a reduction in the size or quantity of larger congregate programs.

Sec. 3. Section 225C.5, subsection 1, paragraph c, Code 2003, is amended to read as follows:

c. One member shall be an active board member of a community mental health center selected from nominees submitted by the Iowa association of community providers.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

CHRISTOPHER C. RANTS
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 387, Eightieth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2003

THOMAS J. VILSACK
Governor