

House Study Bill 626

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC HEALTH BILL)

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

A BILL FOR

1 An Act providing for specified changes regarding programs under
2 the purview of the department of public health, providing a
3 penalty, and making an appropriation.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 5217DP 80
6 rn/cf/24

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1 1 Section 1. NEW SECTION. 135.39A GIFTS AND GRANTS FUND ==
2 APPROPRIATION.

1 3 The department is authorized to accept gifts, grants, or
1 4 allotments of funds from any source to be used for programs
1 5 authorized by this chapter or any other chapter which the
1 6 department is responsible for administering. A public health
1 7 gifts and grants fund is created as a separate fund in the
1 8 state treasury under the control of the department. The fund
1 9 shall consist of gift or grant moneys obtained from any
1 10 source, including the federal government. The moneys
1 11 collected under this section and deposited in the fund are
1 12 appropriated to the department for the public health purposes
1 13 specified in the gift or grant. Moneys in the fund shall not
1 14 be subject to appropriation or expenditure for any other
1 15 purpose. Notwithstanding section 8.33, moneys in the public
1 16 health gifts and grants fund at the end of each fiscal year
1 17 shall not revert to any other fund but shall remain in the
1 18 public health gifts and grants fund for expenditure for
1 19 subsequent fiscal years.

1 20 Sec. 2. Section 135.103, Code 2003, is amended to read as
1 21 follows:

1 22 135.103 GRANT PROGRAM.

1 23 The department shall implement a childhood lead poisoning
1 24 prevention grant program which provides matching funds to
1 25 local boards of health or cities for the program after
1 26 standards and requirements for the local program are
1 27 developed. The state shall provide funds to approved programs
1 28 on the basis of three dollars for each one dollar designated
1 29 by the local board of health or city for the program for the
~~1 30 first two years of a program, and funds on the basis of one~~
~~1 31 dollar for each one dollar designated by the local board of~~
~~1 32 health or city for the program for the third and subsequent~~
~~1 33 years of the program if such funding is determined necessary~~
~~1 34 by the department for such subsequent years. This requirement~~
~~1 35 shall apply to all federal, state, and other funds received by~~
2 1 the department for the childhood lead poisoning prevention
2 2 grant program. The department may also use federal, state, or
2 3 other funds provided for the childhood lead poisoning
2 4 prevention program to purchase environmental and blood testing
2 5 from a public health laboratory. A public health laboratory
2 6 shall not be required to designate matching funds.

2 7 Sec. 3. Section 136B.1, subsection 2, Code 2003, is
2 8 amended to read as follows:

2 9 2. The department shall establish programs and adopt rules
2 10 for the certification of persons who test for the presence of
2 11 radon gas and radon progeny in ~~buildings and for buildings,~~
2 12 the credentialing of persons abating the level of radon in
2 13 buildings, and construction standards for radon abatement
2 14 systems.

2 15 Sec. 4. Section 136B.3, Code 2003, is amended to read as
2 16 follows:

2 17 136B.3 TESTING AND REPORTING OF RADON LEVEL.

2 18 The department or its duly authorized agents shall from
2 19 time to time perform inspections and testing of the premises
2 20 of a property to determine the level at which it is
2 21 contaminated with radon gas or radon progeny as a spot-check
2 22 of the validity of measurements or the adequacy of abatement

2 23 measures performed by persons certified or credentialed under
2 24 section 136B.1. Following testing the department shall
2 25 provide the owner of the property with a written report of its
2 26 results including the concentration of radon gas or radon
2 27 progeny contamination present, an interpretation of the
2 28 results, and recommendation of appropriate action. A person
2 29 certified or credentialed under section 136B.1 shall also be
2 30 advised of the department's results, discrepancies revealed by
2 31 the spot-check, actions required of the person, and actions
2 32 the department intends to take with respect to the person's
2 33 continued certification or credentialing.

2 34 Sec. 5. Section 139A.2, subsection 20, Code Supplement
2 35 2003, is amended to read as follows:

3 1 20. "Quarantine" means the limitation of freedom of
3 2 movement of persons or animals that have been exposed to a
3 3 ~~communicable~~ quarantinable disease within specified limits
3 4 marked by placards for a period of time equal to the longest
3 5 usual incubation period of the disease in such manner as to
3 6 prevent the spread of a ~~communicable~~ quarantinable disease
3 7 which affects people.

3 8 Sec. 6. NEW SECTION. 139A.13A ISOLATION OR QUARANTINE ==
3 9 EMPLOYMENT PROTECTION.

3 10 1. An employer shall not discharge an employee, or take or
3 11 fail to take action regarding an employee's promotion or
3 12 proposed promotion, or take action to reduce an employee's
3 13 wages or benefits for actual time worked, due to the
3 14 compliance of an employee with a quarantine or isolation order
3 15 issued by the department or a local board.

3 16 2. An employer who violates this section commits a simple
3 17 misdemeanor.

3 18 3. An employee whose employer violates this section shall
3 19 also be entitled to recover damages from the employer
3 20 including, but not limited to, actual damages, court costs,
3 21 and reasonable attorney fees. The employee may also petition
3 22 the court for imposition of a cease and desist order against
3 23 the person's employer and for reinstatement to the person's
3 24 previous position of employment.

3 25 Sec. 7. Section 147.107, subsection 7, Code Supplement
3 26 2003, is amended by striking the subsection.

3 27 Sec. 8. Section 148.3, subsection 3, Code 2003, is amended
3 28 to read as follows:

3 29 3. Present to the medical examiners satisfactory evidence
3 30 that the applicant has successfully completed one year of
3 31 postgraduate internship or resident training in a hospital
3 32 approved for such training by the medical examiners.

3 33 Beginning July 1, 2006, an applicant who holds a valid
3 34 certificate issued by the educational commission for foreign
3 35 medical graduates shall submit satisfactory evidence of
4 1 successful completion of two years of such training.

4 2 Sec. 9. Section 148C.1, subsection 4, Code Supplement
4 3 2003, is amended to read as follows:

4 4 4. "Licensed physician assistant" means a person who is
4 5 licensed by the board to practice as a physician assistant
4 6 under the supervision of one or more physicians ~~specified in~~
4 7 ~~the license.~~ "Supervision" does not require the personal
4 8 presence of the supervising physician at the place where
4 9 medical services are rendered except insofar as the personal
4 10 presence is expressly required by this chapter or required by
4 11 rules of the board adopted pursuant to this chapter.

4 12 Sec. 10. Section 152.1, subsection 6, paragraph b, Code
4 13 Supplement 2003, is amended to read as follows:

4 14 b. Execute regimen prescribed by a physician, a nurse
4 15 practitioner, or a physician assistant.

4 16 Sec. 11. Section 154A.18, Code 2003, is amended to read as
4 17 follows:

4 18 154A.18 DISPLAY OF LICENSE.

4 19 A person shall not engage in business as a hearing aid
4 20 dispenser, or display a sign, or in any other way advertise or
4 21 claim to be a hearing aid dispenser after January 1, 1975,
4 22 unless the person holds a valid license issued by the
4 23 department as provided in this chapter. The license shall be
4 24 conspicuously posted in the person's ~~office or place of~~
4 25 ~~business primary location of practice.~~ The department shall
4 26 issue duplicate licenses to valid license holders operating
4 27 more than one office. A license confers upon the holder the
4 28 right to operate a business practice as a hearing aid
4 29 dispenser.

4 30 Sec. 12. Section 155.9, subsection 3, unnumbered paragraph
4 31 2, Code 2003, is amended to read as follows:

4 32 The board may also accept the voluntary surrender of such
4 33 license without necessity of a hearing. In the event of the

4 34 inability of the regular administrator of a nursing home to
4 35 perform the administrator's duties or through death or other
5 1 cause the nursing home is without a licensed administrator, a
5 2 provisional administrator may be appointed on a temporary
5 3 basis by the nursing home owner or owners, to perform such
5 4 duties for a period not to exceed ~~six months~~ one year.

5 5 Sec. 13. NEW SECTION. 156.16 UNLICENSED PRACTICE ==
5 6 INJUNCTIONS, CIVIL PENALTIES, CONSENT AGREEMENTS.

5 7 1. If the board has reasonable grounds to believe that a
5 8 person or establishment which is not licensed under this
5 9 chapter has engaged, or is about to engage, in an act or
5 10 practice which requires licensure under this chapter, or
5 11 otherwise violates a provision of this chapter, the board may
5 12 issue an order to require the unlicensed person or
5 13 establishment to comply with the provisions of this chapter,
5 14 and may impose a civil penalty not to exceed one thousand
5 15 dollars for each violation of this chapter by an unlicensed
5 16 person or establishment. Each day of a continued violation
5 17 constitutes a separate offense.

5 18 2. The board may conduct an investigation as needed to
5 19 determine whether probable cause exists to initiate the
5 20 proceedings described in this section. To aid in such an
5 21 investigation or in connection with any other proceeding under
5 22 this section, the board may issue subpoenas to compel
5 23 witnesses to testify or persons to produce evidence consistent
5 24 with the provisions of section 272C.6, subsection 3.

5 25 3. The board, in determining the amount of a civil penalty
5 26 to be imposed, may consider any of the following:

- 5 27 a. Whether the amount imposed will be a substantial
- 5 28 economic deterrent to the violation.
- 5 29 b. The circumstances leading to the violation.
- 5 30 c. The severity of the violation and the risk of harm to
- 5 31 the public.
- 5 32 d. The economic benefits gained by the violator as a
- 5 33 result of noncompliance.
- 5 34 e. The interest of the public.

5 35 4. The board, before issuing an order under this section,
6 1 shall provide the person or establishment written notice and
6 2 the opportunity to request a hearing. The hearing must be
6 3 requested within thirty days after receipt of the notice and
6 4 shall be conducted in the same manner as provided for
6 5 disciplinary proceedings involving a licensee under this
6 6 chapter.

6 7 5. The board may request the attorney general to bring an
6 8 action to enforce the subpoena.

6 9 6. A person or establishment aggrieved by the issuance of
6 10 an order or the imposition of a civil penalty under this
6 11 section may seek judicial review pursuant to section 17A.19.

6 12 7. If a person or establishment fails to pay a civil
6 13 penalty within thirty days after entry of an order imposing
6 14 the civil penalty, or, if the order is stayed pending an
6 15 appeal, within ten days after the court enters a final
6 16 judgment in favor of the board, the board shall notify the
6 17 attorney general. The attorney general may commence an action
6 18 to recover the amount of the penalty, including reasonable
6 19 attorney fees and costs.

6 20 8. An action to enforce an order under this section may be
6 21 joined with an action for an injunction pursuant to section
6 22 147.83.

6 23 9. The board, in its discretion and in lieu of issuing or
6 24 enforcing an order or imposing a civil penalty for an initial
6 25 violation under this section, may enter into a consent
6 26 agreement with a violator, or with a person who aided or
6 27 abetted a violator, which acknowledges the violation and the
6 28 violator's agreement to refrain from any further violation.

6 29 EXPLANATION

6 30 This bill provides for a number of technical and
6 31 substantive changes regarding programs under the purview of
6 32 the department of public health.

6 33 The bill provides for the establishment of a gifts and
6 34 grants fund, and provides that the department is authorized to
6 35 accept gifts, grants, or allotments of funds from any source
7 1 to be used for programs the department is authorized to
7 2 administer. The bill provides that the fund shall consist of
7 3 gift or grant moneys obtained from any source, including the
7 4 federal government, and that the moneys are appropriated to
7 5 the department for the public health purposes specified in the
7 6 gift or grant. The bill provides that moneys in the fund
7 7 shall not be subject to appropriation or expenditure for any
7 8 other purpose, and shall not revert to the general fund.

7 9 The bill provides for changes in funding provisions

7 10 concerning the childhood lead poisoning prevention grant
7 11 program. The bill provides for the deletion of language
7 12 currently providing for funding of \$3 by the state for every
7 13 \$1 provided locally for the first two years of a program,
7 14 changing to a dollar-for-dollar basis thereafter if determined
7 15 necessary. Instead, the bill provides that the \$3 to \$1 match
7 16 shall apply to all federal, state, and other funds received by
7 17 the department for the childhood lead poisoning prevention
7 18 grant program; that the department may also use federal,
7 19 state, or other funds provided for the childhood lead
7 20 poisoning prevention program to purchase environmental and
7 21 blood testing from a public health laboratory; and that a
7 22 public health laboratory shall not be required to designate
7 23 matching funds.

7 24 The bill provides, with reference to the radon testing and
7 25 abatement program contained in Code chapter 136B, that the
7 26 department shall establish programs and adopt rules relating
7 27 to construction standards for radon abatement systems. The
7 28 bill also provides that inspections and testing of premises as
7 29 a spot-check of radon contamination, currently conducted by
7 30 the Iowa department of public health, may be performed either
7 31 by the department or its duly authorized agents.

7 32 The bill provides employment protection provisions relating
7 33 to individuals complying with a quarantine or isolation order
7 34 issued by the department. The bill provides that an employer
7 35 shall not discharge an employee, or take or fail to take
8 1 action regarding an employee's promotion or proposed
8 2 promotion, or take action to reduce an employee's wages or
8 3 benefits for actual time worked, due to such compliance, and
8 4 that an employer who violates these provisions commits a
8 5 simple misdemeanor. The bill also provides that employees
8 6 shall be entitled to recover damages from an employer
8 7 including, and may petition the court for, imposition of a
8 8 cease and desist order against an employer and for
8 9 reinstatement to their previous position of employment.

8 10 The bill provides for changes relating to the definition of
8 11 "quarantine", deletion of outdated language relating to a
8 12 physician assistant rules review group, deletion of a
8 13 provision regarding specification of a supervising physician
8 14 in a physician assistant license, clarifying that the practice
8 15 of nursing includes execution of a regimen prescribed by a
8 16 nurse practitioner or physician assistant, and expansion of
8 17 the amount of postgraduate training for international medical
8 18 graduates from one year to two years beginning July 1, 2006.
8 19 The bill additionally provides for terminology changes
8 20 regarding engaging in business as a hearing aid dispenser,
8 21 providing that a license shall be displayed in the person's
8 22 primary location of practice as opposed to the current
8 23 requirement of posting in their office or place of business,
8 24 and characterizing the business as the "practice" of hearing
8 25 aid dispensing. The bill provides for an extension of time
8 26 from six months to one year regarding the duration during
8 27 which it is permissible for a provisional nursing home
8 28 administrator to perform such duties prior to obtaining
8 29 licensure.

8 30 The bill authorizes the board of mortuary science examiners
8 31 to impose civil penalties upon a finding of unlicensed
8 32 practice. The bill provides that the board may impose a civil
8 33 penalty upon an unlicensed person or establishment not to
8 34 exceed \$1,000 for each violation of Code chapter 156, and that
8 35 each day of a continued violation constitutes a separate
9 1 offense. The bill provides for board authority to conduct
9 2 investigations consistent with the provisions of Code section
9 3 272C.6, imposes notice and hearing requirements, specifies
9 4 factors to consider regarding determination by the board of
9 5 the amount of a civil penalty to be imposed, and includes
9 6 other provisions related to board authority to act in
9 7 unlicensed practice situations.