

SENATE FILE 139  
BY SCHUERER

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to elimination of the certificate of need  
2 provisions for certain new health services.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 139  
HUMAN RESOURCES

1 DIVISION VI  
2 REPORTING, ANALYSES, AND STUDIES  
3 HEALTH CARE FACILITIES AND HOSPITALS

4 Section 1. NEW SECTION. 135.73A DEFINITIONS.

5 For the purposes of this division, unless the context  
6 otherwise requires:

7 1. "Department" means the Iowa department of public  
8 health.

9 2. "Director" means the director of public health, or the  
10 director's designee.

11 3. "Financial reporting" means reporting by which  
12 hospitals and health care facilities shall respectively record  
13 their revenues, expenses, other income, other outlays, assets  
14 and liabilities, and units of services.

15 4. "Health care facility" means health care facility as  
16 defined in section 135C.1.

17 5. "Hospital" means hospital as defined in section 135B.1.

18 Sec. 2. Section 135C.2, subsection 5, unnumbered paragraph  
19 1, Code 2003, is amended to read as follows:

20 The department shall establish a special classification  
21 within the residential care facility category in order to  
22 foster the development of residential care facilities which  
23 serve persons with mental retardation, chronic mental illness,  
24 a developmental disability, or brain injury, as described  
25 under section 225C.26, and which contain five or fewer  
26 residents. ~~A facility within the special classification~~  
27 ~~established pursuant to this subsection is exempt from the~~  
28 ~~requirements of section 135.63.~~ The department shall adopt  
29 rules which are consistent with rules previously developed for  
30 the waiver demonstration project pursuant to 1986 Iowa Acts,  
31 chapter 1246, section 206, and which include all of the  
32 following provisions:

33 Sec. 3. Section 135H.6, Code 2003, is amended to read as  
34 follows:

35 135H.6 INSPECTION -- CONDITIONS FOR ISSUANCE.

1 The department shall issue a license to an applicant under  
2 this chapter if all the following conditions exist:

3 1. The department has ascertained that the applicant's  
4 medical facilities and staff are adequate to provide the care  
5 and services required of a psychiatric institution.

6 2. The proposed psychiatric institution is accredited by  
7 the joint commission on the accreditation of health care  
8 organizations, the commission on accreditation of  
9 rehabilitation facilities, the council on accreditation of  
10 services for families and children, or by any other recognized  
11 accrediting organization with comparable standards acceptable  
12 under federal regulation.

13 3. The applicant complies with applicable state rules and  
14 standards for a psychiatric institution adopted by the  
15 department in accordance with federal requirements under 42  
16 C.F.R. § 441.150--441.156.

17 ~~4. The applicant has been awarded a certificate of need~~  
18 ~~pursuant to chapter 1357, unless exempt as provided in this~~  
19 ~~section.~~

20 5. 4. The department of human services has submitted  
21 written approval of the application based on the department of  
22 human services' determination of need. The department of  
23 human services shall identify the location and number of  
24 children in the state who require the services of a  
25 psychiatric medical institution for children. Approval of an  
26 application shall be based upon the location of the proposed  
27 psychiatric institution relative to the need for services  
28 identified by the department of human services and an analysis  
29 of the applicant's ability to provide services and support  
30 consistent with requirements under chapter 232, particularly  
31 regarding community-based treatment. If the proposed  
32 psychiatric institution is not freestanding from a facility  
33 licensed under chapter 135B or 135C, approval under this  
34 subsection shall not be given unless the department of human  
35 services certifies that the proposed psychiatric institution

1 is capable of providing a resident with a living environment  
2 similar to the living environment provided by a licensee which  
3 is freestanding from a facility licensed under chapter 135B or  
4 135C.

5 ~~6-~~ 5. The department of human services shall not give  
6 approval to an application which would cause the total number  
7 of beds licensed under this chapter for services reimbursed by  
8 the medical assistance program under chapter 249A to exceed  
9 four hundred thirty beds.

10 ~~7-~~ 6. In addition to the beds authorized under subsection  
11 ~~6~~ 5, the department of human services may establish not more  
12 than thirty beds licensed under this chapter at the state  
13 mental health institute at Independence. ~~The-beds-shall-be~~  
14 ~~exempt-from-the-certificate-of-need-requirement-under~~  
15 ~~subsection-4-~~

16 ~~8-~~ 7. The department of human services may give approval  
17 to conversion of beds approved under subsection ~~6~~ 5, to beds  
18 which are specialized to provide substance abuse treatment.  
19 However, the total number of beds approved under subsection ~~6~~  
20 5 and this subsection shall not exceed four hundred thirty.  
21 ~~Conversion-of-beds-under-this-subsection-shall-not-require-a~~  
22 ~~revision-of-the-certificate-of-need-issued-for-the-psychiatric~~  
23 ~~institution-making-the-conversion-~~

24 ~~9-~~ 8. The proposed psychiatric institution is under the  
25 direction of an agency which has operated a facility licensed  
26 under section 237.3, subsection 2, paragraph "a", as a  
27 comprehensive residential facility for children for three  
28 years or of an agency which has operated a facility for three  
29 years providing psychiatric services exclusively to children  
30 or adolescents and the facility meets or exceeds requirements  
31 for licensure under section 237.3, subsection 2, paragraph  
32 "a", as a comprehensive residential facility for children.

33 ~~10-~~ 9. A psychiatric institution licensed prior to July 1,  
34 1999, may exceed the number of beds authorized under  
35 subsection ~~6~~ 5 if the excess beds are used to provide services

1 funded from a source other than the medical assistance program  
2 under chapter 249A. ~~Notwithstanding subsections 47, 57, and 67~~  
3 ~~the provision of services using those excess beds does not~~  
4 ~~require a certificate of need or a review by the department of~~  
5 ~~human services.~~

6 Sec. 4. Section 231B.2, subsection 1, Code 2003, is  
7 amended to read as follows:

8 1. The department shall establish by rule in accordance  
9 with chapter 17A a special classification for elder group  
10 homes. ~~An elder group home established pursuant to this~~  
11 ~~subsection is exempt from the requirements of section 135.63.~~

12 Sec. 5. Section 231C.3, subsection 1, Code 2003, is  
13 amended to read as follows:

14 1. The department shall establish, by rule in accordance  
15 with chapter 17A, a program for certification and monitoring  
16 of assisted living programs. An assisted living program which  
17 is voluntarily accredited is not required to also be certified  
18 by the department and the department shall accept voluntary  
19 accreditation in lieu of certification by the department. ~~An~~  
20 ~~assisted living program certified or voluntarily accredited~~  
21 ~~under this section is exempt from the requirements of section~~  
22 ~~135.63 relating to certificate of need requirements.~~

23 Sec. 6. Section 708.3A, subsection 5, Code 2003, is  
24 amended to read as follows:

25 5. As used in this section, "health care provider" means  
26 an emergency medical care provider as defined in chapter 147A  
27 or a person licensed or registered under chapter 148, 148C,  
28 148D, 150, 150A, or 152 who is providing or who is attempting  
29 to provide emergency medical services, as defined in section  
30 147A.1, or who is providing or who is attempting to provide  
31 health services ~~as defined in section 135.61~~ in a hospital.  
32 For the purposes of this section, "health services" means  
33 clinically related diagnostic, curative, or rehabilitative  
34 services, and includes alcoholism, drug abuse, and mental  
35 health services. A person who commits an assault under this

1 section against a health care provider in a hospital, or at  
2 the scene or during out-of-hospital patient transportation in  
3 an ambulance, is presumed to know that the person against whom  
4 the assault is committed is a health care provider.

5 Sec. 7. Sections 135.61 through 135.73, Code 2003, are  
6 repealed.

7 EXPLANATION

8 This bill eliminates the certificate of need program for  
9 health facilities, under the Iowa department of public health.  
10 The bill also makes conforming changes in the Code due to the  
11 elimination of the program.

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