

House Study Bill 241

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON UPMEYER)

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

A BILL FOR

1 An Act relating to the providing of another business or activity
2 in a health care facility.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2555YC 81
5 pf/pj/5

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1 1 Section 1. Section 135C.5, Code 2005, is amended to read
1 2 as follows:
1 3 135C.5 LIMITATIONS ON USE.
1 4 Another business or activity ~~serv~~ing persons other than the
1 5 residents of a health care facility shall not ~~may be carried~~
1 6 ~~on in a health care facility, or in provided in a designated~~
1 7 ~~part of the same physical structure with a of the health care~~
1 8 ~~facility, unless such business or activity is under the~~
1 9 ~~control of and is directly related to and incidental to the~~
1 10 ~~operation of the health care facility or unless the business~~
1 11 ~~or activity is approved by the department and the state fire~~
1 12 ~~marshal if the other business or activity meets the~~
1 13 ~~requirements of applicable state and federal laws,~~
1 14 ~~administrative rules, and federal regulations. A The~~
1 15 ~~department shall not limit the ability of a health care~~
1 16 ~~facility to provide another business or activity which is~~
1 17 ~~operated within the limitations of this section shall in the~~
1 18 ~~designated part of the facility if the business or activity~~
1 19 ~~does not interfere in any manner with the use of the facility~~
1 20 ~~by the residents or with the services provided to the~~
1 21 ~~residents, and shall is not be disturbing to them the~~
1 22 ~~residents. In denying the ability of a health care facility~~
1 23 ~~to provide another business or activity under this section,~~
1 24 ~~the burden of proof shall be on the department to demonstrate~~
1 25 ~~that the other business or activity substantially interferes~~
1 26 ~~with the use of the facility by the residents or the services~~
1 27 ~~provided to the residents, or is disturbing to the residents.~~
1 28 ~~The department and the state fire marshal, in accordance with~~
1 29 ~~chapter 17A, shall adopt rules which establish criteria for~~
1 30 ~~approval of a business or activity to be carried on in a~~
1 31 ~~health care facility or provided in a designated part of the~~
1 32 ~~same physical structure with of a health care facility.~~

EXPLANATION

1 34 This bill allows a health care facility to provide another
1 35 business or activity, serving persons other than the residents
2 1 of the health care facility, in a designated part of the
2 2 physical structure of the health care facility, if the other
2 3 business or activity meets the requirements of applicable
2 4 state and federal laws, administrative rules, and federal
2 5 regulations. The bill prohibits the department of inspections
2 6 and appeals from limiting the ability of a health care
2 7 facility to provide another business or activity in the
2 8 designated part of the facility if the business or activity
2 9 does not interfere with the use of the facility by the
2 10 residents or with the services provided to the residents, and
2 11 is not disturbing to the residents. In denying the ability of
2 12 a health care facility to provide another business or activity
2 13 in the physical structure of the health care facility, the
2 14 burden of proof is on the department to demonstrate that the
2 15 business or activity substantially interferes with the use of
2 16 the facility by, or the services provided to, the residents,
2 17 or is disturbing to the residents. The bill also directs the
2 18 state fire marshal to adopt rules to establish criteria for

2 19 approval of a business or activity to be provided in a
2 20 designated part of the physical structure of a health care
2 21 facility.
2 22 Current law provides that another business or activity is
2 23 prohibited from being carried on in the health care facility
2 24 or in the same physical structure as the health care facility
2 25 unless the business or activity is under the control of and is
2 26 directly related and incidental to, the operation of the
2 27 health care facility, or unless the department of inspections
2 28 and appeals and the state fire marshal approve the business or
2 29 activity. Current law does not specify that the population
2 30 served by the business or activity is persons other than
2 31 residents of the facility. Current law also directs the
2 32 department of inspections and appeals and the state fire
2 33 marshal to adopt rules to establish criteria for approval of a
2 34 business or activity being carried on in a health care
2 35 facility or the same physical structure with a health care
3 1 facility.
3 2 LSB 2555YC 81
3 3 pf:nh/pj/5