

Senate File 399 - Introduced

SENATE FILE _____
BY DOTZLER

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

A BILL FOR

1 An Act relating to the mitigation of violations by health care
2 facilities in lieu of fines.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2049SS 83
5 jr/nh/8

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1 1 Section 1. Section 135C.36, Code 2009, is amended to read
1 2 as follows:
1 3 135C.36 VIOLATIONS CLASSIFIED == PENALTIES.
1 4 1. Every violation by a health care facility of any
1 5 provision of this chapter or of the rules adopted pursuant to
1 6 it shall be classified by the department in accordance with
1 7 this section. The department shall adopt and may from time to
1 8 time modify, in accordance with chapter 17A rules setting
1 9 forth so far as feasible the specific violations included in
1 10 each classification and stating criteria for the
1 11 classification of any violation not so listed.
1 12 ~~1.~~ a. A Class I violation is one which presents an
1 13 imminent danger or a substantial probability of resultant
1 14 death or physical harm to the residents of the facility in
1 15 which the violation occurs. A physical condition or one or
1 16 more practices in a facility may constitute a Class I
1 17 violation. A Class I violation shall be abated or eliminated
1 18 immediately unless the department determines that a stated
1 19 period of time, specified in the citation issued under section
1 20 135C.40, is required to correct the violation. A licensee is
1 21 subject to a penalty of not less than two thousand nor more
1 22 than ten thousand dollars for each Class I violation for which
1 23 the licensee's facility is cited.
1 24 ~~2.~~ b. A Class II violation is one which has a direct or
1 25 immediate relationship to the health, safety or security of
1 26 residents of a health care facility, but which presents no
1 27 imminent danger nor substantial probability of death or
1 28 physical harm to them. A physical condition or one or more
1 29 practices within a facility, including either physical abuse
1 30 of any resident or failure to treat any resident with
1 31 consideration, respect and full recognition of the resident's
1 32 dignity and individuality, in violation of a specific rule
1 33 adopted by the department, may constitute a Class II
1 34 violation. A violation of section 135C.14, subsection 8, or
1 35 section 135C.31 and rules adopted under those sections shall
2 1 be at least a Class II violation and may be a Class I
2 2 violation. A Class II violation shall be corrected within a
2 3 stated period of time determined by the department and
2 4 specified in the citation issued under section 135C.40. The
2 5 stated period of time specified in the citation may
2 6 subsequently be modified by the department for good cause
2 7 shown. A licensee is subject to a penalty of not less than one
2 8 hundred nor more than five hundred dollars for each Class II
2 9 violation for which the licensee's facility is cited, however
2 10 the director may waive the penalty if the violation is
2 11 corrected within the time specified in the citation.
2 12 ~~3.~~ c. A Class III violation is any violation of this
2 13 chapter or of the rules adopted pursuant to it which violation
2 14 is not classified in the department's rules nor classifiable
2 15 under the criteria stated in those rules as a Class I or a
2 16 Class II violation. A licensee shall not be subject to a
2 17 penalty for a Class III violation, except as provided by
2 18 section 135C.40, subsection 1 for failure to correct the

2 19 violation within a reasonable time specified by the department
2 20 in the notice of the violation.

2 21 2. Notwithstanding any provision of this chapter to the
2 22 contrary, in lieu of the payment of a fine for a violation as
2 23 provided in this section, the department may authorize the
2 24 facility to expend any portion of that money, under department
2 25 supervision, to mitigate the violation or to improve
2 26 patient-related services.

2 27 EXPLANATION

2 28 This bill would allow the department of inspections and
2 29 appeals to authorize a health care facility that is cited for
2 30 a violation to use all or a portion of the money which would
2 31 otherwise be paid as a fine to be used in mitigation of the
2 32 violation itself or to improve patient-related services.

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