

House File 2420 - Introduced

HOUSE FILE 2420
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 622)

A BILL FOR

1 An Act relating to department of public health programs and
2 activities, providing for a penalty, and including effective
3 and applicability date provisions.

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

DIVISION I

NURSING HOME ADMINISTRATORS

1
2
3 Section 1. Section 155.1, unnumbered paragraph 1, Code
4 2011, is amended to read as follows:

5 For the purposes of this chapter, ~~and as used herein:~~

6 Sec. 2. Section 155.3, subsections 2 and 3, Code 2011, are
7 amended to read as follows:

8 2. The applicant has ~~satisfactorily completed a course of~~
9 ~~instruction and training prescribed by the board, which course~~
10 ~~shall be so designed as to content and so administered as to~~
11 ~~present sufficient knowledge of the needs properly to be served~~
12 ~~by nursing homes; knowledge of the laws governing the operation~~
13 ~~of nursing homes and the protection of the interests of~~
14 ~~patients therein; and knowledge of the elements of good nursing~~
15 ~~home administration; or has presented evidence satisfactory to~~
16 the board of sufficient education, training, or experience in
17 the foregoing fields to administer, supervise, and manage a
18 nursing home.

19 3. The applicant has passed an examination administered
20 prescribed by the board and ~~designed to test for competence in~~
21 ~~the subject matter referred to in subsection 2 of this section~~
22 pursuant to section 147.34.

23 Sec. 3. Section 155.4, Code 2011, is amended to read as
24 follows:

25 **155.4 Licensing function.**

26 The board shall license nursing home administrators in
27 accordance with this chapter, chapter 147, and rules issued,
28 ~~and from time to time revised, by it~~ by the board. A nursing
29 home administrator's license shall not be transferable and,
30 if not inactive, shall be valid until revoked pursuant to
31 section 147.55 or voluntarily surrendered for cancellation
32 ~~or suspended or revoked for violation of this chapter or any~~
33 ~~other laws or regulations relating to the proper administration~~
34 ~~and management of a nursing home. Any denial of issuance or~~
35 ~~renewal, suspension, or revocation under any section of this~~

1 ~~chapter shall be subject to judicial review in accordance with~~
2 ~~the terms of the Iowa administrative procedure Act, chapter~~
3 ~~17A.~~

4 Sec. 4. Section 155.5, Code 2011, is amended to read as
5 follows:

6 **155.5 License fees.**

7 Each person licensed as a nursing home administrator shall
8 be required to pay a license fee in an amount to be fixed by
9 the board. The license shall expire in multiyear intervals
10 determined by the board and be renewable and upon payment of
11 the license a renewal fee. A person who fails to renew a
12 license by the expiration date shall be allowed to do so within
13 thirty days following its expiration, but the board may assess
14 a reasonable penalty.

15 Sec. 5. Section 155.9, Code 2011, is amended to read as
16 follows:

17 **155.9 Duties of the board.**

18 ~~The~~ In addition to the duties and responsibilities provided
19 in chapters 147 and 272C, the board shall have the duty and
20 responsibility to:

21 ~~1. Develop, impose, and enforce standards which must be~~
22 ~~met by individuals in order to receive a license as a nursing~~
23 ~~home administrator, which standards shall be designed to~~
24 ~~insure that nursing home administrators will be individuals~~
25 ~~who, by training or experience in the field of institutional~~
26 ~~administration, are qualified to serve as nursing home~~
27 ~~administrators.~~

28 ~~2. Develop and apply appropriate techniques, including~~
29 ~~examination and investigations, for determining whether an~~
30 ~~individual meets such standards. The board may administer~~
31 ~~as many examinations per year as are necessary, but shall~~
32 ~~administer at least one examination per year. Any written~~
33 ~~examination may be given by representatives of the board.~~
34 ~~Applicants who fail the examination once shall be allowed to~~
35 ~~take the examination at the next scheduled time. Thereafter,~~

1 ~~the applicant shall be allowed to take the examination at the~~
2 ~~discretion of the board. An applicant who has failed the~~
3 ~~examination may request in writing information from the board~~
4 ~~concerning the applicant's examination grade and subject areas~~
5 ~~or questions which the applicant failed to answer correctly,~~
6 ~~except that if the board administers a uniform, standardized~~
7 ~~examination, the board shall only be required to provide the~~
8 ~~examination grade and such other information concerning the~~
9 ~~applicant's examination results which are available to the~~
10 ~~board.~~

11 ~~3. Issue licenses to individuals who, after application~~
12 ~~of such techniques, are found to have met such standards; and~~
13 ~~for cause and after due notice and hearing, revoke or suspend~~
14 ~~licenses previously issued by such board in any case where~~
15 ~~the individual holding such license is found to have failed~~
16 ~~substantially to conform to the requirements of such standards.~~

17 ~~The board may also accept the voluntary surrender of such~~
18 ~~license without necessity of a hearing. In adopt rules for~~
19 ~~granting a provisional license to an administrator appointed~~
20 ~~on a temporary basis by a nursing home's owner or owners in the~~
21 ~~event of the inability of the regular administrator of a the~~
22 ~~nursing home is unable to perform the administrator's duties~~
23 ~~or through death or other cause the nursing home is without~~
24 ~~a licensed administrator, a provisional administrator may be~~
25 ~~appointed on a temporary basis by the nursing home owner or~~
26 ~~owners to perform such duties for a period not to exceed one~~
27 ~~year because of death or other cause. Such provisional license~~
28 ~~shall allow the provisional licensee to perform the duties of~~
29 ~~a nursing home administrator. An individual shall not hold a~~
30 ~~provisional license for more than twelve total combined months,~~
31 ~~and the board may revoke or otherwise discipline a provisional~~
32 ~~licensee for cause after due notice and a hearing on a charge~~
33 ~~or complaint filed with the board.~~

34 ~~4. Establish and carry out procedures designed to insure~~
35 ~~that individuals licensed as nursing home administrators will,~~

1 ~~during any period that they serve as such, comply with the~~
2 ~~requirements of such standards.~~

3 ~~5. Receive, investigate, and take appropriate action with~~
4 ~~respect to any charge or complaint filed with the board to~~
5 ~~the effect that any individual licensed as a nursing home~~
6 ~~administrator has failed to comply with the requirements~~
7 ~~of such standards. Such appropriate action may include~~
8 ~~revocation of a license, if necessary, or placing the licensee~~
9 ~~on probation for a period not exceeding six months, and shall~~
10 ~~be taken only for cause after due notice and a hearing on the~~
11 ~~charge or complaint.~~

12 ~~6. Conduct a continuing study and investigation of nursing~~
13 ~~homes, and administrators of nursing homes, in this state~~
14 ~~with a view to the improvement of the standards imposed for~~
15 ~~the licensing of such administrators and of procedures and~~
16 ~~methods for the enforcement of such standards with respect to~~
17 ~~administrators of nursing homes who have been licensed as such.~~

18 ~~7. Conduct, or cause to be conducted, one or more courses of~~
19 ~~instruction and training sufficient to meet the requirements~~
20 ~~of this chapter, and make provisions for such courses and~~
21 ~~their accessibility to residents of this state unless it finds~~
22 ~~that there are, and approves, a sufficient number of courses,~~
23 ~~which courses are conducted by others within this state. In~~
24 ~~lieu thereof the board may approve courses conducted within~~
25 ~~and without this state as sufficient to meet the education and~~
26 ~~training requirements of this chapter.~~

27 Sec. 6. Section 155.10, Code 2011, is amended by striking
28 the section and inserting in lieu thereof the following:

29 **155.10 Continuing education.**

30 Each person licensed as a nursing home administrator shall
31 be required to complete continuing education as a condition of
32 license renewal. Such continuing education requirements shall
33 be determined by the board.

34 Sec. 7. Section 155.14, Code 2011, is amended to read as
35 follows:

1 **155.14 Applications.**

2 Applications for licensure and for license renewal shall be
3 ~~on forms in the format prescribed and furnished~~ by the board
4 ~~and shall not contain a recent photograph of the applicant. An~~
5 ~~applicant shall not be ineligible for licensure because of age,~~
6 ~~citizenship, sex, race, religion, marital status or national~~
7 ~~origin although the application may require citizenship~~
8 ~~information. The board may consider the past felony record of~~
9 ~~an applicant only if the felony conviction relates directly~~
10 ~~to the practice of nursing home administration. Character~~
11 ~~references may be required, but shall not be obtained from~~
12 ~~licensed nursing home administrators.~~

13 Sec. 8. NEW SECTION. **155.19 Voluntary surrender.**

14 The board may accept the voluntary surrender of a license if
15 accompanied by a written statement of intention. The voluntary
16 surrender, when accepted, shall have the same force and effect
17 as an order of revocation.

18 Sec. 9. REPEAL. Sections 155.2, 155.15, and 155.16, Code
19 2011, are repealed.

20 DIVISION II

21 HEARING AID DISPENSERS

22 Sec. 10. Section 154A.7, Code 2011, is amended to read as
23 follows:

24 **154A.7 ~~Meetings and expenses~~ Board meetings.**

25 ~~The members of the board shall receive actual expenses~~
26 ~~incurred in the discharge of their duties within the limits of~~
27 ~~funds appropriated to the board. Each member of the board may~~
28 ~~also be eligible to receive compensation as provided in section~~
29 ~~7E.6. The board shall meet at least one time per year at the~~
30 ~~seat of government and may hold additional meetings as deemed~~
31 ~~necessary. Additional meetings shall be held at the call of~~
32 ~~the chairperson or a majority of the members of the board.~~
33 ~~At any meeting of the board, a majority of the members shall~~
34 ~~constitute a quorum.~~

35 Sec. 11. Section 154A.10, Code 2011, is amended to read as

1 follows:

2 **154A.10 Issuance of licenses.**

3 ~~After January 1, 1975, an~~ An applicant may obtain a license,
4 if the applicant:

5 1. Successfully passes the qualifying examination
6 prescribed in section 154A.12.

7 2. Is free of contagious or infectious disease.

8 3. Pays the necessary fees set by the board ~~pursuant to~~
9 ~~section 154A.17.~~

10 Sec. 12. Section 154A.12, subsection 1, paragraph a, Code
11 2011, is amended to read as follows:

12 a. ~~Written tests~~ Evidence of knowledge in areas such as
13 physics of sound, anatomy and physiology of hearing, and the
14 function of hearing aids, as these areas pertain to the fitting
15 or selection and sale of hearing aids.

16 Sec. 13. Section 154A.13, Code 2011, is amended to read as
17 follows:

18 **154A.13 Temporary permit.**

19 A person who has not been ~~employed~~ licensed as a hearing
20 aid dispenser ~~prior to January 1, 1975,~~ may obtain a temporary
21 permit from the department upon completion of the application
22 accompanied by the written verification of employment from a
23 licensed hearing aid dispenser. The department shall issue a
24 temporary permit for one year which shall not be renewed or
25 reissued. The fee for issuance of the temporary permit shall
26 be set by the board ~~pursuant to section 154A.17~~ in accordance
27 with the provisions for establishment of fees in section
28 147.80. The temporary permit entitles an applicant to engage
29 in the fitting or selection and sale of hearing aids under the
30 supervision of a person holding a valid license.

31 Sec. 14. Section 154A.23, Code 2011, is amended to read as
32 follows:

33 **154A.23 ~~Complaints~~ Disciplinary orders — attorney general.**

34 ~~Any person wishing to make a complaint against a licensee~~
35 ~~or holder of a temporary permit shall file a written statement~~

1 ~~with the board within twelve months from the date of the action~~
2 ~~upon which the complaint is based. If the board determines~~
3 ~~that the complaint alleges facts which, if proven, would be~~
4 ~~cause for the suspension or revocation of the license of the~~
5 ~~licensee or the permit of the holder of a temporary permit,~~
6 ~~it shall make an order fixing a time and place for a hearing~~
7 ~~and requiring the licensee or holder of a temporary permit~~
8 ~~complained against to appear and defend. The order shall~~
9 ~~contain a copy of the complaint, and the order and copy of~~
10 ~~the complaint shall be served upon the licensee or holder~~
11 ~~of a temporary permit at least twenty days before the date~~
12 ~~set for hearing, either personally or as provided in section~~
13 ~~154A.21. Continuance or adjournment of a hearing date may be~~
14 ~~made for good cause. At the hearing the licensee or holder~~
15 ~~of a temporary permit may be represented by counsel. The~~
16 ~~licensee or holder of a temporary permit and the board may take~~
17 ~~depositions in advance of hearing and after service of the~~
18 ~~complaint, and either may compel the attendance of witnesses~~
19 ~~by subpoenas issued by the board. The board shall issue such~~
20 ~~subpoenas at the request of a licensee or holder of a temporary~~
21 ~~permit. Either party taking depositions shall give at least~~
22 ~~five days' written notice to the other party of the time and~~
23 ~~place of such depositions, and the other party may attend, with~~
24 ~~counsel, if desired, and cross-examine.~~

25 ~~If the board determines from the evidence and proofs~~
26 ~~submitted that the licensee or holder of a temporary permit is~~
27 ~~guilty of violating any of the provisions of this chapter, or~~
28 ~~any of the regulations promulgated by the board pursuant to~~
29 ~~this chapter, the department shall, within thirty days after~~
30 ~~the hearing, issue an order refusing to issue or renew, or~~
31 ~~revoking or suspending, as the case may be, the hearing aid~~
32 ~~dispenser's license or temporary permit. The order shall~~
33 ~~include the findings of fact and the conclusions of law made by~~
34 ~~the board and counsel. A copy of the order shall be sent to the~~
35 ~~licensee or holder of a temporary permit by registered mail.~~

~~1 The records of the department shall reflect the action taken
2 by the board on the charges, and the department shall preserve
3 a record of the proceedings in a manner similar to that used by
4 courts of record in this state.~~

~~5 The final order of the board in the proceedings may be
6 appealed to the district court of the county where the licensee
7 or holder of a temporary permit resides, or in which the
8 licensed hearing aid dispenser's principal place of business
9 is located.~~

~~10 The department shall send a copy of the complaint and
11 a copy of the board's final order to the attorney general
12 for purposes of information in the event the licensee or
13 holder of a temporary permit pursues a court appeal and for
14 consideration as to whether the violations are flagrant enough
15 to justify prosecution. The board shall forward a copy of
16 all final disciplinary orders, with associated complaints,
17 to the attorney general for consideration for prosecution or
18 enforcement when warranted. The attorney general and all
19 county attorneys shall assist the board and the department in
20 the enforcement of the provisions of this chapter.~~

21 Sec. 15. REPEAL. Sections 154A.2, 154A.3, 154A.4, 154A.5,
22 154A.6, 154A.8, 154A.9, 154A.11, 154A.14, 154A.15, 154A.17, and
23 154A.18, Code 2011, are repealed.

24 DIVISION III

25 LOCAL BOARDS OF HEALTH

26 Sec. 16. Section 135.1, subsection 6, Code 2011, is amended
27 by striking the subsection.

28 Sec. 17. Section 137.112, Code 2011, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. 4. This section does not apply to any
31 district board of health or district health department in
32 existence prior to July 1, 2010.

33 Sec. 18. Section 331.502, subsection 8, Code 2011, is
34 amended by striking the subsection.

35 Sec. 19. REPEAL. Section 135.32, Code 2011, is repealed.

1 Sec. 20. EFFECTIVE UPON ENACTMENT. The following provision
2 or provisions of this division of this Act, being deemed of
3 immediate importance, take effect upon enactment:

4 1. The section of this Act amending section 137.112.

5 Sec. 21. RETROACTIVE APPLICABILITY. The following
6 provision or provisions of this division of this Act apply
7 retroactively to July 1, 2010:

8 1. The section of this Act amending section 137.112.

9 DIVISION IV

10 FEDERAL GRANTS REPORTING

11 Sec. 22. Section 135.11, Code Supplement 2011, is amended by
12 adding the following new subsection:

13 NEW SUBSECTION. 31. Report to the chairpersons and ranking
14 members of the joint appropriations subcommittee on health
15 and human services, the legislative services agency, the
16 legislative caucus staffs, and the department of management
17 within sixty calendar days of applying for or renewing a
18 federal grant which requires a state match or maintenance of
19 effort and has a value of over one hundred thousand dollars.
20 The report shall list the federal funding source and address
21 the potential need for the commitment of state funding in order
22 to match or continue the funding provided by the federal grant
23 in the present or future.

24 DIVISION V

25 HIV CONFIDENTIALITY

26 Sec. 23. Section 141A.9, Code Supplement 2011, is amended by
27 adding the following new subsection:

28 NEW SUBSECTION. 8. Medical information secured pursuant
29 to subsection 1 may be shared with other state or federal
30 agencies, with employees or agents of the department, or with
31 local units of government that have a need for the information
32 in the performance of their duties related to HIV prevention,
33 disease surveillance, or care of persons with HIV, only as
34 necessary to administer the program for which the information
35 is collected or to administer a program within the other

1 agency. Confidential information transferred to other persons
2 or entities under this subsection shall continue to maintain
3 its confidential status and shall not be rereleased by the
4 receiving person or entity.

5 DIVISION VI

6 REPEAL OF REPORTING REQUIREMENTS

7 Sec. 24. REPEAL. Section 135.165, Code 2011, is repealed.

8 DIVISION VII

9 RADIOLOGICAL HEALTH

10 Sec. 25. Section 136C.3, subsection 5, Code 2011, is amended
11 to read as follows:

12 5. Issue orders as necessary in connection with licensing
13 and registration of radiation machines and radioactive
14 materials and the operators or users thereof.

15 Sec. 26. Section 136C.8, Code 2011, is amended to read as
16 follows:

17 **136C.8 Inspections.**

18 The department ~~shall~~ may inspect all radiation machines and
19 radioactive materials located in this state, for the purpose of
20 detecting, abating, or eliminating excessive radiation exposure
21 hazards. The inspection shall include but shall not be limited
22 to an evaluation of the ~~radiation machine or radioactive~~
23 ~~material as well as the~~ immediate environment to ensure that
24 in using the machines or materials all unnecessary hazards for
25 patients, personnel, and other persons who may be exposed to
26 radiation produced by the machine or materials are avoided.
27 ~~The inspection shall also include an evaluation of electrical~~
28 ~~hazards as well as the adequacy of mechanical supporting and~~
29 ~~restraining devices.~~ All defects and deficiencies noted by
30 the inspector shall be fully disclosed and discussed with the
31 responsible persons at the time of inspection. The department
32 shall establish rules prescribing operating procedures for
33 radiation machines and radioactive materials which ensure
34 minimum radiation exposure to patients, personnel, and other
35 persons in the immediate environment.

1 Sec. 27. Section 136C.14, subsection 2, Code 2011, is
2 amended to read as follows:

3 2. A person, other than a licensed professional, who
4 operates a radiation machine or uses radioactive materials
5 for medical treatment or diagnostic purposes shall ~~display~~
6 make available upon request the credentials which indicate
7 that person's qualification to operate the machine or use the
8 materials ~~in the immediate vicinity of the machine or where~~
9 ~~the materials are stored~~. A person who owns or controls the
10 machine or materials ~~is also responsible for the proper display~~
11 ~~of credentials of those who operate the machine or use the~~
12 ~~materials and~~ shall not employ a person to operate the machine
13 or use the materials for medical treatment or diagnostic
14 purposes except as provided in this section.

15 Sec. 28. Section 136D.2, subsections 4 and 5, Code 2011, are
16 amended to read as follows:

17 4. "*Tanning device*" means any equipment that emits
18 electromagnetic radiation with wavelengths in the air between
19 200 and 400 nanometers and that is used for tanning of human
20 skin, such as ~~sunlamps, tanning booths, or tanning beds.~~
21 ~~The term also includes any accompanying equipment such as~~
22 ~~protective eyewear, timers, and handrails.~~

23 5. "*Tanning facility*" means ~~a place that provides access~~
24 ~~to tanning devices for compensation~~ location, place, area,
25 structure, or business, or a part thereof, which provides
26 access to a tanning device for compensation. "*Tanning facility*"
27 may include but is not limited to a tanning salon, health club,
28 apartment, and condominium.

29 Sec. 29. Section 136D.8, subsection 2, Code 2011, is amended
30 by striking the subsection.

31 Sec. 30. NEW SECTION. 136D.9 Penalties.

32 1. The department may impose a civil penalty not to exceed
33 one thousand dollars on a person who violates a provision
34 of this chapter, a rule adopted or order issued under this
35 chapter, or a term, condition, or limitation of a registration

1 certificate issued pursuant to this chapter, or who commits
2 a violation for which a registration certificate may be
3 revoked under rules issued pursuant to this chapter. Each
4 day of continuing violation constitutes a separate offense
5 in computing the civil penalty. However, the maximum civil
6 penalty for a continuing violation shall not exceed five
7 thousand dollars.

8 2. The department shall notify a person of the intent to
9 impose a civil penalty against the person. The department
10 shall establish the notification process to include an
11 opportunity for the person to respond in writing, within a
12 reasonable time as the department shall establish by rule,
13 regarding reasons why the civil penalty should not be imposed.

14 3. The department may compromise, mitigate, or refund a
15 civil penalty imposed under this section. A person upon whom
16 a civil penalty is imposed may appeal the action pursuant to
17 chapter 17A. The department shall remit moneys collected from
18 civil penalties to the treasurer of the state who shall deposit
19 the moneys in the general fund of the state.

20 EXPLANATION

21 This bill relates to programs and activities under the
22 purview of the department of public health.

23 Division I relates to nursing home administrators. The bill
24 eliminates certain provisions in the Code chapter that are
25 duplicative or inconsistent with the provisions in Code chapter
26 147, relating to health-related professions generally. The
27 bill eliminates the requirement that an applicant for a nursing
28 home administrator license satisfactorily complete a course of
29 instruction and training that was designed and administered
30 to present sufficient knowledge of the needs properly to be
31 served by nursing homes, knowledge of the laws governing the
32 operation of nursing homes and the protection of the interests
33 of patients, and knowledge of the elements of good nursing home
34 administration. The bill amends Code section 155.3 to state
35 that the board of nursing home administrators prescribes the

1 examination pursuant to Code section 147.34, which governs
2 the examinations required for licensure for health care
3 professions, rather than administering the exam that tests
4 for competence in the needs properly to be served by nursing
5 homes, laws governing the operation of nursing homes and the
6 protection of the interests of patients, and the elements of
7 good nursing home administration.

8 The bill adds that the board shall license nursing home
9 administrators in accordance with the rules as well as Code
10 chapters 147 and 155. The bill makes technical changes
11 regarding the terminology of a licensee's voluntary or
12 involuntary loss of license and refers to Code section 147.55
13 for revocation of a nursing home administrator's license while
14 eliminating language in Code section 155.4 subjecting any
15 denial of issuance or renewal, suspension, or revocation under
16 Code chapter 155 to the judicial review procedure under Code
17 chapter 17A.

18 The bill makes technical changes to the licensing fees
19 provision. The bill allows the board to determine the
20 multiyear interval in which a license shall expire and allows
21 for the license to be renewed upon payment of a renewal fee
22 rather than a license fee.

23 The bill provides that the board has the general duties
24 and responsibilities for health-related boards listed in Code
25 chapters 147 and 272C and strikes the board's specific duties
26 relating to standards to be met by individuals in order to
27 receive licenses as nursing home administrators; techniques for
28 determining whether an individual meets the required standards;
29 the issuance of and disciplinary actions relating to licenses;
30 and complaints against nursing home administrators. The bill
31 removes language allowing the board to conduct a continuing
32 study and investigation of nursing homes and administrators in
33 the state to improve the standards. The bill strikes language
34 allowing the board to conduct or cause to be conducted courses
35 of instruction and training sufficient to meet the requirements

1 of Code chapter 155.

2 The bill retains language in Code section 155.9 that allows
3 the board to establish rules to grant a provisional license to
4 an administrator, but makes technical changes. The bill allows
5 the board to grant a provisional license to an administrator
6 appointed on a temporary basis by a nursing home's owner
7 if the regular administrator is unable to perform the
8 administrator's duties or the nursing home is otherwise without
9 an administrator for some other reason. The bill strikes a
10 provision which states that an administrator appointed on a
11 temporary basis could not perform the duties for a period which
12 exceeds one year. The bill provides that a provisional license
13 can be held for no more than 12 combined months and the board
14 may revoke or otherwise discipline a person with a provisional
15 license for cause after due notice and a hearing.

16 The bill strikes the language in Code section 155.10
17 regarding renewal of licenses. Under the bill, Code chapter
18 272C would control the renewal of licenses. The bill provides
19 that a licensed nursing home administrator must complete
20 continuing education as a condition precedent for a license
21 renewal. The bill states the board will determine the
22 continuing education requirements.

23 The bill provides that applications for license renewal
24 shall be prescribed by the board. Under the amended language
25 of Code section 155.14, the bill states the board is not
26 required to furnish forms for licensure or license renewal.
27 The bill strikes the language regarding the characteristics the
28 board may consider when receiving an applicant's application.
29 Under the bill the characteristics to consider for eligibility
30 would be controlled by Code section 147.3.

31 The bill also adds a section to Code chapter 155 regarding a
32 licensee's voluntary surrender of a license. The bill states
33 the board may accept a voluntary surrender if it is accompanied
34 by a written statement of intention. The voluntary surrender
35 will have the same force and effect as revocation after the

1 surrender is accepted.

2 The bill repeals the language regarding the composition
3 of the board of nursing home administrators. The board's
4 composition is governed by Code sections 147.12 through 147.20
5 and 147.82. The bill repeals the language in section 155.15
6 regarding the fees for examination, licensure, and renewal of
7 licensure. The language in Code section 147.80 would control.
8 The bill also repeals language in Code section 155.16 regarding
9 the public members of the board, making the language in Code
10 section 147.21 applicable.

11 Division II relates to hearing aid dispensers. The bill
12 eliminates certain provisions within Code chapter 154A as Code
13 chapter 147 regarding health-related professions now governs
14 the board of hearing aid dispensers in its provisions.

15 The bill eliminates language in Code section 154A.7
16 regarding board members' expenses for discharging duties and
17 members' eligibility to receive compensation provided in Code
18 section 7E.6. The bill also eliminates language in Code
19 section 154A.7 regarding a quorum. The language on board
20 members' expenses and compensation is provided in Code section
21 147.24 and the language on a board quorum is provided by Code
22 section 147.14(2).

23 The bill eliminates language regarding the date on which an
24 applicant may obtain a license and deletes the reference to the
25 fee provision in Code section 154A.17.

26 The bill amends Code section 154A.12 regarding the scope of
27 examination to require evidence, rather than a written test, of
28 the applicant's knowledge in areas such as physics of sound,
29 anatomy and physiology of hearing, and function of hearing
30 aids.

31 The bill amends Code section 154A.13 regarding temporary
32 permits and states that only an individual who has not been
33 licensed as a hearing aid dispenser, rather than a person who
34 has not been employed as a hearing aid dispenser, may obtain
35 a temporary permit. The bill also states that a fee for a

1 temporary permit will be set by the board pursuant to Code
2 section 147.80 rather than Code section 154A.17, which is
3 repealed under the bill.

4 The bill removes language from Code chapter 154A regarding
5 the process for filing a complaint against a licensee or holder
6 of a temporary permit, the hearing process, the required
7 elements of a board's order, the notice of the order, and the
8 right to appeal the board's final order. Under the bill,
9 complaints would be governed by Code chapters 17A, 147, and
10 272C. The bill amends Code section 154A.23 to allow the board
11 to forward a copy of final disciplinary orders along with
12 the complaint to the attorney general for consideration for
13 prosecution or enforcement when warranted.

14 The bill repeals Code section 154A.2 regarding the
15 establishment of the board; Code section 154A.3 regarding
16 terms of board members; Code section 154A.4 regarding duties
17 of the board; Code section 154A.5 regarding public members
18 of the board; Code section 154A.6, regarding disclosure of
19 confidential information (the governing provision in Code
20 section 147.21(2) does not contain a provision which prohibits
21 the disclosure of an applicant's criminal history); Code
22 section 154A.8 regarding duties of the board; Code section
23 154A.9 regarding applications for licensure; Code section
24 154A.11 regarding examinations (however, the governing
25 provision in Code section 147.34 does not require examinations
26 to occur at least once a year and does not require the identity
27 of the applicant to be concealed until after the grading
28 of the exam); Code section 154A.14 concerning reciprocity;
29 Code section 154A.15 concerning license renewal (however,
30 Code section 147.10 does not require the department to mail
31 notice of the expiration date of a license at least a month
32 in advance); and Code section 154A.17 regarding fees. Code
33 section 154A.18, regarding the display of the license is
34 also repealed, however, Code sections 147.6 and 147.7 do not
35 prohibit a person from engaging in business as a hearing aid

1 dispenser or displaying a sign or advertising to be a hearing
2 aid dispenser without a valid license nor do the Code sections
3 require the license to be conspicuously posted in the person's
4 primary location of practice. The Code sections instead state
5 that a license is presumptive evidence of the right to practice
6 and a board may require every person licensed by the board to
7 publicly display the license and evidence of current renewal.

8 Division III relates to local boards of health. The bill
9 strikes the definition of "sanitation officer". The bill
10 states that the district public health fund budget provisions
11 do not apply to a district board of health or district health
12 department in existence prior to July 1, 2010. The bill
13 repeals the department's duty to publish and distribute
14 its rules to the counties. The bill provides an immediate
15 effective date and retroactive date for the application of
16 the provisions of the health fund budget only to the district
17 boards of health or district health departments in existence
18 prior to July 1, 2010.

19 Division IV relates to reporting on federal grants. The
20 bill requires the department of public health to report to
21 chairpersons and ranking members of the joint appropriations
22 subcommittee on health and human services, the legislative
23 services agency, the legislative caucus staffs, and the
24 department of management within 60 days of applying for or
25 renewing a federal grant valued at over \$100,000, if the grant
26 requires a state match or maintenance of effort. The report
27 must list the federal funding source and address the need
28 for the commitment of state funding to match or continue the
29 funding provided by the federal grant.

30 Division V relates to HIV confidentiality. The bill adds a
31 new provision allowing medical information secured pursuant to
32 Code section 141A.9 to be shared with other state or federal
33 agencies, employees or agents of the department, or with local
34 units of government. The information may be shared when
35 the persons or entities have a need for the information in

1 the performance of their duties related to HIV prevention,
2 disease surveillance, or care of persons with HIV and only as
3 necessary to administer the program for which the information
4 is collected or to administer a program within the other
5 agency. The confidential information transferred maintains its
6 confidential status and the receiving entity may not rerelease
7 the information.

8 Division VI relates to reporting requirements for hospitals
9 and nursing facilities. The bill repeals Code section
10 135.165, which requires hospitals and nursing facilities that
11 are recognized by the Internal Revenue Code as a nonprofit
12 organization or entity to annually submit a copy of the
13 internal revenue service form 990 to the department of public
14 health and the legislative services agency.

15 Division VII relates to radiological health.

16 The bill allows the department to regulate the operators of
17 radiation machines and users of radioactive material. The bill
18 makes the department's inspection of all radiation machines
19 and radioactive materials in the state permissive rather than
20 mandatory. The bill provides the department is no longer
21 required to evaluate the radiation machine or radioactive
22 material, the electrical hazards, or the adequacy of mechanical
23 supporting and restraining devices.

24 The bill amends Code section 136C.14 to state that a person
25 other than a licensed professional who operates a radiation
26 machine or uses radioactive materials for medical treatment
27 or diagnostic purposes does not need to display his or her
28 credentials, but the person must provide credentials upon
29 request. The bill also provides that a person who owns or
30 controls the machine is no longer responsible for the proper
31 display of such credentials.

32 The bill amends the definitions for "tanning device" and
33 "tanning facility". The bill eliminates language stating that
34 "tanning device" includes accompanying equipment. The bill
35 eliminates the current definition for a tanning facility and

1 provides that a "tanning facility" is not only a place for
2 providing access to tanning devices for compensation, but
3 also includes a place, area, structure, or business, or any
4 part thereof, that provides access to tanning devices for
5 compensation. The bill specifies that a tanning facility may
6 include but is not limited to a tanning salon, health club,
7 apartment, or condominium.

8 The bill inserts a penalty section into Code chapter 136 and
9 provides for the imposition of a civil penalty not to exceed
10 \$1,000 on persons who violate a provision of the Code chapter,
11 a rule or order issued pursuant to the Code chapter, or a term,
12 condition, or limitation of a registration certificate issued
13 under the Code chapter. A civil penalty could also be imposed
14 on a person who commits a violation for which a registration
15 certificate may be revoked under the rules issued pursuant
16 to the Code chapter. Each day of a continuing violation
17 constitutes a separate offense for purposes of computing the
18 civil penalty; however, there is a maximum penalty of \$5,000
19 for a continuing violation. The department must establish a
20 notification process which includes an opportunity for the
21 person facing the civil penalty to respond in writing within a
22 reasonable time as set by the department. A person upon whom a
23 civil penalty is imposed may appeal pursuant to Code chapter
24 17A. The bill also allows the department to compromise,
25 mitigate, or refund a civil penalty. The department must remit
26 the penalty to the treasurer of state who shall deposit the
27 money into the general fund of the state.