

House Study Bill 96 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON MILLER)

A BILL FOR

1 An Act relating to informal conferences on contested citations
2 or regulatory insufficiencies in health care facilities
3 or assisted living programs and including applicability
4 provisions.

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

1 Section 1. Section 135C.41, subsection 2, Code 2013, is
2 amended to read as follows:

3 2. Notify the director that the facility desires to
4 contest the citation and request an informal conference with
5 ~~a representative of the department~~ an independent reviewer
6 pursuant to section 135C.42.

7 Sec. 2. Section 135C.42, Code 2013, is amended to read as
8 follows:

9 **135C.42 Informal conference on contested citation.**

10 1. The director shall ~~assign a representative of the~~
11 ~~department, other than the inspector upon whose inspection the~~
12 ~~contested citation is based,~~ provide an independent reviewer
13 to hold an informal conference with the facility within ten
14 working days after receipt of a request made under section
15 135C.41, subsection 2. At the conclusion of the conference the
16 ~~representative~~ independent reviewer may affirm or may modify or
17 dismiss the citation. ~~In the latter case, the representative~~
18 The independent reviewer shall state in writing the specific
19 reasons for the affirmation, modification, or dismissal and
20 immediately transmit copies of the statement to the director,
21 and to the facility. If the facility does not desire to
22 further contest an affirmed or modified citation, it shall
23 within five working days after the informal conference, or
24 after receipt of the written explanation of the ~~representative~~
25 independent reviewer, as the case may be, comply with section
26 135C.41, subsection 1.

27 2. An independent reviewer shall be licensed as an
28 attorney in the state of Iowa and have experience or training
29 in geriatric long-term care and shall not be employed by
30 the department. The department may issue a request for
31 proposals to enter into a contract for the purpose of providing
32 independent reviewers for informal conferences.

33 Sec. 3. Section 135C.43, subsection 1, Code 2013, is amended
34 to read as follows:

35 1. A facility ~~which~~ that desires to further contest an

1 affirmed or modified citation for a Class I, Class II, or Class
2 III violation, may do so in the manner provided by chapter 17A
3 for contested cases. Notice of intent to formally contest a
4 citation shall be given the department in writing within five
5 days after the informal conference or after receipt of the
6 written explanation of the ~~representative-delegated~~ independent
7 reviewer provided to hold the informal conference, whichever is
8 applicable, in the case of an affirmed or modified citation.

9 A facility which has exhausted all adequate administrative
10 remedies and is aggrieved by the final action of the department
11 may petition for judicial review in the manner provided by
12 chapter 17A.

13 Sec. 4. Section 231C.8, subsection 2, Code 2013, is amended
14 to read as follows:

15 2. The department shall review the written information
16 submitted within ten working days of the receipt of the
17 information. At the conclusion of the review, the department
18 may affirm, modify, or dismiss the regulatory insufficiencies.
19 The department shall notify the program in writing of the
20 decision to affirm, modify, or dismiss the regulatory
21 insufficiencies, and the reasons for the decision. If an
22 assisted living program desires to further contest the
23 citation after an informal review, the program shall notify
24 the department within twenty business days after service of
25 the affirmation or modification of the informal review of
26 the program's desire to contest the citation and request an
27 informal conference with an independent reviewer.

28 Sec. 5. NEW SECTION. 231C.8A Informal conference on
29 contested regulatory insufficiencies.

30 1. The department shall provide an independent reviewer to
31 hold an informal conference with an assisted living program
32 within ten working days after receiving a request from the
33 program following an informal review pursuant to section
34 231C.8. At the conclusion of the conference the independent
35 reviewer may affirm or may modify or dismiss the regulatory

1 insufficiencies. The independent reviewer shall state in
2 writing the specific reasons for the affirmation, modification,
3 or dismissal and immediately transmit copies of the statement
4 to the department and to the program. If the program does not
5 desire to further contest an affirmed or modified regulatory
6 insufficiency, it shall within five working days after
7 the informal conference, or after receipt of the written
8 explanation of the independent reviewer, as the case may be,
9 comply with section 231C.14, subsection 2.

10 2. An independent reviewer shall be licensed as an
11 attorney in the state of Iowa and have experience or training
12 in geriatric long-term care and shall not be employed by
13 the department. The department may issue a request for
14 proposals to enter into a contract for the purpose of providing
15 independent reviewers for informal conferences.

16 Sec. 6. Section 231C.9, Code 2013, is amended to read as
17 follows:

18 **231C.9 Public disclosure of findings.**

19 Upon completion of a monitoring evaluation or complaint
20 investigation of an assisted living program by the department
21 pursuant to this chapter, including the conclusion of informal
22 review or an informal conference, the department's final
23 findings with respect to compliance by the assisted living
24 program with requirements for certification shall be made
25 available to the public in a readily available form and
26 place. Other information relating to an assisted living
27 program that is obtained by the department which does not
28 constitute the department's final findings from a monitoring
29 evaluation or complaint investigation of the assisted living
30 program shall not be made available to the public except in
31 proceedings involving the denial, suspension, or revocation of
32 a certificate under this chapter.

33 **Sec. 7. APPLICABILITY.**

34 1. The sections of this Act amending sections 135C.41,
35 135C.42, and 135C.43 apply to an informal conference requested

1 under chapter 135C on or after January 1, 2014.

2 2. The sections of this Act amending sections 231C.8 and
3 231C.9, and adding section 231C.8A, apply to assisted living
4 programs desiring to request an informal conference on or after
5 January 1, 2014.

6 EXPLANATION

7 This bill relates to informal conferences on contested
8 citations in health care facilities or assisted living
9 programs. Currently, the director of the department of
10 inspections and appeals assigns a representative of the
11 department who was not involved in the contested citation
12 to hold an informal conference with a health care facility
13 within 10 working days after receipt of a request made by the
14 facility to contest a citation. The bill would require that
15 an independent reviewer would hold the informal conference
16 rather than a representative of the department of inspections
17 and appeals. The bill provides that the independent reviewer
18 must be an Iowa-licensed attorney and must have experience or
19 training in geriatric long-term care.

20 The bill also adds the informal conference process
21 for assisted living programs that receive a regulatory
22 insufficiency. Current law allows assisted living programs
23 to request an informal review of contested regulatory
24 insufficiencies, but does not provide for an informal
25 conference. The bill provides that an independent reviewer
26 must be provided to hold an informal conference within 10
27 working days after the request by an assisted living program.
28 The independent reviewer may affirm or modify or dismiss the
29 regulatory insufficiency at the end of the informal conference.
30 The reviewer must provide written specific reasons for the
31 decision and immediately transmit the copies to the department
32 of inspections and appeals and to the program. If, after
33 receiving the reviewer's statement, the program no longer
34 wishes to contest the decision, the program shall comply with
35 the payment of any civil penalty.

H.F. _____

1 The bill applies to an informal conference requested by
2 a health care facility under Code chapter 135C on or after
3 January 1, 2014, and to assisted living programs desiring to
4 request an informal conference under Code chapter 231C on or
5 after January 1, 2014.