

Senate File 2021 - Introduced

SENATE FILE 2021

BY ZAUN

A BILL FOR

1 An Act relating to the elimination of the certificate of need
2 process relating to the development of a new or changed
3 institutional health service.

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

1 Section 1. Section 68B.35, subsection 2, paragraph e, Code
2 2018, is amended to read as follows:

3 e. Members of the state banking council, the Iowa ethics
4 and campaign disclosure board, the credit union review board,
5 the economic development authority, the employment appeal
6 board, the environmental protection commission, ~~the health~~
7 ~~facilities council~~, the Iowa finance authority, the Iowa public
8 employees' retirement system investment board, the board of
9 the Iowa lottery authority, the natural resource commission,
10 the board of parole, the petroleum underground storage tank
11 fund board, the public employment relations board, the state
12 racing and gaming commission, the state board of regents, the
13 transportation commission, the office of consumer advocate, the
14 utilities board, the Iowa telecommunications and technology
15 commission, and any full-time members of other boards and
16 commissions as defined under [section 7E.4](#) who receive an annual
17 salary for their service on the board or commission. The Iowa
18 ethics and campaign disclosure board shall conduct an annual
19 review to determine if members of any other board, commission,
20 or authority should file a statement and shall require the
21 filing of a statement pursuant to rules adopted pursuant to
22 chapter 17A.

23 Sec. 2. Section 97B.1A, subsection 8, paragraph a,
24 subparagraph (8), Code 2018, is amended to read as follows:

25 (8) Members of the state transportation commission, and the
26 board of parole, ~~and the state health facilities council.~~

27 Sec. 3. Section 135.131, subsection 1, paragraph a, Code
28 2018, is amended to read as follows:

29 a. "*Birth center*" means ~~birth center as defined in section~~
30 ~~135.61~~ a facility or institution, which is not an ambulatory
31 surgical center or a hospital or in a hospital, in which
32 births are planned to occur following a normal, uncomplicated,
33 low-risk pregnancy.

34 Sec. 4. Section 135C.2, subsection 5, unnumbered paragraph
35 1, Code 2018, is amended to read as follows:

1 The department shall establish a special classification
2 within the residential care facility category in order to
3 foster the development of residential care facilities which
4 serve persons with an intellectual disability, chronic mental
5 illness, a developmental disability, or brain injury, as
6 described under [section 225C.26](#), and which contain five or
7 fewer residents. ~~A facility within the special classification~~
8 ~~established pursuant to [this subsection](#) is exempt from the~~
9 ~~requirements of [section 135.63](#).~~ The department shall adopt
10 rules which are consistent with rules previously developed
11 for the waiver demonstration project pursuant to 1986 Iowa
12 Acts, ch. 1246, §206, and which include all of the following
13 provisions:

14 Sec. 5. Section 135H.6, Code 2018, is amended to read as
15 follows:

16 **135H.6 Inspection — conditions for issuance.**

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

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

22 2. The proposed psychiatric institution is accredited
23 by the joint commission on the accreditation of health
24 care organizations, the commission on accreditation of
25 rehabilitation facilities, the council on accreditation of
26 services for families and children, or by any other recognized
27 accrediting organization with comparable standards acceptable
28 under federal regulation.

29 3. The applicant complies with applicable state rules
30 and standards for a psychiatric institution adopted by the
31 department in accordance with federal requirements under
[42C.F.R. §441.150 - 441.156](#).

33 ~~4. The applicant has been awarded a certificate of need~~
34 ~~pursuant to [chapter 135](#), unless exempt as provided in this~~
35 ~~section.~~

1 ~~5.~~ 4. The department of human services has submitted
2 written approval of the application based on the department of
3 human services' determination of need. The department of human
4 services shall identify the location and number of children in
5 the state who require the services of a psychiatric medical
6 institution for children. Approval of an application shall be
7 based upon the location of the proposed psychiatric institution
8 relative to the need for services identified by the department
9 of human services and an analysis of the applicant's ability to
10 provide services and support consistent with requirements under
11 chapter 232, particularly regarding community-based treatment.
12 If the proposed psychiatric institution is not freestanding
13 from a facility licensed under [chapter 135B](#) or [135C](#), approval
14 under [this subsection](#) shall not be given unless the department
15 of human services certifies that the proposed psychiatric
16 institution is capable of providing a resident with a living
17 environment similar to the living environment provided by a
18 licensee which is freestanding from a facility licensed under
19 chapter 135B or [135C](#).

20 ~~6.~~ 5. The department of human services shall not give
21 approval to an application which would cause the total number
22 of beds licensed under [this chapter](#) for services reimbursed by
23 the medical assistance program under [chapter 249A](#) to exceed
24 four hundred thirty beds.

25 ~~7.~~ 6. In addition to the beds authorized under subsection ~~6~~
26 5, the department of human services may establish not more than
27 thirty beds licensed under [this chapter](#) at the state mental
28 health institute at Independence. ~~The beds shall be exempt~~
29 ~~from the certificate of need requirement under [subsection 4](#).~~

30 ~~8.~~ 7. The department of human services may give approval to
31 conversion of beds approved under [subsection 6 5](#), to beds which
32 are specialized to provide substance abuse treatment. However,
33 the total number of beds approved under [subsection 6 5](#) and this
34 subsection shall not exceed four hundred thirty. ~~Conversion~~
35 ~~of beds under [this subsection](#) shall not require a revision of~~

~~1 the certificate of need issued for the psychiatric institution~~
~~2 making the conversion.~~ Beds for children who do not reside
3 in this state and whose service costs are not paid by public
4 funds in this state are not subject to the limitations on the
5 number of beds and ~~certificate of need requirements~~ otherwise
6 applicable under [this section](#).

7 ~~9.~~ 8. The proposed psychiatric institution is under
8 the direction of an agency which has operated a facility
9 licensed under [section 237.3, subsection 2](#), paragraph "a", as
10 a comprehensive residential facility for children for three
11 years or of an agency which has operated a facility for three
12 years providing psychiatric services exclusively to children or
13 adolescents and the facility meets or exceeds requirements for
14 licensure under [section 237.3, subsection 2](#), paragraph "a", as a
15 comprehensive residential facility for children.

16 ~~10.~~ 9. A psychiatric institution licensed prior to July 1,
17 1999, may exceed the number of beds authorized under subsection
18 ~~6~~ 5 if the excess beds are used to provide services funded
19 from a source other than the medical assistance program under
20 chapter 249A. ~~Notwithstanding subsections 4, 5, and 6, the~~
21 ~~provision of services using those excess beds does not require~~
22 ~~a certificate of need or a review by the department of human~~
23 ~~services.~~

24 ~~11.~~ 10. If a child has an emotional, behavioral, or mental
25 health disorder, the psychiatric institution does not require
26 court proceedings to be initiated or that a child's parent,
27 guardian, or custodian must terminate parental rights over
28 or transfer legal custody of the child for the purpose of
29 obtaining treatment from the psychiatric institution for the
30 child. Relinquishment of a child's custody shall not be a
31 condition of the child receiving services.

32 Sec. 6. Section 135P.1, subsection 3, Code 2018, is amended
33 to read as follows:

34 3. "Health facility" means an institutional health facility
35 ~~as defined in [section 135.61](#),~~ hospice licensed under chapter

1 135J, home health agency as defined in [section 144D.1](#),
2 assisted living program certified under [chapter 231C](#), clinic,
3 or community health center, and includes any corporation,
4 professional corporation, partnership, limited liability
5 company, limited liability partnership, or other entity
6 comprised of such health facilities.

7 Sec. 7. Section 135P.1, Code 2018, is amended by adding the
8 following new subsection:

9 NEW SUBSECTION. 3A. *“Institutional health facility”* means
10 any of the following, without regard to whether the facilities
11 referred to are publicly or privately owned or are organized
12 for profit or not or whether the facilities are part of or
13 sponsored by a health maintenance organization:

- 14 a. A hospital.
- 15 b. A health care facility.
- 16 c. An organized outpatient health facility.
- 17 d. An outpatient surgical facility.
- 18 e. A community mental health facility.
- 19 f. A birth center.

20 Sec. 8. Section 231C.3, subsection 2, Code 2018, is amended
21 to read as follows:

22 2. Each assisted living program operating in this state
23 shall be certified by the department. If an assisted living
24 program is voluntarily accredited by a recognized accrediting
25 entity, the department shall certify the assisted living
26 program on the basis of the voluntary accreditation. An
27 assisted living program that is certified by the department on
28 the basis of voluntary accreditation shall not be subject to
29 payment of the certification fee prescribed in [section 231C.18](#),
30 but shall be subject to an administrative fee as prescribed by
31 rule. ~~An assisted living program certified under this section~~
32 ~~is exempt from the requirements of [section 135.63](#) relating to~~
33 ~~certificate of need requirements.~~

34 Sec. 9. Section 249K.2, subsection 6, Code 2018, is amended
35 to read as follows:

1 6. "New construction" means the construction of a new
2 nursing facility which does not replace an existing licensed
3 and certified facility ~~and requires the provider to obtain a~~
4 ~~certificate of need pursuant to chapter 135, division VI.~~

5 Sec. 10. Section 505.27, subsection 5, paragraph a, Code
6 2018, is amended to read as follows:

7 a. "Health care provider" means ~~the same as defined in~~
8 section 135.61, a person licensed or certified under chapter
9 147, 148, 148A, 148C, 149, 151, 152, 153, 154, 154B, 154F,
10 or 155A to provide in this state professional health care
11 service to an individual during that individual's medical care,
12 treatment, or confinement; a hospital licensed pursuant to
13 chapter 135B; ~~r~~ or a health care facility licensed pursuant to
14 chapter 135C.

15 Sec. 11. Section 708.3A, subsection 5, paragraph d, Code
16 2018, is amended to read as follows:

17 d. "Health care provider" means an emergency medical care
18 provider as defined in chapter 147A or a person licensed
19 or registered under chapter 148, 148C, 148D, or 152 who is
20 providing or who is attempting to provide emergency medical
21 services, as defined in section 147A.1, or who is providing
22 or who is attempting to provide health services ~~as defined~~
23 ~~in section 135.61~~ in a hospital. A person who commits an
24 assault under this section against a health care provider in
25 a hospital, or at the scene or during out-of-hospital patient
26 transportation in an ambulance, is presumed to know that the
27 person against whom the assault is committed is a health care
28 provider.

29 Sec. 12. Section 708.3A, subsection 5, Code 2018, is amended
30 by adding the following new paragraph:

31 NEW PARAGRAPH. *oe.* "Health services" means clinically
32 related diagnostic, curative, or rehabilitative services, and
33 includes alcoholism, drug abuse, and mental health services.

34 Sec. 13. REPEAL. Sections 135.61 through 135.73, Code 2018,
35 are repealed.

1 Sec. 14. CODE EDITOR DIRECTIVE. The Code editor is
2 directed to modify the title of chapter 135, division VI, as
3 "Hospital and health care facility reporting, data, analyses,
4 and studies" and to correct internal references in the Code as
5 necessary due to enactment of this Act.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 This bill eliminates the certificate of need (CON) process
10 required prior to the offering or development of a new or
11 changed institutional health service and makes conforming
12 changes throughout the Code.