

Senate File 506 - Introduced

SENATE FILE 506
BY COMMITTEE ON HEALTH AND
HUMAN SERVICES

(SUCCESSOR TO SSB 1117)

A BILL FOR

1 An Act relating to health facilities and health services
2 including licensing and the certificate of need process, and
3 including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

CERTIFICATE OF NEED — HEALTH FACILITIES COUNCIL

Section 1. Section 68B.35, subsection 2, paragraph e, Code 2023, is amended to read as follows:

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

Sec. 2. Section 97B.1A, subsection 8, paragraph a, subparagraph (8), Code 2023, is amended to read as follows:

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

Sec. 3. Section 135.61, subsections 1, 14, 15, and 18, Code 2023, are amended to read as follows:

1. "Affected persons" means, with respect to an application for a certificate of need:

a. The person submitting the application.

b. Consumers who would be served by the new institutional health service proposed in the application.

1 c. Each institutional health facility or health maintenance
2 organization which is located in the geographic area which
3 would appropriately be served by the new institutional
4 health service proposed in the application. The appropriate
5 geographic service area of each institutional health facility
6 or health maintenance organization shall be determined on a
7 uniform basis in accordance with criteria established in rules
8 adopted by the department.

9 ~~d. Each institutional health facility or health maintenance~~
10 ~~organization which, prior to receipt of the application by~~
11 ~~the department, has formally indicated to the department~~
12 ~~pursuant to this subchapter an intent to furnish in the future~~
13 ~~institutional health services similar to the new institutional~~
14 ~~health service proposed in the application.~~

15 ~~e. Any other person designated as an affected person by~~
16 ~~rules of the department.~~

17 ~~f. Any payer or third-party payer for health services.~~

18 14. "Institutional health facility" means any of the
19 following, without regard to whether the facilities referred
20 to are publicly or privately owned or are organized for profit
21 or not or whether the facilities are part of or sponsored by a
22 health maintenance organization:

23 a. A hospital.

24 b. A health care facility.

25 c. An organized outpatient health facility.

26 d. An outpatient surgical facility.

27 ~~e. A community mental health facility.~~

28 ~~f. A birth center.~~

29 15. "Institutional health service" means any health service
30 furnished in or through institutional health facilities or
31 health maintenance organizations, ~~including mobile health~~
32 ~~services.~~

33 18. "New institutional health service" or "changed
34 institutional health service" means any of the following:

35 a. The construction, development, or other establishment of

1 a new institutional health facility regardless of ownership.

2 *b.* Relocation of an institutional health facility.

3 *c.* Any capital expenditure, lease, or donation by or on
4 behalf of an institutional health facility in excess of ~~one~~
5 ~~million five hundred thousand dollars~~ the following amounts, as
6 applicable, within a twelve-month period:

7 (1) Beginning January 1, 2023, three million five hundred
8 thousand dollars.

9 (2) Beginning January 1, 2028, four million dollars.

10 (3) Beginning January 1, 2033, four million five hundred
11 thousand dollars.

12 (4) Beginning January 1, 2038, five million dollars.

13 *d.* A permanent change in the bed capacity, as determined
14 by the department, of an institutional health facility. For
15 purposes of this paragraph, a change is permanent if it is
16 intended to be effective for one year or more.

17 ~~*e.* Any expenditure in excess of five hundred thousand~~
18 ~~dollars by or on behalf of an institutional health facility for~~
19 ~~health services which are or will be offered in or through an~~
20 ~~institutional health facility at a specific time but which were~~
21 ~~not offered on a regular basis in or through that institutional~~
22 ~~health facility within the twelve-month period prior to that~~
23 ~~time.~~

24 ~~*f.* The deletion of one or more health services, previously~~
25 ~~offered on a regular basis by an institutional health facility~~
26 ~~or health maintenance organization or the relocation of one or~~
27 ~~more health services from one physical facility to another.~~

28 ~~*g.* Any acquisition by or on behalf of a health care provider~~
29 ~~or a group of health care providers of any piece of replacement~~
30 ~~equipment with a value in excess of one million five hundred~~
31 ~~thousand dollars, whether acquired by purchase, lease, or~~
32 ~~donation.~~

33 ~~*h.* Any acquisition by or on behalf of a health care provider~~
34 ~~or group of health care providers of any piece of equipment~~
35 ~~with a value in excess of one million five hundred thousand~~

1 ~~dollars, whether acquired by purchase, lease, or donation,~~
2 ~~which results in the offering or development of a health~~
3 ~~service not previously provided. A mobile service provided~~
4 ~~on a contract basis is not considered to have been previously~~
5 ~~provided by a health care provider or group of health care~~
6 ~~providers.~~

7 ~~i. Any acquisition by or on behalf of an institutional~~
8 ~~health facility or a health maintenance organization of any~~
9 ~~piece of replacement equipment with a value in excess of one~~
10 ~~million five hundred thousand dollars, whether acquired by~~
11 ~~purchase, lease, or donation.~~

12 ~~j. Any acquisition by or on behalf of an institutional~~
13 ~~health facility or health maintenance organization of any~~
14 ~~piece of equipment with a value in excess of one million five~~
15 ~~hundred thousand dollars, whether acquired by purchase, lease,~~
16 ~~or donation, which results in the offering or development of~~
17 ~~a health service not previously provided. A mobile service~~
18 ~~provided on a contract basis is not considered to have been~~
19 ~~previously provided by an institutional health facility.~~

20 ~~k. Any air transportation service for transportation of~~
21 ~~patients or medical personnel offered through an institutional~~
22 ~~health facility at a specific time but which was not offered~~
23 ~~on a regular basis in or through that institutional health~~
24 ~~facility within the twelve-month period prior to the specific~~
25 ~~time.~~

26 ~~l. Any mobile health service with a value in excess of one~~
27 ~~million five hundred thousand dollars.~~

28 ~~m. Any of the following:~~

29 ~~(1) Cardiac catheterization service.~~

30 ~~(2) Open heart surgical service.~~

31 ~~(3) Organ transplantation service.~~

32 ~~(4) Radiation therapy service applying ionizing radiation~~
33 ~~for the treatment of malignant disease using megavoltage~~
34 ~~external beam equipment.~~

35 Sec. 4. Section 135.61, subsections 2, 4, and 16, Code 2023,

1 are amended by striking the subsections.

2 Sec. 5. Section 135.62, Code 2023, is amended to read as
3 follows:

4 **135.62 Department to administer subchapter — health**
5 ~~facilities council established — appointments — powers and~~
6 ~~duties.~~

7 1. **This subchapter** shall be administered by the department.
8 The director shall employ or cause to be employed the necessary
9 persons to discharge the duties imposed on the department by
10 this subchapter.

11 ~~2. There is established a state health facilities council~~
12 ~~consisting of five persons appointed by the governor. The~~
13 ~~council shall be within the department for administrative and~~
14 ~~budgetary purposes.~~

15 ~~a. *Qualifications.* The members of the council shall be~~
16 ~~chosen so that the council as a whole is broadly representative~~
17 ~~of various geographical areas of the state and no more than~~
18 ~~three of its members are affiliated with the same political~~
19 ~~party. Each council member shall be a person who has~~
20 ~~demonstrated by prior activities an informed concern for the~~
21 ~~planning and delivery of health services. A member of the~~
22 ~~council and any spouse of a member shall not, during the~~
23 ~~time that member is serving on the council, do either of the~~
24 ~~following:~~

25 ~~(1) Be a health care provider nor be otherwise directly or~~
26 ~~indirectly engaged in the delivery of health care services nor~~
27 ~~have a material financial interest in the providing or delivery~~
28 ~~of health services.~~

29 ~~(2) Serve as a member of any board or other policymaking~~
30 ~~or advisory body of an institutional health facility, a health~~
31 ~~maintenance organization, or any health or hospital insurer.~~

32 ~~b. *Appointments.* Terms of council members shall be six~~
33 ~~years, beginning and ending as provided in **section 69.19.** A~~
34 ~~member shall be appointed in each odd-numbered year to succeed~~
35 ~~each member whose term expires in that year. Vacancies~~

~~1 shall be filled by the governor for the balance of the
2 unexpired term. Each appointment to the council is subject to
3 confirmation by the senate. A council member is ineligible
4 for appointment to a second consecutive term, unless first
5 appointed to an unexpired term of three years or less.~~

~~6 *c. Chairperson.* The governor shall designate one of
7 the council members as chairperson. That designation may
8 be changed not later than July 1 of any odd-numbered year,
9 effective on the date of the organizational meeting held in
10 that year under paragraph "d".~~

~~11 *d. Meetings.* The council shall hold an organizational
12 meeting in July of each odd-numbered year, or as soon
13 thereafter as the new appointee or appointees are confirmed
14 and have qualified. Other meetings shall be held as necessary
15 to enable the council to expeditiously discharge its duties.
16 Meeting dates shall be set upon adjournment or by call of the
17 chairperson upon five days' notice to the other members.~~

~~18 *e. 2. Duties.* The council department shall do all of the
19 following:~~

~~20 (1) *a.* Make the final decision, as required by section
21 135.69, with respect to each application for a certificate of
22 need accepted by the department.~~

~~23 (2) *b.* Determine and adopt such policies as are authorized
24 by law and are deemed necessary to the efficient discharge of
25 its the department's duties under [this subchapter](#).~~

~~26 (3) *c.* Have authority to direct staff personnel of the
27 department assigned to conduct formal or summary reviews of
28 applications for certificates of need.~~

~~29 (4) *d.* Advise and counsel with the director concerning the
30 provisions of [this subchapter](#) and the policies and procedures
31 adopted by the department pursuant to [this subchapter](#).~~

~~32 (5) Review and approve, prior to promulgation, all rules
33 adopted by the department under [this subchapter](#).~~

~~34 Sec. 6. Section 135.63, subsection 1, Code 2023, is amended
35 to read as follows:~~

1 1. A new institutional health service or changed
2 institutional health service shall not be offered or developed
3 in this state without prior application to the department
4 for and receipt of a certificate of need, pursuant to
5 this subchapter. The application shall be made upon forms
6 furnished or prescribed by the department and shall contain
7 such information as the department may require under this
8 subchapter. The application shall be accompanied by an
9 economic impact statement that includes information specified
10 by rule to assist the department in the evaluation of the
11 application pursuant to section 135.64. The application shall
12 be accompanied by a fee equivalent to three-tenths of one
13 percent of the anticipated cost of the project with a minimum
14 fee of six hundred dollars and a maximum fee of twenty-one
15 thousand dollars. The fee shall be remitted by the department
16 to the treasurer of state, who shall place it in the general
17 fund of the state. If an application is voluntarily withdrawn
18 within thirty calendar days after submission, seventy-five
19 percent of the application fee shall be refunded; if the
20 application is voluntarily withdrawn more than thirty but
21 within sixty days after submission, fifty percent of the
22 application fee shall be refunded; if the application is
23 withdrawn voluntarily more than sixty days after submission,
24 twenty-five percent of the application fee shall be refunded.
25 Notwithstanding the required payment of an application fee
26 under [this subsection](#), an applicant for a new institutional
27 health service or a changed institutional health service
28 offered or developed by an intermediate care facility for
29 persons with an intellectual disability or an intermediate care
30 facility for persons with mental illness as defined pursuant to
31 section 135C.1 is exempt from payment of the application fee.

32 Sec. 7. Section 135.63, subsection 2, paragraphs a and e,
33 Code 2023, are amended to read as follows:

34 a. Private offices and private clinics of an individual
35 physician, dentist, or other practitioner or group of

1 health care providers, except as provided by ~~section 135.61,~~
2 ~~subsection 18, paragraphs "g", "h", and "m", and section 135.61,~~
3 subsections 20 and 21.

4 e. A health maintenance organization or combination of
5 health maintenance organizations or an institutional health
6 facility controlled directly or indirectly by a health
7 maintenance organization or combination of health maintenance
8 organizations, except when the health maintenance organization
9 or combination of health maintenance organizations ~~does any of~~
10 ~~the following:~~

11 ~~(1) Constructs~~ constructs, develops, renovates, relocates,
12 or otherwise establishes an institutional health facility.

13 ~~(2) Acquires major medical equipment as provided by section~~
14 ~~135.61, subsection 18, paragraphs "i" and "j".~~

15 Sec. 8. Section 135.63, subsection 2, paragraph h, Code
16 2023, is amended by striking the paragraph.

17 Sec. 9. Section 135.63, subsection 4, unnumbered paragraph
18 1, Code 2023, is amended to read as follows:

19 ~~A copy of the application shall be sent to the department~~
20 ~~of human services at the time the application is submitted to~~
21 ~~the Iowa department of public health. The department shall not~~
22 ~~process applications for and the council shall not consider a~~
23 ~~new or changed institutional health service for an intermediate~~
24 ~~care facility for persons with an intellectual disability~~
25 unless both of the following conditions are met:

26 Sec. 10. Section 135.64, subsection 1, unnumbered paragraph
27 1, Code 2023, is amended to read as follows:

28 In determining whether a certificate of need shall be
29 issued, the department ~~and council~~ shall consider the
30 following:

31 Sec. 11. Section 135.64, subsection 1, paragraph r, Code
32 2023, is amended to read as follows:

33 r. The recommendations of staff personnel of the department
34 assigned to the area of certificate of need, concerning the
35 application, ~~if requested by the council.~~

1 Sec. 12. Section 135.64, subsection 2, unnumbered paragraph
2 1, Code 2023, is amended to read as follows:

3 In addition to the findings required with respect to any
4 of the criteria listed in subsection 1 of this section, the
5 ~~council~~ department shall grant a certificate of need for a new
6 institutional health service or changed institutional health
7 service only if ~~it~~ the department finds in writing, on the
8 basis of data submitted ~~to it by the department~~, that:

9 Sec. 13. Section 135.66, Code 2023, is amended to read as
10 follows:

11 **135.66 Procedure upon receipt of application — public**
12 **notification.**

13 1. a. Within fifteen business days after receipt of an
14 application for a certificate of need, the department shall
15 examine the application for form and completeness and accept
16 or reject it. An application shall be rejected only if it
17 fails to provide all information required by the department
18 pursuant to section 135.63, subsection 1. The department shall
19 promptly return to the applicant any rejected application, with
20 an explanation of the reasons for its rejection.

21 b. Within thirty days after notifying the applicant of
22 rejection of the application, the applicant may resubmit a
23 revised application for review under this subsection and shall
24 not be subject to payment of another required application
25 fee pursuant to section 135.63. If a subsequent rejection
26 is issued, the applicant shall resubmit the application in
27 accordance with and shall be subject to the procedure and
28 requirements for an initial application.

29 2. Upon acceptance of an application for a certificate
30 of need, the department shall promptly undertake to notify
31 all affected persons in writing that formal review of the
32 application has been initiated. Notification to those affected
33 persons who are consumers ~~or third-party payers or other~~
34 ~~payors for health services~~ may be provided by distribution of
35 the pertinent information ~~to the news media~~ by an electronic

1 distribution method available to the department.

2 3. Each application accepted by the department shall
3 be formally reviewed for the purpose of furnishing to the
4 ~~council~~ department the information necessary to enable ~~it~~ the
5 department to determine whether or not to grant the certificate
6 of need. A formal review shall consist at a minimum of the
7 following steps:

8 a. Evaluation of the application against the criteria
9 specified in [section 135.64](#).

10 b. A public hearing on the application, to be held prior to
11 completion of the evaluation required by paragraph "a", ~~shall be~~
12 conducted by the ~~council~~ department.

13 4. When a hearing is to be held pursuant to subsection
14 3, paragraph "b", the department shall give at least ten
15 days' notice of the time and place of the hearing. ~~At the~~
16 ~~hearing, any~~ Any affected person or that person's designated
17 representative ~~shall have the opportunity to present testimony~~
18 may submit written testimony in a manner prescribed by the
19 department, beginning on the day the notice of the hearing is
20 given until the day prior to the date fixed for the hearing.

21 Sec. 14. Section 135.67, subsection 1, Code 2023, is amended
22 to read as follows:

23 1. The department may ~~waive the letter of intent procedures~~
24 ~~prescribed by [section 135.65](#) and substitute~~ conduct a summary
25 review procedure, which shall be established by rules of the
26 department, when it accepts an application for a certificate of
27 need for a project which meets any of the following criteria
28 ~~in paragraphs "a" through "e":~~

29 a. A project which is limited to repair or replacement of a
30 facility or equipment damaged or destroyed by a disaster, and
31 which will not expand the facility nor increase the services
32 provided beyond the level existing prior to the disaster.

33 b. A project necessary to enable the facility or service to
34 achieve or maintain compliance with federal, state, or other
35 appropriate licensing, certification, or safety requirements.

1 c. A project which will not change the existing bed capacity
2 of the applicant's facility or service, as determined by the
3 department, by more than ten percent or ten beds, whichever is
4 less, over a two-year period.

5 ~~d. A project the total cost of which will not exceed one~~
6 ~~hundred fifty thousand dollars.~~

7 ~~e. d.~~ Any other project for which the applicant proposes
8 and the department agrees to summary review.

9 Sec. 15. Section 135.69, Code 2023, is amended to read as
10 follows:

11 **135.69 Council Department to make final decision.**

12 1. The department shall complete its formal review of
13 the application within ninety days after acceptance of the
14 application, except as otherwise provided by section 135.72,
15 subsection 4. Upon completion of the formal review, the
16 ~~council~~ department shall approve or deny the application. The
17 ~~council~~ department shall issue written findings stating the
18 basis for ~~its~~ the department's decision on the application, and
19 the department shall send copies of the ~~council's~~ decision and
20 the written findings supporting the decision to the applicant
21 and to any other person who so requests.

22 2. Failure by the ~~council~~ department to issue a written
23 decision on an application for a certificate of need within the
24 time required by [this section](#) shall constitute ~~denial~~ approval
25 of and final administrative action on the application.

26 Sec. 16. Section 135.70, Code 2023, is amended to read as
27 follows:

28 **135.70 Appeal of certificate of need decisions.**

29 The ~~council's~~ department's decision on an application for
30 certificate of need, when announced pursuant to [section 135.69](#),
31 is a final decision. Any dissatisfied party who is an affected
32 person with respect to the application, and who participated
33 or sought unsuccessfully to participate in the formal review
34 procedure prescribed by [section 135.66](#), may request a rehearing
35 in accordance with [chapter 17A](#) and rules of the department.

1 If a rehearing is not requested or an affected party remains
2 dissatisfied after the request for rehearing, an appeal may be
3 taken in the manner provided by [chapter 17A](#). Notwithstanding
4 the Iowa administrative procedure Act, [chapter 17A](#), a request
5 for rehearing is not required, prior to appeal under section
6 17A.19.

7 Sec. 17. Section 135.71, subsection 1, Code 2023, is amended
8 to read as follows:

9 1. A certificate of need shall be valid for a maximum of
10 one year from the date of issuance. Upon the expiration of
11 the certificate, or at any earlier time while the certificate
12 is valid the holder thereof shall provide the department such
13 information on the development of the project covered by
14 the certificate as the department may request. The ~~council~~
15 department shall determine at the end of the certification
16 period whether sufficient progress is being made on the
17 development of the project. The certificate of need may be
18 extended by the ~~council~~ department for additional periods of
19 time as are reasonably necessary to expeditiously complete the
20 project, but may be revoked by the ~~council~~ department at the
21 end of the first or any subsequent certification period for
22 insufficient progress in developing the project.

23 Sec. 18. Section 135.72, unnumbered paragraph 1, Code 2023,
24 is amended to read as follows:

25 The department shall adopt, ~~with approval of the council,~~
26 such administrative rules as are necessary to enable ~~it~~ the
27 department to implement [this subchapter](#). These rules shall
28 include:

29 Sec. 19. Section 135.72, subsection 4, Code 2023, is amended
30 to read as follows:

31 4. Criteria for determining when it is not feasible to
32 complete formal review of an application for a certificate of
33 need within the time limits specified in [section 135.69](#). The
34 rules adopted under [this subsection](#) shall include criteria for
35 determining whether an application proposes introduction of

1 technologically innovative equipment, and if so, procedures
2 to be followed in reviewing the application. However, a rule
3 adopted under [this subsection](#) shall not permit a deferral of
4 more than ~~sixty~~ thirty days beyond the time when a decision is
5 required under [section 135.69](#), unless both the applicant and
6 the department agree to a longer deferment.

7 Sec. 20. Section 135.73, subsection 1, Code 2023, is amended
8 to read as follows:

9 1. Any party constructing a new institutional health
10 facility or an addition to or renovation of an existing
11 institutional health facility without first obtaining a
12 certificate of need ~~or, in the case of a mobile health service,~~
13 ~~ascertaining that the mobile health service has received~~
14 ~~certificate of need approval,~~ as required by [this subchapter](#),
15 shall be denied licensure or change of licensure by the
16 appropriate responsible licensing agency of this state.

17 Sec. 21. Section 135.73, subsection 2, paragraph a, Code
18 2023, is amended to read as follows:

19 a. A class I violation is one in which a party offers a
20 new institutional health service or changed institutional
21 health service modernization or acquisition without review and
22 approval by the ~~council~~ department. A party in violation is
23 subject to a penalty of three hundred dollars for each day of a
24 class I violation. The department may seek injunctive relief
25 which shall include restraining the commission or continuance
26 of an act which would violate the provisions of this paragraph.
27 Notice and opportunity to be heard shall be provided to a party
28 pursuant to [rule of civil procedure 1.1507](#) and contested case
29 procedures in accordance with [chapter 17A](#). The department may
30 reduce, alter, or waive a penalty upon the party showing good
31 faith compliance with the department's request to immediately
32 cease and desist from conduct in violation of [this section](#).

33 Sec. 22. Section 135.131, subsection 1, paragraph a, Code
34 2023, is amended to read as follows:

35 a. "*Birth center*" means ~~birth center as defined in section~~

1 ~~135.61~~ a facility or institution, which is not an ambulatory
2 surgical center or a hospital or in a hospital, in which
3 births are planned to occur following a normal, uncomplicated,
4 low-risk pregnancy.

5 Sec. 23. NEW SECTION. 135C.35A **Moratorium — new**
6 **construction or permanent change in bed capacity — nursing**
7 **facilities.**

8 1. Beginning July 1, 2023, the department may impose a
9 temporary moratorium on submission of applications for new
10 construction or a permanent change in bed capacity of a
11 nursing facility for an initial period of twelve months. The
12 department may extend the moratorium in six-month increments
13 following the conclusion of the initial twelve-month period.
14 The department shall document, in writing, the need for each
15 extension of the moratorium.

16 2. The department may waive the moratorium as specified in
17 this section if the department determines there is a need for
18 specialized needs beds.

19 3. The department shall review the moratorium as specified
20 in this section during the fiscal year beginning July 1, 2026,
21 and shall make a recommendation by February 1, 2027, to the
22 general assembly regarding the continuation or repeal of the
23 moratorium.

24 Sec. 24. Section 135P.1, Code 2023, is amended to read as
25 follows:

26 **135P.1 Definitions.**

27 For the purposes of [this chapter](#), unless the context
28 otherwise requires:

29 1. "*Adverse health care incident*" means an objective and
30 definable outcome arising from or related to patient care that
31 results in the death or physical injury of a patient.

32 2. "*Health care provider*" means a physician or osteopathic
33 physician licensed under [chapter 148](#), a physician assistant
34 licensed and practicing under a supervising physician pursuant
35 to [chapter 148C](#), a podiatrist licensed under [chapter 149](#), a

1 chiropractor licensed under [chapter 151](#), a licensed practical
2 nurse, a registered nurse, or an advanced registered nurse
3 practitioner licensed under [chapter 152](#) or [152E](#), a dentist
4 licensed under [chapter 153](#), an optometrist licensed under
5 chapter 154, a pharmacist licensed under [chapter 155A](#), or
6 any other person who is licensed, certified, or otherwise
7 authorized or permitted by the law of this state to administer
8 health care in the ordinary course of business or in the
9 practice of a profession.

10 3. "*Health facility*" means an institutional health facility
11 ~~as defined in [section 135.61](#)~~, a hospice licensed under chapter
12 135J, a home health agency as defined in [section 144D.1](#), an
13 assisted living program certified under [chapter 231C](#), a clinic,
14 a community health center, or the university of Iowa hospitals
15 and clinics, and includes any corporation, professional
16 corporation, partnership, limited liability company, limited
17 liability partnership, or other entity comprised of such health
18 facilities.

19 4. "*Institutional health facility*" means any of the
20 following, without regard to whether the facilities referred
21 to are publicly or privately owned or are organized for profit
22 or not, or whether the facilities are part of or sponsored by a
23 health maintenance organization:

24 a. A hospital as defined in section 135B.1.

25 b. A health care facility as defined in section 135C.1.

26 c. An organized outpatient health facility as defined in
27 section 135.61.

28 d. An outpatient surgical facility as defined in section
29 135.61.

30 e. A community mental health center as defined in section
31 230A.102.

32 f. A birth center as defined in section 135.131.

33 ~~4.~~ 5. "*Open discussion*" means all communications that are
34 made under [section 135P.3](#), and includes all memoranda, work
35 products, documents, and other materials that are prepared

1 for or submitted in the course of or in connection with
2 communications under [section 135P.3](#).

3 ~~5.~~ 6. "*Patient*" means a person who receives medical care
4 from a health care provider, or if the person is a minor,
5 deceased, or incapacitated, the person's legal representative.

6 Sec. 25. REPEAL. Section 135.65, Code 2023, is repealed.

7 DIVISION II

8 BIRTH CENTERS

9 Sec. 26. BIRTH CENTERS — PROVISIONAL LICENSURE. The
10 department of inspections and appeals shall develop minimum
11 standards for provisional licensure of a birth center and
12 shall adopt rules pursuant to chapter 17A to administer
13 birth center provisional licensure. The department shall
14 issue a provisional license to a birth center that meets the
15 minimum standards. A provisional license may be granted for
16 a period of no more than one year from the date the specified
17 administrative rules are adopted. A provisional license shall
18 expire at the end of the license terms and is not renewable.

19 Sec. 27. EMERGENCY RULES. The department of inspections
20 and appeals shall adopt emergency rules under section 17A.4,
21 subsection 3, and section 17A.5, subsection 2, paragraph
22 "b", to implement the birth center provisional licensure
23 provisions of this division of this Act, within six months
24 of the effective date of this division of this Act and shall
25 submit such rules to the administrative rules coordinator and
26 the administrative code editor pursuant to section 17A.5,
27 subsection 1, within the same period. The rules shall be
28 effective immediately upon filing unless a later date is
29 specified in the rules. Any rules adopted in accordance with
30 this section shall also be published as a notice of intended
31 action as provided in section 17A.4.

32 Sec. 28. PROPOSED LEGISLATION — BIRTH CENTER
33 LICENSURE. The department of inspections and appeals shall
34 submit proposed legislation under section 2.16 that provides
35 for state licensure of and inspection requirements for birth

1 centers to be considered by the 2024 session of the general
2 assembly.

3 Sec. 29. DEFINITION. For the purposes of this division
4 of this Act, "birth center" means a facility or institution,
5 which is not an ambulatory surgical center or a hospital or in
6 a hospital, in which births are planned to occur following a
7 normal, uncomplicated, low-risk pregnancy.

8 Sec. 30. EFFECTIVE DATE. This division of this Act, being
9 deemed of immediate importance, takes effect upon enactment.

10

EXPLANATION

11

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

12

13 This bill relates to health facilities and services
14 including licensing, the health facilities council (HFC), and
15 the certificate of need (CON) process.

16 DIVISION I — CERTIFICATE OF NEED — HEALTH FACILITIES
17 COUNCIL. This division of the bill eliminates the HFC and
18 assigns the duties of the HFC to the department of health
19 and human services (HHS). The bill amends the definition of
20 "affected person" with respect to an application for CON to
21 eliminate from inclusion in the definition each institutional
22 health facility or health maintenance organization which,
23 prior to receipt of the application, has formally indicated an
24 intent to furnish in the future institutional health services
25 similar to the new institutional health service proposed in the
26 application; any other person designated as an affected person
27 by rules of the department; and any payer or third-party payer
28 for health services.

29 The bill amends the definition of "institutional health
30 facility" by removing a "community mental health facility"
31 and a "birth center" from inclusion in the definition,
32 thereby making these facilities and centers exempt from CON
33 requirements.

34 The bill amends the definition of "new institutional
35 health service" or "changed institutional health service"

1 by striking many of the services included in current Code
2 and only including: the construction, development, or other
3 establishment of a new institutional health facility regardless
4 of ownership; relocation of an institutional health facility;
5 any capital expenditure, lease, or donation by or on behalf of
6 an institutional health facility in excess of certain amounts
7 beginning with \$3.5 million on January 1, 2023, and increasing
8 to \$5 million beginning January 1, 2038, within a 12-month
9 period, and a permanent change (effective for one year or more)
10 in the bed capacity of an institutional health facility. Under
11 the bill, only these services included in the definition are
12 subject to CON requirements.

13 The bill eliminates terms defined and references to these
14 terms in current Code that are no longer necessary due to
15 provisions of the bill including the definitions of "birth
16 center" and "mobile health service".

17 The bill requires that an application for CON be accompanied
18 by an economic impact statement that includes information
19 required by rule to assist in evaluation of the application.

20 Due to the combining of the department of human services
21 (DHS) and the department of public health (DPH) into HHS, the
22 bill eliminates the requirement that a copy of the application
23 for CON be sent to DHS at the time the application is submitted
24 to DPH.

25 Current law provides that within 15 business days after
26 receipt of an application for a CON, HHS shall examine the
27 application and accept or reject it, and that HHS shall
28 promptly return to the applicant any rejected application, with
29 an explanation of the reasons for its rejection. The bill adds
30 a provision that within 30 days after notifying the applicant
31 of rejection of the application, the applicant may resubmit
32 a revised application for review and shall not be subject to
33 payment of another required application fee. Further, if a
34 subsequent rejection is issued, the applicant shall resubmit
35 the application in accordance with and shall be subject to the

1 procedure and requirements for an initial application.

2 Current law provides that upon acceptance of an application
3 for a CON, HHS shall promptly notify all affected persons
4 in writing that formal review of the application has been
5 initiated, and that notification to those affected persons who
6 are consumers or third-party payers or other payers for health
7 services may be provided notification by distribution of the
8 pertinent information to the news media. The bill amends this
9 provision to eliminate the reference to third-party payers or
10 other payers as they are no longer included in the definition
11 of affected persons, and provides that notification to affected
12 persons who are consumers may be provided by an electronic
13 distribution method available to HHS. The bill also provides
14 that any affected person or that person's representative may
15 submit written testimony as prescribed by HHS beginning the day
16 the notice of the hearing is given until the day prior to the
17 date of the hearing.

18 The bill eliminates the letter of intent procedure requiring
19 that before applying for a CON, the sponsor of a proposed
20 new institutional health service or changed institutional
21 health service submit to HHS a letter of intent to offer or
22 develop a service requiring a CON, as soon as possible after
23 initiation of the applicant's planning process and not less
24 than 30 days before applying for a CON and before substantial
25 expenditures to offer or develop the service are made. Under
26 this provision, the letter must include a brief description
27 of the proposed new or changed service, its location, and its
28 estimated cost. If requested by the sponsor, HHS was required
29 to make a preliminary review of the letter and inform the
30 sponsor of any factors likely to result in denial of a CON. The
31 bill also makes a conforming change to eliminate a reference to
32 the letter of intent procedure.

33 The bill provides that failure by HHS to issue a written
34 decision on a CON application within the time required shall
35 constitute approval rather than the current denial of and final

1 administrative action on the application.

2 The bill provides that any administrative rule adopted for
3 determining when it is not feasible to complete formal review
4 of an application for a CON within the time limits specified
5 for HHS's final decision shall not permit a deferral of more
6 than 30 days, rather than the current 60 days, beyond the time
7 specified for a decision on the final decision, unless both the
8 applicant and HHS agree to a longer deferment.

9 The bill provides for a moratorium on applications for new
10 construction or a permanent change in bed capacity of a nursing
11 facility for an initial period of 12 months, and provides for
12 6-month extensions of the moratorium. The department may
13 waive the moratorium if the department determines there is a
14 need for specialized needs beds. The department shall make a
15 recommendation to the general assembly regarding continuation
16 of the moratorium by February 1, 2027.

17 DIVISION II — BIRTH CENTERS. This division of the
18 bill provides for provisional licensing of birth centers
19 and requires the department of inspections and appeals to
20 propose legislation for state licensure of birth centers to be
21 considered by the 2024 session of the general assembly. The
22 division takes effect upon enactment.