

3 to be made by a corporation organized pursuant to chapter five hundred
4 fourteen (514) of the Code, payment for radiology and pathology
5 services shall be made by a medical service corporation and not by a
6 hospital service corporation.

1 SEC. 13. Nothing in this Act is intended or should affect in any
2 way that obligation of public hospitals under chapter three hundred
3 forty-seven (347) or chapter three hundred eighty (380) of the Code,
4 as well as the state hospital at Iowa City, to provide medical treat-
5 ment for indigent persons or tuberculous patients as provided in chap-
6 ters two hundred fifty-four (254) and two hundred fifty-five (255) of
7 the Code wherein medical treatment is provided by hospitals of that
8 category to patients of certain entitlement, nor to the operation by the
9 state of mental or other hospitals authorized by law. Nothing herein
10 shall in any way affect or limit the practice of denistry* or the prac-
11 tice of oral surgery by a dentist.

1 SEC. 14. Nothing herein shall deprive any hospital of its tax ex-
2 empt or non-profit status.

1 SEC. 15. This Act, being deemed of immediate importance, shall
2 take effect and be in full force from and after its passage and publi-
3 cation in *The Red Oak Express*, a newspaper published at Red Oak,
4 Iowa, and in the *Winthrop News*, a newspaper published at Winthrop,
5 Iowa.

Approved April 5, 1957.

I hereby certify that the foregoing Act, House File 21, was published in *The Red Oak Express*, Red Oak, Iowa, April 11, 1957, and in the *Winthrop News*, Winthrop, Iowa, April 11, 1957.

MELVIN D. SYNHORST, *Secretary of State*.

*According to enrolled Act.

CHAPTER 93

NURSING HOMES REGULATION

H. F. 572

AN ACT relating to the licensing, inspection and regulation of nursing homes and custodial homes and providing for regulations, enforcement procedures and penalties.

Be It Enacted by the General Assembly of the State of Iowa:

1 Chapter one hundred thirty-five C (135C), Code 1954, is hereby re-
2 pealed and the following enacted in lieu thereof:

1 SECTION 1. As used in this Act:

2 1. "Nursing home" means any institution, place, building or agency
3 which is devoted primarily to the maintenance and operation of facili-
4 ties for the housing, for a period exceeding twenty-four (24) hours,
5 and for providing skilled nursing care and related medical services
6 for, two (2) or more nonrelated individuals who are not acutely ill
7 and not in need of hospital care, but who, by reason of age, illness,
8 disease, injury, convalescence or physical or mental infirmity need
9 such care. Nursing home does not include hospitals or custodial
10 homes.

11 2. "Custodial home" means any institution, place, building or
 12 agency which is devoted primarily to the maintenance and operation
 13 of facilities for the housing, for a period exceeding twenty-four (24)
 14 hours, and for care in excess of food, shelter, laundry or services inci-
 15 dent thereto for, two (2) or more nonrelated individuals who are not
 16 in need of nursing care or related medical services but who, by reason
 17 of age, illness, disease, injury, convalescence or physical or mental
 18 infirmity are unable to care for themselves. Custodial home does
 19 not mean hospitals or nursing homes.

20 3. "Person" means any individual, firm, partnership, corporation,
 21 company, association or joint stock association; and includes trustee,
 22 receiver, assignee or other similar representative thereof.

23 4. "Governmental unit" means the state, or any county, municipi-
 24 lity, or other political subdivision or any department, division,
 25 board or other agency of any of the foregoing.

1 SEC. 2. 1. The purpose of this Act is to promote and encourage
 2 adequate and safe care and housing for aged, infirm and convalescent
 3 persons by both public and private agencies by providing for the
 4 adoption and enforcement of rules, regulations and standards:

5 a. For the care and treatment of individuals in nursing homes and
 6 custodial homes, and

7 b. For the location, construction, maintenance and sanitary opera-
 8 tion of such nursing homes and custodial homes which will promote
 9 safe and adequate care of individuals in such homes so as to further
 10 the health, welfare and safety of such individuals.

11 2. Rules, regulations and standards prescribed, promulgated and
 12 enforced under this Act shall not be arbitrary, unreasonable or con-
 13 fiscatory and the department or agency prescribing, promulgating or
 14 enforcing such rules, regulations or standards shall have the burden
 15 of proof to establish that such rules, regulations or standards meet
 16 such requirements and are consistent with the economic problems and
 17 conditions involved in the care and housing of persons in nursing
 18 homes and custodial homes.

1 SEC. 3. An institution licensed as a nursing home shall provide
 2 an organized continuing twenty-four (24) hour program of nursing
 3 care commensurate with the needs of the patients and under the im-
 4 mediate direction of a licensed physician, licensed registered nurse or
 5 licensed practical nurse licensed by the state of Iowa, whose combined
 6 training and supervised experience is such as to assure adequate and
 7 competent nursing direction. Medical and nursing care shall be under
 8 the direction of either a "house physician" or individually selected
 9 physicians, but surgery or obstetrical care shall not be provided
 10 within the home. Persons in active or acute stages of alcoholism,
 11 drug addiction, mental illness or communicable disease may not be
 12 admitted to any licensed nursing home.

1 SEC. 4. An institution licensed as a custodial home shall provide
 2 an organized continuous twenty-four (24) hour program of care
 3 commensurate with the needs of the residents of the home and under
 4 the immediate direction of a person whose combined training and
 5 supervised experience is such as to ensure adequate and competent
 6 care. Persons who may not be admitted to nursing homes and per-

7 sons in need of nursing care shall not be admitted to any licensed cus-
8 todial home.

1 SEC. 5. Infirmaries operated in connection with custodial homes or
2 with rest homes, homes for the aged, or boarding homes, may be
3 licensed as nursing homes. No nursing home or custodial home shall
4 be established or operated in any building in which other businesses
5 are housed or other activities are carried on, the existence of which
6 is determined by the department or the fire marshal to be detrimental
7 to the proper care of the residents of the home.

1 SEC. 6. After July 4, 1957, no person or governmental unit acting
2 severally or jointly with any other person or governmental unit shall
3 establish or operate a nursing home or custodial home in this state
4 without a license for such home.

1 SEC. 7. Licenses shall be obtained from the state department of
2 health. Applications shall be upon such forms and shall require such
3 information as the said department may reasonably require, which
4 may include affirmative evidence of compliance with such other stat-
5 utes and local ordinances as may be applicable. Each application for
6 license shall be accompanied by the license fee, which shall be re-
7 funded to the applicant if the license is denied, which fee shall be
8 paid over into the state treasury and credited to the general fund if
9 the license is issued. There shall be an annual license fee based upon
10 the bed capacity of the home. Nursing homes having ten (10) beds
11 or less shall pay an annual fee of ten (10) dollars, nursing homes
12 having more than ten (10) beds and not more than twenty-five (25)
13 beds shall pay an annual fee of twenty (20) dollars, nursing homes
14 having more than twenty-five (25) beds and not more than seventy-
15 five (75) beds shall pay an annual fee of thirty (30) dollars, nursing
16 homes having more than seventy-five (75) beds and not more than
17 one hundred fifty (150) beds shall pay an annual fee of forty (40)
18 dollars, and all other nursing homes shall pay an annual license fee of
19 fifty (50) dollars. Custodial homes having ten (10) beds or less
20 shall pay an annual fee of five (5) dollars, custodial homes having
21 more than ten (10) beds and not more than twenty-five (25) beds
22 shall pay an annual fee of ten (10) dollars, custodial homes having
23 more than twenty-five (25) beds and not more than seventy-five (75)
24 beds shall pay an annual fee of fifteen (15) dollars, custodial homes
25 having more than seventy-five (75) beds and not more than one hun-
26 dred fifty (150) beds shall pay an annual fee of twenty (20) dollars,
27 and all other custodial homes shall pay an annual license fee of
28 twenty-five (25) dollars.

1 SEC. 8. Licenses for nursing homes or custodial homes shall be
2 issued only for the premises and persons or governmental units named
3 in the application and shall not be transferable or assignable except
4 with the written approval of the state department of health. Licenses
5 shall be posted in a conspicuous place on the licensed premises as pre-
6 scribed by regulation of the department. Such licenses, unless sooner
7 suspended or revoked, shall expire one year after the date of issuance
8 and shall be renewed annually upon an application by the licensee.
9 Applications for such renewal shall be made in writing to the depart-
10 ment, accompanied by the required fee, at least thirty (30) days prior
11 to the expiration of such license.

1 SEC. 9. Upon receipt of the license fee and the application for
2 license as a nursing home or custodial home the department shall:

3 1. If the application is for a nursing home, cause an inspection to
4 be made of the premises by the personnel of the department of health.

5 2. If the application is for a custodial home, forward the applica-
6 tion to the county board of social welfare of the county in which the
7 premises are located. The county board shall make, or cause to be
8 made, an inspection of the premises. After making such inspection
9 the county board shall return the application to the board of health
10 together with its findings from said inspection as to whether the pro-
11 posed custodial home meets the standards for such homes as pre-
12 scribed in the published regulations of the state department of health.

13 3. With regard to both nursing homes and custodial homes the
14 department shall not issue a license until the premises have been in-
15 spected by the state fire marshal or his deputy for such purpose, the
16 appointment of whom, including members of municipal fire depart-
17 ments, is hereby authorized, and the department has received a cer-
18 tificate signed by such marshal or his deputy that the premises comply
19 with the fire hazard and fire-safety rules, regulations and standards
20 of the department as promulgated by the fire marshal.

1 SEC. 10. The state department of health shall have the authority
2 to deny, suspend, or revoke a license in any case where the department
3 finds that there has been a failure to comply with the provisions of
4 this Act or the rules, regulations or minimum standards promulgated
5 hereunder, or for any of the following reasons:

6 1. Cruelty or indifference to the welfare of nursing home or cus-
7 todial home patients.

8 2. Appropriation or conversion of the property of a nursing home
9 or custodial home patient without his written consent or the written
10 consent of his legal guardian.

11 3. Evidence that the moral character of the applicant, manager or
12 supervisor of the home is not reputable.

13 4. Permitting, aiding, or abetting the commission of any illegal
14 act in the nursing home or custodial home.

15 5. Inability or failure to operate and conduct the nursing home or
16 custodial home in accordance with the requirements of this Act and
17 the minimum standards, rules and regulations issued pursuant
18 thereto.

19 6. Obtaining or attempting to obtain a license by fraudulent means
20 or misrepresentation.

21 7. Habitual intoxication or addiction to the use of drugs by the
21 applicant, manager or supervisor of the nursing home or custodial
22 home.

23 8. Securing the devise or bequest of the property of a patient in a
24 nursing home or custodial home by undue influence.

1 SEC. 11. Such denial, suspension, or revocation shall be effected
2 by mailing to the applicant or licensee by certified mail or by personal
3 service of a notice setting forth the particular reasons for such action.
4 Such denial, suspension, or revocation shall become effective thirty
5 (30) days after the mailing or service of the notice, unless the appli-
6 cant or licensee, within such thirty (30) day period, shall give written
7 notice to the department requesting a hearing, in which case the

8 notice shall be deemed to be suspended. If a hearing has been re-
9 quested, the applicant or licensee shall be given an opportunity for a
10 prompt and fair hearing before the department. At any time at or
11 prior to the hearing the department may rescind the notice of the
12 denial, suspension or revocation upon being satisfied that the reasons
13 for the denial, suspension or revocation have been or will be removed.
14 On the basis of any such hearing, or upon default of the applicant or
15 licensee, the determination involved in the notice may be affirmed,
16 modified, or set aside by the department. A copy of such decision
17 shall be sent by certified mail, or served personally upon the applicant
18 or licensee. The decision shall become final thirty (30) days after it
19 is so mailed or served, unless the applicant or licensee, within such
20 thirty (30) day period, appeals the decision to the court, pursuant
21 to section thirteen (13) hereof.

22 The procedure governing hearings authorized by this section shall
23 be in accordance with the rules promulgated by said department. A
24 full and complete record shall be kept of all proceedings, and all tes-
25 timony shall be reported but need not be transcribed unless the deci-
26 sion is appealed pursuant to section thirteen (13) hereof. A copy
27 or copies of the transcript may be obtained by an interested party
28 upon payment of the cost of preparing such copy or copies. Witnesses
29 may be subpoenaed by either party and shall be allowed fees at a
30 rate prescribed by the aforesaid rules.

1 SEC. 12. In any case where the department of health shall have
2 the authority to deny, suspend or revoke a license, the department
3 shall have the authority to conditionally issue or continue a license
4 dependent upon the performance by the licensee of such reasonable
5 conditions within such reasonable period of time as may be set by
6 the department so as to permit the licensee to commence or continue
7 the operation of the nursing home or custodial home pending his full
8 compliance* with this Act or any regulations issued hereunder. In
9 such case, if the licensee does not make diligent efforts to comply with
10 such conditions as prescribed, the department may, under the pro-
11 ceedings hereinbefore prescribed, suspend or revoke the license.

1 SEC. 13. Any applicant or licensee who is dissatisfied with the
2 decision of the commissioner of public health as a result of the hear-
3 ing procedure provided herein may appeal the decision within thirty
4 (30) days after the mailing or serving of notice of the decision by
5 filing a notice of appeal in the district court of the county where the
6 home or proposed home is located, and by serving a copy of said notice
7 of appeal upon the department. Thereupon the department shall
8 within thirty (30) days certify and file with the court a copy of the
9 record and decision, including the transcript of the hearings on which
10 the decision is based. The trial before the court shall be de novo and
11 all legal evidence pertaining to the matter of whether or not such
12 license shall be denied, suspended, or revoked, as the case may be,
13 may be submitted including new or additional evidence not submitted
14 to the commissioner, and the court shall have power to affirm, modify,
15 or reverse the decision of the commissioner. Pending final disposition
16 of the matter the status quo of the applicant or licensee shall be pre-
17 served.

*According to enrolled Act.

1 SEC. 14. The department of health shall adopt, amend, promulgate
2 and enforce rules and regulations setting minimum standards for
3 nursing homes and custodial homes. Such rules, regulations and
4 standards shall be designed to further the accomplishment of the
5 purposes of this Act and shall relate to:

6 1. Location and construction of the home, including plumbing,
7 heating, lighting, ventilation, and other housing conditions, which
8 shall ensure the health, safety and comfort of residents and protection
9 from fire hazards. Such rules, regulations and standards regarding
10 location and construction of the home may impose requirements in
11 excess of those provided in chapter four hundred thirteen (413) of
12 the Code but shall not impose requirements less than those provided
13 by such chapter. The rules of the department relating to protection
14 from fire hazards and fire safety shall be promulgated by the state
15 fire marshal;

16 2. Number and qualifications of all personnel, including manage-
17 ment and nursing personnel, having responsibility for any part of
18 the care given to residents;

19 3. All sanitary conditions within the home and its surroundings
20 including water supply, sewage disposal, food handling, and general
21 hygiene, which shall ensure the health and comfort of residents;

22 4. Diet related to the needs of each resident and based on good
23 nutritional practice and on recommendations which may be made by
24 the physician attending the resident; and

25 5. Equipment essential to the health and welfare of the resident.

1 SEC. 15. Any nursing home or custodial home which is in opera-
2 tion at the time of promulgation of any applicable rules and regula-
3 tions or minimum standards under this Act shall be given reasonable
4 time from the date of such promulgation to comply with such rules,
5 regulations and minimum standards.

1 SEC. 16. The state department of health shall make or cause to be
2 made such further inspections as it may deem necessary. The state
3 department of health shall prescribe by regulation that any licensee
4 or applicant for license desiring to make specific types of alterations
5 or additions to its facility or to construct new facilities shall, before
6 commencing such alteration or additions or new construction, submit
7 plans and specifications therefor to the state department of health
8 for preliminary inspection and approval or recommendations with
9 respect to the compliance with the regulations and standards herein
10 authorized. An inspector of the department of health, county board
11 of social welfare, or fire marshal, may enter any licensed nursing
12 home or custodial home or purported nursing home or custodial home
13 without a warrant.

1 SEC. 17. It shall be the duty of the state department of social wel-
2 fare, state fire marshal, and the officers and agents of other govern-
3 mental units to assist the state department of health in carrying out
4 the provisions of this Act, in so far as the functions of these respec-
5 tive offices and departments are concerned with the health, welfare,
6 and safety of any person or persons cared for in nursing homes or
7 custodial homes.

1 SEC. 18. The state department of health may employ such assist-
2 ants and inspectors as may be necessary to administer and enforce
3 the provisions of this Act.

1 SEC. 19. Information received by the state department of health
2 through reports, inspection, or as otherwise authorized in this Act
3 shall not be disclosed publicly in such manner as to identify individ-
4 uals or nursing homes or custodial homes, except in a proceeding
5 involving the question of licensure or the denial, suspension, or revo-
6 cation of a license.

1 SEC. 20. The state department of health shall prepare, publish and
2 send to licensed nursing and custodial homes an annual report of its
3 activities and operations under this Act and such other bulletins con-
4 taining fundamental health principles and data as may be deemed
5 essential to assure proper operation of nursing homes and custodial
6 homes.

1 SEC. 21. Any person establishing, conducting, managing, or oper-
2 ating any nursing home or custodial home without a license shall be
3 guilty of a misdemeanor and, upon conviction thereof, shall be fined
4 not less than one hundred (100) dollars nor more than one thousand
5 (1000) dollars or be imprisoned in the county jail for not more than
6 six (6) months, or both. Each day of continuing violation after con-
7 viction or notice from the department by certified mail of a violation
8 shall be considered a separate offense. Any such person establishing,
9 conducting, managing or operating any nursing home or custodial
10 home without a license may be by any court of competent jurisdiction
11 temporarily or permanently restrained therefrom in any action
12 brought by the state.

1 SEC. 22. If any provision of this Act or the application thereof to
2 any person or circumstance shall be held invalid, such invalidity
3 shall not affect the provisions or applications of this Act which can
4 be given effect without the invalid provision or application, and to
5 this end the provisions of the Act are declared to be severable.

1 SEC. 23. All nursing home licenses issued under the provisions of
2 chapter one hundred thirty-five C (135C), Code 1954, as repealed by
3 this Act shall be valid as nursing-home licenses under this Act until
4 their expiration date.

1 SEC. 24. The provisions of this Act shall not be applicable to in-
2 stitutions operated by or under the Board of Control or the Board
3 of Regents of state institutions.

Approved May 2, 1957.