

~~private water supply wells within the jurisdiction of the county. Grants shall be funded through allocation of the agriculture management account of the groundwater protection fund. Grants awarded, continued, or renewed shall be subject to the following conditions:~~

~~a. An application for a grant shall be in a form and shall contain information as prescribed by rule of the commission.~~

~~b. Nothing in this section shall be construed to prohibit the department from making grants to one or more counties to carry out the purpose of the grant on a joint, multicounty basis.~~

~~c. A grant shall be awarded on an annual basis to cover a fiscal year from July 1 to June 30 of the following calendar year.~~

~~d. The continuation or renewal of a grant shall be contingent upon the county's acceptable performance in carrying out its responsibilities, as determined by the director. The director, subject to approval by the commission, may deny the awarding of a grant or withdraw a grant awarded if, by determination of the director, the county has not carried out the responsibilities for which the grant was awarded, or cannot reasonably be expected to carry out the responsibilities for which the grant would be awarded.~~

Sec. 12. Section 455B.173, subsection 10, Code 2003, is amended by striking the subsection.

Approved May 17, 2004

CHAPTER 1168

PUBLIC HEALTH PROGRAMS AND REGULATION — ADDITIONAL PROVISIONS

H.F. 2555

AN ACT providing for specified changes regarding programs under the purview of the department of public health, providing a penalty, and making an appropriation.

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

Section 1. NEW SECTION. 135.39A GIFTS AND GRANTS FUND — APPROPRIATION.

The department is authorized to accept gifts, grants, or allotments of funds from any source to be used for programs authorized by this chapter or any other chapter which the department is responsible for administering. A public health gifts and grants fund is created as a separate fund in the state treasury under the control of the department. The fund shall consist of gift or grant moneys obtained from any source, including the federal government. The moneys collected under this section and deposited in the fund are appropriated to the department for the public health purposes specified in the gift or grant. Moneys in the fund shall not be subject to appropriation or expenditure for any other purpose. Notwithstanding section 8.33, moneys in the public health gifts and grants fund at the end of each fiscal year shall not revert to any other fund but shall remain in the public health gifts and grants fund for expenditure for subsequent fiscal years.

Sec. 2. Section 135.103, Code 2003, is amended to read as follows:

135.103 GRANT PROGRAM.

The department shall implement a childhood lead poisoning prevention grant program

which provides ~~matching federal, state, or other~~ funds to local boards of health or cities for the program after standards and requirements for the local program are developed. ~~The state shall provide funds to approved programs on the basis of three dollars for each one dollar designated by the local board of health or city for the program for the first two years of a program, and funds on the basis of one dollar for each one dollar designated by the local board of health or city for the program for the third and subsequent years of the program if such funding is determined necessary by the department for such subsequent years. The department may also use federal, state, or other funds provided for the childhood lead poisoning prevention grant program to purchase environmental and blood testing services from a public health laboratory.~~

Sec. 3. Section 135.104, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The program by a local board of health or city receiving ~~matching~~ funding for an approved childhood lead poisoning prevention grant program shall include:

Sec. 4. Section 136B.1, subsection 2, Code 2003, is amended to read as follows:

2. The department shall establish programs and adopt rules for the certification of persons who test for the presence of radon gas and radon progeny in ~~buildings and for buildings~~, the credentialing of persons abating the level of radon in buildings, ~~and standards for radon abatement systems~~.

Sec. 5. Section 136B.3, Code 2003, is amended to read as follows:

136B.3 TESTING AND REPORTING OF RADON LEVEL.

The department ~~or its duly authorized agents~~ shall from time to time perform inspections and testing of the premises of a property to determine the level at which it is contaminated with radon gas or radon progeny as a spot-check of the validity of measurements or the adequacy of abatement measures performed by persons certified or credentialed under section 136B.1. Following testing the department shall provide the owner of the property with a written report of its results including the concentration of radon gas or radon progeny contamination present, an interpretation of the results, and recommendation of appropriate action. A person certified or credentialed under section 136B.1 shall also be advised of the department's results, discrepancies revealed by the spot-check, actions required of the person, and actions the department intends to take with respect to the person's continued certification or credentialing.

Sec. 6. Section 139A.2, subsection 20, Code Supplement 2003, is amended to read as follows:

20. "Quarantine" means the limitation of freedom of movement of persons or animals that have been exposed to a ~~communicable~~ quarantinable disease within specified limits marked by placards for a period of time equal to the longest usual incubation period of the disease in such manner as to prevent the spread of a ~~communicable~~ quarantinable disease which affects people.

Sec. 7. Section 148.3, subsection 3, Code 2003, is amended to read as follows:

3. Present to the medical examiners satisfactory evidence that the applicant has successfully completed one year of postgraduate internship or resident training in a hospital approved for such training by the medical examiners. Beginning July 1, 2006, an applicant who holds a valid certificate issued by the educational commission for foreign medical graduates shall submit satisfactory evidence of successful completion of two years of such training.

Sec. 8. Section 152.1, subsection 6, paragraph b, Code Supplement 2003, is amended to read as follows:

b. Execute regimen prescribed by a physician, an advanced registered nurse practitioner, or a physician assistant.

Sec. 9. Section 154A.18, Code 2003, is amended to read as follows:

154A.18 DISPLAY OF LICENSE.

A person shall not engage in business as a hearing aid dispenser, or display a sign, or in any other way advertise or claim to be a hearing aid dispenser after January 1, 1975, unless the person holds a valid license issued by the department as provided in this chapter. The license shall be conspicuously posted in the person's ~~office or place of business~~ primary location of practice. ~~The department shall issue duplicate licenses to valid license holders operating more than one office.~~ A license confers upon the holder the right to operate a business practice as a hearing aid dispenser.

Sec. 10. Section 155.9, subsection 3, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The board may also accept the voluntary surrender of such license without necessity of a hearing. In the event of the inability of the regular administrator of a nursing home to perform the administrator's duties or through death or other cause the nursing home is without a licensed administrator, a provisional administrator may be appointed on a temporary basis by the nursing home owner or owners, to perform such duties for a period not to exceed ~~six months~~ one year.

Sec. 11. NEW SECTION. 156.16 UNLICENSED PRACTICE — INJUNCTIONS, CIVIL PENALTIES, CONSENT AGREEMENTS.

1. If the board has reasonable grounds to believe that a person or establishment which is not licensed under this chapter has engaged, or is about to engage, in an act or practice which requires licensure under this chapter, or otherwise violates a provision of this chapter, the board may issue an order to require the unlicensed person or establishment to comply with the provisions of this chapter, and may impose a civil penalty not to exceed one thousand dollars for each violation of this chapter by an unlicensed person or establishment. Each day of a continued violation constitutes a separate offense.

2. The board may conduct an investigation as needed to determine whether probable cause exists to initiate the proceedings described in this section. To aid in such an investigation or in connection with any other proceeding under this section, the board may issue subpoenas to compel witnesses to testify or persons to produce evidence consistent with the provisions of section 272C.6, subsection 3.

3. The board, in determining the amount of a civil penalty to be imposed, may consider any of the following:

- a. Whether the amount imposed will be a substantial economic deterrent to the violation.
- b. The circumstances leading to the violation.
- c. The severity of the violation and the risk of harm to the public.
- d. The economic benefits gained by the violator as a result of noncompliance.
- e. The interest of the public.

4. The board, before issuing an order under this section, shall provide the person or establishment written notice and the opportunity to request a hearing. The hearing must be requested within thirty days after receipt of the notice and shall be conducted in the same manner as provided for disciplinary proceedings involving a licensee under this chapter.

5. The board may request the attorney general to bring an action to enforce the subpoena.

6. A person or establishment aggrieved by the issuance of an order or the imposition of a civil penalty under this section may seek judicial review pursuant to section 17A.19.

7. If a person or establishment fails to pay a civil penalty within thirty days after entry of an order imposing the civil penalty, or, if the order is stayed pending an appeal, within ten days after the court enters a final judgment in favor of the board, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

8. An action to enforce an order under this section may be joined with an action for an injunction pursuant to section 147.83.

9. The board, in its discretion and in lieu of issuing or enforcing an order or imposing a civil penalty for an initial violation under this section, may enter into a consent agreement with a violator, or with a person who aided or abetted a violator, which acknowledges the violation and the violator's agreement to refrain from any further violation.

Approved May 17, 2004

CHAPTER 1169

CUSTODY AND CARE OF CHILDREN — AWARDS OF PHYSICAL CARE

H.F. 22

AN ACT relating to the awarding of joint physical care of a child.

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

Section 1. Section 598.41, subsection 5, Code 2003, is amended to read as follows:

5. ~~a. Joint physical care may be in the best interest of the child, but if joint legal custody does not require is awarded to both parents, the court may award joint physical care. When the court determines such action would be in the best interest of the child and would preserve the relationship between each parent and the child, joint physical care may be awarded to both joint custodial parents or physical care may be awarded to one joint custodial parent upon the request of either parent. If the court denies the request for joint physical care, the determination shall be accompanied by specific findings of fact and conclusions of law that the awarding of joint physical care is not in the best interest of the child.~~

b. If joint physical care is not awarded under paragraph "a", and only one joint custodial parent is awarded physical care, the parent responsible for providing physical care shall support the other parent's relationship with the child. Physical care awarded to one parent does not affect the other parent's rights and responsibilities as a joint legal custodian of the child. Rights and responsibilities as joint legal custodian of the child include, but are not limited to, equal participation in decisions affecting the child's legal status, medical care, education, extracurricular activities, and religious instruction.

Approved May 19, 2004