

FEB 6 2001  
STATE GOVERNMENT

HOUSE FILE 190  
BY GRUNDBERG

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to health care facility regulation.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 190

1 Section 1. Section 135C.9, subsection 1, paragraph b, Code  
2 2001, is amended to read as follows:

3 b. The facility has been inspected by the state fire  
4 marshal or a deputy appointed by the fire marshal for that  
5 purpose, who may be a member of a municipal fire department,  
6 and the department has received either a certificate of  
7 compliance or a provisional certificate of compliance by the  
8 facility with the fire hazard and fire safety rules and  
9 standards of the department as promulgated by the fire marshal  
10 and, where applicable, the fire safety standards required for  
11 participation in programs authorized by either Title XVIII or  
12 Title XIX of the United States Social Security Act (42 U.S.C.  
13 § 1395 to 139511 and 1396 to 1396g). The certificate or  
14 provisional certificate shall be signed by the fire marshal or  
15 the fire marshal's deputy who made the inspection. If the  
16 state fire marshal or a deputy finds a deficiency upon  
17 inspection, the notice to the facility shall specifically  
18 describe the nature of the deficiency, identifying the Code  
19 section or subsection or the rule or standard violated. The  
20 notice shall also specify options for correction of the  
21 deficiency and shall specify the time allowed for correction  
22 of the deficiency, at the end of which time the fire marshal  
23 or a deputy shall perform a follow-up inspection.

24 Sec. 2. Section 135C.9, subsection 2, Code 2001, is  
25 amended to read as follows:

26 2. The rules and standards promulgated by the fire marshal  
27 pursuant to subsection 1, paragraph "b" of this section shall  
28 be substantially in keeping with the latest generally  
29 recognized safety criteria for the facilities covered, of  
30 which the applicable criteria recommended and published from  
31 time to time by the national fire protection association shall  
32 be prima facie evidence. The rules and standards promulgated  
33 by the fire marshal shall be promulgated in collaboration with  
34 the department and shall, to the greatest extent possible, be  
35 consistent with rules adopted by the department under this

1 chapter.

2 Sec. 3. Section 135C.14, unnumbered paragraph 1, Code  
3 2001, is amended to read as follows:

4 The department shall, in accordance with chapter 17A, and  
5 with the approval of the state board of health adopt and  
6 enforce rules setting minimum standards for health care  
7 facilities. In so doing, the department, with the approval of  
8 the state board of health, may adopt by reference, with or  
9 without amendment, nationally recognized standards and rules,  
10 which shall be specified by title and edition, date of  
11 publication, or similar information. The rules and standards  
12 required by this section shall be formulated in consultation  
13 with the director of human services or the director's  
14 designee, with the state fire marshal, and with affected  
15 industry, professional, and consumer groups, and shall be  
16 designed to further the accomplishment of the purposes of this  
17 chapter and shall relate to:

18 Sec. 4. Section 135C.14, subsection 1, Code 2001, is  
19 amended to read as follows:

20 1. Location and construction of the facility, including  
21 plumbing, heating, lighting, ventilation, and other housing  
22 conditions, which shall ensure the health, safety and comfort  
23 of residents and protection from fire hazards. The rules of  
24 the department relating to protection from fire hazards and  
25 fire safety shall be promulgated by the state fire marshal in  
26 collaboration with the department, and shall be in keeping  
27 with the latest generally recognized safety criteria for the  
28 facilities covered of which the applicable criteria  
29 recommended and published from time to time by the national  
30 fire protection association are prima facie evidence. To the  
31 greatest extent possible, the rules promulgated by the state  
32 fire marshal shall be consistent with the rules adopted by the  
33 department under this chapter.

34 Sec. 5. Section 135C.19, subsection 1, Code 2001, is  
35 amended to read as follows:

1 1. Following an inspection of a health care facility by  
2 the department pursuant to this chapter, and if requested by  
3 the facility, the holding of an informal conference arranged  
4 by the department pursuant to section 135C.42 to attempt to  
5 correct or resolve any deficiency or violation found, the  
6 department's final findings with respect to compliance by the  
7 facility with requirements for licensing shall be made  
8 available to the public in a readily available form and place.  
9 Other information relating to a health care facility obtained  
10 by the department which does not constitute the department's  
11 findings from an inspection of the facility shall not be made  
12 available to the public except in proceedings involving the  
13 citation of a facility for a violation under section 135C.40,  
14 or the denial, suspension, or revocation of a license under  
15 this chapter. The name of a person who files a complaint with  
16 the department shall be confidential.

17 Sec. 6. Section 135C.20A, subsection 1, Code 2001, is  
18 amended to read as follows:

19 1. The department shall develop and utilize a report card  
20 system for the recording of the final findings of any  
21 inspection of a health care facility following, if requested  
22 by the facility, the holding of an informal conference  
23 arranged by the department pursuant to section 135C.42 to  
24 attempt to resolve any deficiency or violation found. The  
25 report card shall include but is not limited to a summary of  
26 the these final findings of the inspection, ~~any-violation~~  
27 ~~found, any-enforcement-action-taken~~ including any citations  
28 ~~issued-and-penalties-assessed, any-actions-taken-to-correct~~  
29 ~~violations-or-deficiencies, and-the-nature-and-status-of-any~~  
30 ~~action-taken-with-respect-to-any~~ uncorrected violation for  
31 which a citation was issued.

32 Sec. 7. Section 135C.40, Code 2001, is amended to read as  
33 follows:

34 135C.40 CITATIONS WHEN VIOLATIONS FOUND -- PENALTIES --  
35 EXCEPTION.

1 1. If the director determines, based on the findings of an  
2 inspection or investigation of a health care facility, that  
3 the facility is in violation of this chapter or rules adopted  
4 under this chapter, the director within five working days  
5 after making the determination, may shall issue a written  
6 citation notice of violation to the facility. The notice  
7 shall specifically describe the nature of the violation,  
8 identifying the Code section or subsection or the rule or  
9 standard violated, and the classification of the violation  
10 under section 135C.36. The notice shall also, if appropriate,  
11 state the time allowed for correction of the violation.

12 If, after receiving the notice, the facility fails to  
13 correct the violation within the specified time or violates  
14 the same provision again, the director may issue a written  
15 citation to the facility following a follow-up inspection to  
16 confirm the uncorrected or new violation. The citation shall  
17 be served upon the facility personally or by certified mail,  
18 except that a citation for a Class III violation may be sent  
19 by ordinary mail. Each citation shall specifically describe  
20 the nature of the violation, identifying the Code section or  
21 subsection or the rule or standard violated, and the  
22 classification of the violation under section 135C.36. ~~Where~~  
23 ~~appropriate,~~ The citation shall also state the period of  
24 time allowed for correction of the violation, ~~which shall in~~  
25 ~~each case be the shortest period of time the department deems~~  
26 feasible if appropriate. Failure to correct a violation  
27 within the time specified, unless the licensee shows that the  
28 failure was due to circumstances beyond the licensee's  
29 control, shall subject the facility to a further penalty of  
30 fifty dollars for each day that the violation continues after  
31 the time specified for correction.

32 2. When a written notice or citation is served upon or  
33 mailed to a health care facility under subsection 1 and the  
34 licensee of the facility is not actually involved in the daily  
35 operation of the facility, a copy of the written notice or

1 citation shall be mailed to the licensee. If the licensee is  
2 a corporation, a copy of the written notice or citation shall  
3 be sent to the corporation's office of record. If the written  
4 notice or citation was issued pursuant to an inspection  
5 resulting from a complaint filed under section 135C.37, a copy  
6 of the written notice or citation shall be sent to the  
7 complainant at the earliest time permitted by section 135C.19,  
8 subsection 1.

9 3. No A health care facility shall not be issued a written  
10 notice or cited for any violation caused by any practitioner  
11 licensed pursuant to chapter 148, 150 or 150A if that  
12 practitioner is not the licensee of and is not otherwise  
13 financially interested in the facility, and the licensee or  
14 the facility presents evidence that reasonable care and  
15 diligence have been exercised in notifying the practitioner of  
16 the practitioner's duty to the patients in the facility.

17 Sec. 8. NEW SECTION. 135C.45B COURT COSTS.

18 If a health care facility is the prevailing party in an  
19 action for judicial or appellate review of a citation issued  
20 under this chapter, the department shall pay all fees and  
21 other expenses. For the purposes of this section, "fees and  
22 other expenses" means the reasonable attorney fees and  
23 reasonable expenses of expert witnesses plus court costs, but  
24 it does not include any portion of an attorney's fees or  
25 salary paid by a unit of local, state, or federal government  
26 for the attorney's services in the case.

27 EXPLANATION

28 This bill relates to regulation of health care facilities.

29 The bill provides that if the state fire marshal finds a  
30 deficiency during an inspection of a facility prior to  
31 issuance of a license, the fire marshal is to provide notice  
32 which describes the nature of the deficiency, identifies the  
33 Code section or subsection or the rule or standard violated,  
34 provides options for correction of the deficiency, and  
35 specifies the time allowed for correction of the deficiency at

1 the end of which time the fire marshal is to perform a follow-  
2 up inspection. The bill also provides that rules and  
3 standards promulgated by the fire marshal are to be  
4 promulgated in collaboration with the department of  
5 inspections and appeals and, to the greatest extent possible,  
6 are to be consistent with the rules adopted by the department  
7 under the health care facilities chapter.

8 The bill provides that in adopting rules which establish  
9 minimum standards for health care facilities, the department  
10 of inspections and appeals is to consult with the state fire  
11 marshal. Rules relating to fire hazards and fire safety are  
12 to be promulgated by the state fire marshal in collaboration  
13 with the department and are to be consistent with the rules  
14 adopted by the department.

15 The bill provides that information provided to the public,  
16 including report cards, regarding the results of a health care  
17 facility inspection, is to be only that information regarding  
18 final findings after the facility is provided the opportunity  
19 of an informal conference with a representative of the  
20 department of inspections and appeals to attempt to resolve or  
21 correct any deficiency or violation found.

22 The bill provides that notice is to be provided to a health  
23 care facility regarding a violation prior to the facility  
24 being issued a citation for the violation. The notice is to  
25 specifically describe the nature of the violation, identifying  
26 the Code section or subsection or the rules or standard  
27 violated, and the classification of the violation. The notice  
28 is to state the time allowed for correction of the violation.  
29 If the facility fails to correct the violation within the time  
30 specified or violates the same provision, a written citation  
31 may be issued following a follow-up inspection to confirm the  
32 uncorrected or new violation.

33 The bill also provides that if a health care facility is  
34 the prevailing party in an action for judicial review or  
35 appellate review of a citation issued by the department of

1 inspections and appeals, the department is required to pay  
2 court costs, attorney fees, and expert witness fees associated  
3 with the action.

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