

MAR 2 2001
HUMAN RESOURCES

HOUSE FILE 478
BY VAN FOSSEN

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act eliminating the certificate of need program for health
2 facilities.

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

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HF 478

1 Section 1. Section 135C.2, subsection 5, unnumbered
2 paragraph 1, Code 2001, is amended to read as follows:

3 The department shall establish a special classification
4 within the residential care facility category in order to
5 foster the development of residential care facilities which
6 serve persons with mental retardation, chronic mental illness,
7 a developmental disability, or brain injury, as described
8 under section 225C.26, and which contain five or fewer
9 residents. ~~A-facility-within-the-special-classification~~
10 ~~established-pursuant-to-this-subsection-is-exempt-from-the~~
11 ~~requirements-of-section-135-63.~~ The department shall adopt
12 rules which are consistent with rules previously developed for
13 the waiver demonstration project pursuant to 1986 Iowa Acts,
14 chapter 1246, section 206, and which include all of the
15 following provisions:

16 Sec. 2. Section 135H.6, Code 2001, is amended to read as
17 follows:

18 135H.6 INSPECTION -- CONDITIONS FOR ISSUANCE.

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

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

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

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

34 ~~4.--The-applicant-has-been-awarded-a-certificate-of-need~~
35 ~~pursuant-to-chapter-135,-unless-exempt-as-provided-in-this~~

1 ~~section-~~

2 5- 4. The department of human services has submitted
3 written approval of the application based on the department of
4 human services' determination of need. The department of
5 human services shall identify the location and number of
6 children in the state who require the services of a
7 psychiatric medical institution for children. Approval of an
8 application shall be based upon the location of the proposed
9 psychiatric institution relative to the need for services
10 identified by the department of human services and an analysis
11 of the applicant's ability to provide services and support
12 consistent with requirements under chapter 232, particularly
13 regarding community-based treatment. If the proposed
14 psychiatric institution is not freestanding from a facility
15 licensed under chapter 135B or 135C, approval under this
16 subsection shall not be given unless the department of human
17 services certifies that the proposed psychiatric institution
18 is capable of providing a resident with a living environment
19 similar to the living environment provided by a licensee which
20 is freestanding from a facility licensed under chapter 135B or
21 135C.

22 6- 5. The department of human services shall not give
23 approval to an application which would cause the total number
24 of beds licensed under this chapter for services reimbursed by
25 the medical assistance program under chapter 249A to exceed
26 four hundred thirty beds.

27 7- 6. In addition to the beds authorized under subsection
28 6, the department of human services may establish not more
29 than thirty beds licensed under this chapter at the state
30 mental health institute at Independence. ~~The beds shall be~~
31 ~~exempt from the certificate of need requirement under~~
32 ~~subsection-4-~~

33 8- 7. The department of human services may give approval
34 to conversion of beds approved under subsection 6, to beds
35 which are specialized to provide substance abuse treatment.

1 However, the total number of beds approved under subsection 6
2 and this subsection shall not exceed four hundred thirty.
3 ~~Conversion-of-beds-under-this-subsection-shall-not-require-a~~
4 ~~revision-of-the-certificate-of-need-issued-for-the-psychiatric~~
5 ~~institution-making-the-conversion.~~

6 9- 8. The proposed psychiatric institution is under the
7 direction of an agency which has operated a facility licensed
8 under section 237.3, subsection 2, paragraph "a", as a
9 comprehensive residential facility for children for three
10 years or of an agency which has operated a facility for three
11 years providing psychiatric services exclusively to children
12 or adolescents and the facility meets or exceeds requirements
13 for licensure under section 237.3, subsection 2, paragraph
14 "a", as a comprehensive residential facility for children.

15 10- 9. A psychiatric institution licensed prior to July 1,
16 1999, may exceed the number of beds authorized under
17 subsection 6 if the excess beds are used to provide services
18 funded from a source other than the medical assistance program
19 under chapter 249A. Notwithstanding subsections 4, and 5, ~~and~~
20 6, the provision of services using those excess beds does not
21 require a ~~certificate-of-need-or-a~~ review by the department of
22 human services.

23 Sec. 3. Section 231B.2, subsection 1, Code 2001, is
24 amended to read as follows:

25 1. The department shall establish by rule in accordance
26 with chapter 17A a special classification for elder group
27 homes. ~~An-elder-group-home-established-pursuant-to-this~~
28 ~~subsection-is-exempt-from-the-requirements-of-section-135-63.~~

29 Sec. 4. Section 231C.3, subsection 1, Code 2001, is
30 amended to read as follows:

31 1. The department shall establish, by rule in accordance
32 with chapter 17A, a program for certification and monitoring
33 of assisted living programs. An assisted living program which
34 is voluntarily accredited is not required to also be certified
35 by the department and the department shall accept voluntary

1 accreditation in lieu of certification by the department. An
2 ~~assisted-living-program-certified-or-voluntarily-accredited~~
3 ~~under-this-section-is-exempt-from-the-requirements-of-section~~
4 ~~135.63-relating-to-certificate-of-need-requirements.~~

5 Sec. 5. Section 708.3A, subsection 5, Code 2001, is
6 amended to read as follows:

7 5. As used in this section, "health care provider" means
8 an emergency medical care provider as defined in chapter 147A
9 or a person licensed or registered under chapter 148, 148C,
10 148D, 150, 150A, or 152 who is providing or who is attempting
11 to provide emergency medical services, as defined in section
12 147A.1, or who is providing or who is attempting to provide
13 health services ~~as-defined-in-section-135.61~~ in a hospital.
14 For the purposes of this section, "health services" means
15 clinically related diagnostic, curative, or rehabilitative
16 services, and includes alcoholism, drug abuse, and mental
17 health services. A person who commits an assault under this
18 section against a health care provider in a hospital, or at
19 the scene or during out-of-hospital patient transportation in
20 an ambulance, is presumed to know that the person against whom
21 the assault is committed is a health care provider.

22 Sec. 6. Sections 135.61 through 135.73, Code 2001, are
23 repealed.

24 EXPLANATION

25 This bill eliminates the certificate of need program for
26 health facilities, under the Iowa department of public health.
27 The bill also makes conforming changes in the Code due to the
28 elimination of the program.

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