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SENATE FILE 303

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SF 193)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the providing of another business or activity
2 in a health care facility.

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

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SF 303

1 Section 1. Section 135C.5, Code 2005, is amended to read
2 as follows:

3 135C.5 LIMITATIONS ON USE.

4 Another business or activity serving persons other than the
5 residents of a health care facility shall-not may be carried
6 on-in-a-health-care-facility,-or-in operated or provided in a
7 designated part of the same physical structure with-a of the
8 health care facility, unless-such-business-or-activity-is
9 under-the-control-of-and-is-directly-related-to-and-incidental
10 to-the-operation-of-the-health-care-facility-or-unless-the
11 business-or-activity-is-approved-by-the-department-and-the
12 state-fire-marshal if the other business or activity meets the
13 requirements of applicable state and federal laws,
14 administrative rules, and federal regulations. A The
15 department shall not limit the ability of a health care
16 facility to operate or provide another business or activity
17 which-is-operated-within-the-limitations-of-this-section-shall
18 in the designated part of the facility if the business or
19 activity does not interfere in-any-manner with the use of the
20 facility by the residents or with the services provided to the
21 residents, and shall is not be disturbing to them the
22 residents. In denying the ability of a health care facility
23 to operate or provide another business or activity under this
24 section, the burden of proof shall be on the department to
25 demonstrate that the other business or activity substantially
26 interferes with the use of the facility by the residents or
27 the services provided to the residents, or is disturbing to
28 the residents. The department-and-the state fire marshal, in
29 accordance with chapter 17A, shall adopt rules which establish
30 criteria for approval of a business or activity to be carried
31 on-in-a-health-care-facility-or operated or provided in a
32 designated part of the same physical structure with of a
33 health care facility. For the purposes of this section,
34 "another business or activity" shall be limited to home and
35 community-based services.

1 EXPLANATION

2 This bill allows a health care facility to operate or
3 provide another business or activity, serving persons other
4 than the residents of the health care facility, in a
5 designated part of the physical structure of the health care
6 facility, if the other business or activity meets the
7 requirements of applicable state and federal laws,
8 administrative rules, and federal regulations. The bill
9 prohibits the department of inspections and appeals from
10 limiting the ability of a health care facility to operate or
11 provide another business or activity in the designated part of
12 the facility if the business or activity does not interfere
13 with the use of the facility by the residents or with the
14 services provided to the residents, and is not disturbing to
15 the residents. In denying the ability of a health care
16 facility to operate or provide another business or activity in
17 the physical structure of the health care facility, the burden
18 of proof is on the department to demonstrate that the business
19 or activity substantially interferes with the use of the
20 facility by, or the services provided to, the residents, or is
21 disturbing to the residents. The bill also directs the state
22 fire marshal to adopt rules to establish criteria for approval
23 of a business or activity to be operated or provided in a
24 designated part of the physical structure of a health care
25 facility. The bill provides that for the purposes of the
26 bill, "another business or activity" is limited to home and
27 community-based services.

28 Current law provides that another business or activity is
29 prohibited from being carried on in the health care facility
30 or in the same physical structure as the health care facility
31 unless the business or activity is under the control of and is
32 directly related and incidental to, the operation of the
33 health care facility, or unless the department of inspections
34 and appeals and the state fire marshal approve the business or
35 activity. Current law does not specify that the population

1 served by the business or activity is persons other than
2 residents of the facility. Current law also directs the
3 department of inspections and appeals and the state fire
4 marshal to adopt rules to establish criteria for approval of a
5 business or activity being carried on in a health care
6 facility or the same physical structure with a health care
7 facility.

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SENATE FILE 303

S-3033

1 Amend Senate File 303 as follows:

2 1. Page 1, by striking lines 33 through 35, and
3 inserting the following: "health care facility. For
4 the purposes of this section, "another business or
5 activity" shall not include laboratory services with
6 the exception of laboratory services for which a
7 waiver from regulatory oversight has been obtained
8 under the federal Clinical Laboratory Improvement
9 Amendments of 1988, Pub. L. No. 100-578, as amended,
10 radiological services, anesthesiology services,
11 obstetrical services, surgical services, or emergency
12 room services provided by hospitals licensed under
13 chapter 135B."

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S-3033 FILED MARCH 16, 2005

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