



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

May 1, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit:

House File 387, an Act relating to mental health and developmental disabilities by expanding an exemption to health care licensing requirements for certain residential programs that receive funding under a medical assistance home and community-based services waiver and approval from the Department of Human Services, and revising membership requirements for the Mental Health and Developmental Disabilities Commission, and providing an effective date.

The above House File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Vilsack".

Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House





HOUSE FILE 387

AN ACT

RELATING TO MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES BY EXPANDING AN EXEMPTION TO HEALTH CARE LICENSING REQUIREMENTS FOR CERTAIN RESIDENTIAL PROGRAMS THAT RECEIVE FUNDING UNDER A MEDICAL ASSISTANCE HOME AND COMMUNITY-BASED SERVICES WAIVER AND APPROVAL FROM THE DEPARTMENT OF HUMAN SERVICES, AND REVISING MEMBERSHIP REQUIREMENTS FOR THE MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES COMMISSION, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 135C.2, subsection 3, paragraph c, Code 2003, is amended to read as follows:

c. The rules adopted for intermediate care facilities for persons with mental retardation shall be consistent with, but no more restrictive than, the federal standards for intermediate care facilities for persons with mental retardation established pursuant to the federal Social Security Act, § 1905(c)(d), as codified in 42 U.S.C. § 1396d, in effect on January 1, 1989. However, in order for an intermediate care facility for persons with mental retardation to be licensed, the state fire marshal must certify to the department ~~an intermediate care facility for persons with mental retardation as meeting~~ that the facility meets the applicable provisions of the rules adopted for such facilities by the state fire marshal. The state fire marshal's rules shall be based upon such a facility's compliance with either the provisions applicable to health care occupancies chapter or the residential board and care chapter occupancies of the life safety code of the national fire protection association, 1985 2000 edition. The department shall adopt additional rules for intermediate care facilities for persons with mental retardation pursuant to section 135C.14, subsection 8.

Sec. 2. Section 135C.6, subsection 8, Code 2003, is amended to read as follows:

8. The following residential programs to which the department of human services applies accreditation, certification, or standards of review shall not be required to be licensed as a health care facility under this chapter:

a. Residential programs providing care to not more than four individuals and receiving moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver for persons with mental retardation or other medical assistance program under chapter 249A ~~shall not be required to be licensed as a health care facility under this chapter.~~ In approving a residential program under this ~~subsection~~ paragraph, the department of human services shall consider the geographic location of the program so as to avoid an overconcentration of such programs in an area. In order to be approved under this ~~subsection~~ paragraph, a residential program shall not be required to involve the conversion of a licensed residential care facility for persons with mental retardation.

b. Not more than forty residential care facilities for persons with mental retardation that are licensed to serve not more than five individuals may be authorized by the department of human services to convert to operation as a residential program under the provisions of a medical assistance home and community-based services waiver for persons with mental retardation. A converted residential program operating under this paragraph is subject to the conditions stated in paragraph "a" except that the program shall not serve more than five individuals.

c. A residential program approved by the department of human services pursuant to this paragraph "c" to receive moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver for persons with mental retardation may provide care to not more than five individuals. The department shall approve a residential program under this paragraph that complies with all of the following conditions:

(1) Approval of the program will not result in an overconcentration of such programs in an area.

(2) The county in which the residential program is located submits to the department of human services a letter of support for approval of the program.

(3) The county in which the residential program is located provides to the department of human services verification in writing that the program is needed to address one or more of the following:

(a) The quantity of services currently available in the county is insufficient to meet the need.

(b) The quantity of affordable rental housing in the county is insufficient.

(c) Implementation of the program will cause a reduction in the size or quantity of larger congregate programs.

Sec. 3. Section 225C.5, subsection 1, paragraph c, Code 2003, is amended to read as follows:

c. One member shall be an active board member of a community mental health center selected from nominees submitted by the Iowa association of community providers.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.



CHRISTOPHER C. RANTS
Speaker of the House



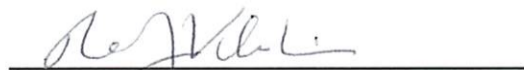
MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 387, Eightieth General Assembly.



MARGARET THOMSON
Chief Clerk of the House

Approved May 1, 2003



THOMAS J. VILSACK
Governor