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FEB 16 1998
STATE GOVERNMENT

HOUSE FILE 2275
BY MARTIN, LORD, NELSON, KREMER,
and THOMSON

Passed House, ^(p.643) Date 3/2/98 Passed Senate, Date ^(p.1194) 4/13/98
Vote: Ayes 99 Nays 0 Vote: Ayes 46 Nays 0
Approved April 22, 1998

A BILL FOR

1 An Act relating to health care providers including the
2 application of records checks to additional providers and the
3 recording and availability of the records of the facility
4 inspections and providing for a repeal.

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

6
7

HOUSE FILE 2275

H-8309

1 Amend House File 2275 as follows:
2 1. Page 1, by striking lines 24 through 26 and
3 inserting the following: "the department at the seat
4 of government and shall be available to the public by
5 mail, upon request and at the department's expense."

By MARTIN of Scott
BURNETT of Story

H-8309 FILED MARCH 11, 1998

adopted 3/2/98 (p. 643)

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H.F. 2275

REBUILT

1 Section 1. NEW SECTION. 135C.20A REPORT CARDS --
2 FACILITY INSPECTIONS -- COMPLAINT PROCEDURES -- AVAILABILITY
3 TO PUBLIC -- ELECTRONIC ACCESS.

4 1. The department shall develop and utilize a report card
5 system for the recording of the findings of any inspection of
6 a health care facility. The report card shall include but is
7 not limited to a summary of the findings of the inspection,
8 any violation found, any enforcement action taken including
9 any citations issued and penalties assessed, any actions taken
10 to correct violations or deficiencies, and the nature and
11 status of any action taken with respect to any uncorrected
12 violation for which a citation was issued.

13 2. The report card form shall be developed by the
14 department in cooperation with representatives of the
15 department of elder affairs, the state long-term care
16 resident's advocate, representatives of care review
17 committees, representatives of protection and advocacy
18 entities, consumers, and other interested persons.

19 3. The department shall make any completed report cards
20 electronically accessible to the public, on a monthly basis,
21 and shall compile the report cards on an annual basis and make
22 the compilation electronically accessible to the public. The
23 annual compilation shall also be available at the office of
24 the department at the seat of government and a copy shall be
25 provided to and available at each office of the county
26 recorder.

27 Sec. 2. Section 135C.33, Code Supplement 1997, is amended
28 to read as follows:

29 135C.33 CHILD OR DEPENDENT ADULT ABUSE INFORMATION AND
30 CRIMINAL RECORDS -- EVALUATIONS -- APPLICATION TO OTHER
31 PROVIDERS.

32 1. Beginning July 1, 1997, prior to employment of a person
33 in a facility, the facility shall request that the department
34 of public safety perform criminal and dependent adult abuse
35 record checks of the person in this state. In addition, the

1 facility may request that the department of human services
2 perform a child abuse record check in this state. Beginning
3 July 1, 1997, a facility shall inform all persons prior to
4 employment regarding the performance of the records checks and
5 shall obtain, from the persons, a signed acknowledgment of the
6 receipt of the information. Additionally, a facility shall
7 include the following inquiry in an application for
8 employment: "Do you have a record of founded child or
9 dependent adult abuse or have you ever been convicted of a
10 crime, in this state or any other state?" If the person has
11 been convicted of a crime under a law of any state or has a
12 record of founded child or dependent adult abuse, the
13 department of human services shall perform an evaluation to
14 determine whether the crime or founded child or dependent
15 adult abuse warrants prohibition of employment in the
16 facility. The evaluation shall be performed in accordance
17 with procedures adopted for this purpose by the department of
18 human services.

19 2. If the department of public safety determines that a
20 person has committed a crime or has a record of founded
21 dependent adult abuse and is to be employed in a facility
22 licensed under this chapter, the department of public safety
23 shall notify the licensee that an evaluation will be conducted
24 by the department of human services to determine whether
25 prohibition of the person's employment is warranted. If a
26 department of human services child abuse record check
27 determines the person has a record of founded child abuse, the
28 department shall inform the licensee that an evaluation will
29 be conducted to determine whether prohibition of the person's
30 employment is warranted.

31 3. In an evaluation, the department of human services
32 shall consider the nature and seriousness of the crime or
33 founded child or dependent adult abuse in relation to the
34 position sought or held, the time elapsed since the commission
35 of the crime or founded child or dependent adult abuse, the

1 circumstances under which the crime or founded child or
2 dependent adult abuse was committed, the degree of
3 rehabilitation, the likelihood that the person will commit the
4 crime or founded child or dependent adult abuse again, and the
5 number of crimes or founded child or dependent adult abuses
6 committed by the person involved. The department of human
7 services has final authority in determining whether
8 prohibition of the person's employment is warranted.

9 4. If the department of human services determines that the
10 person has committed a crime or has a record of founded child
11 or dependent adult abuse which warrants prohibition of
12 employment, the person shall not be employed in a facility
13 licensed under this chapter.

14 5. Beginning July 1, 1998, this section shall apply to
15 prospective employees of all of the following, if the provider
16 is regulated by the state or receives any state or federal
17 funding:

18 a. An employee of a homemaker, home-health aide, home-care
19 aide, adult day care, or other provider of in-home services if
20 the employee provides direct services to consumers.

21 b. An employee of a hospice, if the employee provides
22 direct services to consumers.

23 c. An employee who provides direct services to consumers
24 under a federal home and community-based services waiver.

25 In substantial conformance with the provisions of this
26 section, prior to the employment of such an employee, the
27 provider shall request the performance of the criminal and
28 dependent adult abuse record checks and may request the
29 performance of the child abuse record. The provider shall
30 inform the prospective employee and obtain the prospective
31 employee's signed acknowledgment. The department of human
32 services shall perform the evaluation of any criminal record
33 or founded child or dependent adult abuse record and shall
34 make the determination of whether a prospective employee of a
35 provider shall not be employed by the provider.

**HOUSE FILE 2275
FISCAL NOTE**

A fiscal note for Amendment S-5284 to House File 2275, is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Amendment S-5284 to House File 2275, establishes a certification program for home health agencies and requires certification of the agencies prior to an agency being established, operated, or maintained in the State. The Bill makes the requirements of child, dependent adult, or criminal record checks which are currently applicable to employees of health care facilities, applicable to the prospective employees of various home care providers, hospice, and recipients of federal home and community-based services waivers if the providers are regulated by the State or receive State or federal funding. The Bill also directs the Department of Inspections and Appeals to establish a report card system to record the results of health care facility inspections.

ASSUMPTIONS

1. The State will have to pay 50.0% of the federal activity of certification of home health agencies when State law requires an activity also required by the federal government.
2. The number of inspections is based on the current number of home health agencies (284) and a 10.0% annual increase.
3. Each home health agency will be surveyed annually.
4. There will be approximately 1,400 additional requests for employee record checks per year resulting in 140 negative reports requiring further action.

FISCAL IMPACT

The fiscal impact of Amendment S-5284 to House File 2275, is expected to be approximately \$1.1 million in both FY 1999 and FY 2000. Expenditures for certification are estimated to be \$1.0 million in FY 1999 and \$996,000 in FY 2000. Expenditures for additional record checks are estimated to be \$74,000 in FY 1999 and \$68,000 in FY 2000. Included in the estimate is a decrease in federal revenue of \$270,000 (50.0%) in both FY 1999 and FY 2000 due to the State's requiring certification requirement of home health agencies. Under current law, Medicare pays for all certification activity relating to home health agencies.

The following table reflects the General Fund impact on revenues and expenditures for FY 1999 and FY 2000.

-2-

	(numbers in thousands)					
	Fiscal Year 1999			Fiscal Year 2000		
	Current Law	Proposed Law	Increase (Decrease)	Current Law	Proposed Law	Increase (Decrease)
REVENUE						
General Fund \$	0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Federal Funds	540	270	(270)	540	270	(270)
Other	0	0	0	0	0	0
Total	\$ 540	\$ 270	\$ (270)	\$ 540	\$ 270	\$ (270)
EXPENDITURES						
Salaries	\$ 405	\$ 947	\$ 542	\$ 405	\$ 1,023	\$ 618
(FTE's)	(10.5)	(10.5)	(10.5)	(10.5)	(10.5)	(10.5)
Other	135	430	295	135	337	202
Total	\$ 540	\$ 1,377	\$ 837	\$ 540	\$ 1,360	\$ 820
NET EFFECT	\$ 0	\$ (1,107)	\$ (1,107)	\$ 0	\$ (1,090)	\$ (1,090)

SOURCES

Department of Inspections and Appeals
 Department of Human Services

(LSB 3868YH, PQP)

FILED MARCH 24, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 2275
BY MARTIN, LORD, NELSON, KREMER,
and THOMSON

(As Amended and Passed by the House, March 12, 1998)

Passed House, Date 4/14/98 (P.1602)
Vote: Ayes 98 Nays 0
Approved April 22, 1998
Passed Senate, Date 4/13/98 (P.1194)
Vote: Ayes 46 Nays 0

A BILL FOR

- 1 An Act relating to health care providers including the
- 2 application of records checks to additional providers and the
- 3 recording and availability of the records of the facility
- 4 inspections and providing for a repeal.
- 5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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HOUSE FILE 2275

S-5247

1 Amend House File 2275, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. Page 1, by inserting after line 26, the
 4 following:
 5 "____. In addition to the monthly and annual
 6 compilations, the department shall provide
 7 compilations of the report cards on a cumulative
 8 basis. The cumulative compilation shall reflect the
 9 report cards of health care facilities during the
 10 four-year period prior to the production of the
 11 cumulative compilation. The cumulative compilation
 12 shall be applicable to a particular health care
 13 facility as a four-year report card history of that
 14 facility becomes available. The cumulative
 15 compilation shall be available to the public in the
 16 same manner as the annual compilation."
 17 2. By renumbering as necessary.

adopted 4-13-98 (P.1193) By TOM FLYNN

S-5247 FILED MARCH 16, 1998

1 Section 1. NEW SECTION. 135C.20A REPORT CARDS --
2 FACILITY INSPECTIONS -- COMPLAINT PROCEDURES -- AVAILABILITY
3 TO PUBLIC -- ELECTRONIC ACCESS.

4 1. The department shall develop and utilize a report card
5 system for the recording of the findings of any inspection of
6 a health care facility. The report card shall include but is
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9 any citations issued and penalties assessed, any actions taken
10 to correct violations or deficiencies, and the nature and
11 status of any action taken with respect to any uncorrected
12 violation for which a citation was issued.

13 2. The report card form shall be developed by the
14 department in cooperation with representatives of the
15 department of elder affairs, the state long-term care
16 resident's advocate, representatives of care review
17 committees, representatives of protection and advocacy
18 entities, consumers, and other interested persons.

19 3. The department shall make any completed report cards
20 electronically accessible to the public, on a monthly basis,
21 and shall compile the report cards on an annual basis and make
22 the compilation electronically accessible to the public. The
23 annual compilation shall also be available at the office of
24 the department at the seat of government and shall be
25 available to the public by mail, upon request and at the
26 department's expense.

27 Sec. 2. Section 135C.33, Code Supplement 1997, is amended
28 to read as follows:

29 135C.33 CHILD OR DEPENDENT ADULT ABUSE INFORMATION AND
30 CRIMINAL RECORDS -- EVALUATIONS -- APPLICATION TO OTHER
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32 1. Beginning July 1, 1997, prior to employment of a person
33 in a facility, the facility shall request that the department
34 of public safety perform criminal and dependent adult abuse
35 record checks of the person in this state. In addition, the

1 facility may request that the department of human services
2 perform a child abuse record check in this state. Beginning
3 July 1, 1997, a facility shall inform all persons prior to
4 employment regarding the performance of the records checks and
5 shall obtain, from the persons, a signed acknowledgment of the
6 receipt of the information. Additionally, a facility shall
7 include the following inquiry in an application for
8 employment: "Do you have a record of founded child or
9 dependent adult abuse or have you ever been convicted of a
10 crime, in this state or any other state?" If the person has
11 been convicted of a crime under a law of any state or has a
12 record of founded child or dependent adult abuse, the
13 department of human services shall perform an evaluation to
14 determine whether the crime or founded child or dependent
15 adult abuse warrants prohibition of employment in the
16 facility. The evaluation shall be performed in accordance
17 with procedures adopted for this purpose by the department of
18 human services.

19 2. If the department of public safety determines that a
20 person has committed a crime or has a record of founded
21 dependent adult abuse and is to be employed in a facility
22 licensed under this chapter, the department of public safety
23 shall notify the licensee that an evaluation will be conducted
24 by the department of human services to determine whether
25 prohibition of the person's employment is warranted. If a
26 department of human services child abuse record check
27 determines the person has a record of founded child abuse, the
28 department shall inform the licensee that an evaluation will
29 be conducted to determine whether prohibition of the person's
30 employment is warranted.

31 3. In an evaluation, the department of human services
32 shall consider the nature and seriousness of the crime or
33 founded child or dependent adult abuse in relation to the
34 position sought or held, the time elapsed since the commission
35 of the crime or founded child or dependent adult abuse, the

1 circumstances under which the crime or founded child or
2 dependent adult abuse was committed, the degree of
3 rehabilitation, the likelihood that the person will commit the
4 crime or founded child or dependent adult abuse again, and the
5 number of crimes or founded child or dependent adult abuses
6 committed by the person involved. The department of human
7 services has final authority in determining whether
8 prohibition of the person's employment is warranted.

9 4. If the department of human services determines that the
10 person has committed a crime or has a record of founded child
11 or dependent adult abuse which warrants prohibition of
12 employment, the person shall not be employed in a facility
13 licensed under this chapter.

14 5. Beginning July 1, 1998, this section shall apply to
15 prospective employees of all of the following, if the provider
16 is regulated by the state or receives any state or federal
17 funding:

18 a. An employee of a homemaker, home-health aide, home-care
19 aide, adult day care, or other provider of in-home services if
20 the employee provides direct services to consumers.

21 b. An employee of a hospice, if the employee provides
22 direct services to consumers.

23 c. An employee who provides direct services to consumers
24 under a federal home and community-based services waiver.

25 In substantial conformance with the provisions of this
26 section, prior to the employment of such an employee, the
27 provider shall request the performance of the criminal and
28 dependent adult abuse record checks and may request the
29 performance of the child abuse record. The provider shall
30 inform the prospective employee and obtain the prospective
31 employee's signed acknowledgment. The department of human
32 services shall perform the evaluation of any criminal record
33 or founded child or dependent adult abuse record and shall
34 make the determination of whether a prospective employee of a
35 provider shall not be employed by the provider.

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Sec. 3. Section 135C.47, Code 1997, is repealed.

S-5284

Page 3

1 providing home health care services if the person does
2 not hold the person out to be a certified home health
3 agency.

4 Sec. ____ . NEW SECTION. 135M.3 RECORD -- AUDIT.

5 1. A home health agency shall maintain complete
6 and accurate records of all services provided to
7 clients or customers, including the names of
8 caregivers employed by the agency, the dates and times
9 of services provided, and billing statements and
10 payment records. Such information shall be maintained
11 for a five-year period.

12 2. A home health agency shall submit to periodic
13 audit by the department and shall fully cooperate in
14 providing all requested information and records.

15 Sec. ____ . NEW SECTION. 135M.4 RULES.

16 The department in cooperation with the department
17 of human services and the Iowa department of public
18 health shall adopt rules, in accordance with chapter
19 17A, to enforce this chapter. The rules adopted shall
20 include, but are not limited to, those establishing
21 minimum standards for home health agencies to comply
22 with this chapter and those establishing standards of
23 care for the treatment and care of clients and
24 customers. The rules shall also establish the
25 duration of and the fee for certification."

26 4. Title page, line 1, by inserting after the
27 word "including" the following: "home health agencies
28 and".

29 5. Title page, line 4, by inserting after the
30 word "inspections" the following: ", providing
31 penalties,".

32 6. By renumbering as necessary.

By COMMITTEE ON HUMAN RESOURCES
NANCY BOETTGER, Chairperson

S-5284 FILED MARCH 19, 1998

WITHDRAWN

4-13-98

(P. 1193)

HOUSE FILE 2275

S-5284

1 Amend House File 2275, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting after line 26, the
4 following:

5 " _____. In addition to the monthly and annual
6 compilations, the department shall provide
7 compilations of the report cards on a cumulative
8 basis. The cumulative compilation shall reflect the
9 report cards of health care facilities during the
10 three-year period prior to the production of the
11 cumulative compilation. The cumulative compilation
12 shall be applicable to a particular health care
13 facility as a three-year report card history of that
14 facility becomes available and shall include the
15 status of any action taken by the health care facility
16 pursuant to any citation or complaint. The cumulative
17 compilation shall be available to the public in the
18 same manner as the annual compilation."

19 2. Page 3, line 29, by inserting after the word
20 "record" the following: "check".

21 3. Page 3, by inserting after line 35 the
22 following:

23 "6. Beginning July 1, 1998, this section shall
24 apply to employees of home health agencies under
25 chapter 135M.

26 Sec. _____. NEW SECTION. 135M.1 DEFINITIONS.

27 As used in this chapter, unless the context
28 otherwise requires:

29 1. "Caregiver" means an individual operating or
30 employed by a home health agency who provides direct
31 health, social, personal care, or other services to an
32 individual in the individual's own home.

33 2. "Department" means the department of
34 inspections and appeals.

35 3. "Home health agency" means a person who
36 provides health, social, personal care, or other
37 services to an individual in the individual's home for
38 a fee, with the exception of a person related to the
39 individual receiving the services within the fourth
40 degree of consanguinity.

41 Sec. _____. NEW SECTION. 135M.2 CERTIFICATION --
42 CRITERIA -- INSPECTION -- PENALTY -- SUSPENSION OR
43 REVOCATION.

44 1. A person establishing, operating, or
45 maintaining a home health agency in this state shall
46 receive certification from the department prior to
47 providing services.

48 2. The requirements for certification established
49 by the department shall include, but are not limited
50 to, all of the following:

S-5284

-1-

S-5284

Page 2

1 a. The home health agency declares that the agency
2 will employ only caregivers who have been approved by
3 the department of human services following a records
4 check pursuant to section 135C.33.

5 b. The home health agency declares that each
6 caregiver employed by the agency will complete the
7 required number of hours of clinical training
8 established by the department in cooperation with the
9 department of human services and the Iowa department
10 of public health, prior to providing in-home services.

11 c. The home health agency provides the department
12 with the names, addresses, and telephone numbers of
13 all officers and directors of the agency.

14 d. The home health care agency posts a bond in the
15 amount required by rule of the department, or in the
16 alternative, provides annual proof of insurance in the
17 amount required by rule of the department to cover
18 errors and omissions of all caregivers employed by the
19 agency.

20 e. The home health agency agrees to provide all
21 clients, by notice in a conspicuous manner, with
22 information regarding complaints filed against the
23 agency and the information shall also be included in
24 any contract for services entered into by the agency.

25 3. The department shall make or be responsible for
26 inspections of the home health agency and the care
27 provided by the home health agency before a
28 certificate is issued and periodically after the
29 initial inspection.

30 4. A person who establishes, operates, or
31 maintains a home health agency in this state without
32 prior certification is guilty of a serious
33 misdemeanor. Each day of continuing violation after
34 conviction or notice by the department by certified
35 mail of a violation is considered a separate offense.
36 Any person establishing, operating, or maintaining a
37 home health agency without prior certification may be
38 permanently enjoined from such activity in any action
39 brought by the state.

40 5. The department may suspend or revoke
41 certification if the department determines there is
42 failure of the home health agency to comply with this
43 chapter or the rules adopted under this chapter. The
44 suspension or revocation may be appealed under chapter
45 17A. The department may reissue certification
46 following suspension or revocation after the home
47 health agency corrects the conditions upon which the
48 suspension or revocation was based.

49 6. This chapter shall not be construed to prohibit
50 a person who is not certified under this chapter from

S-5284

-2-

HOUSE FILE 2275

S-5538

1 Amend the amendment, S-5284, to House File 2275 as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 1, line 24, by inserting after the word
5 "to" the following: "prospective".

6 2. Page 1, line 42, by striking the word "PENALTY
7 --".

8 3. Page 1, by striking lines 45 through 47, and
9 inserting the following: "maintaining a home health
10 agency in this state may receive certification which
11 is consistent with the requirements of Title XVIII of
12 the federal Social Security Act from the department.
13 The department shall accept certification of a home
14 health agency under Title XVIII of the federal Social
15 Security Act in lieu of certification by the
16 department."

17 4. Page 2, by striking lines 14 through 16, and
18 inserting the following:

19 "d. The home health agency provides annual proof
20 of insurance in the".

21 5. Page 2, by striking lines 30 through 39.

22 6. Page 2, line 42, by inserting after the word
23 "the" the following: "certified".

24 7. Page 3, by striking lines 29 through 31.

25 8. By renumbering as necessary.

By NANCY BOETTGER

S-5538 FILED APRIL 6, 1998

Order 4-13-98 (P. 1193)

HOUSE FILE 2275

S-5621

1 Amend House File 2275, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 2, line 18, by inserting after the word
4 "services." the following: "If a person owns or
5 operates more than one facility, and an employee of
6 one of such facilities is transferred to another such
7 facility without a lapse in employment, the facility
8 is not required to request additional criminal and
9 dependent adult abuse record checks of that employee."

By WILMER RENSINK
JOHNIE HAMMOND

S-5621 FILED APRIL 13, 1998

ADOPTED *4-13-98 (P. 1194)*

HOUSE FILE 2275

S-5526

- 1 Amend the amendment, S-5284, to House File 2275, as
2 amended, passed, and reprinted by the House, as
3 follows:
- 4 1. Page 1, line 38, by inserting after the word
5 "of" the following: "hospice services or".
- 6 2. Page 1, line 46, by inserting after the word
7 "certification" the following: "which is consistent
8 with the requirements of Title XVIII of the federal
9 Social Security Act".
- 10 3. Page 1, line 47, by inserting after the word
11 "services." the following: "A home health agency
12 which is certified under Title XVIII of the federal
13 Social Security Act is not required to also be
14 certified by the department and the department shall
15 accept certification of a home health agency under
16 Title XVIII of the federal Social Security Act in lieu
17 of certification by the department."
- 18 4. By striking page 1, line 48 through page 2,
19 line 24.
- 20 5. Page 2, line 50, by striking the words "a
21 person" and inserting the following: "an individual".
- 22 6. Page 3, line 1, by striking the word "person"
23 and inserting the following: "individual".
- 24 7. Page 3, line 2, by striking the word "person"
25 and inserting the following: "individual".
- 26 8. Page 3, by striking lines 20 through 25, and
27 inserting the following: "include, but are not
28 limited to, minimum standards for home health agencies
29 which reflect the minimum standards under Title XVIII
30 of the federal Social Security Act, and standards of
31 care for the treatment and care of clients and
32 customers. The rules shall also establish the
33 duration of the certification and the fee for
34 certification which shall reflect the actual cost of
35 certification."
- 36 9. By renumbering as necessary.

By JOHNIE HAMMOND

S-5526 FILED APRIL 6, 1998

o/order 4-13-98
(p. 1193)

SENATE AMENDMENT TO HOUSE FILE 2275

H-9135

1 Amend House File 2275, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting after line 26, the
4 following:

5 " . In addition to the monthly and annual
6 compilations, the department shall provide
7 compilations of the report cards on a cumulative
8 basis. The cumulative compilation shall reflect the
9 report cards of health care facilities during the
10 four-year period prior to the production of the
11 cumulative compilation. The cumulative compilation
12 shall be applicable to a particular health care
13 facility as a four-year report card history of that
14 facility becomes available. The cumulative
15 compilation shall be available to the public in the
16 same manner as the annual compilation."

17 2. Page 2, line 18, by inserting after the word
18 "services." the following: "If a person owns or
19 operates more than one facility, and an employee of
20 one of such facilities is transferred to another such
21 facility without a lapse in employment, the facility
22 is not required to request additional criminal and
23 dependent adult abuse record checks of that employee."

24 3. By renumbering, relettering, or redesignating
25 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-9135 FILED APRIL 13, 1998

*House Concurred**4-14-98**(P.1602)*

HOUSE FILE 2275

AN ACT

RELATING TO HEALTH CARE PROVIDERS INCLUDING THE APPLICATION OF RECORDS CHECKS TO ADDITIONAL PROVIDERS AND THE RECORDING AND AVAILABILITY OF THE RECORDS OF THE FACILITY INSPECTIONS AND PROVIDING FOR A REPEAL.

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

Section 1. NEW SECTION. 135C.20A REPORT CARDS -- FACILITY INSPECTIONS -- COMPLAINT PROCEDURES -- AVAILABILITY TO PUBLIC -- ELECTRONIC ACCESS.

1. The department shall develop and utilize a report card system for the recording of the findings of any inspection of a health care facility. The report card shall include but is not limited to a summary of the findings of the inspection, any violation found, any enforcement action taken including any citations issued and penalties assessed, any actions taken to correct violations or deficiencies, and the nature and status of any action taken with respect to any uncorrected violation for which a citation was issued.

2. The report card form shall be developed by the department in cooperation with representatives of the

department of elder affairs, the state long-term care resident's advocate, representatives of care review committees, representatives of protection and advocacy entities, consumers, and other interested persons.

3. The department shall make any completed report cards electronically accessible to the public, on a monthly basis, and shall compile the report cards on an annual basis and make the compilation electronically accessible to the public. The annual compilation shall also be available at the office of the department at the seat of government and shall be available to the public by mail, upon request and at the department's expense.

4. In addition to the monthly and annual compilations, the department shall provide compilations of the report cards on a cumulative basis. The cumulative compilation shall reflect the report cards of health care facilities during the four-year period prior to the production of the cumulative compilation. The cumulative compilation shall be applicable to a particular health care facility as a four-year report card history of that facility becomes available. The cumulative compilation shall be available to the public in the same manner as the annual compilation.

Sec. 2. Section 135C.33, Code Supplement 1997, is amended to read as follows:

135C.33 CHILD OR DEPENDENT ADULT ABUSE INFORMATION AND CRIMINAL RECORDS -- EVALUATIONS -- APPLICATION TO OTHER PROVIDERS.

1. Beginning July 1, 1997, prior to employment of a person in a facility, the facility shall request that the department of public safety perform criminal and dependent adult abuse record checks of the person in this state. In addition, the facility may request that the department of human services perform a child abuse record check in this state. Beginning July 1, 1997, a facility shall inform all persons prior to employment regarding the performance of the records checks and

shall obtain, from the persons, a signed acknowledgment of the receipt of the information. Additionally, a facility shall include the following inquiry in an application for employment: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?" If the person has been convicted of a crime under a law of any state or has a record of founded child or dependent adult abuse, the department of human services shall perform an evaluation to determine whether the crime or founded child or dependent adult abuse warrants prohibition of employment in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department of human services. If a person owns or operates more than one facility, and an employee of one of such facilities is transferred to another such facility without a lapse in employment, the facility is not required to request additional criminal and dependent adult abuse record checks of that employee.

2. If the department of public safety determines that a person has committed a crime or has a record of founded dependent adult abuse and is to be employed in a facility licensed under this chapter, the department of public safety shall notify the licensee that an evaluation will be conducted by the department of human services to determine whether prohibition of the person's employment is warranted. If a department of human services child abuse record check determines the person has a record of founded child abuse, the department shall inform the licensee that an evaluation will be conducted to determine whether prohibition of the person's employment is warranted.

3. In an evaluation, the department of human services shall consider the nature and seriousness of the crime or founded child or dependent adult abuse in relation to the position sought or held, the time elapsed since the commission

of the crime or founded child or dependent adult abuse, the circumstances under which the crime or founded child or dependent adult abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child or dependent adult abuse again, and the number of crimes or founded child or dependent adult abuses committed by the person involved. The department of human services has final authority in determining whether prohibition of the person's employment is warranted.

4. If the department of human services determines that the person has committed a crime or has a record of founded child or dependent adult abuse which warrants prohibition of employment, the person shall not be employed in a facility licensed under this chapter.

5. Beginning July 1, 1998, this section shall apply to prospective employees of all of the following, if the provider is regulated by the state or receives any state or federal funding:

a. An employee of a homemaker, home-health aide, home-care aide, adult day care, or other provider of in-home services if the employee provides direct services to consumers.

b. An employee of a hospice, if the employee provides direct services to consumers.

c. An employee who provides direct services to consumers under a federal home and community-based services waiver.

In substantial conformance with the provisions of this section, prior to the employment of such an employee, the provider shall request the performance of the criminal and dependent adult abuse record checks and may request the performance of the child abuse record. The provider shall inform the prospective employee and obtain the prospective employee's signed acknowledgment. The department of human services shall perform the evaluation of any criminal record or founded child or dependent adult abuse record and shall make the determination of whether a prospective employee of a provider shall not be employed by the provider.

Sec. 3. Section 135C.47, Code 1997, is repealed.

RON J. CORBETT
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 2275, Seventy-seventh General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 22, 1998

TERRY E. BRANSTAD
Governor

HF 2275