

Re-referred 3/20/02 Human Res.

FEB 26 2002  
Place On Calendar

HOUSE FILE 2542  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 648)  
(SUCCESSOR TO HF 510)

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

**A BILL FOR**

1 An Act relating to the delivery of services by certain health  
2 care providers and quality assessment and assurance committee  
3 records of such providers.

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

**HOUSE FILE 2542**

H-8138

- 1 Amend House File 2542 as follows:
- 2 1. Page 1, by striking lines 29 through 35.
- 3 2. Page 3, by striking lines 10 through 27.
- 4 3. By renumbering as necessary.

By TREMMEL of Wapello

H-8138 FILED MARCH 1, 2002

HF 2542

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1 Section 1. NEW SECTION. 135M.1 DEFINITIONS.

2 As used in this chapter, the following definitions shall  
3 apply:

4 1. "Health care provider" means a nursing facility, a  
5 residential care facility as defined in section 135C.1,  
6 subsection 17, or an assisted living program certified by the  
7 department of elder affairs or recognized as voluntarily  
8 accredited pursuant to chapter 231C.

9 2. "Quality assessment and assurance activities" means the  
10 procedure by which a quality assessment and assurance  
11 committee monitors, evaluates, recommends, and implements  
12 actions to improve and assure the delivery and quality of  
13 services and resident safety through identification and  
14 prevention of medical or dental incidents or risks.

15 3. "Quality assessment and assurance committee" means a  
16 committee of a health care provider consisting of individuals  
17 responsible for the identification of issues which may  
18 adversely impact the quality of care and services provided to  
19 residents, and for the development and implementation of plans  
20 of action to correct identified quality issues.

21 4. "Quality assessment and assurance committee records"  
22 means staff-generated committee investigation files, internal  
23 reviews, reports, minutes, memoranda, charts, and statistics  
24 generated during the activities of a quality assessment and  
25 assurance committee. "Quality assessment and assurance  
26 committee records" does not mean medical or clinical records  
27 kept regarding any resident in the course of the business of  
28 operating as a health care provider.

29 5. "Regulatory compliance materials" means information  
30 regarding surveys and certifications made regarding a health  
31 care provider, including, but not limited to, federal and  
32 state survey reports, citation reports, statements of  
33 deficiencies, plans of correction, sanctions, remedies,  
34 penalties, fines, or similar findings of noncompliance with  
35 statutory or regulatory requirements or standards.

1     Sec. 2. NEW SECTION. 135M.2 CONFIDENTIALITY OF QUALITY  
2 ASSESSMENT AND ASSURANCE COMMITTEE RECORDS.

3     1. Quality assessment and assurance committee records  
4 shall be confidential and privileged and shall be protected  
5 from direct or indirect means of discovery, subpoena, or  
6 admission into evidence in any civil judicial contract or tort  
7 cause of action. However, information, documents, or records  
8 otherwise available from original sources are not immune from  
9 discovery or use in any such civil judicial contract or tort  
10 cause of action based upon presentation to a quality  
11 assessment and assurance committee. This subsection shall not  
12 preclude the discovery of the identification of witnesses or  
13 documents known to a quality assessment and assurance  
14 committee.

15    2. A person who reviews or creates quality assessment and  
16 assurance committee records or who participates in any  
17 proceeding that reviews or creates such records shall not be  
18 permitted, compelled, or required to testify in any civil  
19 judicial contract or tort cause of action with respect to such  
20 records or with respect to any finding, recommendation,  
21 evaluation, opinion, or action taken by such person or body in  
22 connection with such records. A health care provider may  
23 waive privileges under this subsection and release information  
24 or present quality assessment and assurance committee records  
25 by discovery, subpoena, or admission into evidence in any  
26 civil judicial contract or tort cause of action.

27    3. Persons affected by subsection 2 who provide false  
28 information with the knowledge that such information is false  
29 shall not avail themselves of the protections afforded in  
30 subsection 2.

31    4. A party seeking discovery of witnesses or documents  
32 deemed confidential and privileged under subsection 1 may seek  
33 a judicial in camera inspection of such witnesses or  
34 documents. The judicial in camera inspection shall be  
35 conducted by a district judge in the district court in which

1 the action is filed, and the court shall determine whether the  
2 evidence sought to be excluded is relevant and material to the  
3 claim of the party seeking the evidence and whether the  
4 confidential and privileged evidence is discoverable by any  
5 other means. If the court rules in favor of the party seeking  
6 discovery of the confidential and privileged evidence, the  
7 court shall issue an order requiring the party claiming the  
8 confidential and privileged evidence under subsection 1 to  
9 produce the evidence.

10 Sec. 3. NEW SECTION. 135M.3 ADMISSIBILITY OF REGULATORY  
11 COMPLIANCE MATERIALS.

12 1. Regulatory compliance materials issued by any agency to  
13 a health care provider shall not be admitted into evidence in  
14 any judicial civil contract or tort cause of action unless all  
15 of the following requirements are met:

16 a. No further appeals are pending with respect to the  
17 issuance of the regulatory compliance materials.

18 b. The regulatory compliance materials are otherwise  
19 admissible under the rules of evidence.

20 c. The regulatory compliance materials are directly  
21 related to the harm allegedly caused to a resident who is the  
22 plaintiff in any civil judicial contract or tort cause of  
23 action.

24 2. Regulatory compliance materials shall not be admitted  
25 into evidence in any civil judicial contract or tort cause of  
26 action for purposes of establishing a standard of care or  
27 negligence as a matter of law.

28 EXPLANATION

29 This bill relates to the delivery of services by certain  
30 health care providers and to the quality assessment and  
31 assurance committee records of such providers.

32 The bill creates new Code chapter 135M and provides a  
33 definition of "health care provider" to mean a nursing  
34 facility, residential care facility, or an assisted living  
35 program certified by the department of elder affairs. The

1 bill also provides a definition of a "quality assessment and  
2 assurance committee" to mean a committee of a health care  
3 provider consisting of individuals responsible for the  
4 identification of issues which may adversely impact the  
5 quality of care and services provided to residents, and for  
6 the development and implementation of plans of action to  
7 correct identified quality issues. The bill further defines  
8 the records of a quality assessment and assurance committee to  
9 mean staff-generated committee investigation files, internal  
10 reviews, reports, minutes, memoranda, charts, and statistics  
11 generated during the activities of a quality assessment and  
12 assurance committee, but excludes medical or clinical records  
13 kept regarding a resident of a health care provider.

14 The bill provides that quality assessment and assurance  
15 committee records shall be confidential and privileged and  
16 protected from discovery, subpoena, or admission into evidence  
17 in any civil judicial contract or tort cause of action, except  
18 for information, documents, or records otherwise available  
19 from original sources. The bill further provides that a  
20 person who reviews or creates quality assessment and assurance  
21 committee records shall not be permitted, compelled, or  
22 required to testify in any civil judicial contract or tort  
23 cause of action concerning any finding, recommendation,  
24 evaluation, opinion, or action taken in connection with such  
25 records. The bill provides this confidential privilege may be  
26 waived by a health care provider, and that a party seeking  
27 discovery of witnesses or documents deemed confidential and  
28 privileged may request an in camera inspection of such  
29 witnesses or documents.

30 The bill further provides that regulatory compliance  
31 materials issued by an agency to a health care provider shall  
32 only be admitted into evidence in any judicial civil contract  
33 or tort cause of action if certain requirements are met.

34 "Regulatory compliance materials" means information regarding  
35 surveys and certifications made regarding a health care

1 provider including, but not limited to, federal and state  
2 survey reports, citation reports, statements of deficiencies,  
3 plans of correction, sanctions, remedies, penalties, fines, or  
4 similar findings of noncompliance.

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## HOUSE FILE 2542

H-8139

1 Amend House File 2542 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. Section 135C.1, Code Supplement 2001,  
5 is amended by adding the following new subsections:

6 NEW SUBSECTION. 13A. "Nursing facility  
7 administrator" means a person who administers,  
8 manages, supervises, or is in general administrative  
9 charge of a nursing facility whether or not such  
10 individual has an ownership interest in such facility  
11 and whether or not the individual's functions and  
12 duties are shared with one or more individuals.

13 NEW SUBSECTION. 15A. "Quality assessment and  
14 assurance committee" means a committee consisting of  
15 those individuals identified in 42 C.F.R. §  
16 483.75(o)(1), who are responsible for identifying  
17 issues which may adversely impact the quality of care  
18 and services provided to residents, and developing and  
19 implementing plans of action to correct identified  
20 quality issues.

21 Sec. 2. Section 147.1, subsection 2, paragraph e,  
22 subparagraph (6), Code 2001, is amended to read as  
23 follows:

24 (6) A health care entity, including but not  
25 limited to a group medical practice or a health  
26 facility licensed under chapter 135C, that provides  
27 health care services and follows a formal peer review  
28 process for the purpose of furthering quality health  
29 care.

30 Sec. 3. Section 147.135, subsection 2, Code 2001,  
31 is amended to read as follows:

32 2. As used in this subsection, "peer review  
33 activity" means the procedure by which peer review  
34 committees or quality assessment and assurance  
35 committees, as defined in section 135C.1, monitor,  
36 evaluate, and recommend actions to improve and assure  
37 the delivery and quality of services within the  
38 committees' respective facilities, agencies, and  
39 professions, including recommendations, consideration  
40 of recommendations, actions with regard to  
41 recommendations, and implementation of actions. As  
42 used in this subsection, "peer review records" means  
43 all complaint files, investigation files, reports, and  
44 other investigative information relating to the  
45 monitoring, evaluation, and recommendation of actions  
46 to improve the delivery and quality of health care  
47 services, licensee discipline, or professional  
48 competence in the possession of a peer review  
49 committee or an employee of a peer review committee.  
50 As used in this subsection, "peer review committee"

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1 does not include examining boards. Peer review  
2 records are privileged and confidential, are not  
3 subject to discovery, subpoena, or other means of  
4 legal compulsion for release to a person other than an  
5 affected licensee or a peer review committee and are  
6 not admissible in evidence in a judicial or  
7 administrative proceeding other than a proceeding  
8 involving licensee discipline or a proceeding brought  
9 by a licensee who is the subject of a peer review  
10 record and whose competence is at issue. A person  
11 shall not be liable as a result of filing a report or  
12 complaint with a peer review committee or providing  
13 information to such a committee, or for disclosure of  
14 privileged matter to a peer review committee. A  
15 person present at a meeting of a peer review committee  
16 shall not be permitted to testify as to the findings,  
17 recommendations, evaluations, or opinions of the peer  
18 review committee in any judicial or administrative  
19 proceeding other than a proceeding involving licensee  
20 discipline or a proceeding brought by a licensee who  
21 is the subject of a peer review committee meeting and  
22 whose competence is at issue. Information or  
23 documents discoverable from sources other than the  
24 peer review committee do not become nondiscoverable  
25 from the other sources merely because they are made  
26 available to or are in the possession of a peer review  
27 committee. However, such information relating to  
28 licensee discipline may be disclosed to an appropriate  
29 licensing authority in any jurisdiction in which the  
30 licensee is licensed or has applied for a license. If  
31 such information indicates a crime has been committed,  
32 the information shall be reported to the proper law  
33 enforcement agency. This subsection shall not  
34 preclude the discovery of the identification of  
35 witnesses or documents known to a peer review  
36 committee. Any final written decision and finding of  
37 fact by a licensing board in a disciplinary proceeding  
38 is a public record. Upon appeal by a licensee of a  
39 decision of a licensing board, the entire case record  
40 shall be submitted to the reviewing court. In all  
41 cases where privileged and confidential information  
42 under this subsection becomes discoverable,  
43 admissible, or part of a court record the identity of  
44 an individual whose privilege has been involuntarily  
45 waived shall be withheld.

46 Sec. 4. Section 147.136, Code 2001, is amended to  
47 read as follows:

48 147.136 SCOPE OF RECOVERY.

49 In an action for damages for personal injury  
50 against a physician and surgeon, osteopath,

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1 osteopathic physician and surgeon, dentist, podiatric  
2 physician, optometrist, pharmacist, chiropractor,  
3 nursing facility administrator, or nurse licensed to  
4 practice that profession in this state, or against a  
5 hospital or nursing facility licensed for operation in  
6 this state under chapter 135C, based on the alleged  
7 negligence of the practitioner in the practice of the  
8 profession or occupation, or upon the alleged  
9 negligence of ~~the~~ a hospital or nursing facility in  
10 patient care, in which liability is admitted or  
11 established, the damages awarded shall not include  
12 actual economic losses incurred or to be incurred in  
13 the future by the claimant by reason of the personal  
14 injury, including but not limited to, the cost of  
15 reasonable and necessary medical care, rehabilitation  
16 services, and custodial care, and the loss of services  
17 and loss of earned income, to the extent that those  
18 losses are replaced or are indemnified by insurance,  
19 or by governmental, employment, or service benefit  
20 programs or from any other source except the assets of  
21 the claimant or of the members of the claimant's  
22 immediate family.

23 Sec. 5. Section 147.138, Code 2001, is amended to  
24 read as follows:

25 147.138 CONTINGENT FEE OF ATTORNEY REVIEWED BY  
26 COURT.

27 In any action for personal injury or wrongful death  
28 against any physician and surgeon, osteopath,  
29 osteopathic physician and surgeon, dentist, podiatric  
30 physician, optometrist, pharmacist, chiropractor,  
31 nursing facility administrator, or nurse licensed  
32 under this chapter or against any hospital licensed  
33 under chapter 135B, or nursing facility licensed under  
34 chapter 135C, based upon the alleged negligence of the  
35 licensee in the practice of that profession or  
36 occupation, or upon the alleged negligence of the  
37 hospital or nursing facility in patient care, the  
38 court shall determine the reasonableness of any  
39 contingent fee arrangement between the plaintiff and  
40 the plaintiff's attorney."

41 2. Title page, by striking lines 1 through 3 and  
42 inserting the following: "An Act relating to the  
43 delivery of services by certain health care  
44 professionals and health facilities, and providing  
45 definitions."

By KREIMAN of Davis

H-8139 FILED MARCH 1, 2002

**HOUSE FILE 2542****H-8140**

1 Amend House File 2542 as follows:

2 1. Page 2, by inserting after line 14 the  
3 following:

4 "1A. A health care provider shall not compel an  
5 individual to serve on a quality assessment and  
6 assurance committee. An employee of a health care  
7 provider who does not serve on a quality assessment  
8 and assurance committee shall not be fired,  
9 disciplined, or have any privileges taken away by the  
10 employer health care provider."

11 2. By renumbering as necessary.

By REYNOLDS of Van Buren

**H-8140 FILED MARCH 1, 2002**

**HOUSE FILE 2542****H-8143**

1 Amend House File 2542 as follows:

2 1. Page 1, by striking lines 9 through 28.

3 2. By striking page 2, line 1, through page 3,  
4 line 9.

5 3. Title page, by striking lines 2 and 3 and  
6 inserting the following: "care providers."

7 4. By renumbering as necessary.

By TREMMEL of Wapello

**H-8143 FILED MARCH 1, 2002**

**HOUSE FILE 2542****H-8144**

1 Amend House File 2542 as follows:

2 1. Page 1, by striking lines 1 through 35.

3 2. By renumbering as necessary.

By TREMMEL of Wapello

**H-8144 FILED MARCH 1, 2002**

**HOUSE FILE 2542****H-8145**

1 Amend House File 2542 as follows:

2 1. Page 1, by striking line 11 and inserting the  
3 following: "committee monitors, evaluates, and  
4 recommends".

By KREIMAN of Davis

**H-8145 FILED MARCH 1, 2002**

## HOUSE FILE 2542

H-8146

- 1 Amend House File 2542 as follows:
- 2 1. Page 1, by striking lines 4 through 8 and
- 3 inserting the following:
- 4 "1. "Health care provider" means a nursing
- 5 facility or a residential care facility as defined in
- 6 section 135C.1, subsection 17."

By KREIMAN of Davis

H-8146 FILED MARCH 1, 2002

## HOUSE FILE 2542

H-8147

- 1 Amend House File 2542 as follows:
- 2 1. Page 2, line 26, by inserting after the word
- 3 "action." the following: "A health care provider who
- 4 waives any privilege under this subsection waives all
- 5 privileges under this subsection."

By KREIMAN of Davis

H-8147 FILED MARCH 1, 2002

## HOUSE FILE 2542

H-8148

- 1 Amend House File 2542 as follows:
- 2 1. Page 1, by striking lines 15 through 20 and
- 3 inserting the following:
- 4 "3. "Quality assessment and assurance committee"
- 5 means a committee consisting of those individuals
- 6 identified in 42 C.F.R. § 483.75(o)(1), who are
- 7 responsible for identifying issues which may adversely
- 8 impact the quality of care and services provided to
- 9 residents, and developing and implementing plans of
- 10 action to correct identified quality issues."
- 11 2. By renumbering as necessary.

By KREIMAN of Davis

H-8148 FILED MARCH 1, 2002

## HOUSE FILE 2542

## H-8150

1 Amend House File 2542 as follows:

2 1. Page 3, by inserting after line 27 the  
3 following:

4 "Sec. \_\_\_\_ . NEW SECTION. 135M.4 INSTALLATION OF  
5 VIDEO CAMERA BY RESIDENT OR FAMILY MEMBER.

6 A resident or family member of a resident of a  
7 health care provider may install a video camera at the  
8 resident's or family member's expense in the nursing  
9 facility, residential care facility, or assisted  
10 living program where the resident is living. The  
11 video camera shall be installed in a manner that  
12 limits the range of the camera to view only the  
13 resident and the area immediately contiguous to the  
14 resident, and shall not include areas shared by other  
15 residents of the facility or program where the  
16 resident is living. Such a video camera shall not  
17 interfere with employee or resident movement and shall  
18 not violate the structural integrity of the facility  
19 or program."

20 2. Title page, line 2, by inserting after the  
21 word "providers" the following: ", including a family  
22 member's right to monitor those services,".

23 3. By renumbering as necessary.

By DOTZLER of Black Hawk

H-8150 FILED MARCH 1, 2002

## HOUSE FILE 2542

## H-8152

1 Amend House File 2542 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 135C.49 NURSING  
5 FACILITY RESIDENT BILL OF RIGHTS.

6 1. A resident of a nursing facility, as defined in  
7 section 135C.1, shall not be deprived of any civil or  
8 legal rights, benefits, or privileges guaranteed by  
9 law. Every resident of a nursing facility shall have  
10 the right to all of the following:

11 a. To live in a safe and decent environment, free  
12 from abuse and neglect.

13 b. To be treated with consideration, respect,  
14 dignity, individuality, and privacy.

15 c. To retain and use personal clothing and other  
16 personal items in the resident's immediate living  
17 quarters in order to maintain individuality and  
18 personal dignity, unless a personal item is proven to  
19 be unsafe, impractical, or an infringement on the  
20 rights of other residents.

21 d. To unrestricted private communications,  
22 including, but not limited to, the right to receive  
23 and send unopened written correspondence, and to have  
24 telephone access and personal visits, at any  
25 reasonable time. Upon the resident's request, the  
26 nursing facility shall provide extended visiting hours  
27 for caregivers and out-of-town visitors.

28 e. To participate in and benefit from community  
29 services and activities.

30 f. To manage personal finances. The resident, or  
31 the resident's personal representative, designee,  
32 guardian, or attorney in fact may authorize the  
33 nursing facility administrator to provide a secure  
34 location for the resident's personal funds and  
35 accounts.

36 g. To share a room with a resident spouse.

37 h. To regular exercise both in and outside of the  
38 nursing facility several times during the week.

39 i. To exercise civil and religious liberties,  
40 including the right to make independent personal  
41 decisions. A religious belief or practice shall not  
42 be imposed on any resident.

43 j. To adequate and appropriate health care  
44 consistent with established and recognized standards  
45 in the health care field.

46 k. To reasonable notice of a relocation or  
47 termination of residency in a nursing facility, unless  
48 required for emergency purposes or unless the resident  
49 engages in a pattern of conduct that is harmful or  
50 offensive to the other residents.

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1 1. To present grievances and recommend changes in  
2 policies, procedures, and services to the nursing  
3 facility staff and administration, without restraint,  
4 interference, coercion, discrimination, or reprisal.  
5 A nursing facility shall establish a grievance  
6 procedure to facilitate a resident's exercise of this  
7 right. This right also includes the right to be a  
8 member of and participate in advocacy or special  
9 interest groups.

10 2. The administrator of a nursing facility shall  
11 post written notice of a resident's rights,  
12 obligations, and prohibitions as specified in  
13 subsection 1, in a prominent location in the nursing  
14 facility. The notice shall be reviewed with each  
15 resident and shall include the name, address, and  
16 telephone number of the nursing facility's resident  
17 advocate committee and long-term care ombudsman. The  
18 nursing facility shall provide a resident telephone  
19 access to contact the appropriate authority if  
20 necessary.

21 3. The nursing facility shall not prevent a  
22 resident from exercising any of the resident rights  
23 specified in subsection 1.

24 4. A facility or an employee of a facility shall  
25 not take any retaliatory action against a resident who  
26 does any of the following:

27 a. Exercises any right specified in subsection 1.  
28 b. Appears as a witness in any hearing.  
29 c. Files a civil action or contacts law  
30 enforcement concerning a suspected violation of any of  
31 the rights specified in subsection 1.

32 5. A person who submits or reports a complaint  
33 concerning a suspected violation of any of the rights  
34 specified in subsection 1, or who testifies in any  
35 administrative or judicial proceeding arising from  
36 such a complaint, shall have immunity from any civil  
37 or criminal liability, unless the person has acted in  
38 bad faith or with malicious intent."

39 2. Title page, by striking lines 1 through 3 and  
40 inserting the following: "An Act providing for a  
41 nursing facility resident bill of rights."

By DOTZLER of Black Hawk

H-8152 FILED MARCH 1, 2002

**HOUSE FILE 2542**

H-8153

- 1 Amend House File 2542 as follows:  
2 1. Page 1, by striking lines 29 through 35.  
3 2. Page 3, by striking lines 10 through 27.  
4 3. By renumbering as necessary.

By KREIMAN of Davis

H-8153 FILED MARCH 1, 2002

## HOUSE FILE 2542

H-8154

1 Amend House File 2542 as follows:

2 1. Page 3, by inserting after line 27 the  
3 following:

4 "Sec. \_\_\_\_ . Section 519A.2, subsection 3, Code  
5 2001, is amended to read as follows:

6 3. "Licensed health care provider" means and  
7 includes a physician and surgeon, osteopath,  
8 osteopathic physician and surgeon, dentist, podiatric  
9 physician, optometrist, pharmacist, chiropractor, or  
10 nurse licensed pursuant to chapter 147, ~~and a hospital~~  
11 licensed pursuant to chapter 135B, and a nursing  
12 facility licensed pursuant to chapter 135C.

13 Sec. \_\_\_\_ . Section 519A.5, subsection 2, Code 2001,  
14 is amended to read as follows:

15 2. All policies issued by the association shall  
16 provide for a continuous period of coverage beginning  
17 with their respective effective dates ~~and terminating~~  
18 ~~automatically at 12:01 a.m. on July 1, 1977, unless~~  
19 ~~sooner terminated.~~ All policies shall terminate at  
20 12:01 a.m. two years from the date of finding of an  
21 emergency by the commissioner, or earlier in  
22 accordance with sections 519A.2 ~~to~~ through 519A.137;  
23 ~~or unless terminated~~ because of failure of the  
24 policyholder to pay any premium or stabilization  
25 reserve fund charge or portion of either when due.  
26 All policies shall be issued subject to the group  
27 retrospective rating plan and the stabilization  
28 reserve fund authorized by this chapter. No policy  
29 form shall be used by the association unless it has  
30 been filed with and approved by the commissioner."

31 2. Title page, line 3, by inserting after the  
32 word "providers" the following: ", and by providing  
33 for the temporary availability of medical malpractice  
34 insurance".

35 3. By renumbering as necessary.

By DOTZLER of Black Hawk

H-8154 FILED MARCH 1, 2002

## HOUSE FILE 2542

## H-8155

1 Amend House File 2542 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 135M.1 TITLE.

5 This chapter shall be known and may be cited as the  
6 "Resident Safety and Quality Assurance Act".

7 Sec. 2. NEW SECTION. 135M.2 DEFINITIONS.

8 As used in this chapter:

9 1. "Action plan" means a written plan prepared  
10 after a root cause analysis that identifies strategies  
11 that a resident care provider intends to implement to  
12 reduce the risk and reoccurrence of actual and  
13 potential risks to resident safety. The plan shall  
14 address resident care provider responsibility for  
15 implementation, oversight, pilot testing as  
16 appropriate, time lines, and strategies for measuring  
17 the effectiveness of the actions.

18 2. "Quality assessment and assurance activities"  
19 means the procedure by which a quality assessment and  
20 assurance committee monitors, evaluates, recommends,  
21 and implements actions to improve and assure the  
22 delivery and quality of services and resident safety  
23 through identification, correction, and prevention of  
24 sentinel events.

25 3. "Quality assessment and assurance committee"  
26 means a committee of a resident care provider  
27 consisting of individuals responsible for the  
28 identification of sentinel events that may adversely  
29 impact the health and safety of residents, and for the  
30 development of root cause analyses, action plans, and  
31 other plans to correct identified quality of care  
32 issues. The quality assessment and assurance  
33 committee shall include resident care provider  
34 leaders, including, but not limited to, the resident  
35 care provider administrator and the director of  
36 nursing.

37 4. "Quality assessment and assurance committee  
38 records" means complaint files, investigation files,  
39 reports, and other investigative information relating  
40 to licensee discipline or professional competence in  
41 the possession of a quality assessment and assurance  
42 committee or an employee of the committee.

43 5. "Resident care provider" means a nursing  
44 facility or a residential care facility as defined in  
45 section 135C.1, or an assisted living program  
46 certified by the department of elder affairs or  
47 recognized as voluntarily accredited pursuant to  
48 chapter 231C.

49 6. "Resident care provider leaders" means a health  
50 care provider, executive, physician as defined in

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1 section 135C.1, registered or licensed practical nurse  
2 or nurse practitioner, or health care provider  
3 administrator.

4 7. "Risk of death or serious injury" means any  
5 variation in a process related to quality of care or  
6 resident safety which may result in a serious adverse  
7 outcome.

8 8. "Root cause analysis" means the process for  
9 identifying causal factors that relate to any  
10 variation in the delivery and quality of services and  
11 resident safety, including the occurrence or possible  
12 occurrence of a sentinel event. A root cause analysis  
13 focuses primarily on systems and processes, and not on  
14 individual performances.

15 9. "Sentinel event" means an unexpected occurrence  
16 resulting in the death or serious physical or  
17 psychological injury of a resident of a resident care  
18 provider, or a risk of death or serious physical or  
19 psychological injury to a resident of a resident care  
20 provider.

21 10. "Unanticipated outcome" means a result that  
22 differs significantly from what was anticipated to be  
23 the result of a treatment or procedure, including an  
24 outcome caused by an error of an employee of a  
25 resident care provider or an independent practitioner  
26 who provides medical services at a resident care  
27 provider's facility.

28 Sec. 3. NEW SECTION. 135M.3 ACCOUNTABILITY OF  
29 RESIDENT CARE PROVIDER LEADERS.

30 The resident care provider leaders, including the  
31 resident care provider administrator and director of  
32 nursing, and the quality assessment and assurance  
33 committee, are responsible for all of the following:

34 1. Assuring the implementation of an integrated  
35 resident safety program throughout the resident care  
36 provider facility. The resident safety program shall  
37 include, at a minimum, all of the following:

38 a. A designation of one or more qualified  
39 individuals or an interdisciplinary group to manage  
40 the resident care provider safety program.

41 b. A definition of the scope of the program  
42 activities, including the types of occurrences to be  
43 addressed.

44 c. A procedure for immediate response to medical  
45 or health care errors or resident abuse, including  
46 care of an affected resident, containment of risk to  
47 others, and the preservation of factual information  
48 for subsequent analysis.

49 d. A system for internal and external reporting of  
50 information relating to medical and health care errors

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1 or resident abuse.

2 e. A defined mechanism for support of staff  
3 involved in a sentinel event.

4 f. An annual report to the board of directors of  
5 the resident care provider and the department of  
6 inspections and appeals concerning medical or health  
7 care errors and resident neglect or abuse, and actions  
8 taken to improve resident safety, both proactively and  
9 in response to actual occurrences.

10 2. Defining and implementing processes for  
11 identifying and managing sentinel events, including  
12 establishing processes for the identification,  
13 reporting, analysis, and prevention of sentinel events  
14 and assuring the consistent and effective  
15 implementation of a mechanism to accomplish those  
16 activities.

17 3. Establishing a continuous proactive program for  
18 identifying risks to patient safety and reducing  
19 medical and health care errors and resident neglect or  
20 abuse.

21 4. Allocating adequate resources for measuring,  
22 assessing, and improving patient safety.

23 5. Assigning personnel to participate in  
24 activities to improve patient safety and providing  
25 adequate time for personnel to participate in such  
26 activities.

27 6. Providing staff training on the improvement of  
28 patient safety.

29 7. Allocating physical and financial resources to  
30 support safety improvement.

31 8. Analyzing undesirable patterns or trends in  
32 staff performance and sentinel events.

33 9. Assuring the resident care provider identifies  
34 changes for improved patient safety.

35 Sec. 4. NEW SECTION. 135M.4 RESIDENT RIGHTS AND  
36 DUTY OF DISCLOSURE.

37 1. Residents and their immediate families have a  
38 right to know about the quality of care outcomes  
39 involved in resident care, including unanticipated  
40 outcomes and sentinel events.

41 2. The resident care provider leaders shall fully  
42 disclose all of the facts and circumstances relating  
43 to a sentinel event or an unanticipated outcome.

44 Sec. 5. NEW SECTION. 135M.5 SENTINEL EVENT  
45 REPORTING.

46 1. A resident care provider involved in a sentinel  
47 event shall submit a root cause analysis and an action  
48 plan that describes the resident care provider's risk  
49 reduction strategy and a strategy for evaluating the  
50 effectiveness of the risk reduction strategy to the

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1 department of inspections and appeals.

2 2. A root cause analysis shall contain an analysis  
3 focusing primarily on systems and processes involved  
4 in quality of care and resident safety which includes  
5 changes that may be made to such systems and  
6 processes, and shall be thorough, credible, and  
7 acceptable as defined by industry standards.

8 Sec. 6. NEW SECTION. 135M.6 CONFIDENTIALITY OF  
9 RECORDS.

10 1. Quality assessment and assurance committee  
11 records shall be confidential and privileged and shall  
12 not be subject to discovery or subpoena.

13 2. Information or documents discoverable from  
14 sources other than a quality assessment and assurance  
15 committee, a resident care provider, or the department  
16 of inspections and appeals do not become  
17 nondiscoverable from the other sources because they  
18 are subject to a claim of confidentiality under this  
19 section."

20 2. Title page, by striking lines 1 through 3 and  
21 inserting the following: "An Act relating to resident  
22 safety and quality assurance in a nursing facility,  
23 residential care facility, and an assisted living  
24 program."

By DOTZLER of Black Hawk

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