

1. Establish requirements for the operation of tanning facilities, including but not limited to, proper sanitation of tanning devices, provisions of proper equipment, the presence of knowledgeable operators during operating hours, and the use of accurate timers and temperature controls.

2. Adopt rules, in accordance with chapter 17A, as necessary for the implementation and enforcement of this chapter, including but not limited to rules relating to the operation and use of tanning devices, rules regarding the warning signs required to be posted by a tanning facility, and rules prescribing the criteria for revocation, cancellation, or suspension of a tanning facility permit.

3. Establish and collect fees to defray the costs of administering the program established in this chapter. Fees collected shall be deposited in the general fund of the state.

Sec. 7. NEW SECTION. 136D.8 INSPECTIONS – VIOLATIONS – PROHIBITED ACTS – INJUNCTIONS.

1. The director or an authorized agent shall have access at all reasonable times to any tanning facility to inspect the facility to determine if this chapter is being violated.

2. A person who operates or uses a tanning device or tanning facility in violation of this chapter or of any rule adopted pursuant to this chapter is guilty of a simple misdemeanor.

3. A tanning facility shall not claim, or distribute promotional materials that claim, that using a tanning device is safe or free from risk.

4. a. If the director finds that a person has violated, or is violating or threatening to violate this chapter and that the violation creates an immediate threat to the health and safety of the public, the director may petition the district court for a temporary restraining order to restrain the violation or threat of violation.

b. If a person has violated, or is violating or threatening to violate this chapter, the director may petition the district court for an injunction to prohibit the person from continuing the violation or threat of violation.

c. On application for injunctive relief and a finding that a person is violating or threatening to violate this chapter, the district court shall grant any injunctive relief warranted by the facts.

Approved April 30, 1990

CHAPTER 1221

PERSONNEL OF CHILD CARE FACILITIES

H.F. 2504

AN ACT relating to criminal and child abuse record checks concerning facilities providing care to children.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 125.14A PERSONNEL OF A LICENSED PROGRAM ADMITTING JUVENILES.

1. If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a program admitting juveniles subject to licensure under this chapter, or if a person will reside in a facility utilized by such a program, and if the person has been convicted of a crime under a law of any state or has a record of founded child abuse, the department of human services and the program for an employee of the program shall perform an evaluation to determine whether

the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department of human services.

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

3. In an evaluation, the department of human services and the program for an employee of the program shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department of human services has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted.

4. If the department of human services determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, employment, or residence, the person shall not be licensed under this chapter to operate a program admitting juveniles and shall not be employed by a program or reside in a facility admitting juveniles licensed under this chapter.

Sec. 2. Section 135H.7, subsection 2, Code Supplement 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a licensed psychiatric institution, or if a person will reside in a facility utilized by a licensee, and if the person has been convicted of a crime under a law of any state or has a record of founded child abuse, the department of human services and the licensee for an employee of the licensee shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department of human services.

b. If the department of human services determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a psychiatric institution licensed under this chapter, or resides in a licensed facility the department shall notify the program that an evaluation will be conducted to determine whether prohibition of the person's licensure, employment, or residence is warranted.

c. In an evaluation, the department of human services and the licensee for an employee of the licensee shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department of human services has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted.

3. If the department of human services determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, employment, or residence, the person shall not be licensed under this chapter to operate a psychiatric institution and shall not be employed by a psychiatric institution or reside in a facility licensed under this chapter.

Sec. 3. Section 235A.15, subsection 2, paragraph c, Code Supplement 1989, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (6) To an administrator of a child foster care facility licensed under chapter 237 if the information concerns a person employed or being considered for employment by the facility.

NEW SUBPARAGRAPH. (7) To an administrator of a child day care facility registered or licensed under chapter 237A if the information concerns a person employed or being considered for employment by or living in the facility.

NEW SUBPARAGRAPH. (8) To the superintendent of the Iowa Braille and sight-saving school if the information concerns a person employed or being considered for employment or living in the school.

NEW SUBPARAGRAPH. (9) To the superintendent of the school for the deaf if the information concerns a person employed or being considered for employment or living in the school.

Sec. 4. Section 235A.15, subsection 2, paragraph e, Code Supplement 1989, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (7) To a legally constituted child protection agency in another state if the agency is conducting a records check of a person who is providing care to a child in the other state.

NEW SUBPARAGRAPH. (8) To the legally authorized protection and advocacy agency recognized in section 135C.2, if a person identified in the information as a victim or a perpetrator of abuse resides in or receives services from a facility or agency because the person is diagnosed as having a developmental disability or a mental illness.

Sec. 5. Section 235A.18, subsection 2, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

Child abuse information which cannot be determined by a preponderance of the evidence to be founded or unfounded shall be expunged one year after the receipt of the initial report of abuse and child abuse information which is determined by a preponderance of the evidence to be unfounded shall be expunged six months after the receipt of the initial report of abuse when it is determined to be unfounded, as a result of any of the following:

Sec. 6. Section 235A.18, subsection 3, Code Supplement 1989, is amended to read as follows:

3. However, if a correction of child abuse information is requested under section 235A.19 and the issue is not resolved at the end of the one-year ~~or six-month~~ period, the information shall be retained until the issue is resolved and if the child abuse information is not determined to be founded, the information shall be expunged at the appropriate time under subsection 2.

Sec. 7. Section 237.8, subsection 2, Code Supplement 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a licensee under this chapter, or if a person will reside in a facility utilized by a licensee, and if the person has been convicted of a crime under a law of any state or has a record of founded child abuse, the department and the licensee for an employee of the licensee shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

b. If the department determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a licensee, or resides in a licensed facility the department shall notify the licensee that an evaluation will be conducted to determine whether prohibition of the person's licensure, employment, or residence is warranted.

c. In an evaluation, the department and the licensee for an employee of the licensee shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree

of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted.

d. If the department determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, employment, or residence, the person shall not be licensed under this chapter and shall not be employed by a licensee or reside in a licensed facility.

Sec. 8. Section 237A.5, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. If a person is being considered for licensure or registration under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a child day care facility subject to licensure or registration under this chapter, or if a person will reside in a facility, and if the person has been convicted of a crime under a law of any state or has a record of founded child abuse, the department and the licensee or registrant for an employee of the licensee or registrant shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, registration, employment, or residence in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

b. If the department determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a licensee or registrant or registered under this chapter, or resides in a licensed or registered facility the department shall notify the licensee or registrant that an evaluation will be conducted to determine whether prohibition of the person's licensure, registration, employment, or residence is warranted.

c. In an evaluation, the department and the licensee or registrant for an employee of the licensee or registrant shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department has final authority in determining whether prohibition of the person's licensure, registration, employment, or residence is warranted.

d. If the department determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, registration, employment, or residence, the person shall not be licensed or registered under this chapter to operate a child day care facility and shall not be employed by a licensee or registrant or reside in a facility licensed or registered under this chapter.

Sec. 9. RULES.

The department of human services shall adopt rules pursuant to chapter 17A to implement the provisions of this Act.

Approved April 30, 1990