

F I N A L R E P O R T

RURAL MEDICAL SERVICES DELIVERY STUDY COMMITTEE

January, 1986

The Rural Medical Services Delivery Study Committee was established by the Legislative Council and initially authorized to meet four times. The Committee was later authorized by the Council to meet a fifth time. The Committee met September 6, October 10, November 11, November 21, and December 17, 1985. In its five meetings, the Committee reviewed the following four topics: the rural hospital delivery system; rural health services, emergency medical services, and the medical education system in the state; long-term care; and delivery of maternal and child health care services in the state. Legislative members of the Committee were:

Senator Charles Bruner, Co-chairperson
Representative Bob Arnould, Co-chairperson
Senator Leonard Boswell
Senator Lee Holt
Senator Calvin Hultman
Senator James Wells
Representative Paul Johnson
Representative Sue Mullins
Representative Harold Van Maanen
Representative Jo Ann Zimmerman

Public members of the Committee were:

Mr. Donald Cordes
Mr. Dick Dunlop
Mr. Walt Gary
Mr. Charles Johnson
Mr. Dave Neil
Ms. Marlys Scherlin
Mr. Steve Story
Ms. Marge Wasicek

SEPTEMBER 6, 1985 MEETING

At its first meeting, the Committee received an informational packet from the Legislative Service Bureau containing maps of Iowa hospitals; hospital data, including bed size, bed capacity, and average daily census data; a historical proposal regarding the organizational structure of health services in Iowa; diagnoses data; hospital swing bed programs; tax support for hospitals; and information concerning competition and regulation in the health sector. The Bureau also distributed an additional packet of

materials regarding emergency medical services containing EMS maps detailing the different levels of available emergency medical services in Iowa, requirements for different levels of care, and various position and concept papers regarding emergency medical services reorganization. The Committee also heard testimony from representatives of the State Department of Health regarding rural hospitals and access and quality of care issues, of the Iowa Hospital Association regarding rural health issues, of the Health Policy Corporation of Iowa regarding the reshaping and restructuring of rural hospital services, and of the Iowa Association of Counties regarding medical care for indigent patients.

OCTOBER 10, 1985 MEETING

The Committee dealt at length with the following emergency medical services topics at its second meeting: the need for a new delivery system; problems with the current and proposed delivery systems, including both organization and funding problems; state versus regional control; regulation of basic ambulance services; and funding. Testimony was presented by representative from the following organizations and agencies: the State Department of Health, the State Board of Medical Examiners, the Regional Emergency Medical Services Advisory Council, the O'Brien County Emergency Management Agency, and the Iowa Advanced Care Training Programs Committee. Representatives of the following organizations presented testimony regarding rural health issues: the Iowa Physician Assistant Society, the Iowa Medical Society, and the Community Health Planning Corporation of Cedar Rapids. The Committee also received testimony regarding the regionalization of health care systems from representatives of the Legislative Fiscal Bureau, the University of Osteopathic Medicine and Health Sciences, and the University of Iowa College of Medicine and its Department of Family Practice.

NOVEMBER 11, 1985 MEETING

The third meeting of the Committee was spent on the following three issues: state maternal and child health programs; medicaid coverages, services, and providers, and maternal and child health services; and the indigent patient care fund and obstetric cases at the University of Iowa Hospitals and Clinics. Representatives from the following organizations and agencies presented testimony concerning maternal and child health programs: the State Department of Health, the University of Iowa, the Ottumwa project on maternal and child health, and the Iowa Maternal and Child Health Care Advisory Council.

Representatives from the following organizations and agencies presented testimony regarding medicaid coverages, services, and providers and maternal and child health services: the Department of Human Services, and two task forces appointed by the

Commissioner of Human Services regarding medically indigent programs in Iowa and prenatal services and obstetrical access programs.

Regarding the indigent patient care fund and obstetric cases at the University of Iowa Hospitals and Clinics, the following University Hospitals and Clinics' departments and units were represented by testimony: the Department of Obstetrics and Gynecology, the Hospitals and Clinics' nursing staff, the Department of Pediatrics, and the Financial Management Unit. The Committee also received testimony from the County Relief Directors' affiliate of the Iowa State Association of Counties regarding indigent care.

NOVEMBER 21, 1985 MEETING

The Committee addressed the issue of long-term care at its fourth meeting and heard testimony from representatives of the following organizations and agencies: the Legislative Fiscal Bureau, the Department of Human Services, the Commission on the Aging, the Iowa State Council of Senior Citizens, the State Department of Health, the Iowa Association of Homes for the Aging, the Governor's Task Force on Long-Term Care, the Iowa Council for Homemaker-Home Health Aid Services, and the University of Iowa.

DECEMBER 17, 1985 MEETING

The Committee reserved its fifth and final meeting for the consideration of legislative proposals. The following topics and bill drafts were discussed: RURAL HOSPITALS: An Act relating to hospitals; EMERGENCY MEDICAL SERVICES: An Act creating a basic emergency medical services planning council and providing a repeal, and An Act relating to emergency medical services; PRENATAL CARE AND OBSTETRICAL SERVICES: An Act relating to temporary measures for the provision of prenatal care and obstetrical services, An Act relating to the establishment of a county quota system for the treatment of indigent obstetrical patients, A Resolution relating to the compilation of obstetrical information by the Legislative Fiscal Bureau, and A Resolution relating to outreach and prenatal care services funding; and LONG-TERM CARE: Possible Legislative Initiatives, and Pennsylvania's Continuing Care Provider Registration and Disclosure Act.

The Committee gave final approval to the following bills and resolutions, copies of which are attached to this final report:

1. An Act relating to hospitals (LSB 7101S/H 14.2).
2. An Act relating to temporary measures for the provision of prenatal care (LSB 7289S/H 5.3).

3. A Resolution regarding a Proposed Study Committee Directive to the Legislative Fiscal Bureau to obtain certain specific information relating to the state papers program, medically needy program, and certain medical school guidelines, dated December 4, 1985.

4. A Resolution regarding Outreach and Prenatal Care Services Funding, dated December 4, 1985, and amended to include maternal and child health programs on December 17, 1985.

5. House File 616, An Act relating to the administration of maternal and child health programs and crippled children's programs by the department of health (LSB 2562H) - Committee went on record supporting its passage.

6. An Act creating a basic emergency medical services planning council and providing a repeal (LSB 7200S/H 14.1).

7. An Act relating to the health data commission by adding the executive director of the commission on the aging to the membership of the health data commission and permitting the health data commission to collect long-term care data (LSB 7447S/H).

8. An Act creating a long-term care coordinating unit (LSB 7446S/H).

9. An Act relating to the regulation of continuing-care facilities, and providing penalties (LSB 7445S/H).

SENATE/HOUSE FILE _____
BY (PROPOSED RURAL MEDICAL
SERVICES DELIVERY STUDY
COMMITTEE BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to hospitals.

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

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

1 Section 1. Section 37.9, unnumbered paragraph 1, Code
2 1985, is amended to read as follows:

3 When the proposition to erect any such building or monument
4 has been carried by a majority vote, the board of supervisors
5 or the city council, as the case may be, shall appoint a
6 commission consisting of five members, in the manner and with
7 the qualifications hereinafter provided in this chapter, which
8 shall have charge and supervision of the erection of said the
9 building or monument, and when erected, the management and
10 control thereof of the building or monument.

11 On or before January 15 of each year, a commission which
12 manages and controls a county memorial hospital shall prepare
13 and submit to the county auditor a request for an
14 appropriation for the next fiscal year from the general fund
15 for the operation and maintenance of the county memorial
16 hospital. On or before January 20, the county auditor shall
17 submit the request to the county board of supervisors. The
18 board of supervisors may adjust the commission's request and
19 may make an appropriation for the county memorial hospital as
20 provided in section 331.427, subsection 2, paragraph "b". For
21 the purposes of public notice, the commission is a certifying
22 board and is subject to the requirements of sections 24.3
23 through 24.5, sections 24.9 through 24.12, and section 24.16.

24 Sec. 2. NEW SECTION. 135B.33 TECHNICAL ASSISTANCE.

25 The state department of health shall provide technical
26 planning assistance to local boards of health and hospital
27 governing boards to ensure access to hospital services in
28 rural areas. The department shall encourage the local boards
29 of health and hospital governing boards to adopt a long-term
30 community health services and developmental plan including the
31 following:

32 1. An analysis of demographic trends in the health
33 facility services area, affecting health facility and health-
34 facility-related health care utilizations.

35 2. A review of inpatient services currently provided, by

1 type of service and the frequency of provision of that
2 service, and the cost-effectiveness of that service.

3 3. An analysis of resources available in proximate health
4 facilities and services that might be provided through
5 alternative arrangements with such health facilities.

6 4. An analysis of cooperative arrangements that could be
7 developed with other health facilities in the area that could
8 assist those health facilities in the provision of services.

9 5. An analysis of community health needs, specifically
10 including long-term care needs, including intermediate care
11 facility and skilled nursing facility care, pediatric and
12 maternity services, and the health facilities potential role
13 in facilitating the provision of services to meet these needs.

14 6. An analysis of alternative uses for existing health
15 facility space and real property, including use for community
16 health-related and human service-related purposes.

17 7. An analysis of mechanisms to meet indigent patient care
18 needs and the responsibilities for the care of indigent
19 patients.

20 8. An analysis of the existing tax levying of the health
21 facilities for patient care, on a per capita basis and per
22 hospital patient basis, and projections on future needs for
23 tax levying to continue for the provision of care.

24 Providers may cooperatively coordinate to develop one long-
25 term community health services and developmental plan for a
26 geographic area, provided the plan addresses the issues
27 enumerated in this section.

28 The health facilities may seek technical assistance or
29 apply for matching grant funds for the plan development. The
30 department shall require compliance with subsections 1 through
31 8 when the facility applies for matching grant funds.

32 Sec. 3. Section 347.9, Code 1985, is amended to read as
33 follows:

34 347.9 TRUSTEES--APPOINTMENT--TERMS OF OFFICE.

35 When it has been determined by the voters of a county to

1 establish a county public hospital, the board shall appoint
2 seven trustees chosen from among the resident citizens of the
3 county with reference to their fitness for such office, and
4 not more than four of such the trustees shall be residents of
5 the city or village at which such the hospital is located.
6 Such The trustees shall hold office until the following
7 general election, at which time their successors shall be
8 elected, two for a term of two years, two for four years, and
9 three for six years, and they shall determine by lot their
10 respective terms, and thereafter their successors shall be
11 elected for regular terms of six years each, none of whom
12 shall be physicians ~~or-licensed-practitioners~~. A trustee
13 shall not receive direct compensation from the county public
14 hospital or from a person contracting for services with the
15 hospital.

16 Sec. 4. Section 347.28, Code 1985, is amended to read as
17 follows:

18 347.28 SALE OR LEASE OF PROPERTY.

19 Any A county or city hospital may lease or sell any of its
20 property which is not needed for hospital purposes to any
21 ~~person for-use-as-a-physician's-office, medical-clinic, or-any~~
22 ~~other-health-related-purpose,~~ upon approval by the board of
23 trustees.

24 Sec. 5. Section 347.29, Code 1985, is amended to read as
25 follows:

26 347.29 USE OF PROPERTY ~~FOR-CLINIC~~.

27 Any A county or city hospital may use property received by
28 gift, devise, bequest, or otherwise, or the proceeds from the
29 sale of such property, for the construction of facilities for
30 ~~lease or sale as-a-medical-clinic-or-a-physician's-office~~
31 ~~subject-to-the-approval-of-the-appropriate-local-health~~
32 planning-agency, upon approval by the board of trustees.

33 Sec. 6. Section 347.30, Code 1985, is amended to read as
34 follows:

35 347.30 ~~ADVERTISE-FOR-BIDS~~ NOTICE AND HEARING.

1 A county or city hospital shall ~~advertise-for-bids~~ serve
2 notice and hold a public hearing before selling or leasing any
3 property pursuant to sections 347.28 and 347.29. The
4 advertisement notice shall definitely describe the property,
5 indicate the date and location of the hearing, and shall be
6 published by at least one insertion each week for two
7 consecutive weeks in a newspaper having general circulation in
8 the county where the property is located. ~~Bids~~ The hearing
9 ~~shall not be-accepted~~ take place prior to two weeks after the
10 second publication ~~nor-later-than-six-months-after-the-second~~
11 ~~publication.~~ ~~The-highest-competent-bid-must-be-accepted~~
12 ~~unless-all-bids-received-are-deemed-inadequate-and-rejected-~~

13 Sec. 7. NEW SECTION. 347.31 TAX STATUS.

14 This chapter does not deprive any hospital of its tax
15 exempt or nonprofit status.

16 Sec. 8. Section 427.1, subsection 23, Code Supplement
17 1985, is amended to read as follows:

18 23. Statement of objects and uses filed. A society or
19 organization claiming an exemption under subsection 6 or
20 subsection 9 of this section shall file with the assessor not
21 later than February 1 a statement upon forms to be prescribed
22 by the director of revenue, describing the nature of the
23 property upon which the exemption is claimed and setting out
24 in detail any uses and income from the property derived from
25 the rentals, leases, or other uses of the property not solely
26 for the appropriate objects of the society or organization.
27 Upon the filing and allowance of the claim, the claim shall be
28 allowed on the property for successive years without further
29 filing as long as the property is used for the purposes
30 specified in the original claim for exemption. When the
31 property is sold or transferred, the county recorder shall
32 provide notice of the transfer to the assessor. The notice
33 shall describe the property transferred and the name of the
34 person to whom title to the property is transferred.

35 PARAGRAPH DIVIDED. The assessor, in arriving at the

1 valuation of any property of the society or organization,
2 shall take into consideration any uses of the property not for
3 the appropriate objects of the organization and shall assess
4 in the same manner as other property, all or any portion of
5 the property involved which is leased or rented and is used
6 regularly for commercial purposes for a profit to a party or
7 individual. If a portion of the property is used regularly
8 for commercial purposes an exemption shall not be allowed upon
9 property so used and the exemption granted shall be in the
10 proportion of the value of the property used solely for the
11 appropriate objects of the organization, to the entire value
12 of the property.

13 PARAGRAPH DIVIDED. However, the board of trustees or the
14 board of directors of a hospital, as defined in section
15 135B.1, subsection 1, may permit use of a portion of the hos-
16 pital for commercial purposes, and the hospital is entitled to
17 full exemption for that portion used for nonprofit health-
18 related purposes, upon compliance with the filing requirements
19 of this subsection. An exemption shall not be granted upon
20 property upon or in which persistent violations of the laws of
21 the state are permitted. A claimant of an exemption shall,
22 under oath, declare that no violations of law will be
23 knowingly permitted or have been permitted on or after January
24 1 of the year in which a tax exemption is requested. Claims
25 for exemption shall be verified under oath by the president or
26 other responsible head of the organization. A society or
27 organization which ceases to use the property for the purposes
28 stated in the claim shall provide written notice to the
29 assessor of the change in use.

30 Sec. 9. The state department of health, in consultation
31 with providers and consumers of rural hospital services, shall
32 review actions taken in other states to license hospitals by
33 service and shall specifically evaluate the potential utility
34 and value in developing such a system as an option for
35 licensing which may be applied to hospitals in Iowa in lieu of

1 current licensing and accreditation systems. The department
2 shall report its findings to the general assembly by January
3 1, 1987.

4 Sec. 10. There is appropriated from the general fund of
5 the state to the department of health for the fiscal year
6 beginning July 1, 1986 and ending June 30, 1987, two hundred
7 thousand (200,000) dollars or so much thereof as is necessary
8 for plan development grants for hospitals of one hundred beds
9 or less to be provided pursuant to section 135B.33. The funds
10 shall be matched on a one-for-one basis by the hospital with a
11 maximum of ten thousand dollars received by a hospital. There
12 is appropriated from the general fund of the state to the
13 department of health for the fiscal year beginning July 1,
14 1986 and ending June 30, 1987, fifty thousand (50,000) dollars
15 or so much thereof as is necessary to carry out the provisions
16 of section 135B.33.

17

EXPLANATION

18 This bill permits a city or county hospital to sell or
19 lease property owned by the hospital to a person upon approval
20 by the board of trustees or to use property to construct
21 facilities for lease or sale. Present law requires that the
22 property be sold or leased for only a physician's office,
23 medical clinic, or other health-related purpose or to
24 construct facilities for lease or sale as a medical clinic or
25 physician's office. This bill permits a nonprofit hospital to
26 receive a property tax exemption for the portion of the
27 hospital used for nonprofit health-related purposes even
28 though the hospital may permit commercial use of other
29 portions of its property.

30 The bill also permits a city or county hospital to sell or
31 lease the property without a bid process, but requires public
32 notice and a public hearing. Present law requires that the
33 hospital must advertise for bids and accept the highest
34 competent bid in most cases.

35 The bill provides that a commission which manages and

1 controls a county memorial hospital must request a county
2 appropriation for the hospital from the board of supervisors.
3 The board may adjust the request before making an
4 appropriation. The commission is made subject to the public
5 notice requirements of chapter 24.

6 This bill eliminates the prohibition that a licensed
7 practitioner other than a physician is unable to serve as a
8 county public hospital trustee. The bill prohibits a trustee
9 from receiving direct or indirect compensation from the county
10 public hospital.

11 The bill requires the department of health to provide
12 technical assistance to local boards of health and hospitals
13 and to assist in long-term planning.

14 The bill appropriates \$200,000 for hospital plan
15 development grants and \$50,000 to the department of health for
16 administrative costs.

17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE/HOUSE FILE _____
BY RURAL MEDICAL SERVICES
DELIVERY STUDY COMMITTEE

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to temporary measures for the provision of pre-
2 natal care.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

1 Section 1. HUMAN SERVICES APPROPRIATIONS LANGUAGE. The
2 department of human services shall seek a waiver under Title
3 XIX of the federal Social Security Act to permit it to expand
4 the range of prenatal care services to include nutritional
5 services and psychosocial services and to develop guidelines
6 for the comprehensive provision of the services.

7 Sec. 2. HUMAN SERVICES, EDUCATION, AND HEALTH AND HUMAN
8 RIGHTS APPROPRIATIONS LANGUAGE. The department of human ser-
9 vices, the university of Iowa hospitals and clinics, and the
10 state department of health shall establish an interagency co-
11 ordinating committee to integrate the provision of prenatal
12 care services with the following goals:

13 1. The establishment of a uniform intake procedure and a
14 case-managed system for the provision of prenatal care
15 services in all areas of the state by 1989.

16 2. The coordination of outreach and mobile prenatal care
17 services in all areas of the state by 1989.

18 3. The investigation of locating multiple agencies
19 providing prenatal care services at the same sites in all
20 areas of the state.

21 4. The development of coordination through local and re-
22 gional planning, involving local providers of prenatal care
23 services.

24 EXPLANATION

25 This bill requires the department of human services, the
26 university of Iowa hospitals and clinics, and the department
27 of health to take temporary measures related to the provision
28 of prenatal care. The language of the bill is drafted for
29 incorporation into the appropriate agency appropriation bills.

30 Specifically, the department of human services is required
31 to seek a federal waiver to include nutritional and psy-
32 chosocial prenatal care services under the medical assistance
33 program. The department of human services, the university
34 hospitals, and the department of health are required to estab-
35 lish an interagency coordinating committee to integrate the
36 provision of prenatal care services.

GENERAL ASSEMBLY OF IOWA

LEGAL DIVISION

DAVID S. BAILEY
LYNETTE A. F. DONNER
MARTIN H. FRANCIS
MICHAEL J. JOEDERT
RICHARD L. JOHNSON
GARY L. KAUFMAN
BURNETTE E. KOEBERNICK
DAVID J. LYONS
RONALD R. ROWLAND

RESEARCH DIVISION

DIANE E. BOLENDER
THANE R. JOHNSON
SUSAN L. LERDAL
MICHAEL W. WELLMAN



LEGISLATIVE SERVICE BUREAU

STATE CAPITOL BUILDING
DES MOINES, IOWA 50319
515 281-3566
DOONOVAN PEETERS, DIRECTOR

December 4, 1985

IOWA CODE PUBLICATION

JOHANN G. BROWN
ACTING CODE EDITOR
JANET L. WILSON
CODE CONSULTANT

PUBLIC INFORMATION OFFICE

JOHN F. GOELONER
PUBLIC INFORMATION OFFICER
GERALDINE WESTER
ASST. PUBLIC INFORMATION OFFICER

MEMORANDUM

TO: LEGISLATIVE FISCAL BUREAU

FROM: RURAL MEDICAL SERVICES DELIVERY STUDY COMMITTEE

RE: PROPOSED STUDY COMMITTEE DIRECTIVE TO THE LEGISLATIVE FISCAL BUREAU

BE IT RESOLVED BY THE RURAL MEDICAL SERVICES DELIVERY STUDY COMMITTEE, That the legislative fiscal bureau obtain and interpret the following information:

1. The use of the state papers program, the use of county relief funds, the use of Medicaid, and the use of hospital charity and bad debt for the provision of childbirth services by county, taking a representative sample of counties proximate to and distant from the University of Iowa for purposes of analysis.

2. The current amount of "windfall" in funds to the University of Iowa resulting from patients formerly provided childbirth under the state papers program who now have moved over to the Medicaid "medically needy" program.

3. Any existing medical school guidelines or standards on the number of births on campus needed for the teaching aspects of an obstetrics program the size of the University of Iowa's, and the numbers of such on-campus births existing for other obstetrics programs in medical schools in the United States.

RJ:cf

GENERAL ASSEMBLY OF IOWA

LEGAL DIVISION

DAVID S. BAILEY
LYNETTE A. F. DONNER
MARTIN H. FRANCIS
MICHAEL J. GOEDERT
RICHARD L. JOHNSON
GARY L. KAUFMAN
BURNETTE E. KOEBERNICK
DAVID J. LYONS
RONALD R. ROWLAND

RESEARCH DIVISION

DIANE E. BOLENDER
THANE R. JOHNSON
SUSAN L. LERDAL
MICHAEL W. WELLMAN



LEGISLATIVE SERVICE BUREAU

STATE CAPITOL BUILDING
DES MOINES, IOWA 50319
515 281-3566
DONOVAN PEETERS, DIRECTOR

December 4, 1985

IOWA CODE PUBLICATION

JOANN G. BROWN
ACTING CODE EDITOR
JANET L. WILSON
CODE CONSULTANT

PUBLIC INFORMATION OFFICE

JOHN F. GOELONER
PUBLIC INFORMATION OFFICER
GERALDINE WECTER
ASST. PUBLIC INFORMATION OFFICER

MEMORANDUM

TO: LEGISLATIVE COUNCIL AND THE GENERAL ASSEMBLY
FROM: RURAL MEDICAL SERVICES DELIVERY STUDY COMMITTEE
RE: OUTREACH AND PRENATAL CARE SERVICES FUNDING

BE IT RESOLVED BY THE RURAL MEDICAL SERVICES DELIVERY STUDY COMMITTEE,
That the general assembly meeting in 1986 approve additional funding
for the provision of outreach and prenatal care services, to the extent
the additional funding can be justified as a cost-saving measure in the
overall provision of indigent patient health care. The additional funding
shall include the expansion of maternal health services to all counties
in the state and pilot funding for a school-based clinic.

RJ:cf

AMENDED TO INCLUDE MATERNAL AND CHILD HEALTH PROGRAMS at December 17, 1986
meeting of the Rural Medical Services Delivery Study Committee,
ADOPTED, AS AMENDED

impr... 3/24/85

House File 616

APPROPRIATIONS: Gentleman, Chair; Small and Tieden.

MAR 14 1985

Place On Calendar

HOUSE FILE 616

BY COMMITTEE ON HUMAN RESOURCES

(Formerly House Study Bill 340)

Passed House, Date 3-25-85 (p. 1042) Passed Senate, Date _____

Vote: Ayes 80 Nays 15 Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the administration of maternal and child
2 health programs and crippled children's programs by the
3 department of health.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

7/9 5/8

1 Section 1. Section 135.11, Code 1985, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 19. Administer the statewide maternal and
4 child health program and the crippled children's program by
5 conducting mobile and regional child health specialty clinics
6 and conducting other activities to improve the health of low-
7 income women and children and to promote the welfare of
8 children with actual or potential handicapping conditions and
9 chronic illnesses in accordance with the requirements of Title
10 V of the Social Security Act.

11 EXPLANATION

12 This bill requires the department of health to administer a
13 statewide maternal and child health program and the crippled
14 children's program in Iowa.

HOUSE FILE 616

FISCAL NOTE

REQUESTED BY REPRESENTATIVE STURGEON

In compliance with a written request received March 13, 1985, a fiscal note for HOUSE FILE 616 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 616 requires the Department of Health to administer the statewide maternal and child health program and the crippled children's program in Iowa.

FISCAL EFFECT: House File 616 codifies what has already occurred organizationally within the Department of Health/Personal and Family Division. Therefore, there is no apparent fiscal effect.

Source: Department of Health
FILED MARCH 20, 1985

(LSB 2562H, RRS)
BY DENNIS PROUTY, FISCAL DIRECTOR

- 29
- 30
- 31
- 32
- 33
- 34
- 35

SENATE/HOUSE FILE _____
BY RURAL MEDICAL SERVICES
DELIVERY INTERIM STUDY
COMMITTEE BILL

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act creating a basic emergency medical services planning
2 council and providing a repeal.

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

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

1 Section 1. COUNCIL ESTABLISHED AND MEMBERSHIP. A basic
2 emergency medical services planning council is created to
3 develop recommendations relating to the regulation of basic
4 emergency medical care in the state. The members of the
5 council shall be appointed by the governor and shall consist
6 of the following:

7 1. The commissioner of public health or the commissioner's
8 designee.

9 2. Two physicians who are active in the delivery of
10 emergency medical care, one of whom is a physician practicing
11 in a rural area and one of whom is a physician with experience
12 in trauma medical care.

13 3. One registered nurse who is active in the delivery of
14 emergency medical care.

15 4. Three advanced emergency medical care personnel who are
16 active in the delivery of prehospital emergency medical care,
17 at least one of whom is a volunteer.

18 5. Three basic emergency medical care personnel who are
19 active in the delivery of prehospital emergency medical care,
20 at least one of whom is a volunteer.

21 6. One administrator of a hospital located in a rural
22 area.

23 7. One representative of the Iowa firefighters'
24 association.

25 8. One representative of a regional emergency medical
26 services council.

27 9. One emergency medical service training educator.

28 10. One representative of a merged area school
29 corporation.

30 11. One representative of the Iowa law enforcement
31 academy.

32 12. One representative of the board of medical examiners.

33 The members shall be reimbursed for expenses relating to
34 their duties. The governor shall give consideration to the
35 members who served on the governor's emergency medical

1 services advisory council.

2 Sec. 2. AUTHORITY AND DUTIES.

3 1. The basic emergency medical services planning council
4 shall have the authority to:

5 a. Require ambulance services, rescue squad services,
6 hospitals, and local emergency medical services to file, on a
7 timely basis, necessary information to complete the necessary
8 inventories for statistical data with the council.

9 b. Contract for staff and services to complete necessary
10 inventory and to develop guidelines and recommendations.

11 2. The basic emergency medical services planning council
12 shall:

13 a. Develop guidelines and standards for basic emergency
14 medical care and ambulance services and rescue squad services
15 delivering such care.

16 b. Establish an inventory of services which meet and do
17 not meet the proposed guidelines and standards in specified
18 geographic areas of the state.

19 c. Develop estimates of the training and equipment needs
20 necessary for the provision of basic emergency medical care
21 and services providing such care throughout the state needed
22 to meet the proposed standards.

23 d. Recommend the appropriate means for coordinating
24 services and maintaining these standards that reflect a
25 coordination of existing services and the avoidance of a
26 duplicatory regulatory framework.

27 e. Develop recommendations for a system of classifying
28 emergency rooms located in the state in terms of the
29 capabilities for providing various levels of emergency medical
30 service.

31 f. Determine whether the existing funding structure for
32 emergency medical services throughout the state is adequate
33 and recommend who is responsible for funding any additional
34 services which may be recommended.

35 g. Encourage development of county-coordinated programs,

1 including the relationships between advanced emergency medical
2 care services, basic emergency medical care services, and the
3 first responder mechanism.

4 h. Determine whether a physician medical director is
5 necessary within the state health department to coordinate the
6 emergency medical services program.

7 i. Review and make recommendations relating to the size,
8 structure, and authority of emergency medical services
9 regions.

10 Sec. 3. COUNCIL STAFF. The basic emergency medical
11 services planning council shall be staffed by the legislative
12 service bureau.

13 Sec. 4. PRELIMINARY AND FINAL REPORT. The basic emergency
14 medical services planning council shall issue a preliminary
15 report with proposed recommendations by January 1, 1987,
16 including the guidelines and proposed standards for basic
17 emergency medical care standards and recommendations regarding
18 the manner in which those guidelines are to be implemented. A
19 final report with specific recommendations is due July 1,
20 1987.

21 Sec. 5. There is appropriated from the general fund of the
22 state, for the fiscal period beginning July 1, 1986 and ending
23 July 1, 1987, one hundred fifty thousand (150,000) dollars or
24 so much thereof as is necessary for the basic emergency
25 medical services planning council purposes and statistical
26 inventory.

27 Sec. 6. This Act is repealed July 1, 1987.

28 EXPLANATION

29 This bill creates a basic emergency medical services
30 planning council between July 1, 1986 and July 1, 1987. The
31 membership of the council is to be appointed by the governor
32 within the guidelines of the bill, indicating the
33 representation of the members.

34 The council is permitted to obtain information from
35 ambulance services, rescue squad services, hospitals, and

1 local emergency medical services to compile a statistical
2 inventory of available and needed services relating to basic
3 emergency medical care. The council is required to propose
4 guidelines and make recommendations for standards for basic
5 emergency medical care.

6 The bill requires that the council be staffed by the
7 legislative service bureau. Members of the council are
8 permitted to receive reimbursement for expenses relating to
9 their duties. The council is required to issue a preliminary
10 report by January 1, 1987 and a final report by July 1, 1987.
11 The council is abolished on July 1, 1987. The council is
12 appropriated \$150,000 for staff, expenses, and the statistical
13 inventory.

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE/HOUSE FILE _____
BY (PROPOSED RURAL MEDICAL
SERVICES DELIVERY STUDY
COMMITTEE BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the health data commission by adding the
2 executive director of the commission on the aging to the
3 membership of the health data commission and permitting the
4 health data commission to collect long-term care data.

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

1 Section 1. Section 145.2, unnumbered paragraph 2, Code
2 1985, is amended to read as follows:

3 The commission consists of the executive director of the
4 commission on the aging, the commissioners of health,
5 insurance, and human services, one state senator and one state
6 representative who shall not be of the same party, shall be
7 nonvoting members, and shall be appointed each year by the
8 president of the senate and speaker of the house,
9 respectively, and the chairperson of the board of directors of
10 the corporation or the head of the association or other entity
11 providing staff for the commission as provided by section
12 145.3 who shall be a nonvoting member. The commissioner
13 members shall annually select the chairperson of the
14 commission from among the three four voting commissioner
15 members. A majority of the ~~six~~ seven members including at
16 least two voting members constitute a quorum.

17 Sec. 2. Section 145.3, subsection 4, Code Supplement 1985,
18 is amended by adding the following new lettered paragraph:

19 NEW LETTERED PARAGRAPH. f. The commissioner of human
20 services, commissioner of health, and the executive director
21 of the commission on the aging collect and analyze long-term
22 care data.

23 EXPLANATION

24 This bill adds the executive director of the commission on
25 the aging as a voting member of the health data commission.
26 The bill also permits the health data commission to require
27 the commissioners of health and human services and the
28 executive director of the commission on the aging to collect
29 and analyze long-term care data.

30

31

32

33

34

35

SENATE/HOUSE FILE _____
BY (PROPOSED RURAL MEDICAL
SERVICES DELIVERY STUDY
COMMITTEE BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act creating a long-term care coordinating unit.

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

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

TLSB 7446SF 71

sl/jw/5

1 Section 1. NEW SECTION. 217.38 LONG-TERM CARE
2 COORDINATING UNIT.

3 A long-term care coordinating unit is created within the
4 department of human services. The membership of the
5 coordinating unit consists of:

- 6 1. The commissioner of human services.
- 7 2. The executive director of the commission on the aging.
- 8 3. The commissioner of public health.

9 The coordinating unit shall review the responsibilities and
10 programs of the departments of human services and health and
11 the commission on the aging, relative to long-term care
12 services. The coordinating unit shall develop and utilize
13 uniform information gathering processes, including but not
14 limited to a uniform intake form, and shall implement pilot
15 projects relating to the information received. The
16 coordinating unit shall implement a process to utilize the
17 information between the state agencies and the various
18 regional offices and agencies of the state, subject to the
19 confidentiality requirements provided by law.

20 The coordinating unit shall develop and establish a plan
21 for a process to coordinate the long-term care services
22 provided by the state. Annually, by February 15, the
23 coordinating unit shall issue a report to the general assembly
24 regarding the action of the unit.

25 EXPLANATION

26 This bill creates a long-term care coordinating unit within
27 the department of human services. The commissioner of human
28 services, the executive director of the commission on the
29 aging, and the commissioner of public health are members of
30 the coordinating unit. The coordinating unit is to coordinate
31 long-term care programs and services, develop uniform
32 information forms, and implement pilot projects regarding the
33 uniform information.

34
35

SENATE/HOUSE FILE _____
BY RURAL MEDICAL SERVICES
DELIVERY STUDY COMMITTEE

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation of continuing-care facilities,
2 and providing penalties.

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

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

TLSB 7445SF 71

rj/jw/5

1 Section 1. NEW SECTION. 523D.1 DEFINITIONS.

2 As used in this chapter, unless the context clearly
3 indicates otherwise:

4 1. "Commissioner" means the commissioner of insurance.

5 2. "Continuing care" means the furnishing to an indi-
6 vidual, other than an individual related by consanguinity or
7 affinity to the person furnishing the care, of board and
8 lodging together with nursing services, medical services, or
9 other health-related services, regardless of whether or not
10 the lodging and services are provided at the same location and
11 pursuant to an agreement effective for the life of the
12 individual or for a period in excess of one year, including
13 mutually terminable contracts and in consideration of the
14 payment of an entrance fee with or without other periodic
15 charges.

16 3. "Department" means the department of insurance.

17 4. "Entrance fee" means an initial or deferred transfer to
18 a provider of a sum of money or other property made or
19 promised to be made as full or partial consideration for
20 acceptance of a specified individual as a resident in a
21 facility, unless the sum is less than the sum of the regular
22 periodic charges for one year of residency.

23 5. "Facility" means the place or places in which a person
24 undertakes to provide continuing care to an individual.

25 6. "Living unit" means a room, apartment, cottage, or
26 other area within a facility set aside for the exclusive use
27 or control of one or more identified individuals.

28 7. "Manager" means a person who operates a facility for
29 the provider.

30 8. "Omission of a material fact" means the failure to
31 state a material fact required to be stated in a disclosure
32 statement or registration in order to prevent the required
33 statements from being misleading in light of the circumstances
34 under which the statements were made.

35 9. "Provider" means a person undertaking to provide

1 continuing care in a facility.

2 10. "Resident" means an individual entitled to receive
3 continuing care in a facility.

4 11. "Solicit" means all actions of a provider or manager
5 in seeking to have individuals residing in this state pay an
6 application fee and enter into a continuing-care agreement by
7 any means such as, but not limited to, personal, telephone, or
8 mail communication or any other communication directed to and
9 received by an individual in this state and any advertisements
10 in any media distributed or communicated by any means to
11 individuals in this state.

12 Sec. 2. NEW SECTION. 523D.2 LICENSE REQUIRED.

13 A person shall not provide continuing care in this state
14 without a license obtained from the department as provided in
15 this chapter.

16 2. The application for a license shall be filed with the
17 department by the provider on forms prescribed by the
18 department and shall include all information required by the
19 department under rules adopted by the department pursuant to
20 chapter 17A including, but not limited to, the disclosure
21 statement meeting the requirements of this chapter.

22 3. Upon receipt of the application for a license in proper
23 form, the department shall, within ten days, issue a notice of
24 filing to the provider-applicant. Within sixty days of the
25 notice of filing, the department shall enter an order issuing
26 the license or rejecting the application.

27 4. If the department determines that any of the
28 requirements of this chapter have not been met, the department
29 shall notify the applicant that the application must be
30 corrected within thirty days. If the requirements are not met
31 within the time allowed, the department may enter an order
32 rejecting the application which shall include the findings of
33 fact upon which the order is based and which shall not become
34 effective until twenty days after the end of the thirty-day
35 period. During the twenty-day period, the applicant may

1 petition for reconsideration and is entitled to a hearing.

2 5. With respect to a provider who has offered continuing-
3 care agreements to existing or prospective residents in a
4 facility established prior to the effective date of this Act,
5 which facility has one or more residents living in the
6 facility pursuant to the agreements entered into prior to the
7 effective date of this Act, and if the provider is unable to
8 comply with section 523D.7 within the time provided, the
9 department may, after the filing of a petition by the
10 provider, issue a temporary license to the provider which may
11 then enter into continuing-care agreements in compliance with
12 all other applicable provisions of this chapter until the
13 permanent license has been issued. A temporary license may
14 only be issued to existing providers who will be able to
15 comply with section 523D.7 within a period of time agreed to
16 by the department, not to exceed two years.

17 6. If a provider is not in compliance on, or before, the
18 expiration date of the temporary license, the provider may
19 petition the department for an extension. Providers who may
20 be able to comply with section 523D.7 as determined by the
21 department, may be granted an extension of up to three years.

22 7. If an existing provider is granted a permanent license,
23 any resident who entered into an agreement before the license
24 was granted shall be provided with all amendments to the
25 application for registration and the initial disclosure
26 statement.

27 8. If an existing provider is denied a permanent license,
28 any resident who entered into a continuing-care agreement
29 before the license was granted is entitled to all the
30 appropriate remedies as provided in this chapter.

31 9. If a facility is accredited by a process approved by
32 the department as substantially equivalent to the requirements
33 of this chapter, the facility shall be deemed to have met the
34 requirements of this chapter and the department shall issue a
35 license to the facility.

1 Sec. 3. NEW SECTION. 523D.3 REVOCATION OF LICENSE.

2 1. The license of a provider remains in effect until
3 revoked after notice and hearing, upon written findings of
4 fact by the department, that the provider has done one of the
5 following:

6 a. Willfully violated a provision of this chapter or a
7 rule adopted or order entered pursuant to this chapter.

8 b. Failed to file an annual disclosure statement or resi-
9 dent agreement as required by this chapter.

10 c. Failed to deliver to prospective residents the
11 disclosure statements required by this chapter.

12 d. Delivered to prospective residents a disclosure state-
13 ment which makes an untrue statement or omits a material fact
14 and the provider, at the time of the delivery of the
15 disclosure statement, had actual knowledge of the misstatement
16 or omission.

17 e. Failed to comply with the terms of a cease and desist
18 order.

19 2. Findings of fact in support of revocation, if set forth
20 in statutory language, shall be accompanied by a concise and
21 explicit statement of the underlying facts supporting the
22 findings.

23 3. If the department finds good cause to believe that the
24 provider has been guilty of a violation for which revocation
25 could be ordered, the department may first issue a cease and
26 desist order. If the cease and desist order is not or cannot
27 be effective in remedying the violation, the department may,
28 after notice and hearing, order that the license be revoked
29 and surrendered. Such a cease and desist order may be
30 appealed pursuant to chapter 17A.

31 Sec. 4. NEW SECTION. 523D.4 SALE OR TRANSFER OF
32 OWNERSHIP.

33 A provider desiring to sell or transfer ownership of a con-
34 tinuing-care facility shall notify the department thirty days
35 in advance of the completion of the sale or transfer. The

1 department may revoke the license of a provider, after notice
2 and hearing, upon written findings of fact, based upon a
3 substantial change in control or ownership of the provider,
4 which change is found not to be in the best interests of the
5 residents of the facility or facilities owned or controlled by
6 the provider such that the facility or facilities are in the
7 imminent danger of becoming insolvent or that the care of
8 present or prospective residents is threatened by the change.

9 Sec. 5. NEW SECTION. 523D.5 DISCLOSURE STATEMENT.

10 1. At the time of or prior to the execution of a contract
11 to provide continuing care or at the time of or prior to the
12 transfer of any money or other property to a provider by or on
13 behalf of a prospective resident, whichever occurs first, the
14 provider shall deliver a disclosure statement to the person
15 with whom the contract is to be entered into, which shall
16 contain all of the following information unless such informa-
17 tion is in the contract, a copy of which must be attached to
18 the statement:

19 a. The name and business address of the provider and a
20 statement of whether the provider is a partnership,
21 corporation, or other type of legal entity.

22 b. The names and business addresses of the officers, di-
23 rectors, trustees, managing or general partners, and any
24 person having a ten percent or greater equity or beneficial
25 interest in or of the provider and a description of such
26 person's interest in or occupation with the provider.

27 c. If the facility will be managed on a day-to-day basis
28 by a person other than an individual directly employed by the
29 provider, a person named in response to paragraph "b", or the
30 proposed manager:

31 (1) A description of the business experience of the
32 person, if any, in the operation or management of similar
33 facilities.

34 (2) The name and address of any professional service,
35 firm, association, trust, partnership, or corporation in which

1 the person has, or which has in the person, a ten percent or
2 greater interest and which will or may provide goods, leases,
3 or services to the facility of a value of five hundred dollars
4 or more, within a year, including a description of the goods,
5 leases, or services and their probable or anticipated cost to
6 the facility or provider; the process by which the contract
7 was awarded; and any additional offers that were received.

8 The department may request additional information,
9 detailing why a contract was awarded, as necessary.

10 (3) A description of any matter in which the person has
11 been convicted of a felony or pleaded nolo contendere to a
12 felony charge or been held liable or enjoined in a civil
13 action by final judgment if the felony or civil action
14 involved fraud, embezzlement, fraudulent conversion, or
15 misappropriation of property.

16 (4) A description of any matter in which the person is
17 subject to a currently effective injunctive or restrictive
18 order of a court of record, or within the past five years had
19 any state or federal license or permit suspended or revoked as
20 a result of an action brought by a governmental agency or
21 department, arising out of or relating to business activity or
22 health care, including, without limitation, actions affecting
23 a license to operate a foster care facility, health care
24 facility, retirement home, home for the aged, or facility
25 licensed under this chapter or a similar law of another state.

26 d. A statement as to:

27 (1) Whether the provider is or ever has been affiliated
28 with a religious, charitable, or other nonprofit organization.

29 (2) The nature of the affiliation, if any.

30 (3) The extent to which the affiliate organization will be
31 responsible for the financial and contractual obligations of
32 the provider.

33 (4) The provision of the federal Internal Revenue Code, if
34 any, under which the provider or affiliate is exempt from the
35 payment of federal income tax.

1 e. The location and description of the physical property
2 or properties of the facility, existing or proposed, and, to
3 the extent proposed, the estimated completion date or dates,
4 whether or not construction has begun, and the contingencies
5 subject to which construction may be deferred.

6 f. The services provided or proposed to be provided under
7 contracts for continuing care at the facility, including the
8 extent to which medical care is furnished. The disclosure
9 statement shall clearly state which services are included in
10 basic contracts for continuing care and which services are
11 made available at or by the facility at extra charge.

12 g. A description of all fees required of residents,
13 including the entrance fee and periodic charges, if any. The
14 description shall include the manner by which the provider may
15 adjust periodic charges or other recurring fees and the
16 limitations on such adjustments, if any. If the facility is
17 already in operation or if the provider or manager operates
18 one or more similar facilities within this state, tables shall
19 be included showing the frequency and average dollar amount of
20 each increase in periodic rates at each facility for the
21 previous five years or shorter period in which the facility
22 has been operated by the provider or manager.

23 h. The provisions which have been made or will be made, if
24 any, to provide reserve funding or security to enable the
25 provider to fully perform its obligations under contracts to
26 provide continuing care at the facility, including the
27 establishment of escrow accounts, trusts, or reserve funds,
28 together with the manner in which the funds will be invested
29 and the names and experience of persons who will make the
30 investment decisions.

31 i. Certified financial statements of the provider,
32 including:

33 (1) A balance sheet as of the end of the two most recent
34 fiscal years.

35 (2) Income statements of the provider for the two most re-

1 cent fiscal years or the shorter period of time in which the
2 provider has been in existence.

3 j. If operation of the facility has not yet commenced, a
4 statement of the anticipated source and application of the
5 funds used or to be used in the purchase or construction of
6 the facility, including:

7 (1) An estimate of the cost of purchasing or constructing
8 and equipping the facility, including related costs such as
9 financing expense, legal expense, land costs, occupancy
10 development costs, and all other similar costs which the
11 provider expects to incur or become obligated for prior to the
12 commencement of operations.

13 (2) A description of any mortgage loan or other long-term
14 financing intended to be used for the financing of the
15 facility, including the anticipated terms and costs of the
16 financing.

17 (3) An estimate of the total entrance fees to be received
18 from or on behalf of residents at or prior to commencement of
19 operation of the facility.

20 (4) An estimate of the funds, if any, which are
21 anticipated to be necessary to fund start-up losses and
22 provide reserve funds to assure full performance of the
23 obligations of the provider under contracts for the provision
24 of continuing care.

25 (5) A projection of estimated income from fees and charges
26 other than entrance fees, showing individual rates presently
27 anticipated to be charged and including a description of the
28 assumptions used for calculating the estimated occupancy rate
29 of the facility and the effect on the income of the facility
30 of government subsidies for health care services, if any, to
31 be provided pursuant to the contracts for continuing care.

32 (6) A projection of estimated operating expenses of the
33 facility, including a description of the assumptions used in
34 calculating the expenses and separate allowances, if any, for
35 the replacement of equipment and furnishings and anticipated

1 major structural repairs or additions.

2 (7) Identification of any assets pledged as collateral for
3 any purpose.

4 (8) An estimate of annual payments of principal and
5 interest required by any mortgage loan or other long-term
6 financing.

7 k. Other material information concerning the facility or
8 the provider as required by the department or as the provider
9 wishes to include.

10 l. The cover page of the disclosure statement shall state,
11 in a prominent location and type face, the date of the dis-
12 closure statement and that the issuance of a license does not
13 constitute approval, recommendation, or endorsement of the
14 facility by the department, nor is it evidence of, nor does it
15 attest to, the accuracy or completeness of the information set
16 out in the disclosure statement.

17 m. A copy of the standard form or forms of contract for
18 continuing care used by the provider, attached as an exhibit
19 to each disclosure statement.

20 2. The provider shall file with the department, annually
21 within four months following the end of the provider's fiscal
22 year, an annual disclosure statement which shall contain the
23 information required by this chapter for the initial
24 disclosure statement. The annual disclosure statement shall
25 also be accompanied by a narrative describing any material
26 differences between:

27 a. The pro forma income statements filed pursuant to this
28 chapter either as part of the application for registration or
29 as part of the most recent annual disclosure statement.

30 b. The actual results of operations during the fiscal
31 year.

32 The annual disclosure statement shall also contain a revised
33 pro forma income statement for the next fiscal year. The
34 department may request additional income statements if
35 necessary.

1 3. From the date an annual disclosure statement is filed
2 until the date the next succeeding annual disclosure statement
3 is filed with the department and prior to the provider's ac-
4 ceptance of part or all of any application fee or part of the
5 entrance fee or the execution of the continuing-care agreement
6 by the resident, whichever occurs first, the provider shall
7 deliver the current annual disclosure statement to the indi-
8 vidual or individuals who are current or prospective residents
9 and with whom the continuing-care agreement is or may be
10 entered into.

11 4. In addition to filing the annual disclosure statement,
12 the provider may amend its currently filed disclosure
13 statement at any other time if, in the opinion of the
14 provider, an amendment is necessary to prevent the disclosure
15 statement and annual disclosure statement from containing any
16 material misstatement of fact or omission to state a material
17 fact required to be included in the statement. The amendment
18 or amended disclosure statement shall be filed with the
19 department before the statement is delivered to a resident or
20 prospective resident and is subject to all the requirements,
21 including those as to content and delivery, of this chapter.

22 Sec. 6. NEW SECTION. 523D.6 FALSE INFORMATION.

23 1. A provider shall not make, publish, disseminate, cir-
24 culate, or place before the public, or cause, directly or in-
25 directly, to be made, published, disseminated, circulated, or
26 placed before the public, in a newspaper or other publication,
27 or in the form of a notice, circular, pamphlet, letter, or
28 poster, or over any radio or television station, or in any
29 other way, an advertisement, announcement, or statement of any
30 sort containing any assertion, representation, or statement
31 which is untrue, deceptive, or misleading.

32 2. A provider shall not file with the department or make,
33 publish, disseminate, circulate, or deliver to any person or
34 place before the public, or cause, directly or indirectly, to
35 be made, published, disseminated, circulated, or delivered to

1 any person or placed before the public, a financial statement
2 which does not accurately state the provider's true financial
3 condition.

4 Sec. 7. NEW SECTION. 523D.7 ESCROW ACCOUNT.

5 1. A provider shall establish and maintain liquid reserves
6 in an amount equal to or exceeding the greater of the
7 following:

8 a. The total of all principal and interest payments due
9 during the next twelve months on account of any mortgage loan
10 or other long-term financing of the facility.

11 b. Ten percent of the projected annual operating expenses
12 of the facility, exclusive of depreciation.

13 The provider shall notify the commissioner in writing at
14 least ten days prior to reducing the funds available to
15 satisfy this requirement and may expend no more than one-
16 twelfth of the required balance each calendar month. In
17 facilities where some residents are not under continuing-care
18 agreements, the reserve shall be computed only on the
19 proportional share of financing or operating expenses which is
20 applicable to residents under continuing-care agreements at
21 the end of the provider's most recent fiscal year. Funds in
22 escrow accounts may be used to satisfy this reserve re-
23 quirement if the funds are available to make payments when
24 operating funds are insufficient for such purposes.

25 2. If the department has cause to believe that additional
26 protection may be necessary to secure the obligations assumed
27 under all resident agreements, the department may require the
28 provider to establish and to maintain on a current basis, in
29 escrow with a bank, trust company, or other escrow agent ap-
30 proved by the department, a portion of all entrance fees
31 received by the provider in an aggregate amount not to exceed
32 the total of all principal and interest payments due during
33 the next twelve months on account of any first mortgage loan
34 or other long-term financing of the facility. The funds in
35 the escrow account may be invested with earnings payable to

1 the provider. If the provider requests in writing, the escrow
2 agent shall release up to one-twelfth of the original
3 principal balance of the escrow account. A release of funds
4 shall not be made more than once during any calendar month and
5 then only after the escrow agent has given written notice to
6 the department at least ten days prior to the release. The
7 amount of the escrow fund shall be included in satisfying the
8 reserves required under this chapter.

9 Sec. 8. NEW SECTION. 523D.8 LIEN ON BEHALF OF RESIDENTS.

10 Prior to the issuance of a license under this chapter or at
11 such other time as the commissioner may determine is in the
12 best interests of residents of a facility, the commissioner
13 may file a lien on the real and personal property of the
14 provider or facility to secure the obligations of the provider
15 pursuant to existing and future contracts for continuing care.
16 The lien is effective for a period of ten years following
17 filing and may be extended by the commissioner upon a finding
18 that an extension is advisable for the protection of residents
19 of the facility. The lien may be foreclosed upon the
20 liquidation of the facility or the insolvency or bankruptcy of
21 the provider, and, in that event, the foreclosure proceeds
22 shall be used in full or partial satisfaction of obligations
23 of the provider pursuant to contracts for continuing care in
24 effect. The lien is subordinate to the lien of any first
25 mortgage on the real property of the facility and may be
26 subordinated with the written consent of the commissioner to
27 the claims of other persons if the commissioner determines
28 such subordination to be advisable for the efficient operation
29 of the facility.

30 Sec. 9. NEW SECTION. 523D.9 ENTRANCE FEE ESCROW.

31 The department shall require, as a condition of issuing a
32 license, that the provider establish an interest-bearing
33 escrow account with a bank, trust company, or other escrow
34 agent approved by the department. Any entrance fees and
35 payments which are in excess of five percent of the existing

1 entrance fee for the unit, received by the provider prior to
2 the date the resident is permitted to occupy the living unit
3 in the facilities, shall be placed in the escrow account
4 subject to release as follows:

5 1. If the entrance fee gives the resident the right to
6 occupy a living unit which has been previously occupied, the
7 entrance fee and any income earned on the entrance fee shall
8 be released to the provider at such time as the living unit
9 becomes available for occupancy by the new resident.

10 2. If the entrance fee applies to a living unit which has
11 not been previously occupied, the entrance fee shall be
12 released to the provider at such time as the department is
13 satisfied that:

14 a. Aggregate entrance fees received or receivable by the
15 provider pursuant to executed continuing-care agreements equal
16 not less than fifty percent of the sum of the entrance fees
17 due at full occupancy of the portion of the facility under
18 construction. For this paragraph, entrance fees receivable
19 pursuant to an agreement will be counted only if the facility
20 has received a deposit of thirty-five percent or more of the
21 entrance fee due from the individual, or individuals, signing
22 the contract.

23 b. The entrance fees received or receivable pursuant to
24 paragraph "a" plus anticipated proceeds of any first mortgage
25 loan or other long-term financing commitment plus funds from
26 other sources in the actual possession of the provider are
27 equal to not less than fifty percent of the aggregate cost of
28 constructing or purchasing, equipping, and furnishing the
29 facility plus not less than fifty percent of the funds
30 estimated, in the statement of anticipated source and
31 application of funds submitted by the provider as part of its
32 application, to be necessary to fund start-up losses of the
33 facility.

34 c. A commitment has been received by the provider for any
35 permanent mortgage loan or other long-term financing described

1 in the statement of anticipated source and application of
2 funds submitted as part of the application for license and any
3 conditions of the commitment prior to disbursement of funds,
4 other than completion of the construction or closing of the
5 purchase of the facility, have been substantially satisfied.

6 3. If the funds in an escrow account to which subsections
7 1 and 2 apply and any interest earned on the funds are not
8 released within thirty-six months, or a greater time specified
9 by the provider with the consent of the department, the funds
10 shall be returned by the escrow agent to the persons who made
11 the payment to the provider.

12 4. This section does not require the escrow of any nonre-
13 fundable application fee charged to prospective residents.

14 5. In lieu of any escrow which is required by the depart-
15 ment under this section, a provider may post a letter of
16 credit from a financial institution, negotiable securities, or
17 a bond by a surety authorized to do business in this state and
18 approved by the department as to form and in an amount not to
19 exceed the amount required by subsection 2, paragraph "a".
20 The bond, letter of credit, or negotiable securities shall be
21 executed in favor of the department on behalf of individuals
22 who may be found entitled to a refund of entrance fees from
23 the provider.

24 6. An entrance fee held in escrow may be returned by the
25 escrow agent at any time to the person who paid the fee to the
26 provider upon receipt by the escrow agent of notice from the
27 provider that the person is entitled to a refund of the en-
28 trance fee.

29 Sec. 10. NEW SECTION. 523D.10 CROSS-COLLATERALIZATION
30 LIMITED.

31 Only the unencumbered assets of a continuing-care facility
32 may be pledged by the provider as collateral for the purpose
33 of securing loans for other continuing-care facilities,
34 whether proposed or existing.

35 Sec. 11. NEW SECTION. 523D.11 RESIDENT'S AGREEMENT.

1 1. In addition to other provisions proper to effectuate
2 the purpose of any continuing-care agreement, an agreement
3 executed on and after the effective date of the initial rules
4 adopted to implement this chapter pursuant to section 523D.22
5 shall be written in nontechnical language easily understood by
6 a layperson and shall:

7 a. Provide for the continuing care of only one resident,
8 or for two or more persons occupying space designed for
9 multiple occupancy, under appropriate procedures established
10 by the provider, and shall show the value of all property
11 transferred, including donations, subscriptions, fees, and any
12 other amounts paid or payable by, or on behalf of, the
13 resident or residents.

14 b. Specify all services which are to be provided by the
15 provider to a resident including, in detail, all times when a
16 resident will receive services and whether the items will be
17 provided for a designated time period or for life and the
18 average annual cost to the provider of providing the services.
19 The items may include, but are not limited to, food, shelter,
20 nursing care, drugs, burial, and incidentals.

21 c. Describe the health and financial conditions upon which
22 the provider may require the resident to relinquish space in
23 the designated facility.

24 d. Describe the health and financial conditions required
25 for a person to continue as a resident.

26 e. Describe the circumstances under which the resident
27 will be permitted to remain in the facility in the event of
28 financial difficulties of the resident.

29 f. State the fees which will be charged if the resident
30 marries while at the designated facility, the terms concerning
31 the entry of a spouse to the facility, and the consequences if
32 the spouse does not meet the requirements for entry.

33 g. Provide that the agreement may be canceled upon the
34 giving of notice of cancellation of at least thirty days by
35 the provider or the resident. If an agreement is canceled

1 because there has been a good faith determination in writing,
2 signed by the medical director and the administrator of the
3 facility, that a resident is a danger to the resident or to
4 others, only such notice as is reasonable under the
5 circumstances shall be required.

6 h. Provide in clear and understandable language, in print
7 no smaller than the largest type used in the body of the
8 agreement, the terms governing the refund of any portion of
9 the entrance fee.

10 i. State the terms under which an agreement is canceled by
11 the death of the resident. The agreement may contain a
12 provision to the effect that, upon the death of the resident,
13 the moneys paid for the continuing care of the resident shall
14 be considered earned and become the property of the provider.

15 j. Provide for advance notice to the resident, of not less
16 than thirty days, before any change in fees or charges or the
17 scope of care or services may be effective, except for changes
18 required by state or federal assistance programs.

19 k. Provide that charges for care paid in one lump sum
20 shall not be increased or changed during the duration of the
21 agreed upon care, except for changes required by state or
22 federal assistance programs.

23 2. A resident may rescind a continuing-care agreement,
24 without penalty or forfeiture, within seven days after making
25 an initial deposit or executing the agreement. A resident
26 shall not be required to move into the facility designated in
27 the agreement before the expiration of the seven-day period.

28 3. If a resident dies before the occupancy date, or
29 through illness, injury, or incapacity is precluded from
30 becoming a resident under the terms of the continuing-care
31 agreement, the agreement is automatically rescinded and the
32 resident or the resident's legal representative shall be given
33 a full refund of all moneys paid to the facility, except those
34 costs specifically incurred by the facility at the request of
35 the resident and set forth in writing in a separate addendum,

1 signed by both parties to the agreement.

2 4. An agreement for care shall not permit discharge of the
3 resident from the facility providing care prior to the expira-
4 tion of the agreement, without just cause for removal. "Just
5 cause" includes, but is not limited to, a good faith
6 determination in writing, signed by the medical director and
7 the administrator of the facility, that a resident is a danger
8 to the resident or to others while remaining in the facility.
9 If a facility discharges a resident for just cause, the
10 facility shall pay to the resident any refund due in the same
11 manner as if the resident's agreement was otherwise terminated
12 pursuant to this chapter.

13 5. An act, agreement, or statement of any resident, or of
14 an individual purchasing care for a resident under any
15 agreement to furnish care to the resident, does not constitute
16 a valid waiver of any provision of this chapter intended for
17 the benefit or protection of the resident or the individual
18 purchasing care for the resident.

19 6. Agreements entered into prior to the effective date of
20 this chapter or prior to the issuance of a license to the
21 provider continue to be valid and binding upon both parties in
22 accordance with their terms.

23 Sec. 12. NEW SECTION. 523D.12 RIGHT TO ORGANIZATION.

24 1. Residents living in a facility holding a valid license
25 under this chapter have the right of self-organization.

26 2. The board of directors or other governing body of a
27 facility, or a designated representative, shall hold quarterly
28 meetings with the residents for the purpose of free discussion
29 of subjects which may include income, expenditures, and
30 financial matters as they apply to the facility and proposed
31 changes in policies, programs, and services. Residents are
32 entitled to at least seven days' notice of each quarterly
33 meeting.

34 Sec. 13. NEW SECTION. 523D.13 REHABILITATION OR LIQUIDA-
35 TION.

1 1. The commissioner may apply to the appropriate court of
2 this state or to the federal bankruptcy court which may have
3 previously taken jurisdiction over the provider or facility
4 for an order directing or authorizing the commissioner to
5 appoint a trustee to rehabilitate or to liquidate a facility,
6 if the commissioner determines, after notice and an
7 opportunity for the provider to be heard, that any of the
8 following applies:

9 a. A portion of a reserve fund escrow required to be held
10 under this chapter has been or is proposed to be released.

11 b. A provider has been or will be unable, in such a manner
12 as may endanger the ability of the provider to fully perform
13 its obligations pursuant to contracts for continuing care, to
14 meet the income or cash flow projections previously filed by
15 the provider.

16 c. A provider has failed to maintain the reserves required
17 under this chapter.

18 d. A provider is bankrupt or insolvent, or in imminent
19 danger of becoming bankrupt or insolvent.

20 2. An order to rehabilitate a facility shall direct the
21 commissioner or trustee to take possession of the property of
22 the provider and to conduct the business of the provider,
23 including the employment of managers or agents as the
24 commissioner or trustee deems necessary and to take steps as
25 the court directs toward removal of the causes and conditions
26 which have made rehabilitation necessary.

27 3. If, at any time, the court finds, upon petition of the
28 commissioner, trustee, or provider, or on its own motion, that
29 the objectives of an order to rehabilitate a provider have
30 been accomplished and that the facility can be returned to the
31 provider's management without further jeopardy to the
32 residents of the facility, creditors, owners of the facility,
33 and the public, the court may, upon a full report and
34 accounting of the conduct of the facility's affairs during the
35 rehabilitation and of the facility's current financial

1 condition, terminate the rehabilitation and, by order, return
2 the facility and its assets and affairs to the provider's
3 management.

4 4. If, at any time, the commissioner determines that
5 further efforts to rehabilitate the provider would be useless,
6 the commissioner may apply to the court for an order of
7 liquidation.

8 5. An order to liquidate a facility:

9 a. May be issued upon application of the commissioner
10 whether or not there has been issued a prior order to
11 rehabilitate the facility.

12 b. Shall act as a revocation of the license of the
13 facility under this chapter.

14 c. For payment to other facilities operated by providers
15 who have trustee to marshal and liquidate all of the
16 provider's assets located within this state.

17 6. In applying for an order to rehabilitate or liquidate a
18 facility, the commissioner shall give due consideration in the
19 application to the manner in which the welfare of persons who
20 have previously contracted with the provider for continuing
21 care may be best served. In furtherance of this objective,
22 the proceeds of any lien obtained by the commissioner pursuant
23 to this chapter may be used for any of the following purposes:

24 a. For full or partial payment of entrance fees.

25 b. On behalf of residents of a facility being liquidated.

26 c. For payment to other facilities operated by providers
27 who have registered such facilities under this chapter.

28 7. An order for rehabilitation under this section shall be
29 refused or vacated if the provider posts a bond, by a
30 recognized surety authorized to do business in this state and
31 executed in favor of the department on behalf of persons who
32 may be found entitled to a refund of entrance fees from the
33 provider or other damages if the provider is unable to fulfill
34 its contracts to provide continuing care at the facility, in
35 an amount determined by the court to be equal to the reserve

1 funding which would otherwise need to be available to fulfill
2 such obligations.

3 Sec. 14. NEW SECTION. 523D.14 CIVIL LIABILITY.

4 1. A person, as a provider, or on behalf of a provider, is
5 liable to the person contracting for continuing care for
6 damages and repayment of all fees paid to the provider,
7 facility, or person violating this chapter, less the
8 reasonable value of care and lodging provided to the resident
9 by or on whose behalf the contract for continuing care was
10 entered into prior to discovery of the violation,
11 misstatement, or omission or the time the violation,
12 misstatement, or omission should reasonably have been
13 discovered, together with interest at the legal rate for
14 judgments and court costs and reasonable attorney fees, if the
15 person does any of the following:

16 a. Enters into a contract to provide continuing care at a
17 facility which does not have a license under this chapter.

18 b. Enters into a contract to provide continuing care at a
19 facility without having first delivered a disclosure statement
20 meeting the requirements of this chapter to the person
21 contracting for continuing care.

22 c. Enters into a contract to provide continuing care at a
23 facility with a person who has relied on a disclosure
24 statement which omits a material fact required to be included
25 in the statement or necessary in order to make the statement,
26 in light of the circumstances under which it is made, not mis-
27 leading.

28 2. Liability under this section exists regardless of
29 whether or not the provider or person liable had actual know-
30 ledge of the misstatement or omission.

31 3. A person shall not file or maintain an action under
32 this section if the person, before filing the action, received
33 an offer, approved by the commissioner, to refund all amounts
34 paid the provider, facility, or person violating this chapter,
35 together with interest from the date of payment, less the

1 reasonable value of care and lodging provided prior to receipt
2 of the offer, and the person failed to accept the offer within
3 thirty days of its receipt. At the time a provider makes a
4 written offer of rescission, the provider shall file a copy
5 with the commissioner. The rescission offer shall recite the
6 provisions of this section.

7 4. An action shall not be maintained to enforce a
8 liability created under this chapter unless brought before the
9 expiration of six years after the execution of the contract
10 for continuing care which gave rise to the violation.

11 5. Except as expressly provided in this chapter, civil
12 liability in favor of a private party shall not arise against
13 a person, by implication, from or as a result of the violation
14 of this chapter or the rules adopted pursuant to this chapter.
15 This chapter does not limit a liability which may exist by
16 virtue of any other statute or under common law if this
17 chapter were not in effect.

18 Sec. 15. NEW SECTION. 523D.15 INVESTIGATIONS AND
19 SUBPOENAS.

20 The department may make public or private investigations
21 within or outside of this state as the commissioner deems
22 necessary to determine whether any person has violated or is
23 about to violate this chapter or rules adopted or orders
24 entered pursuant to this chapter, or to aid in the enforcement
25 of this chapter or rules adopted or orders entered pursuant to
26 this chapter, and may publish information concerning any
27 violation of this chapter or rules adopted or orders entered
28 pursuant to this chapter.

29 For the purpose of an investigation or proceeding under
30 this chapter, the commissioner or an officer designated by the
31 commissioner may administer oaths and affirmations, subpoena
32 witnesses, compel their attendance, take evidence, and require
33 the production of any books, papers, correspondence,
34 memoranda, agreements, or other documents or records which the
35 commissioner deems relevant or material to the inquiry, all of

1 which may be enforced in a court of this state which has
2 appropriate jurisdiction.

3 Sec. 16. NEW SECTION. 523D.16 AUDITS.

4 The commissioner or the commissioner's designee shall visit
5 each facility offering continuing care in this state to
6 examine its books and records at least once every four years.
7 A multifacility provider may be required to provide the
8 financial statements of the component parts at the request of
9 the commissioner or the commissioner's designee. The
10 financial statements need not be certified audited reports.

11 Sec. 17. NEW SECTION. 523D.17 CONSUMERS' GUIDE TO
12 CONTINUING-CARE FACILITIES.

13 The commissioner shall publish and distribute a consumers'
14 guide to continuing care facilities and an annual directory of
15 continuing-care facilities.

16 Sec. 18. NEW SECTION. 523D.18 CEASE AND DESIST ORDERS --
17 INJUNCTIONS.

18 If the commissioner determines that a person has engaged
19 in, or is about to engage in, any act or practice constituting
20 a violation of this chapter, the commissioner may:

21 1. Issue an order requiring the person to cease and desist
22 from engaging in the act or practice.

23 2. Bring an action in a court which has appropriate juris-
24 diction to enjoin the acts or practices and to enforce
25 compliance with this chapter or rules adopted or orders
26 entered pursuant to this chapter. Upon a proper showing, a
27 permanent or temporary injunction, restraining order, or writ
28 of mandamus shall be granted and a receiver or conservator may
29 be appointed for the defendant or the defendant's assets. The
30 commissioner shall not be required to post a bond.

31 Sec. 19. NEW SECTION. 523D.19 CRIMINAL PENALTIES.

32 1. A person who willfully and knowingly violates a pro-
33 vision of this chapter or a rule adopted or order entered
34 pursuant to this chapter, upon conviction, is guilty of an
35 aggravated misdemeanor.

1 the facilities' continuing-care contracts and the provision of
2 a comprehensive and updated disclosure statement to persons
3 considering entering into a continuing-care contract. Civil
4 liability and criminal penalties are provided for violation of
5 the new chapter or rules adopted or orders entered pursuant to
6 the new chapter. Rules must be effective within six months
7 from the effective date of the bill.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35