

File

MEMORANDUM

MS- What happened to this?

TO: BRUCE REED, ELENA KAGAN

FROM: TOM FREEDMAN, MARY L. SMITH *Rec'd 11-17*

RE: NATIONAL REGISTRY OF PATIENT CARE WORKERS

DATE: AUGUST 8, 1997

SUMMARY

Senator Kohl (D-WI) has introduced a bill to establish a registry of abusive and criminal patient care workers and to require criminal background checks of patient care workers.

BACKGROUND

- States are already required to maintain a registry of nurse aides, but there have been many instances of workers with criminal backgrounds being listed as eligible nurse aides.
- Current safeguards have not prevented abuse for several reasons, including the following:
 - Many states do not require criminal background checks;
 - The content of each state's registry varies considerably;
 - Abuses are difficult to verify and posting of violators can be excessively delayed;
 - Abusive workers are often dismissed without a report being filed;
 - Workers can evade registries by moving from state to state; and
 - States hesitate to document problem workers because a listing means barring a person from working in a nursing home for life.

HIGHLIGHTS OF PROPOSED LEGISLATION

S.1122 would:

- **Create a national registry of abusive workers.** HHS would establish and maintain the registry. HHS is currently setting up a health care fraud and abuse data bank pursuant to the Health Insurance Portability and Accountability Act, and this bill would increase the scope of that data bank.
- **Expand the contents of current state registries.** The contents of the national registry would expand the category of workers covered to include other health care workers and personnel that have direct contact with vulnerable patients from simply nurse aides.

- **Codify HHS regulations that require long-term care facilities to investigate and report abuses for further investigations to the appropriate state agency.**
- **Require mandatory criminal background checks.** FBI criminal background checks will be required for those direct patient care workers who have not been subject to a criminal background check under state licensing requirements. States may charge fees to cover the cost of the FBI check. Facilities may split the cost of the fees with the applicant.
- **Provide penalties for non-compliance.** If a provider fails to inquire with the state and hires a known abuser, the provider is subject to a fine of \$2,000 for the first violation and \$5,000 for subsequent violations. For willful violations, the fines increase up to \$10,000.
- **Create a demonstration project to provide training to prevent abuse.**