

MAR 4 2005
Place On Calendar

HOUSE FILE 585
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 95)

Passed House, Date 3-22-05 Passed Senate, Date _____
Vote: Ayes 97 Nays 0 Vote: Ayes _____ Nays _____
Approved 4-27-05

A BILL FOR

1 An Act relating to assisted living programs and providing for a
2 fee.

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

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HF 585

1 Section 1. Section 231C.1, subsection 1, Code 2005, is
2 amended to read as follows:

3 1. The general assembly finds that assisted living is an
4 important part of the long-term care ~~system~~ continua in this
5 state. Assisted living emphasizes the independence and
6 dignity of the individual while providing services in a cost-
7 effective manner.

8 Sec. 2. Section 231C.1, subsection 2, paragraphs b and c,
9 Code 2005, are amended to read as follows:

10 b. To establish standards for assisted living programs
11 that allow flexibility in design which promotes a social model
12 of service delivery by focusing on ~~individual~~ independence,
13 individual needs and desires, and consumer-driven quality of
14 service.

15 c. To encourage ~~general~~ public participation in the
16 development of assisted living programs for individuals of all
17 income levels.

18 Sec. 3. Section 231C.2, subsections 2, 5, and 9, Code
19 2005, are amended to read as follows:

20 2. "Assisted living" means provision of housing with
21 services which may include but are not limited to health-
22 related care, personal care, and assistance with instrumental
23 activities of daily living to three or more tenants in a
24 physical structure which provides a homelike environment.
25 "Assisted living" also includes encouragement of family
26 involvement, tenant self-direction, and tenant participation
27 in decisions that emphasize choice, dignity, privacy,
28 individuality, shared risk, and independence. "Assisted
29 living" includes the provision of housing and assistance with
30 instrumental activities of daily living only if personal care
31 or health-related care is also included. "Assisted living"
32 includes twenty-four-hours per day response staff to meet
33 scheduled and unscheduled or unpredictable needs in a manner
34 that promotes maximum dignity and independence and provides
35 supervision, safety, and security.

1 5. "Health-related care" means services provided by a
2 registered nurse or a licensed practical nurse, on a part-
3 time or intermittent basis, and services provided by other
4 licensed health care professionals, on a part-time or
5 intermittent basis, ~~as defined by rule.~~

6 9. "Personal care" means assistance with the essential
7 activities of daily living, which may include but are not
8 limited to transferring, bathing, personal hygiene, dressing,
9 grooming, and housekeeping, that are essential to the health
10 and welfare of the tenant, ~~and supervising of self-~~
11 ~~administered medications, but does not include the~~
12 ~~administration of medications.~~

13 Sec. 4. Section 231C.2, subsection 7, Code 2005, is
14 amended by striking the subsection.

15 Sec. 5. Section 231C.2, subsection 13, Code 2005, is
16 amended by striking the subsection and inserting in lieu
17 thereof the following:

18 13. "Tenant's legal representative" means a person
19 appointed by the court to act on behalf of a tenant or a
20 person acting pursuant to a power of attorney.

21 Sec. 6. Section 231C.3, subsection 1, unnumbered paragraph
22 1, Code 2005, is amended to read as follows:

23 The department shall establish by rule in accordance with
24 chapter 17A, ~~a program~~ minimum standards for certification and
25 monitoring of assisted living programs. The department may
26 adopt by reference with or without amendment, nationally
27 recognized standards and rules for assisted living programs.
28 The rules shall include specification of recognized
29 accrediting entities and provisions related to dementia-
30 specific programs. The standards and rules shall be
31 formulated in consultation with the department of inspections
32 and appeals, and affected industry, professional, and consumer
33 groups and shall be designed to accomplish the purposes of
34 this chapter and shall include but are not limited to rules
35 relating to all of the following:

1 Sec. 7. Section 231C.3, subsection 1, paragraph b, Code
2 2005, is amended to read as follows:

3 b. Requirements that assisted living programs furnish the
4 department of elder affairs and the department of inspections
5 and appeals with specified information necessary to administer
6 this chapter. All information related to a provider
7 application for an assisted living program submitted to either
8 the department of elder affairs or the department of
9 inspections and appeals shall be considered a public record
10 pursuant to chapter 22.

11 Sec. 8. Section 231C.3, subsection 2, Code 2005, is
12 amended by striking the subsection.

13 Sec. 9. Section 231C.3, subsection 7, Code 2005, is
14 amended to read as follows:

15 7. The department may also establish by rule in accordance
16 with chapter 17A ~~a-special-classification~~ minimum standards
17 for ~~affordable~~ subsidized and dementia-specific assisted
18 living programs. The rules shall be formulated in
19 consultation with the department of inspections and appeals
20 and affected industry, professional, and consumer groups.

21 Sec. 10. Section 231C.3, Code 2005, is amended by adding
22 the following new subsections:

23 NEW SUBSECTION. 11. The department of elder affairs and
24 the department of inspections and appeals shall conduct joint
25 training sessions for personnel responsible for conducting
26 monitoring evaluations and complaint investigations of
27 assisted living programs.

28 NEW SUBSECTION. 12. Certification of an assisted living
29 program shall be for two years unless certification is revoked
30 for good cause by the department of inspections and appeals.

31 Sec. 11. Section 231C.5, Code 2005, is amended to read as
32 follows:

33 231C.5 WRITTEN OCCUPANCY AGREEMENT REQUIRED.

34 1. An assisted living program shall not operate in this
35 state unless a written occupancy agreement, as prescribed in

1 subsection 2, is executed between the assisted living program
2 and each tenant or the tenant's legal representative, prior to
3 the tenant's occupancy, and unless the assisted living program
4 operates in accordance with the terms of the occupancy
5 agreement. The assisted living program shall deliver to the
6 tenant or the tenant's legal representative a complete copy of
7 the occupancy agreement and all supporting documents and
8 attachments and shall deliver, at least thirty days prior to
9 any changes, a written copy of changes to the occupancy
10 agreement if any changes to the copy originally delivered are
11 subsequently made.

12 2. An assisted living program occupancy agreement shall
13 clearly describe the rights and responsibilities of the tenant
14 and the program. The occupancy agreement shall also include
15 but is not limited to inclusion of all of the following
16 information in the body of the agreement or in the supporting
17 documents and attachments:

18 a. A description of all fees, charges, and rates
19 describing tenancy and basic services covered, and any
20 additional and optional services and their related costs.

21 b. A statement regarding the impact of the fee structure
22 on third-party payments, and whether third-party payments and
23 resources are accepted by the assisted living program.

24 c. The procedure followed for nonpayment of fees.

25 d. Identification of the party responsible for payment of
26 fees and identification of the tenant's legal representative,
27 if any.

28 e. The term of the occupancy agreement.

29 f. A statement that the assisted living program shall
30 notify the tenant or the tenant's legal representative, as
31 applicable, in writing at least thirty days prior to any
32 change being made in the occupancy agreement with the
33 following exceptions:

34 (1) When the tenant's health status or behavior
35 constitutes a substantial threat to the health or safety of

1 the tenant, other tenants, or others, including when the
2 tenant refuses to consent to relocation.

3 (2) When an emergency or a significant change in the
4 tenant's condition results in the need for the provision of
5 services that exceed the type or level of services included in
6 the occupancy agreement and the necessary services cannot be
7 safely provided by the assisted living program.

8 g. A statement that all tenant information shall be
9 maintained in a confidential manner to the extent required
10 under state and federal law.

11 h. Occupancy, involuntary transfer, and transfer criteria
12 and procedures, which ensure a safe and orderly transfer.

13 i. The internal appeals process provided relative to an
14 involuntary transfer.

15 ~~i-~~ j. The program's policies and procedures for
16 addressing grievances between the assisted living program and
17 the tenants, including grievances relating to transfer and
18 occupancy.

19 ~~j-~~ k. A statement of the prohibition against retaliation
20 as prescribed in section 231C.13.

21 ~~k-~~ l. The emergency response policy.

22 ~~l-~~ m. The staffing policy which specifies ~~if-the-staff-is~~
23 ~~available-twenty-four-hours-per-day~~, if nurse delegation will
24 be used, and how staffing will be adapted to meet changing
25 tenant needs.

26 ~~m-~~ n. In dementia-specific assisted living programs, a
27 description of the services and programming provided to meet
28 the life skills and social activities of tenants.

29 ~~n-~~ o. The refund policy.

30 ~~o-~~ p. A statement regarding billing and payment
31 procedures.

32 3. Occupancy agreements and related documents executed by
33 each tenant or the tenant's legal representative shall be
34 maintained by the assisted living program in program files
35 from the date of execution until three years from the date the

1 occupancy agreement is terminated. A copy of the most current
2 occupancy agreement shall be provided to members of the
3 general public, upon request. Occupancy agreements and
4 related documents shall be made available for on-site
5 inspection to the department of inspections and appeals upon
6 request and at reasonable times.

7 Sec. 12. Section 231C.6, subsection 1, Code 2005, is
8 amended to read as follows:

9 1. If an assisted living program initiates the involuntary
10 transfer of a tenant and the action is not a result of a
11 monitoring evaluation or complaint investigation by the
12 department of inspections and appeals, and if the tenant or
13 the tenant's legal representative contests the transfer, the
14 following procedure shall apply:

15 a. The assisted living program shall notify the tenant or
16 the tenant's legal representative, in accordance with the
17 occupancy agreement, of the need to transfer, the reason for
18 the transfer, and the contact information of the tenant
19 advocate.

20 b. The assisted living program shall provide the tenant
21 advocate with a copy of the notification to the tenant.

22 c. The tenant advocate shall offer the notified tenant or
23 the tenant's legal representative assistance with the
24 program's internal appeals process. The tenant is not
25 required to accept the assistance of the tenant advocate.

26 d. If, following the internal appeals process, the
27 assisted living program upholds the transfer decision, the
28 tenant or the tenant's legal representative may utilize other
29 remedies authorized by law to contest the transfer.

30 Sec. 13. Section 231C.8, Code 2005, is amended to read as
31 follows:

32 231C.8 INFORMAL REVIEW.

33 1. If an assisted living program contests the regulatory
34 insufficiencies of a monitoring evaluation or complaint
35 investigation, the program shall submit written information,

1 demonstrating that the program was in compliance with the
2 applicable requirement at the time of the monitoring
3 evaluation or complaint investigation, in support of the
4 contesting of the regulatory insufficiencies, to the
5 department of inspections and appeals for review.

6 2. The department of inspections and appeals shall review
7 the written information submitted within ten working days of
8 the receipt of the information. At the conclusion of the
9 review, the department of inspections and appeals may affirm,
10 modify, or dismiss the regulatory insufficiencies. The
11 department of inspections and appeals shall notify the program
12 in writing of the decision to affirm, modify, or dismiss the
13 regulatory insufficiencies, and the reasons for the decision.

14 3. In the case of a complaint investigation, the
15 department of inspections and appeals shall also notify the
16 complainant, if known, of the decision and the reasons for the
17 decision.

18 Sec. 14. Section 231C.9, Code 2005, is amended to read as
19 follows:

20 231C.9 PUBLIC DISCLOSURE OF FINDINGS.

21 Following Upon completion of a monitoring evaluation or
22 complaint investigation of an assisted living program by the
23 department of inspections and appeals pursuant to this
24 chapter, the department of inspections and appeals' final
25 findings with respect to compliance by the assisted living
26 program with requirements for certification shall be made
27 available to the public in a readily available form and place.
28 Other information relating to an assisted living program that
29 is obtained by the department of inspections and appeals which
30 does not constitute the department of inspections and appeals'
31 final findings from a monitoring evaluation or complaint
32 investigation of the assisted living program shall be made
33 available to the department of elder affairs upon request in
34 order to facilitate policy decisions, but shall not be made
35 available to the public except in proceedings involving the

1 denial, suspension, or revocation of a certificate under this
2 chapter.

3 Sec. 15. Section 231C.10, subsection 1, Code 2005, is
4 amended to read as follows:

5 1. The department of inspections and appeals may deny,
6 suspend, or revoke a certificate in any case where the
7 department of inspections and appeals finds that there has
8 been a substantial or repeated failure on the part of the
9 assisted living program to comply with this chapter or the
10 rules, or minimum standards adopted under this chapter, or for
11 any of the following reasons:

12 ~~a. Cruelty or indifference to assisted living program~~
13 ~~tenants.~~

14 ~~b. a.~~ Appropriation or conversion of the property of an
15 assisted living program tenant without the tenant's written
16 consent or the written consent of the tenant's legal guardian
17 representative.

18 ~~c. b.~~ Permitting, aiding, or abetting the commission of
19 any illegal act in the assisted living program.

20 ~~d. c.~~ Obtaining or attempting to obtain or retain a
21 certificate by fraudulent means, misrepresentation, or by
22 submitting false information.

23 ~~e. d.~~ Habitual intoxication or addiction to the use of
24 drugs by the applicant, administrator, executive director,
25 manager, or supervisor of the assisted living program.

26 ~~f. e.~~ Securing the devise or bequest of the property of a
27 tenant of an assisted living program by undue influence.

28 ~~g. f.~~ Founded dependent adult abuse as defined in section
29 235B.2.

30 ~~h. In the case of any officer, member of the board of~~
31 ~~directors, trustee, or designated manager of the program or~~
32 ~~any stockholder, partner, or individual who has greater than a~~
33 ~~ten-percent equity interest in the program, who has or has had~~
34 ~~an ownership interest in an assisted living program, home~~
35 ~~health agency, residential care facility, or licensed nursing~~

1 facility-in-any-state-which-has-been-closed-due-to-removal-of
2 program, agency, or facility licensure or certification or
3 involuntary-termination-from-participation-in-either-the
4 medical-assistance-or-Medicare-programs, or who has been found
5 to have failed to provide adequate protection or services for
6 tenants to prevent abuse or neglect.

7 i. In the case of a certificate applicant or an existing
8 certified owner or operator who is an entity other than an
9 individual, the person is in a position of control or is an
10 officer of the entity and engages in any act or omission
11 proscribed by this chapter.

12 j. g. For any other reason as provided by law or
13 administrative rule.

14 Sec. 16. Section 231C.18, subsection 2, Code 2005, is
15 amended by adding the following new paragraph:

16 NEW PARAGRAPH. e. For accreditation via a national body
17 of accreditation, one hundred twenty-five dollars.

18 EXPLANATION

19 This bill makes changes in the assisted living programs
20 chapter, Code chapter 231C.

21 The bill changes the definition of "assisted living" to
22 provide that "assisted living" includes 24 hours per day
23 response staff to meet scheduled and unscheduled or
24 unpredictable needs in a manner that promotes maximum dignity
25 and independence and provides supervision, safety, and
26 security. The bill also changes the definition of "personal
27 care" by eliminating the inclusion of supervision of self-
28 administered medication, not including the administration of
29 medications.

30 The bill directs the department to adopt rules to establish
31 minimum standards for certification and monitoring of assisted
32 living programs, provides that all information related to the
33 provider application for an assisted living program submitted
34 to the department of elder affairs or the department of
35 inspections and appeals is considered a public record under

1 Code chapter 22, and deletes the requirement that the
2 department of elder affairs issue interpretive guidelines.
3 The bill eliminates the authorization to the department of
4 elder affairs to establish a special classification for
5 affordable assisted living programs and instead provides that
6 the department may establish, by rule, minimum standards for
7 subsidized and dementia-specific assisted living programs.
8 The bill also directs the department of elder affairs and the
9 department of inspections and appeals to conduct joint
10 training sessions for personnel responsible for conducting
11 monitoring evaluations and complaint investigations of
12 assisted living programs and provides that certification of an
13 assisted living program is for two years, unless revoked for
14 good cause.

15 The bill clarifies provisions relating to a tenant or the
16 tenant's legal representative.

17 The bill provides for the final findings, with respect to
18 compliance by an assisted living program with requirements for
19 certification, to be made available to the public upon
20 completion, rather than following a monitoring evaluation or
21 complaint investigation. The bill provides that the final
22 findings shall be made available to the department of elder
23 affairs upon request to facilitate policy decisions.

24 The bill deletes cruelty or indifference to assisted living
25 program tenants and a person's interest, or prior interest, in
26 a program or facility closed due to certain sanctions, and
27 engaging in an act or omission proscribed under Code chapter
28 231C by a person in control of an entity as bases for the
29 department of inspections and appeals to deny, suspend, or
30 revoke a certificate.

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HOUSE FILE 585

H-1068

1 Amend House File 585 as follows:

2 1. Page 7, line 24, by inserting after the word
3 "chapter," the following: "including the conclusion
4 of all appeals processes,".

5 2. By striking page 8, line 30, through page 9,
6 line 11, and inserting the following:

7 "~~h.~~ g. In the case of any officer, member of the
8 board of directors, trustee, or designated manager of
9 the program or any stockholder, partner, or individual
10 who has greater than a ten percent equity interest in
11 the program, who has or has had an ownership interest
12 in an assisted living program, adult day services
13 program, elder group home, home health agency,
14 residential care facility, or licensed nursing
15 facility in any state which has been closed due to
16 removal of program, agency, or facility licensure or
17 certification or involuntary termination from
18 participation in either the medical assistance or
19 Medicare programs, or who has been found to have
20 failed to provide adequate protection or services for
21 tenants to prevent abuse or neglect.

22 ~~i.~~ h. In the case of a certificate applicant or
23 an existing certified owner or operator who is an
24 entity other than an individual, the person is in a
25 position of control or is an officer of the entity and
26 engages in any act or omission proscribed by this
27 chapter."

28 3. Page 9, line 12, by striking the word "g." and
29 inserting the following: "i."

30 4. Page 9, by inserting after line 13, the
31 following:

32 "Sec. ____ . Section 231C.15, Code 2005, is amended
33 to read as follows:

34 231C.15 CRIMINAL PENALTIES AND INJUNCTIVE RELIEF.

35 ~~1.~~ A person establishing, conducting, managing, or
36 operating any assisted living program without a
37 certificate is guilty of a serious misdemeanor. Each
38 day of continuing violation after conviction or notice
39 from the department of inspections and appeals by
40 certified mail of a violation shall be considered a
41 separate offense or chargeable offense. A person
42 establishing, conducting, managing, or operating an
43 assisted living program without a certificate may be
44 temporarily or permanently restrained by a court of
45 competent jurisdiction from such activity in an action
46 brought by the state.

47 ~~2. A person who prevents or interferes with or~~
48 ~~attempts to impede in any way any duly authorized~~
49 ~~representative of the department of inspections and~~
50 ~~appeals in the lawful enforcement of this chapter or~~

H-1068

~~1 of the rules adopted pursuant to this chapter is
2 guilty of a simple misdemeanor. As used in this
3 subsection, lawful enforcement includes but is not
4 limited to:~~

~~5 a. Contacting or interviewing any tenant of an
6 assisted living program in private at any reasonable
7 hour and without advance notice.~~

~~8 b. Examining any relevant records of an assisted
9 living program.~~

~~10 e. Preserving evidence of any violation of this
11 chapter or of the rules adopted pursuant to this
12 chapter.~~

13 Sec. ____ . Section 231C.17, subsections 1 and 3,
14 Code 2005, are amended to read as follows:

15 1. A hospital licensed pursuant to chapter 135B,
16 ~~or~~ a health care facility licensed pursuant to chapter
17 135C, or an adult day services program certified
18 pursuant to chapter 231D may operate an assisted
19 living program, ~~located in a distinct part of or~~
20 ~~separate structure under the control of the hospital~~
21 ~~or health care facility,~~ if the assisted living
22 program is certified pursuant to this chapter.

23 3. A certified assisted living program that
24 complies with the requirements of this chapter shall
25 not be required to be licensed or certified as a
26 ~~health care facility pursuant to chapter 135C,~~
27 different type of facility, unless the facility is
28 represented to the public as a ~~licensed health care~~
29 another type of facility."

30 5. By renumbering, redesignating, and correcting
31 internal references as necessary.

By UPMEYER of Hancock

HOUSE FILE 585

H-1130

1 Amend House File 585 as follows:

2 1. Page 2, line 14, by inserting after the word
3 "subsection" the following: "and inserting in lieu
4 thereof the following:

5 7. "Medication setup" means assistance with
6 various steps of medication administration to support
7 a tenant's autonomy, which may include but is not
8 limited to routine prompting, cueing and reminding,
9 opening containers or packaging at the direction of
10 the tenant, reading instructions or other label
11 information, or transferring medications from the
12 original container into suitable medication dispensing
13 containers, reminder containers, or medication cups."

14 2. Page 7, line 24, by inserting after the word
15 "chapter," the following: "including the conclusion
16 of all administrative appeals processes,".

17 3. By striking page 8, line 30, through page 9,
18 line 11, and inserting the following:

19 "~~h.~~ g. In the case of any officer, member of the
20 board of directors, trustee, or designated manager of
21 the program or any stockholder, partner, or individual
22 who has greater than a ten percent equity interest in
23 the program, who has or has had an ownership interest
24 in an assisted living program, adult day services
25 program, elder group home, home health agency,
26 residential care facility, or licensed nursing
27 facility in any state which has been closed due to
28 removal of program, agency, or facility licensure or
29 certification or involuntary termination from
30 participation in either the medical assistance or
31 Medicare programs, or who has been found to have
32 failed to provide adequate protection or services for
33 tenants to prevent abuse or neglect.

34 ~~i.~~ h. In the case of a certificate applicant or
35 an existing certified owner or operator who is an
36 entity other than an individual, the person is in a
37 position of control or is an officer of the entity and
38 engages in any act or omission proscribed by this
39 chapter."

40 4. Page 9, line 12, by striking the word "g." and
41 inserting the following: "i."

42 5. Page 9, by inserting after line 13, the
43 following:

44 "Sec. _____. Section 231C.14, Code 2005, is amended
45 by adding the following new subsection:

46 NEW SUBSECTION. 3. Preventing or interfering with
47 or attempting to impede in any way any duly authorized
48 representative of the department of inspections and
49 appeals in the lawful enforcement of this chapter or
50 of the rules adopted pursuant to this chapter. As

H-1130

1 used in this subsection, "lawful enforcement" includes
2 but is not limited to:

3 a. Contacting or interviewing any tenant of an
4 assisted living program in private at any reasonable
5 hour and without advance notice.

6 b. Examining any relevant records of an assisted
7 living program.

8 c. Preserving evidence of any violation of this
9 chapter or of the rules adopted pursuant to this
10 chapter.

11 Sec. _____. Section 231C.15, Code 2005, is amended
12 to read as follows:

13 231C.15 CRIMINAL PENALTIES AND INJUNCTIVE RELIEF.

14 ~~1.~~ A person establishing, conducting, managing, or
15 operating any assisted living program without a
16 certificate is guilty of a serious misdemeanor. Each
17 day of continuing violation after conviction or notice
18 from the department of inspections and appeals by
19 certified mail of a violation shall be considered a
20 separate offense or chargeable offense. A person
21 establishing, conducting, managing, or operating an
22 assisted living program without a certificate may be
23 temporarily or permanently restrained by a court of
24 competent jurisdiction from such activity in an action
25 brought by the state.

26 ~~2. A person who prevents or interferes with or~~
27 ~~attempts to impede in any way any duly authorized~~
28 ~~representative of the department of inspections and~~
29 ~~appeals in the lawful enforcement of this chapter or~~
30 ~~of the rules adopted pursuant to this chapter is~~
31 ~~guilty of a simple misdemeanor. As used in this~~
32 ~~subsection, lawful enforcement includes but is not~~
33 ~~limited to:~~

34 ~~a. Contacting or interviewing any tenant of an~~
35 ~~assisted living program in private at any reasonable~~
36 ~~hour and without advance notice.~~

37 ~~b. Examining any relevant records of an assisted~~
38 ~~living program.~~

39 ~~c. Preserving evidence of any violation of this~~
40 ~~chapter or of the rules adopted pursuant to this~~
41 ~~chapter.~~

42 Sec. _____. NEW SECTION. 231C.16A MEDICATION SETUP
43 -- ADMINISTRATION AND STORAGE OF MEDICATIONS.

44 1. An assisted living program may provide for
45 medication setup if requested by a tenant or the
46 tenant's legal representative. If medication setup is
47 provided following such request, the program shall be
48 responsible for the specific task requested and the
49 tenant shall retain responsibility for those tasks not
50 requested to be provided.

1 2. If medications are administered or stored by an
2 assisted living program, or if the assisted living
3 program provides for medication setup, all of the
4 following shall apply:

5 a. If administration of medications is delegated
6 to the program by the tenant or tenant's legal
7 representative, the medications shall be administered
8 by a registered nurse, licensed practical nurse, or
9 advanced registered nurse practitioner licensed or
10 registered in Iowa or by the individual to whom such
11 licensed or registered individuals may properly
12 delegate administration of medications.

13 b. Medications, other than those self-administered
14 by the tenant or provided through medication setup,
15 shall be stored in locked storage that is not
16 accessible to persons other than employees responsible
17 for administration or storage of medications.

18 c. Medications shall be labeled and maintained in
19 compliance with label instructions and state and
20 federal law.

21 d. A person other than a dispensing pharmacist
22 shall not alter the prescription.

23 e. Medications shall be stored in their originally
24 received containers.

25 f. If medication setup is provided by the program
26 at the request of the tenant or tenant's legal
27 representative, or if medication administration is
28 delegated to the program by the tenant or tenant's
29 legal representative, appropriate staff of the program
30 may transfer the medications in the tenant's presence
31 from the original prescription container to medication
32 dispensing containers, reminder containers, or
33 medication cups.

34 g. Program assistance with medication
35 administration as specified in the occupancy agreement
36 shall not require the program to provide assistance
37 with the storage of medications.

38 Sec. _____. Section 231C.17, subsections 1 and 3,
39 Code 2005, are amended to read as follows:

40 1. A hospital licensed pursuant to chapter 135B,
41 ~~or a health care facility licensed pursuant to chapter~~
42 135C, or an adult day services program certified
43 pursuant to chapter 231D may operate an assisted
44 living program, located in a distinct part of or
45 ~~separate structure under the control of the hospital~~
46 ~~or health care facility, if the assisted living~~
47 program is certified pursuant to this chapter.

48 3. A certified assisted living program that
49 complies with the requirements of this chapter shall
50 not be required to be licensed or certified as a

H-1130

Page 4

1 ~~health care~~ different type of facility pursuant to
2 ~~chapter 135C~~, unless the facility is represented to
3 the public as a ~~licensed health care~~ another type of
4 facility."

5 6. Title page, line 1, by striking the words
6 "programs and" and inserting the following:
7 "programs,".

8 7. Title page, line 2, by inserting after the
9 word "fee" the following: ", and providing
10 penalties".

11 8. By renumbering, relettering, or redesignating
12 and correcting internal references as necessary.

By UPMEYER of Hancock
JACOBY of Johnson

H-1130 FILED MARCH 21, 2005

HOUSE FILE 585

H-1135

1 Amend the amendment, H-1130, to House File 585, as
2 follows:

3 1. Page 1, line 22, by striking the word "ten"
4 and inserting the following: "~~ten~~ five".

By FORD of Polk

H-1135 FILED MARCH 22, 2005
ADOPTED

HOUSE FILE 585
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 95)

(As Amended and Passed by the House March 22, 2005)

Re- Passed House, Date 4-19-05 Passed Senate, Date 4-13-05
Vote: Ayes 99 Nays 0 Vote: Ayes 49 Nays 0
Approved _____

A BILL FOR

1 An Act relating to assisted living programs, providing for a fee,
2 and providing penalties.

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

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House Amendments _____

HOUSE FILE 585

S-3101

- 1 Amend House File 585, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 11, by striking lines 24 and 25, and
4 inserting the following:
5 "d. A person, other than a person authorized to
6 prescribe prescription drugs under state and federal
7 law, shall not alter the prescription of a tenant."
8 2. Page 12, by inserting after line 22, the
9 following:
10 "Sec. ____ . EFFECTIVE DATE. This Act, being deemed
11 of immediate importance, takes effect upon enactment."
12 3. Title page, by striking line 2, and inserting
13 the following: "providing penalties, and providing an
14 effective date."
15 4. By renumbering as necessary.

COMMITTEE ON HUMAN RESOURCES
AMANDA RAGAN, CO-CHAIRPERSON
JAMES SEYMOUR, CO-CHAIRPERSON

S-3101 FILED APRIL 7, 2005

1 Section 1. Section 231C.1, subsection 1, Code 2005, is
2 amended to read as follows:

3 1. The general assembly finds that assisted living is an
4 important part of the long-term care system continua in this
5 state. Assisted living emphasizes the independence and
6 dignity of the individual while providing services in a cost-
7 effective manner.

8 Sec. 2. Section 231C.1, subsection 2, paragraphs b and c,
9 Code 2005, are amended to read as follows:

10 b. To establish standards for assisted living programs
11 that allow flexibility in design which promotes a social model
12 of service delivery by focusing on ~~individual~~ independence,
13 individual needs and desires, and consumer-driven quality of
14 service.

15 c. To encourage ~~general~~ public participation in the
16 development of assisted living programs for individuals of all
17 income levels.

18 Sec. 3. Section 231C.2, subsections 2, 5, and 9, Code
19 2005, are amended to read as follows:

20 2. "Assisted living" means provision of housing with
21 services which may include but are not limited to health-
22 related care, personal care, and assistance with instrumental
23 activities of daily living to three or more tenants in a
24 physical structure which provides a homelike environment.
25 "Assisted living" also includes encouragement of family
26 involvement, tenant self-direction, and tenant participation
27 in decisions that emphasize choice, dignity, privacy,
28 individuality, shared risk, and independence. "Assisted
29 living" includes the provision of housing and assistance with
30 instrumental activities of daily living only if personal care
31 or health-related care is also included. "Assisted living"
32 includes twenty-four-hours per day response staff to meet
33 scheduled and unscheduled or unpredictable needs in a manner
34 that promotes maximum dignity and independence and provides
35 supervision, safety, and security.

1 5. "Health-related care" means services provided by a
2 registered nurse or a licensed practical nurse, on a part-
3 time or intermittent basis, and services provided by other
4 licensed health care professionals, on a part-time or
5 intermittent basis, ~~as defined by rule.~~

6 9. "Personal care" means assistance with the essential
7 activities of daily living, which may include but are not
8 limited to transferring, bathing, personal hygiene, dressing,
9 grooming, and housekeeping, that are essential to the health
10 and welfare of the tenant, ~~and supervising of self-~~
11 ~~administered medications, but does not include the~~
12 ~~administration of medications.~~

13 Sec. 4. Section 231C.2, subsection 7, Code 2005, is
14 amended by striking the subsection and inserting in lieu
15 thereof the following:

16 7. "Medication setup" means assistance with various steps
17 of medication administration to support a tenant's autonomy,
18 which may include but is not limited to routine prompting,
19 cueing and reminding, opening containers or packaging at the
20 direction of the tenant, reading instructions or other label
21 information, or transferring medications from the original
22 container into suitable medication dispensing containers,
23 reminder containers, or medication cups.

24 Sec. 5. Section 231C.2, subsection 13, Code 2005, is
25 amended by striking the subsection and inserting in lieu
26 thereof the following:

27 13. "Tenant's legal representative" means a person
28 appointed by the court to act on behalf of a tenant or a
29 person acting pursuant to a power of attorney.

30 Sec. 6. Section 231C.3, subsection 1, unnumbered paragraph
31 1, Code 2005, is amended to read as follows:

32 The department shall establish by rule in accordance with
33 chapter 17A, ~~a program~~ minimum standards for certification and
34 monitoring of assisted living programs. The department may
35 adopt by reference with or without amendment, nationally

1 recognized standards and rules for assisted living programs.
2 The rules shall include specification of recognized
3 accrediting entities and provisions related to dementia-
4 specific programs. The standards and rules shall be
5 formulated in consultation with the department of inspections
6 and appeals, and affected industry, professional, and consumer
7 groups and shall be designed to accomplish the purposes of
8 this chapter and shall include but are not limited to rules
9 relating to all of the following:

10 Sec. 7. Section 231C.3, subsection 1, paragraph b, Code
11 2005, is amended to read as follows:

12 b. Requirements that assisted living programs furnish the
13 department of elder affairs and the department of inspections
14 and appeals with specified information necessary to administer
15 this chapter. All information related to a provider
16 application for an assisted living program submitted to either
17 the department of elder affairs or the department of
18 inspections and appeals shall be considered a public record
19 pursuant to chapter 22.

20 Sec. 8. Section 231C.3, subsection 2, Code 2005, is
21 amended by striking the subsection.

22 Sec. 9. Section 231C.3, subsection 7, Code 2005, is
23 amended to read as follows:

24 7. The department may also establish by rule in accordance
25 with chapter 17A ~~a-special-classification~~ minimum standards
26 for ~~affordable~~ subsidized and dementia-specific assisted
27 living programs. The rules shall be formulated in
28 consultation with the department of inspections and appeals
29 and affected industry, professional, and consumer groups.

30 Sec. 10. Section 231C.3, Code 2005, is amended by adding
31 the following new subsections:

32 NEW SUBSECTION. 11. The department of elder affairs and
33 the department of inspections and appeals shall conduct joint
34 training sessions for personnel responsible for conducting
35 monitoring evaluations and complaint investigations of

1 assisted living programs.

2 NEW SUBSECTION. 12. Certification of an assisted living
3 program shall be for two years unless certification is revoked
4 for good cause by the department of inspections and appeals.

5 Sec. 11. Section 231C.5, Code 2005, is amended to read as
6 follows:

7 231C.5 WRITTEN OCCUPANCY AGREEMENT REQUIRED.

8 1. An assisted living program shall not operate in this
9 state unless a written occupancy agreement, as prescribed in
10 subsection 2, is executed between the assisted living program
11 and each tenant or the tenant's legal representative, prior to
12 the tenant's occupancy, and unless the assisted living program
13 operates in accordance with the terms of the occupancy
14 agreement. The assisted living program shall deliver to the
15 tenant or the tenant's legal representative a complete copy of
16 the occupancy agreement and all supporting documents and
17 attachments and shall deliver, at least thirty days prior to
18 any changes, a written copy of changes to the occupancy
19 agreement if any changes to the copy originally delivered are
20 subsequently made.

21 2. An assisted living program occupancy agreement shall
22 clearly describe the rights and responsibilities of the tenant
23 and the program. The occupancy agreement shall also include
24 but is not limited to inclusion of all of the following
25 information in the body of the agreement or in the supporting
26 documents and attachments:

27 a. A description of all fees, charges, and rates
28 describing tenancy and basic services covered, and any
29 additional and optional services and their related costs.

30 b. A statement regarding the impact of the fee structure
31 on third-party payments, and whether third-party payments and
32 resources are accepted by the assisted living program.

33 c. The procedure followed for nonpayment of fees.

34 d. Identification of the party responsible for payment of
35 fees and identification of the tenant's legal representative,

1 if any.

2 e. The term of the occupancy agreement.

3 f. A statement that the assisted living program shall
4 notify the tenant or the tenant's legal representative, as
5 applicable, in writing at least thirty days prior to any
6 change being made in the occupancy agreement with the
7 following exceptions:

8 (1) When the tenant's health status or behavior
9 constitutes a substantial threat to the health or safety of
10 the tenant, other tenants, or others, including when the
11 tenant refuses to consent to relocation.

12 (2) When an emergency or a significant change in the
13 tenant's condition results in the need for the provision of
14 services that exceed the type or level of services included in
15 the occupancy agreement and the necessary services cannot be
16 safely provided by the assisted living program.

17 g. A statement that all tenant information shall be
18 maintained in a confidential manner to the extent required
19 under state and federal law.

20 h. Occupancy, involuntary transfer, and transfer criteria
21 and procedures, which ensure a safe and orderly transfer.

22 i. The internal appeals process provided relative to an
23 involuntary transfer.

24 ~~i~~ j. The program's policies and procedures for
25 addressing grievances between the assisted living program and
26 the tenants, including grievances relating to transfer and
27 occupancy.

28 ~~j~~ k. A statement of the prohibition against retaliation
29 as prescribed in section 231C.13.

30 ~~k~~ l. The emergency response policy.

31 ~~l~~ m. The staffing policy which specifies ~~if-the-staff-is~~
32 ~~available-twenty-four-hours-per-day~~, if nurse delegation will
33 be used, and how staffing will be adapted to meet changing
34 tenant needs.

35 ~~m~~ n. In dementia-specific assisted living programs, a

1 description of the services and programming provided to meet
2 the life skills and social activities of tenants.

3 ~~n.~~ o. The refund policy.

4 ~~e.~~ p. A statement regarding billing and payment
5 procedures.

6 3. Occupancy agreements and related documents executed by
7 each tenant or the tenant's legal representative shall be
8 maintained by the assisted living program in program files
9 from the date of execution until three years from the date the
10 occupancy agreement is terminated. A copy of the most current
11 occupancy agreement shall be provided to members of the
12 general public, upon request. Occupancy agreements and
13 related documents shall be made available for on-site
14 inspection to the department of inspections and appeals upon
15 request and at reasonable times.

16 Sec. 12. Section 231C.6, subsection 1, Code 2005, is
17 amended to read as follows:

18 1. If an assisted living program initiates the involuntary
19 transfer of a tenant and the action is not a result of a
20 monitoring evaluation or complaint investigation by the
21 department of inspections and appeals, and if the tenant or
22 the tenant's legal representative contests the transfer, the
23 following procedure shall apply:

24 a. The assisted living program shall notify the tenant or
25 the tenant's legal representative, in accordance with the
26 occupancy agreement, of the need to transfer, the reason for
27 the transfer, and the contact information of the tenant
28 advocate.

29 b. The assisted living program shall provide the tenant
30 advocate with a copy of the notification to the tenant.

31 c. The tenant advocate shall offer the notified tenant or
32 the tenant's legal representative assistance with the
33 program's internal appeals process. The tenant is not
34 required to accept the assistance of the tenant advocate.

35 d. If, following the internal appeals process, the

1 assisted living program upholds the transfer decision, the
2 tenant or the tenant's legal representative may utilize other
3 remedies authorized by law to contest the transfer.

4 Sec. 13. Section 231C.8, Code 2005, is amended to read as
5 follows:

6 231C.8 INFORMAL REVIEW.

7 1. If an assisted living program contests the regulatory
8 insufficiencies of a monitoring evaluation or complaint
9 investigation, the program shall submit written information,
10 demonstrating that the program was in compliance with the
11 applicable requirement at the time of the monitoring
12 evaluation or complaint investigation, in support of the
13 contesting of the regulatory insufficiencies, to the
14 department of inspections and appeals for review.

15 2. The department of inspections and appeals shall review
16 the written information submitted within ten working days of
17 the receipt of the information. At the conclusion of the
18 review, the department of inspections and appeals may affirm,
19 modify, or dismiss the regulatory insufficiencies. The
20 department of inspections and appeals shall notify the program
21 in writing of the decision to affirm, modify, or dismiss the
22 regulatory insufficiencies, and the reasons for the decision.

23 3. In the case of a complaint investigation, the
24 department of inspections and appeals shall also notify the
25 complainant, if known, of the decision and the reasons for the
26 decision.

27 Sec. 14. Section 231C.9, Code 2005, is amended to read as
28 follows:

29 231C.9 PUBLIC DISCLOSURE OF FINDINGS.

30 Following Upon completion of a monitoring evaluation or
31 complaint investigation of an assisted living program by the
32 department of inspections and appeals pursuant to this
33 chapter, including the conclusion of all administrative
34 appeals processes, the department of inspections and appeals'
35 final findings with respect to compliance by the assisted

1 living program with requirements for certification shall be
2 made available to the public in a readily available form and
3 place. Other information relating to an assisted living
4 program that is obtained by the department of inspections and
5 appeals which does not constitute the department of
6 inspections and appeals' final findings from a monitoring
7 evaluation or complaint investigation of the assisted living
8 program shall be made available to the department of elder
9 affairs upon request in order to facilitate policy decisions,
10 but shall not be made available to the public except in
11 proceedings involving the denial, suspension, or revocation of
12 a certificate under this chapter.

13 Sec. 15. Section 231C.10, subsection 1, Code 2005, is
14 amended to read as follows:

15 1. The department of inspections and appeals may deny,
16 suspend, or revoke a certificate in any case where the
17 department of inspections and appeals finds that there has
18 been a substantial or repeated failure on the part of the
19 assisted living program to comply with this chapter or the
20 rules, or minimum standards adopted under this chapter, or for
21 any of the following reasons:

22 ~~a. Cruelty or indifference to assisted living program~~
23 ~~tenants.~~

24 ~~b.~~ a. Appropriation or conversion of the property of an
25 assisted living program tenant without the tenant's written
26 consent or the written consent of the tenant's legal guardian
27 representative.

28 ~~c.~~ b. Permitting, aiding, or abetting the commission of
29 any illegal act in the assisted living program.

30 ~~d.~~ c. Obtaining or attempting to obtain or retain a
31 certificate by fraudulent means, misrepresentation, or by
32 submitting false information.

33 ~~e.~~ d. Habitual intoxication or addiction to the use of
34 drugs by the applicant, administrator, executive director,
35 manager, or supervisor of the assisted living program.

1 ~~f.~~ e. Securing the devise or bequest of the property of a
2 tenant of an assisted living program by undue influence.

3 ~~g.~~ f. Founded dependent adult abuse as defined in section
4 235B.2.

5 ~~h.~~ g. In the case of any officer, member of the board of
6 directors, trustee, or designated manager of the program or
7 any stockholder, partner, or individual who has greater than a
8 ten five percent equity interest in the program, who has or
9 has had an ownership interest in an assisted living program,
10 adult day services program, elder group home, home health
11 agency, residential care facility, or licensed nursing
12 facility in any state which has been closed due to removal of
13 program, agency, or facility licensure or certification or
14 involuntary termination from participation in either the
15 medical assistance or Medicare programs, or who has been found
16 to have failed to provide adequate protection or services for
17 tenants to prevent abuse or neglect.

18 ~~i.~~ h. In the case of a certificate applicant or an
19 existing certified owner or operator who is an entity other
20 than an individual, the person is in a position of control or
21 is an officer of the entity and engages in any act or omission
22 proscribed by this chapter.

23 ~~j.~~ i. For any other reason as provided by law or
24 administrative rule.

25 Sec. 16. Section 231C.14, Code 2005, is amended by adding
26 the following new subsection:

27 NEW SUBSECTION. 3. Preventing or interfering with or
28 attempting to impede in any way any duly authorized
29 representative of the department of inspections and appeals in
30 the lawful enforcement of this chapter or of the rules adopted
31 pursuant to this chapter. As used in this subsection, "lawful
32 enforcement" includes but is not limited to:

33 a. Contacting or interviewing any tenant of an assisted
34 living program in private at any reasonable hour and without
35 advance notice.

1 b. Examining any relevant records of an assisted living
2 program.

3 c. Preserving evidence of any violation of this chapter or
4 of the rules adopted pursuant to this chapter.

5 Sec. 17. Section 231C.15, Code 2005, is amended to read as
6 follows:

7 231C.15 CRIMINAL PENALTIES AND INJUNCTIVE RELIEF.

8 1. A person establishing, conducting, managing, or
9 operating any assisted living program without a certificate is
10 guilty of a serious misdemeanor. Each day of continuing
11 violation after conviction or notice from the department of
12 inspections and appeals by certified mail of a violation shall
13 be considered a separate offense or chargeable offense. A
14 person establishing, conducting, managing, or operating an
15 assisted living program without a certificate may be
16 temporarily or permanently restrained by a court of competent
17 jurisdiction from such activity in an action brought by the
18 state.

19 2. A person who prevents or interferes with or attempts to
20 impede in any way any duly authorized representative of the
21 department of inspections and appeals in the lawful
22 enforcement of this chapter or of the rules adopted pursuant
23 to this chapter is guilty of a simple misdemeanor. As used in
24 this subsection, lawful enforcement includes but is not
25 limited to:

26 a. Contacting or interviewing any tenant of an assisted
27 living program in private at any reasonable hour and without
28 advance notice.

29 b. Examining any relevant records of an assisted living
30 program.

31 c. Preserving evidence of any violation of this chapter or
32 of the rules adopted pursuant to this chapter.

33 Sec. 18. NEW SECTION. 231C.16A MEDICATION SETUP --
34 ADMINISTRATION AND STORAGE OF MEDICATIONS.

35 1. An assisted living program may provide for medication

1 setup if requested by a tenant or the tenant's legal
2 representative. If medication setup is provided following
3 such request, the program shall be responsible for the
4 specific task requested and the tenant shall retain
5 responsibility for those tasks not requested to be provided.

6 2. If medications are administered or stored by an
7 assisted living program, or if the assisted living program
8 provides for medication setup, all of the following shall
9 apply:

10 a. If administration of medications is delegated to the
11 program by the tenant or tenant's legal representative, the
12 medications shall be administered by a registered nurse,
13 licensed practical nurse, or advanced registered nurse
14 practitioner licensed or registered in Iowa or by the
15 individual to whom such licensed or registered individuals may
16 properly delegate administration of medications.

17 b. Medications, other than those self-administered by the
18 tenant or provided through medication setup, shall be stored
19 in locked storage that is not accessible to persons other than
20 employees responsible for administration or storage of
21 medications.

22 c. Medications shall be labeled and maintained in
23 compliance with label instructions and state and federal law.

24 d. A person other than a dispensing pharmacist shall not
25 alter the prescription.

26 e. Medications shall be stored in their originally
27 received containers.

28 f. If medication setup is provided by the program at the
29 request of the tenant or tenant's legal representative, or if
30 medication administration is delegated to the program by the
31 tenant or tenant's legal representative, appropriate staff of
32 the program may transfer the medications in the tenant's
33 presence from the original prescription container to
34 medication dispensing containers, reminder containers, or
35 medication cups.

1 g. Program assistance with medication administration as
2 specified in the occupancy agreement shall not require the
3 program to provide assistance with the storage of medications.

4 Sec. 19. Section 231C.17, subsections 1 and 3, Code 2005,
5 are amended to read as follows:

6 1. A hospital licensed pursuant to chapter 135B, or a
7 health care facility licensed pursuant to chapter 135C, or an
8 adult day services program certified pursuant to chapter 231D
9 may operate an assisted living program, ~~located in a distinct~~
10 ~~part of or separate structure under the control of the~~
11 ~~hospital or health care facility,~~ if the assisted living
12 program is certified pursuant to this chapter.

13 3. A certified assisted living program that complies with
14 the requirements of this chapter shall not be required to be
15 licensed or certified as a health-care different type of
16 facility pursuant to chapter 135E, unless the facility is
17 represented to the public as a licensed health-care another
18 type of facility.

19 Sec. 20. Section 231C.18, subsection 2, Code 2005, is
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. e. For accreditation via a national body
22 of accreditation, one hundred twenty-five dollars.

23

**SENATE AMENDMENT TO
HOUSE FILE 585**

H-1370

1 Amend House File 585, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 11, by striking lines 24 and 25, and
4 inserting the following:

5 "d. A person, other than a person authorized to
6 prescribe prescription drugs under state and federal
7 law, shall not alter the prescription of a tenant."

8 2. Page 12, by inserting after line 22, the
9 following:

10 "Sec. ____ . EFFECTIVE DATE. This Act, being deemed
11 of immediate importance, takes effect upon enactment."

12 3. Title page, by striking line 2, and inserting
13 the following: "providing penalties, and providing an
14 effective date."

15 4. By renumbering as necessary.

H-1370 FILED APRIL 14, 2005

RECEIVED FROM THE SENATE

*Upmeyer
Hilderdyke
Jacoby*

HSB 95
HUMAN RESOURCES eded By

SENATE/HOUSE FILE 0585
BY (PROPOSED DEPARTMENT OF
ELDER AFFAIRS BILL)

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

A BILL FOR

1 An Act relating to assisted living programs, providing for
2 application of a penalty, and providing for a fee.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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2 amended to read as follows:

3 1. The general assembly finds that assisted living is an
4 important part of the long-term care ~~system~~ continua in this
5 state. Assisted living emphasizes the independence and
6 dignity of the individual while providing services in a cost-
7 effective manner.

8 Sec. 2. Section 231C.1, subsection 2, paragraphs b and c,
9 Code 2005, are amended to read as follows:

10 b. To establish standards for assisted living programs
11 that allow flexibility in design which promotes a ~~social~~ model
12 of service delivery by focusing on ~~individual~~ independence,
13 individual needs and desires, and consumer-driven quality of
14 service.

15 c. To encourage ~~general~~ public participation in the
16 development of assisted living programs for individuals of all
17 income levels.

18 Sec. 3. Section 231C.2, subsections 2, 5, and 9, Code
19 2005, are amended to read as follows:

20 2. "Assisted living" means provision of housing with
21 services which may include but are not limited to health-
22 related care, personal care, and assistance with instrumental
23 activities of daily living to three or more tenants in a
24 physical structure which provides a homelike environment.
25 "Assisted living" also includes encouragement of family
26 involvement, tenant self-direction, and tenant participation
27 in decisions that emphasize choice, dignity, privacy,
28 individuality, shared risk, and independence. "Assisted
29 living" includes the provision of housing and assistance with
30 instrumental activities of daily living only if personal care
31 or health-related care is also included. "Assisted living"
32 includes twenty-four-hours per day on-site response staff to
33 meet scheduled and unscheduled or unpredictable needs in a
34 manner that promotes maximum dignity and independence and
35 provides supervision, safety, and security.

1 5. "Health-related care" means services provided by a
2 registered nurse or a licensed practical nurse, on a part-
3 time or intermittent basis, and services provided by other
4 licensed health care professionals, on a part-time or
5 intermittent basis, as defined by rule, and provided in
6 accordance with respective health-related professional
7 governing standards. "Health-related care" does not include a
8 twenty-four-hour program of health-related care.

9 9. "Personal care" means assistance with the essential
10 activities of daily living, which may include but are not
11 limited to transferring, bathing, personal hygiene, dressing,
12 grooming, and housekeeping, that are essential to the health
13 and welfare of the tenant,~~and supervising of self-~~
14 ~~administered medications, but does not include the~~
15 ~~administration of medications.~~

16 Sec. 4. Section 231C.2, subsection 7, Code 2005, is
17 amended by striking the subsection.

18 Sec. 5. Section 231C.2, subsection 13, Code 2005, is
19 amended by striking the subsection and inserting in lieu
20 thereof the following:

21 13. "Tenant's legal representative" means a person
22 appointed by the court to act on behalf of a tenant or a
23 person acting pursuant to a power of attorney.

24 Sec. 6. Section 231C.3, subsection 1, unnumbered paragraph
25 1, Code 2005, is amended to read as follows:

26 The department shall establish by rule in accordance with
27 chapter 17A~~7-a-program~~ minimum standards for certification and
28 monitoring of assisted living programs. The department may
29 adopt by reference with or without amendment, nationally
30 recognized standards and rules for assisted living programs.
31 The rules shall include specification of recognized
32 accrediting entities and provisions related to dementia-
33 specific programs. The standards and rules shall be
34 formulated in consultation with the department of inspections
35 and appeals, and affected industry, professional, and consumer

1 groups and shall be designed to accomplish the purposes of
2 this chapter and shall include but are not limited to rules
3 relating to all of the following:

4 Sec. 7. Section 231C.3, subsection 1, paragraph b, Code
5 2005, is amended to read as follows:

6 b. Requirements that assisted living programs furnish the
7 department of elder affairs and the department of inspections
8 and appeals with specified information necessary to administer
9 this chapter. All information related to a provider
10 application for an assisted living program submitted to either
11 the department of elder affairs or the department of
12 inspections and appeals shall be considered a public record
13 pursuant to chapter 22.

14 Sec. 8. Section 231C.3, subsection 2, Code 2005, is
15 amended by striking the subsection.

16 Sec. 9. Section 231C.3, subsection 7, Code 2005, is
17 amended to read as follows:

18 7. The department may also establish by rule in accordance
19 with chapter 17A ~~a-special-classification~~ minimum standards
20 for affordable subsidized and dementia-specific assisted
21 living programs. The rules shall be formulated in
22 consultation with the department of inspections and appeals
23 and affected industry, professional, and consumer groups.

24 Sec. 10. Section 231C.3, Code 2005, is amended by adding
25 the following new subsections:

26 NEW SUBSECTION. 11. An assisted living program, an owner
27 or agent of the program, or an employee of the program shall
28 not act as a fiduciary as defined in section 633.1102 or be
29 designated as an attorney in fact under a power of attorney
30 for a tenant or any of the tenant's property. An assisted
31 living program shall not require a tenant or the tenant's
32 legal representative to liquidate personal property as a
33 condition of tenancy.

34 NEW SUBSECTION. 12. Certification of an assisted living
35 program shall be for two years unless certification is revoked

1 for good cause by the department of inspections and appeals.

2 Sec. 11. Section 231C.5, Code 2005, is amended to read as
3 follows:

4 231C.5 WRITTEN OCCUPANCY AGREEMENT REQUIRED.

5 1. An assisted living program shall not operate in this
6 state unless a written occupancy agreement, as prescribed in
7 subsection 2, is executed between the assisted living program
8 and each tenant or the tenant's legal representative, prior to
9 the tenant's occupancy, and unless the assisted living program
10 operates in accordance with the terms of the occupancy
11 agreement. The assisted living program shall deliver to the
12 tenant or the tenant's legal representative a complete copy of
13 the occupancy agreement and all supporting documents and
14 attachments and shall deliver, at least thirty days prior to
15 any changes, a written copy of changes to the occupancy
16 agreement if any changes to the copy originally delivered are
17 subsequently made.

18 2. An assisted living program occupancy agreement shall
19 clearly describe the rights and responsibilities of the tenant
20 and the program. The occupancy agreement shall also include
21 but is not limited to inclusion of all of the following
22 information in the body of the agreement or in the supporting
23 documents and attachments:

24 a. A description of all fees, charges, and rates
25 describing tenancy and basic services covered, and any
26 additional and optional services and their related costs.

27 b. A statement regarding the impact of the fee structure
28 on third-party payments, and whether third-party payments and
29 resources are accepted by the assisted living program.

30 c. The procedure followed for nonpayment of fees.

31 d. Identification of the party responsible for payment of
32 fees and identification of the tenant's legal representative,
33 if any.

34 e. The term of the occupancy agreement.

35 f. A statement that the assisted living program shall

1 notify the tenant or the tenant's legal representative, as
2 applicable, in writing at least thirty days prior to any
3 change being made in the occupancy agreement with the
4 following exceptions:

5 (1) When the tenant's health status or behavior
6 constitutes a substantial threat to the health or safety of
7 the tenant, other tenants, or others, including when the
8 tenant refuses to consent to relocation.

9 (2) When an emergency or a significant change in the
10 tenant's condition results in the need for the provision of
11 services that exceed the type or level of services included in
12 the occupancy agreement and the necessary services cannot be
13 safely provided by the assisted living program.

14 g. A statement that all tenant information shall be
15 maintained in a confidential manner to the extent required
16 under state and federal law.

17 h. Occupancy, involuntary transfer, and transfer criteria
18 and procedures, which ensure a safe and orderly transfer.

19 i. The internal appeals process provided relative to an
20 involuntary transfer.

21 ~~i.~~ j. The program's policies and procedures for addressing
22 grievances between the assisted living program and the
23 tenants, including grievances relating to transfer and
24 occupancy.

25 ~~j.~~ k. A statement of the prohibition against retaliation
26 as prescribed in section 231C.13.

27 ~~k.~~ l. The emergency response policy.

28 ~~l.~~ m. The staffing policy which specifies if the staff is
29 available twenty-four hours per day, if nurse delegation will
30 be used, and how staffing will be adapted to meet changing
31 tenant needs.

32 ~~m.~~ n. In dementia-specific assisted living programs, a
33 description of the services and programming provided to meet
34 the life skills and social activities of tenants.

35 ~~n.~~ o. The refund policy.

1 ~~o-~~ p. A statement regarding billing and payment
2 procedures.

3 3. Occupancy agreements and related documents executed by
4 each tenant or the tenant's legal representative shall be
5 maintained by the assisted living program in program files
6 from the date of execution until three years from the date the
7 occupancy agreement is terminated. A copy of the most current
8 occupancy agreement shall be provided to members of the
9 general public, upon request. Occupancy agreements and
10 related documents shall be made available for on-site
11 inspection to the department of inspections and appeals upon
12 request and at reasonable times.

13 Sec. 12. Section 231C.6, subsection 1, Code 2005, is
14 amended to read as follows:

15 1. If an assisted living program initiates the involuntary
16 transfer of a tenant and the action is not a result of a
17 monitoring evaluation or complaint investigation by the
18 department of inspections and appeals, and if the tenant or
19 the tenant's legal representative contests the transfer, the
20 following procedure shall apply:

21 a. The assisted living program shall notify the tenant or
22 the tenant's legal representative, in accordance with the
23 occupancy agreement, of the need to transfer, the reason for
24 the transfer, and the contact information of the tenant
25 advocate.

26 b. The assisted living program shall provide the tenant
27 advocate with a copy of the notification to the tenant.

28 c. The tenant advocate shall offer the notified tenant or
29 the tenant's legal representative assistance with the
30 program's internal appeals process. The tenant is not
31 required to accept the assistance of the tenant advocate.

32 d. If, following the internal appeals process, the
33 assisted living program upholds the transfer decision, the
34 tenant or the tenant's legal representative may utilize other
35 remedies authorized by law to contest the transfer.

1 Sec. 13. Section 231C.8, Code 2005, is amended to read as
2 follows:

3 231C.8 INFORMAL REVIEW.

4 1. If an assisted living program contests the regulatory
5 insufficiencies of a monitoring evaluation or complaint
6 investigation, the program shall submit written information,
7 demonstrating that the program was in compliance with the
8 applicable requirement at the time of the monitoring
9 evaluation or complaint investigation, in support of the
10 contesting of the regulatory insufficiencies, to the
11 department of inspections and appeals for review.

12 2. The department of inspections and appeals shall review
13 the written information submitted within ten working days of
14 the receipt of the information. At the conclusion of the
15 review, the department of inspections and appeals may affirm,
16 modify, or dismiss the regulatory insufficiencies. The
17 department of inspections and appeals shall notify the program
18 in writing of the decision to affirm, modify, or dismiss the
19 regulatory insufficiencies, and the reasons for the decision.

20 3. In the case of a complaint investigation, the
21 department of inspections and appeals shall also notify the
22 complainant, if known, of the decision and the reasons for the
23 decision.

24 Sec. 14. Section 231C.9, Code 2005, is amended to read as
25 follows:

26 231C.9 PUBLIC DISCLOSURE OF FINDINGS.

27 Following Upon completion of a monitoring evaluation or
28 complaint investigation of an assisted living program by the
29 department of inspections and appeals pursuant to this
30 chapter, the department of inspections and appeals' final
31 findings with respect to compliance by the assisted living
32 program with requirements for certification shall be made
33 available to the public in a readily available form and place.
34 Other information relating to an assisted living program that
35 is obtained by the department of inspections and appeals which

1 does not constitute the department of inspections and appeals'
2 final findings from a monitoring evaluation or complaint
3 investigation of the assisted living program shall be made
4 available to the department of elder affairs upon request in
5 order to facilitate policy decisions, but shall not be made
6 available to the public except in proceedings involving the
7 denial, suspension, or revocation of a certificate under this
8 chapter.

9 Sec. 15. Section 231C.10, subsection 1, unnumbered
10 paragraph 1, Code 2005, is amended to read as follows:

11 The department of inspections and appeals may deny,
12 suspend, or revoke a certificate in any case where the
13 department of inspections and appeals finds that there has
14 been a substantial or repeated failure on the part of the
15 assisted living program to comply with this chapter ~~or, other~~
16 applicable laws, the rules, or minimum standards adopted under
17 this chapter, other applicable rules or minimum standards, or
18 for any of the following reasons:

19 Sec. 16. Section 231C.10, subsection 1, paragraphs b and
20 h, Code 2005, are amended to read as follows:

21 b. Appropriation or conversion of the property of an
22 assisted living program tenant without the tenant's written
23 consent or the written consent of the tenant's legal guardian
24 representative.

25 h. In the case of any officer, member of the board of
26 directors, trustee, or designated manager of the program or
27 any stockholder, partner, or individual who has greater than a
28 ten percent equity interest in the program, who has or has had
29 an ownership interest in an assisted living or adult day
30 services program, home health agency, residential care
31 facility, or licensed nursing facility in any state which has
32 been closed due to removal of program, agency, or facility
33 licensure or certification or involuntary termination from
34 participation in either the medical assistance or Medicare
35 programs, or who has been found to have failed to provide

1 adequate protection or services for tenants to prevent abuse
2 or neglect.

3 Sec. 17. Section 231C.15, subsection 2, unnumbered
4 paragraph 1, Code 2005, is amended to read as follows:

5 A person who prevents or interferes with or attempts to
6 impede in any way any duly authorized representative of the
7 department of inspections and appeals in the lawful
8 enforcement of this chapter, ~~or of~~ the rules adopted pursuant
9 to this chapter, or other applicable laws or rules is guilty
10 of a simple misdemeanor. As used in this subsection, lawful
11 enforcement includes but is not limited to:

12 Sec. 18. Section 231C.18, subsection 2, Code 2005, is
13 amended by adding the following new paragraph:

14 NEW PARAGRAPH. e. For accreditation via a national body
15 of accreditation, one hundred twenty-five dollars.

16 EXPLANATION

17 This bill makes changes in the assisted living programs
18 chapter, Code chapter 231C.

19 The bill changes the definition of "assisted living" to
20 provide that "assisted living" includes 24 hours per day on-
21 site response staff to meet scheduled and unscheduled or
22 unpredictable needs in a manner that promotes maximum dignity
23 and independence and provides supervision, safety, and
24 security. The bill also changes the definition of "personal
25 care" by eliminating the inclusion of supervision of self-
26 administered medication, not including the administration of
27 medications.

28 The bill directs the department to adopt rules to establish
29 minimum standards for certification and monitoring of assisted
30 living programs, provides that all information related to the
31 provider application for an assisted living program submitted
32 to the department of elder affairs or the department of
33 inspections and appeals is considered a public record under
34 Code chapter 22, and deletes the requirement that the
35 department of elder affairs issue interpretive guidelines.

1 The bill eliminates the authorization to the department of
2 elder affairs to establish a special classification for
3 affordable assisted living programs and instead provides that
4 the department may establish, by rule, minimum standards for
5 subsidized and dementia-specific assisted living programs.
6 The bill prohibits an assisted living program, an owner or
7 agent of the program, or an employee of the program to act as
8 a fiduciary or attorney in fact for a tenant of the program or
9 the tenant's property. An assisted living program is also
10 prohibited from requiring the tenant or the tenant's legal
11 representative from liquidating personal property as a
12 condition of tenancy. The bill also provides that
13 certification of an assisted living program is for two years,
14 unless revoked for good cause.

15 The bill clarifies provisions relating to a tenant or the
16 tenant's legal representative.

17 The bill provides for the final findings, with respect to
18 compliance by an assisted living program with requirements for
19 certification, to be made available to the public upon
20 completion, rather than following a monitoring evaluation or
21 complaint investigation. The bill provides that the final
22 findings shall be made available to the department of elder
23 affairs upon request to facilitate policy decisions.

24 The bill provides that the department of inspections and
25 appeals may deny, suspend, or revoke a certificate in any case
26 where the department of inspections and appeals finds that
27 there has been a substantial or repeated failure on the part
28 of the assisted living program to comply not only with the
29 assisted living chapter or the rules or minimum standards
30 adopted under that chapter, but with other applicable laws,
31 rules, or minimum standards. The bill also adds that a
32 program's certificate may be denied, suspended, or revoked if
33 any officer, member of the board of directors, trustee, or
34 designated manager of the program or any stockholder, partner,
35 or individual who has greater than 10 percent equity interest

1 in the program, has or has had an ownership interest in an
2 adult day services program which has been closed due to
3 certain reasons.

4 The bill provides that a person who prevents or interferes
5 with or attempts to impede in any way any duly authorized
6 representative of the department of inspections and appeals in
7 the lawful enforcement of the Code chapter or its rules, and
8 in addition, any other applicable laws or rules, is guilty of
9 a simple misdemeanor. The bill provides that a fee of \$125
10 applies to an assisted living program that is accredited via a
11 national body of accreditation.

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STATE OF IOWA

THOMAS J. VILSACK
GOVERNOR
SALLY J. PEDERSON
LT. GOVERNOR

DEPARTMENT OF ELDER AFFAIRS
MARK A. HAVERLAND, DIRECTOR

MEMORANDUM

TO: Members of the Iowa General Assembly
FROM: Joel Wulf
Re: 2005 Prefiling of Iowa Code Changes 231C
Date: November 4, 2004

In 2003, the Iowa Department of Elder Affairs was given the responsibility for establishing policy for assisted living programs in Iowa. The Department of Inspections and Appeals was given the responsibility for enforcement, and the State Fire Marshal was given responsibility for issues associated with life safety.

During the past 18 months, public policy related to assisted living programs has become better understood. To that end, the proposed changes to section 231C of the Iowa Code reflect both technical and substantive changes related to assisted living. Some of the changes proposed are:

- ❖ Aligning the definition of assisted living, to the extent possible, with federal definitions provided by the Center for Medicare and Medicaid (CMS).
- ❖ Clarifying issues related to public access of application materials.
- ❖ Removing the requirement for interpretive guidelines as Chapter 17A of the Iowa Code defines an administrative rule as an interpretive guideline.
- ❖ Removing the requirement to establish special classifications.
- ❖ Allowing personnel from the DEA to access needed information related to decisions and the formulation of policy.
- ❖ Allowing the collection of fees for certification for those programs requesting certification via a national body of accreditation.

INQUIRES: For further information, please contact Joel Wulf at 242-3326 or joel.wulf@iowa.gov

Cc: Harold Davis, Chair, Iowa Commission for the Department of Elder Affairs
Scott Galenbeck, Attorney General's Office
Samual Smith, AoA, Aging Services Program Specialist
Hugh Ceaser, IDOM
Josh Mandelbaum, IGOV

HOUSE FILE 585

AN ACT

RELATING TO ASSISTED LIVING PROGRAMS, PROVIDING FOR A FEE,
PROVIDING PENALTIES, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 231C.1, subsection 1, Code 2005, is amended to read as follows:

1. The general assembly finds that assisted living is an important part of the long-term care system continua in this state. Assisted living emphasizes the independence and dignity of the individual while providing services in a cost-effective manner.

Sec. 2. Section 231C.1, subsection 2, paragraphs b and c, Code 2005, are amended to read as follows:

b. To establish standards for assisted living programs that allow flexibility in design which promotes a social model of service delivery by focusing on individual independence, individual needs and desires, and consumer-driven quality of service.

c. To encourage general public participation in the development of assisted living programs for individuals of all income levels.

Sec. 3. Section 231C.2, subsections 2, 5, and 9, Code 2005, are amended to read as follows:

2. "Assisted living" means provision of housing with services which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living to three or more tenants in a

physical structure which provides a homelike environment. "Assisted living" also includes encouragement of family involvement, tenant self-direction, and tenant participation in decisions that emphasize choice, dignity, privacy, individuality, shared risk, and independence. "Assisted living" includes the provision of housing and assistance with instrumental activities of daily living only if personal care or health-related care is also included. "Assisted living" includes twenty-four-hours per day response staff to meet scheduled and unscheduled or unpredictable needs in a manner that promotes maximum dignity and independence and provides supervision, safety, and security.

5. "Health-related care" means services provided by a registered nurse or a licensed practical nurse, on a part-time or intermittent basis, and services provided by other licensed health care professionals, on a part-time or intermittent basis, ~~as defined by rule.~~

9. "Personal care" means assistance with the essential activities of daily living, which may include but are not limited to transferring, bathing, personal hygiene, dressing, grooming, and housekeeping, that are essential to the health and welfare of the tenant, ~~and supervising of self-administered medications, but does not include the administration of medications.~~

Sec. 4. Section 231C.2, subsection 7, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

7. "Medication setup" means assistance with various steps of medication administration to support a tenant's autonomy, which may include but is not limited to routine prompting, cueing and reminding, opening containers or packaging at the direction of the tenant, reading instructions or other label information, or transferring medications from the original container into suitable medication dispensing containers, reminder containers, or medication cups.

Sec. 5. Section 231C.2, subsection 13, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

13. "Tenant's legal representative" means a person appointed by the court to act on behalf of a tenant or a person acting pursuant to a power of attorney.

Sec. 6. Section 231C.3, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The department shall establish by rule in accordance with chapter 17A-a-program minimum standards for certification and monitoring of assisted living programs. The department may adopt by reference with or without amendment, nationally recognized standards and rules for assisted living programs. The rules shall include specification of recognized accrediting entities and provisions related to dementia-specific programs. The standards and rules shall be formulated in consultation with the department of inspections and appeals, and affected industry, professional, and consumer groups and shall be designed to accomplish the purposes of this chapter and shall include but are not limited to rules relating to all of the following:

Sec. 7. Section 231C.3, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. Requirements that assisted living programs furnish the department of elder affairs and the department of inspections and appeals with specified information necessary to administer this chapter. All information related to a provider application for an assisted living program submitted to either the department of elder affairs or the department of inspections and appeals shall be considered a public record pursuant to chapter 22.

Sec. 8. Section 231C.3, subsection 2, Code 2005, is amended by striking the subsection.

Sec. 9. Section 231C.3, subsection 7, Code 2005, is amended to read as follows:

7. The department may also establish by rule in accordance with chapter 17A a-special-classification minimum standards for affordable subsidized and dementia-specific assisted living programs. The rules shall be formulated in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups.

Sec. 10. Section 231C.3, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 11. The department of elder affairs and the department of inspections and appeals shall conduct joint training sessions for personnel responsible for conducting monitoring evaluations and complaint investigations of assisted living programs.

NEW SUBSECTION. 12. Certification of an assisted living program shall be for two years unless certification is revoked for good cause by the department of inspections and appeals.

Sec. 11. Section 231C.5, Code 2005, is amended to read as follows:

231C.5 WRITTEN OCCUPANCY AGREEMENT REQUIRED.

1. An assisted living program shall not operate in this state unless a written occupancy agreement, as prescribed in subsection 2, is executed between the assisted living program and each tenant or the tenant's legal representative, prior to the tenant's occupancy, and unless the assisted living program operates in accordance with the terms of the occupancy agreement. The assisted living program shall deliver to the tenant or the tenant's legal representative a complete copy of the occupancy agreement and all supporting documents and attachments and shall deliver, at least thirty days prior to any changes, a written copy of changes to the occupancy agreement if any changes to the copy originally delivered are subsequently made.

2. An assisted living program occupancy agreement shall clearly describe the rights and responsibilities of the tenant and the program. The occupancy agreement shall also include

but is not limited to inclusion of all of the following information in the body of the agreement or in the supporting documents and attachments:

- a. A description of all fees, charges, and rates describing tenancy and basic services covered, and any additional and optional services and their related costs.
- b. A statement regarding the impact of the fee structure on third-party payments, and whether third-party payments and resources are accepted by the assisted living program.
- c. The procedure followed for nonpayment of fees.
- d. Identification of the party responsible for payment of fees and identification of the tenant's legal representative, if any.
- e. The term of the occupancy agreement.
- f. A statement that the assisted living program shall notify the tenant or the tenant's legal representative, as applicable, in writing at least thirty days prior to any change being made in the occupancy agreement with the following exceptions:
 - (1) When the tenant's health status or behavior constitutes a substantial threat to the health or safety of the tenant, other tenants, or others, including when the tenant refuses to consent to relocation.
 - (2) When an emergency or a significant change in the tenant's condition results in the need for the provision of services that exceed the type or level of services included in the occupancy agreement and the necessary services cannot be safely provided by the assisted living program.
- g. A statement that all tenant information shall be maintained in a confidential manner to the extent required under state and federal law.
- h. Occupancy, involuntary transfer, and transfer criteria and procedures, which ensure a safe and orderly transfer.
- i. The internal appeals process provided relative to an involuntary transfer.

jr j. The program's policies and procedures for addressing grievances between the assisted living program and the tenants, including grievances relating to transfer and occupancy.

jr k. A statement of the prohibition against retaliation as prescribed in section 231C.13.

kr l. The emergency response policy.

ir m. The staffing policy which specifies ~~if-the-staff-is available-twenty-four-hours-per-day~~, if nurse delegation will be used, and how staffing will be adapted to meet changing tenant needs.

mr n. In dementia-specific assisted living programs, a description of the services and programming provided to meet the life skills and social activities of tenants.

nr o. The refund policy.

or p. A statement regarding billing and payment procedures.

3. Occupancy agreements and related documents executed by each tenant or the tenant's legal representative shall be maintained by the assisted living program in program files from the date of execution until three years from the date the occupancy agreement is terminated. A copy of the most current occupancy agreement shall be provided to members of the general public, upon request. Occupancy agreements and related documents shall be made available for on-site inspection to the department of inspections and appeals upon request and at reasonable times.

Sec. 12. Section 231C.6, subsection 1, Code 2005, is amended to read as follows:

1. If an assisted living program initiates the involuntary transfer of a tenant and the action is not a result of a monitoring evaluation or complaint investigation by the department of inspections and appeals, and if the tenant or the tenant's legal representative contests the transfer, the following procedure shall apply:

a. The assisted living program shall notify the tenant or the tenant's legal representative, in accordance with the occupancy agreement, of the need to transfer, the reason for the transfer, and the contact information of the tenant advocate.

b. The assisted living program shall provide the tenant advocate with a copy of the notification to the tenant.

c. The tenant advocate shall offer the notified tenant or the tenant's legal representative assistance with the program's internal appeals process. The tenant is not required to accept the assistance of the tenant advocate.

d. If, following the internal appeals process, the assisted living program upholds the transfer decision, the tenant or the tenant's legal representative may utilize other remedies authorized by law to contest the transfer.

Sec. 13. Section 231C.8, Code 2005, is amended to read as follows:

231C.8 INFORMAL REVIEW.

1. If an assisted living program contests the regulatory insufficiencies of a monitoring evaluation or complaint investigation, the program shall submit written information, demonstrating that the program was in compliance with the applicable requirement at the time of the monitoring evaluation or complaint investigation, in support of the contesting of the regulatory insufficiencies, to the department of inspections and appeals for review.

2. The department of inspections and appeals shall review the written information submitted within ten working days of the receipt of the information. At the conclusion of the review, the department of inspections and appeals may affirm, modify, or dismiss the regulatory insufficiencies. The department of inspections and appeals shall notify the program in writing of the decision to affirm, modify, or dismiss the regulatory insufficiencies, and the reasons for the decision.

3. In the case of a complaint investigation, the department of inspections and appeals shall also notify the complainant, if known, of the decision and the reasons for the decision.

Sec. 14. Section 231C.9, Code 2005, is amended to read as follows:

231C.9 PUBLIC DISCLOSURE OF FINDINGS.

Following Upon completion of a monitoring evaluation or complaint investigation of an assisted living program by the department of inspections and appeals pursuant to this chapter, including the conclusion of all administrative appeals processes, the department of inspections and appeals' final findings with respect to compliance by the assisted living program with requirements for certification shall be made available to the public in a readily available form and place. Other information relating to an assisted living program that is obtained by the department of inspections and appeals which does not constitute the department of inspections and appeals' final findings from a monitoring evaluation or complaint investigation of the assisted living program shall be made available to the department of elder affairs upon request in order to facilitate policy decisions, but shall not be made available to the public except in proceedings involving the denial, suspension, or revocation of a certificate under this chapter.

Sec. 15. Section 231C.10, subsection 1, Code 2005, is amended to read as follows:

1. The department of inspections and appeals may deny, suspend, or revoke a certificate in any case where the department of inspections and appeals finds that there has been a substantial or repeated failure on the part of the assisted living program to comply with this chapter or the rules, or minimum standards adopted under this chapter, or for any of the following reasons:

~~a--Cruelty-or-indifference-to-assisted-living-program tenants-~~

b+ a. Appropriation or conversion of the property of an assisted living program tenant without the tenant's written consent or the written consent of the tenant's legal guardian representative.

c+ b. Permitting, aiding, or abetting the commission of any illegal act in the assisted living program.

d+ c. Obtaining or attempting to obtain or retain a certificate by fraudulent means, misrepresentation, or by submitting false information.

e+ d. Habitual intoxication or addiction to the use of drugs by the applicant, administrator, executive director, manager, or supervisor of the assisted living program.

f+ e. Securing the devise or bequest of the property of a tenant of an assisted living program by undue influence.

g+ f. Founded dependent adult abuse as defined in section 235B.2.

h+ g. In the case of any officer, member of the board of directors, trustee, or designated manager of the program or any stockholder, partner, or individual who has greater than a ten five percent equity interest in the program, who has or has had an ownership interest in an assisted living program, adult day services program, elder group home, home health agency, residential care facility, or licensed nursing facility in any state which has been closed due to removal of program, agency, or facility licensure or certification or involuntary termination from participation in either the medical assistance or Medicare programs, or who has been found to have failed to provide adequate protection or services for tenants to prevent abuse or neglect.

i+ h. In the case of a certificate applicant or an existing certified owner or operator who is an entity other than an individual, the person is in a position of control or is an officer of the entity and engages in any act or omission proscribed by this chapter.

j+ i. For any other reason as provided by law or administrative rule.

Sec. 16. Section 231C.14, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Preventing or interfering with or attempting to impede in any way any duly authorized representative of the department of inspections and appeals in the lawful enforcement of this chapter or of the rules adopted pursuant to this chapter. As used in this subsection, "lawful enforcement" includes but is not limited to:

a. Contacting or interviewing any tenant of an assisted living program in private at any reasonable hour and without advance notice.

b. Examining any relevant records of an assisted living program.

c. Preserving evidence of any violation of this chapter or of the rules adopted pursuant to this chapter.

Sec. 17. Section 231C.15, Code 2005, is amended to read as follows:

231C.15 CRIMINAL PENALTIES AND INJUNCTIVE RELIEF.

i+ A person establishing, conducting, managing, or operating any assisted living program without a certificate is guilty of a serious misdemeanor. Each day of continuing violation after conviction or notice from the department of inspections and appeals by certified mail of a violation shall be considered a separate offense or chargeable offense. A person establishing, conducting, managing, or operating an assisted living program without a certificate may be temporarily or permanently restrained by a court of competent jurisdiction from such activity in an action brought by the state.

~~2--A-person-who-prevents-or-interferes-with-or-attempts-to impede-in-any-way-any-duly-authorized-representative-of-the department-of-inspections-and-appeals-in-the-lawful enforcement-of-this-chapter-or-of-the-rules-adopted-pursuant~~

~~to this chapter is guilty of a simple misdemeanor. As used in this subsection, lawful enforcement includes but is not limited to:~~

~~a. Contacting or interviewing any tenant of an assisted living program in private at any reasonable hour and without advance notice.~~

~~b. Examining any relevant records of an assisted living program.~~

~~c. Preserving evidence of any violation of this chapter or of the rules adopted pursuant to this chapter.~~

Sec. 18. NEW SECTION. 231C.16A MEDICATION SETUP -- ADMINISTRATION AND STORAGE OF MEDICATIONS.

1. An assisted living program may provide for medication setup if requested by a tenant or the tenant's legal representative. If medication setup is provided following such request, the program shall be responsible for the specific task requested and the tenant shall retain responsibility for those tasks not requested to be provided.

2. If medications are administered or stored by an assisted living program, or if the assisted living program provides for medication setup, all of the following shall apply:

a. If administration of medications is delegated to the program by the tenant or tenant's legal representative, the medications shall be administered by a registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed or registered in Iowa or by the individual to whom such licensed or registered individuals may properly delegate administration of medications.

b. Medications, other than those self-administered by the tenant or provided through medication setup, shall be stored in locked storage that is not accessible to persons other than employees responsible for administration or storage of medications.

c. Medications shall be labeled and maintained in compliance with label instructions and state and federal law.

d. A person, other than a person authorized to prescribe prescription drugs under state and federal law, shall not alter the prescription of a tenant.

e. Medications shall be stored in their originally received containers.

f. If medication setup is provided by the program at the request of the tenant or tenant's legal representative, or if medication administration is delegated to the program by the tenant or tenant's legal representative, appropriate staff of the program may transfer the medications in the tenant's presence from the original prescription container to medication dispensing containers, reminder containers, or medication cups.

g. Program assistance with medication administration as specified in the occupancy agreement shall not require the program to provide assistance with the storage of medications.

Sec. 19. Section 231C.17, subsections 1 and 3, Code 2005, are amended to read as follows:

1. A hospital licensed pursuant to chapter 135B, or a health care facility licensed pursuant to chapter 135C, or an adult day services program certified pursuant to chapter 231D may operate an assisted living program ~~located in a distinct part of or separate structure under the control of the hospital or health care facility,~~ if the assisted living program is certified pursuant to this chapter.

3. A certified assisted living program that complies with the requirements of this chapter shall not be required to be licensed or certified as a health care different type of facility pursuant to chapter 135E, unless the facility is represented to the public as a licensed health care another type of facility.

Sec. 20. Section 231C.18, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. For accreditation via a national body of accreditation, one hundred twenty-five dollars.

Sec. 21. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

CHRISTOPHER C. RANTS
Speaker of the House

JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 585, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 4-27, 2005

THOMAS J. VILSACK
Governor