

CHAPTER 231C

ASSISTED LIVING PROGRAMS

Referred to in §105.11, 135C.33, 144C.2, 231.4, 231B.16, 231D.16, 235E.2, 483A.24, 514H.1

[P] Retirement facilities, see chapter 523D

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231C.1 Findings, purpose, and intent.

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

2. The purposes of establishing an assisted living program include all of the following:

a. To encourage the establishment and maintenance of a safe and homelike environment for individuals of all income levels who require assistance to live independently but who do not require health-related care on a continuous twenty-four-hour per day basis.

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

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

3. It is the intent of the general assembly that the department promote a social model for assisted living programs and a consultative process to assist with compliance by assisted living programs.

96 Acts, ch 1192, §1; 2003 Acts, ch 166, §7; 2005 Acts, ch 60, §1, 2, 21; 2007 Acts, ch 215, §160

231C.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. “*Adult day services*” means adult day services as defined in section 231D.1.

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.

3. “Assisted living program” or “program” means an entity that provides assisted living.

4. “Department” means the department of inspections and appeals or the department’s designee.

5. “Governmental unit” means the state, or any county, municipality, or other political subdivision or any department, division, board, or other agency of any of these entities.

6. “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.

7. “Instrumental activities of daily living” means those activities that reflect the tenant’s ability to perform household and other tasks necessary to meet the tenant’s needs within the community, which may include but are not limited to shopping, cooking, housekeeping, chores, and traveling within the community.

8. “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.

9. “Occupancy agreement” means a written agreement entered into between an assisted living program and a tenant that clearly describes the rights and responsibilities of the assisted living program and a tenant, and other information required by rule. “Occupancy agreement” may include a separate signed lease and signed service agreement.

10. “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.

11. “Recognized accrediting entity” means a nationally recognized accrediting entity that the department recognizes as having specific assisted living program standards equivalent to the standards established by the department for assisted living programs.

12. “Significant change” means a major decline or improvement in the tenant’s status which does not normally resolve itself without further interventions by staff or by implementing standard disease-related clinical interventions that have an impact on the tenant’s mental, physical, or functional health status.

13. “Substantial compliance” means a level of compliance with this chapter and rules adopted pursuant to this chapter such that any identified insufficiencies pose no greater risk to tenant health or safety than the potential for causing minimal harm. “Substantial compliance” constitutes compliance with the rules of this chapter.

14. “Tenant” means an individual who receives assisted living services through a certified assisted living program.

15. “Tenant advocate” means the office of long-term care ombudsman established in section 231.42.

16. “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.

96 Acts, ch 1192, §2; 2000 Acts, ch 1004, §14, 22; 2003 Acts, ch 165, §19; 2003 Acts, ch 166, §8, 9; 2005 Acts, ch 60, §3 – 5, 21; 2005 Acts, ch 179, §121; 2007 Acts, ch 215, §161; 2009 Acts, ch 156, §11; 2011 Acts, ch 83, §1; 2013 Acts, ch 18, §31

Referred to in §142D.2, 144D.1, 231.4, 231C.11A

[T] Subsection 15 amended

231C.3 Certification of assisted living programs.

1. The department shall establish by rule in accordance with chapter 17A 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 affected state agencies and affected industry, professional, and consumer groups; 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:

a. Provisions to ensure, to the greatest extent possible, the health, safety, and well-being and appropriate treatment of tenants.

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

c. Standards for tenant evaluation or assessment, and service plans, which may vary in accordance with the nature of the services provided or the status of the tenant. When a tenant needs personal care or health-related care, the service plan shall be updated within thirty days of occupancy and as needed with significant change, but not less than annually.

d. Provisions for granting short-term waivers for tenants who exceed occupancy criteria.

2. Each assisted living program operating in this state shall be certified by the department. If an assisted living program is voluntarily accredited by a recognized accrediting entity, the department shall certify the assisted living program on the basis of the voluntary accreditation. An assisted living program that is certified by the department on the basis of voluntary accreditation shall not be subject to payment of the certification fee prescribed in section 231C.18, but shall be subject to an administrative fee as prescribed by rule. An assisted living program certified under this section is exempt from the requirements of section 135.63 relating to certificate of need requirements.

3. The owner or manager of a certified assisted living program shall comply with the rules adopted by the department for an assisted living program. A person including a governmental unit shall not represent an assisted living program to the public as an assisted living program or as a certified assisted living program unless and until the program is certified pursuant to this chapter.

4. a. Services provided by a certified assisted living program may be provided directly by staff of the assisted living program, by individuals contracting with the assisted living program to provide services, or by individuals employed by the tenant or with whom the tenant contracts if the tenant agrees to assume the responsibility and risk of the employment or the contractual relationship.

b. If a tenant is terminally ill and has elected to receive hospice services under the federal Medicare program from a Medicare-certified hospice program, the assisted living program and the Medicare-certified hospice program shall enter into a written agreement under which the hospice program retains professional management responsibility for those services.

5. The department may enter into contracts to provide certification and monitoring of assisted living programs. The department shall:

a. Have full access at reasonable times to all records, materials, and common areas pertaining to the provision of services and care to the tenants of a program during certification, monitoring, and complaint investigations of programs seeking certification, currently certified, or alleged to be uncertified.

b. With the consent of the tenant, visit the tenant's unit.

c. Require that the recognized accrediting entity providing accreditation for a program provide copies to the department of all materials related to the accreditation, monitoring, and complaint process.

6. The department may also establish by rule in accordance with chapter 17A minimum standards for subsidized and dementia-specific assisted living programs. The rules shall be formulated in consultation with affected state agencies and affected industry, professional, and consumer groups.

7. A department, agency, or officer of this state or of any governmental unit shall not pay or approve for payment from public funds any amount to an assisted living program for an actual or prospective tenant, unless the program holds a current certificate issued by the department and meets all current requirements for certification.

8. The department shall adopt rules regarding the conducting or operating of another business or activity in the distinct part of the physical structure in which the assisted

living program is provided, if the business or activity serves nontenants. The rules shall be developed in consultation with affected state agencies and affected industry, professional, and consumer groups.

9. An assisted living program shall comply with section 135C.33.

10. The department shall conduct training sessions for personnel responsible for conducting monitoring evaluations and complaint investigations of assisted living programs.

11. Certification of an assisted living program shall be for two years unless certification is revoked for good cause by the department.

96 Acts, ch 1192, §3; 2003 Acts, ch 166, §10; 2005 Acts, ch 60, §6 – 10, 21; 2006 Acts, ch 1010, §72; 2007 Acts, ch 215, §162 – 166; 2009 Acts, ch 156, §12

Referred to in §235E.1

231C.3A Monitoring — conflicts of interest.

1. Any of the following circumstances disqualifies a monitor from inspecting a particular assisted living program under this chapter:

a. The monitor currently works or, within the past two years, has worked as an employee or employment agency staff at the program, or as an officer, consultant, or agent for the program to be monitored.

b. The monitor has any financial interest or any ownership interest in the program. For purposes of this paragraph, indirect ownership, such as through a broad-based mutual fund, does not constitute financial or ownership interest.

c. The monitor has an immediate family member who has a relationship with the program as described in paragraph “a” or “b”.

d. The monitor has an immediate family member who currently resides in the program.

2. For purposes of this section, “*immediate family member*” means a husband or wife; natural or adoptive parent, child, or sibling; stepparent, stepchild, or stepsibling; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; or grandparent or grandchild.

2009 Acts, ch 156, §13

231C.4 Fire and safety standards.

The state fire marshal shall adopt rules, in coordination with the department, relating to the certification and monitoring of the fire and safety standards of certified assisted living programs.

96 Acts, ch 1192, §4; 97 Acts, ch 23, §21; 2003 Acts, ch 166, §11; 2007 Acts, ch 215, §167

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. (1) 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.

(2) The occupancy agreement shall specifically include a statement regarding each of the following:

(a) Whether the program requires disclosure of a tenant's personal financial information for occupancy or continued occupancy.

(b) The program's policy regarding the continued tenancy of a tenant following exhaustion of private resources.

(c) Contact information for the department of human services and the senior health insurance information program to assist tenants in accessing third-party payment sources.

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.

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.

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

l. The emergency response policy.

m. The staffing policy which specifies if nurse delegation will be used, and how staffing will be adapted to meet changing tenant needs.

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.

o. The refund policy.

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 upon request and at reasonable times.

96 Acts, ch 1192, §5; 2003 Acts, ch 166, §12; 2005 Acts, ch 60, §11, 21; 2007 Acts, ch 215, §168; 2011 Acts, ch 83, §2

231C.5A Assessment of tenants — program eligibility.

An assisted living program receiving reimbursement through the medical assistance program under chapter 249A shall assist the department of veterans affairs in identifying, upon admission of a tenant, the tenant's eligibility for benefits through the United States department of veterans affairs. The assisted living program shall also assist the commission of veterans affairs in determining such eligibility for tenants residing in the program on July 1, 2009. The department of inspections and appeals, in cooperation with the department of human services, shall adopt rules to administer this section, including a provision that ensures that if a tenant is eligible for benefits through the United States department of veterans affairs or other third-party payor, the payor of last resort for reimbursement to the assisted living program is the medical assistance program. The rules shall also require the assisted living program to request information from a tenant or tenant's personal

representative regarding the tenant's veteran status and to report to the department of veterans affairs only the names of tenants identified as potential veterans along with the names of their spouses and any dependents. Information reported by the assisted living program shall be verified by the department of veterans affairs.

2009 Acts, ch 84, §1

231C.6 Involuntary transfer.

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, 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.

2. The department, in consultation with affected state agencies and affected industry, professional, and consumer groups, shall establish, by rule in accordance with chapter 17A, procedures to be followed, including the opportunity for hearing, when the transfer of a tenant results from a monitoring evaluation or complaint investigation conducted by the department.

2000 Acts, ch 1222, §13, 17; 2003 Acts, ch 166, §13; 2005 Acts, ch 60, §12, 21; 2007 Acts, ch 215, §169, 170

231C.7 Complaints.

1. Any person with concerns regarding the operations or service delivery of an assisted living program may file a complaint with the department. The name of the person who files a complaint with the department and any personal identifying information of the person or any tenant identified in the complaint shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees involved with the complaint.

2. The department shall establish procedures for the disposition of complaints received in accordance with this section.

2003 Acts, ch 166, §14; 2007 Acts, ch 215, §171

231C.8 Exit interview — issuance of findings.

1. The department shall provide an assisted living program an exit interview at the conclusion of a monitoring evaluation or complaint investigation, and the department shall inform the program's representative of all issues and areas of concern related to the insufficient practices. The department may conduct the exit interview in person or by telephone, and the department shall provide a second exit interview if any additional issues or areas of concern are identified. The program shall have two working days from the date of the exit interview to submit additional or rebuttal information to the department.

2. The department shall issue the final findings of a monitoring evaluation or complaint investigation within ten working days after completion of the on-site monitoring evaluation

or complaint investigation. The final findings shall be served upon the program personally, by electronic mail, or by certified mail.

2003 Acts, ch 166, §15; 2005 Acts, ch 60, §13, 21; 2007 Acts, ch 215, §172; 2013 Acts, ch 26, §4, 7

[SP] 2013 amendment takes effect July 1, 2013, and applies to assisted living programs desiring to request an informal conference on or after January 1, 2014; 2013 Acts, ch 26, §7

[T] Section stricken and rewritten

231C.9 Public disclosure of findings.

Upon completion of a monitoring evaluation or complaint investigation of an assisted living program by the department pursuant to this chapter, the department's 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 which does not constitute the department's final findings from a monitoring evaluation or complaint investigation of the assisted living program shall not be made available to the public except in proceedings involving the denial, suspension, or revocation of a certificate under this chapter.

2003 Acts, ch 166, §16; 2005 Acts, ch 60, §14, 21; 2007 Acts, ch 215, §173; 2008 Acts, ch 1048, §2, 4; 2013 Acts, ch 26, §5, 7

[SP] 2013 amendment takes effect July 1, 2013, and applies to assisted living facilities desiring to request an informal conference on or after January 1, 2014; 2013 Acts, ch 26, §7

[T] Section amended

231C.9A Informal conference — formal contest — judicial review.

1. Within twenty business days after issuance of the final findings, the assisted living program shall notify the director if the program desires to contest the findings and request an informal conference.

2. The department shall provide an independent reviewer to hold an informal conference with an assisted living program within ten working days after receiving a request from the program pursuant to subsection 1. At the conclusion of the informal conference, the independent reviewer may affirm, modify, or dismiss a contested regulatory insufficiency. The independent reviewer shall state in writing the specific reasons for the affirmation, modification, or dismissal and immediately transmit copies of the statement to the department and to the program.

3. An independent reviewer shall be licensed as an attorney in the state of Iowa and shall not be employed or have been employed by the department in the past eight years or have appeared in front of the department on behalf of an assisted living program in the past eight years. Preference shall be given to an attorney with background knowledge, experience, or training in long-term care. The department may issue a request for proposals to enter into a contract for the purpose of providing one or more independent reviewers for informal conferences.

4. An assisted living program that desires to further contest an affirmed or modified regulatory insufficiency may do so in the manner provided by chapter 17A for contested cases. The program shall give notice of intent to formally contest a regulatory insufficiency, in writing, to the department within five days after receipt of the written decision of the independent reviewer. The formal hearing shall be conducted in accordance with chapter 17A and rules adopted by the department.

5. An assisted living program that has exhausted all adequate administrative remedies and is aggrieved by the final action of the department may petition for judicial review in the manner provided by chapter 17A.

2013 Acts, ch 26, §6, 7

[SP] Section takes effect July 1, 2013, and applies to assisted living facilities desiring to request an informal conference on or after January 1, 2014; 2013 Acts, ch 26, §7

[T] NEW section

231C.10 Denial, suspension, or revocation — conditional operation.

1. The department may deny, suspend, or revoke a certificate in any case where the department 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. 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 representative.
- b. Permitting, aiding, or abetting the commission of any illegal act in the assisted living program.
- c. Obtaining or attempting to obtain or retain a certificate by fraudulent means, misrepresentation, or by submitting false information.
- d. Habitual intoxication or addiction to the use of drugs by the applicant, administrator, executive director, manager, or supervisor of the assisted living program.
- e. Securing the devise or bequest of the property of a tenant of an assisted living program by undue influence.
- f. Failure to protect tenants from dependent adult abuse as defined in section 235E.1.
- 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 five percent equity interest in the program, having or having 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 having been found to have failed to provide adequate protection or services for tenants to prevent abuse or neglect.
- 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.
- i. For any other reason as provided by law or administrative rule.

2. The department may as an alternative to denial, suspension, or revocation conditionally issue or continue a certificate dependent upon the performance by the assisted living program of reasonable conditions within a reasonable period of time as set by the department so as to permit the program to commence or continue the operation of the program pending substantial compliance with this chapter or the rules adopted pursuant to this chapter. If the assisted living program does not make diligent efforts to comply with the conditions prescribed, the department may, under the proceedings prescribed by this chapter, suspend or revoke the certificate. An assisted living program shall not be operated on a conditional certificate for more than one year.

2003 Acts, ch 166, §17; 2005 Acts, ch 60, §15, 21; 2006 Acts, ch 1030, §24; 2007 Acts, ch 215, §174, 175; 2009 Acts, ch 156, §14, 15

231C.11 Notice — appeal — emergency provisions.

1. The denial, suspension, or revocation of a certificate shall be effected by delivering to the applicant or certificate holder by restricted certified mail or by personal service a notice setting forth the particular reasons for such action. Such denial, suspension, or revocation shall become effective thirty days after the mailing or service of the notice, unless the applicant or certificate holder, within such thirty-day period, requests a hearing, in writing, of the department, in which case the notice shall be deemed to be suspended.

2. The denial, suspension, or revocation of a certificate may be appealed in accordance with rules adopted by the department in accordance with chapter 17A.

3. When the department finds that an imminent danger to the health or safety of tenants of an assisted living program exists which requires action on an emergency basis, the department may direct removal of all tenants of an assisted living program and suspend the certificate prior to a hearing.

2003 Acts, ch 166, §18; 2007 Acts, ch 215, §176

231C.11A Voluntary cessation of program operations — decertification.

1. The department shall adopt rules regarding the voluntary cessation of program operations of an assisted living program, including decertification. The rules shall address

notification of the tenants, tenant legal representatives, the department, and the tenant advocate at least ninety days prior to the anticipated date of cessation of program operations; the requirements for the safe and orderly transfer or transition of all tenants; and monitoring of the program during the process and after cessation of program operations.

2. Within seven days following provision of notice of cessation of program operations, the assisted living program shall hold a meeting and invite all tenants, tenant legal representatives, families of tenants, representatives of the department, and the tenant advocate to discuss the pending cessation of the program and to answer any questions. The department and the tenant advocate shall have access to attend the meeting and provide information to the tenants regarding their legal rights.

3. The tenant advocate shall monitor the decertification process and shall undertake any investigations necessary to ensure that the rights of tenants are protected during the process and after cessation of program operations. The tenant advocate shall assist tenants during the transition, including assisting tenants in finding necessary and appropriate service providers if the assisted living program is unable to provide such necessary and appropriate services during the transition period. The assisted living program shall cooperate with the tenant advocate by providing contact information for service providers within a thirty-mile radius of the program.

4. Following cessation of program operations and decertification, the department shall retain authority to monitor the decertified program to ensure that the entity does not continue to act as an uncertified assisted living program or other unlicensed, uncertified, or unregistered entity otherwise regulated by the state following decertification. If a decertified assisted living program continues to or subsequently acts in a manner that meets the definition of assisted living pursuant to section 231C.2, the decertified program is subject to the criminal penalties and injunctive relief provisions of section 231C.15, and any other penalties applicable by law.

2011 Acts, ch 83, §3

231C.12 Department notified of casualties.

The department shall be notified no later than the next working day, by the most expeditious means available, of any accident causing major injury or death, and any substantial fire or natural or other disaster occurring at or near an assisted living program.

2003 Acts, ch 166, §19; 2007 Acts, ch 215, §177; 2009 Acts, ch 156, §16

231C.13 Retaliation by assisted living program prohibited.

An assisted living program shall not discriminate or retaliate in any way against a tenant, tenant's family, or an employee of the program who has initiated or participated in any proceeding authorized by this chapter. An assisted living program that violates this section is subject to a penalty as established by administrative rule in accordance with chapter 17A, to be assessed and collected by the department, paid into the state treasury, and credited to the general fund of the state.

2003 Acts, ch 166, §20; 2006 Acts, ch 1010, §73; 2007 Acts, ch 215, §178

Referred to in §231C.5

231C.14 Civil penalties.

1. The department may establish by rule, in accordance with chapter 17A, civil penalties for the following violations by an assisted living program:

a. Noncompliance with any regulatory requirements which presents an imminent danger or a substantial probability of resultant death or physical harm to a tenant.

b. Following receipt of notice from the department, continued failure or refusal to comply within a prescribed time frame with regulatory requirements that have a direct relationship to the health, safety, or security of program tenants.

c. Preventing or interfering with or attempting to impede in any way any duly authorized representative of the department in the lawful enforcement of this chapter or of the rules adopted pursuant to this chapter. As used in this paragraph, "lawful enforcement" includes but is not limited to:

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

(2) Examining any relevant records of an assisted living program.

(3) Preserving evidence of any violation of this chapter or of the rules adopted pursuant to this chapter.

2. If a program assessed a penalty does not request a formal hearing pursuant to chapter 17A or withdraws its request for a formal hearing within thirty days of the date the penalty was assessed, the penalty shall be reduced by thirty-five percent, if the penalty is paid within thirty days of the issuance of a demand letter issued by the department. The demand letter, which includes the civil penalty, shall include a statement to this effect.

2003 Acts, ch 166, §21; 2005 Acts, ch 60, §16, 21; 2007 Acts, ch 215, §179, 180; 2009 Acts, ch 156, §17

231C.15 Criminal penalties and injunctive relief.

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 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.

2003 Acts, ch 166, §22; 2005 Acts, ch 60, §17, 21; 2007 Acts, ch 215, §181

Referred to in §231C.11A

231C.16 Nursing assistant and medication aide — certification.

The department, in cooperation with other appropriate agencies, shall establish a procedure to allow nursing assistants or medication aides to claim work within an assisted living program as credit toward sustaining the nursing assistant's or medication aide's certification.

2003 Acts, ch 166, §23; 2007 Acts, ch 215, §182

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.

2005 Acts, ch 60, §18, 21

231C.17 Coordination of the long-term care system — transitional provisions.

1. A hospital licensed pursuant to chapter 135B, 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 if the assisted living program is certified pursuant to this chapter.

2. This chapter shall not be construed to require that a facility licensed as a different type of facility also comply with the requirements of this chapter, unless the facility is represented to the public as a certified assisted living program.

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 different type of facility, unless the facility is represented to the public as another type of facility.

4. a. A continuing care retirement community, as defined in section 523D.1, may provide limited personal care services and emergency response services to its independent living tenants if all of the following conditions are met:

(1) The provision of such personal care services or emergency response services does not result in inadequate staff coverage to meet the service needs of all tenants of the continuing care retirement community.

(2) The staff providing the personal care or emergency response services is trained or qualified to the extent necessary to provide such services.

(3) The continuing care retirement community documents the date, time, and nature of the personal care or emergency response services provided.

(4) Emergency response services are only provided in situations which constitute an urgent need for immediate action or assistance due to unforeseen circumstances.

b. This subsection shall not be construed to prohibit an independent living tenant of a continuing care retirement community from contracting with a third party for personal care or emergency response services.

2003 Acts, ch 166, §24; 2003 Acts, 1st Ex, ch 2, §17, 33; 2005 Acts, ch 60, §19, 21; 2009 Acts, ch 41, §263

231C.18 Iowa assisted living fees.

1. The department shall collect assisted living program certification and related fees. An assisted living program that is certified by the department on the basis of voluntary accreditation by a recognized accrediting entity shall not be subject to payment of the certification fee, but shall be subject to an administrative fee as prescribed by rule. Fees collected and retained pursuant to this section shall be deposited in the general fund of the state.

2. The following certification and related fees shall apply to assisted living programs:

a. For a two-year initial certification, seven hundred fifty dollars.

b. For a two-year recertification, one thousand dollars.

c. For a blueprint plan review, nine hundred dollars.

d. For an optional preliminary plan review, five hundred dollars.

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

2003 Acts, ch 166, §25; 2005 Acts, ch 60, §20, 21; 2007 Acts, ch 215, §183

Referred to in §231C.3

231C.19 Application of landlord and tenant Act.

Chapter 562A, the uniform residential landlord and tenant Act, shall apply to assisted living programs under this chapter.

2003 Acts, ch 166, §26

231C.20 Limitation on penalties.

The department shall not impose duplicate civil penalties for the same set of facts and circumstances. All monitoring revisits by the department shall review the program prospectively from the date of the plan of correction to determine compliance.

2009 Acts, ch 156, §18