CHAPTER 231

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SUBCHAPTER I

POLICY AND DEFINITIONS

231.1 Short title.

This chapter, entitled the *"Older Iowans Act"*, sets forth the state's commitment to its older individuals, their dignity, independence, and rights.

86 Acts, ch 1245, §1001
C87, §249D.1
C93, §231.1
2009 Acts, ch 23, §12

231.2 Legislative findings and declaration. Repealed by 2018 Acts, ch 1049, §18.

231.3 State policy and objectives.

The general assembly declares that it is the policy of the state to work toward attainment of the following objectives for Iowa's older individuals:

1. An adequate income.
2. Access to physical and mental health care and long-term living and community support services without regard to economic status.
3. Suitable and affordable housing that reflects the needs of older individuals.
4. Access to comprehensive information and a community navigation system providing all available options related to long-term living and community support services that assist older individuals in the preservation of personal assets and the ability to entirely avoid or significantly delay reliance on entitlement programs.
5. Full restorative services for those who require institutional care, and a comprehensive array of long-term living and community support services adequate to sustain older people in their communities and, whenever possible, in their homes, including support for caregivers.
6. Pursuit of meaningful activity within the widest range of civic, cultural, educational, recreational, and employment opportunities.
7. Suitable community transportation systems to assist in the attainment of independent movement.
8. Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives.
9. Freedom from abuse, neglect, and exploitation.

86 Acts, ch 1245, §1003
C87, §249D.3
C93, §231.3
2003 Acts, ch 141, §1; 2005 Acts, ch 45, §2; 2009 Acts, ch 23, §14; 2018 Acts, ch 1049, §1, 2
Referred to in §16.47
Subsections 2 and 3 amended
NEW subsection 4 and former subsection 4 amended and renumbered as 5
Former subsections 5 – 8 renumbered as subsections 6 – 9

231.4 Definitions.

1. For purposes of this chapter, unless the context otherwise requires:

a. *"Administrative action"* means an action or decision made by an owner, employee, or agent of a long-term care facility, assisted living program, elder group home, or by a governmental agency, which affects the service provided to residents or tenants covered in this chapter.

b. *"Assisted living program"* means a program which provides assisted living as defined pursuant to section 231C.2 and which is certified under chapter 231C.

c. *"Certified volunteer long-term care ombudsman"* or *"certified volunteer"* means a volunteer long-term care ombudsman certified pursuant to section 231.45.

d. *"Commission"* means the commission on aging.

e. *"Department"* means the department on aging.

f. *"Director"* means the director of the department on aging.

g. *"Elder group home"* means elder group home as defined in section 231B.1 which is certified under chapter 231B.

h. *"Equivalent support"* means in-kind contributions of services, goods, volunteer support time, administrative support, or other support reasonably determined by the department as equivalent to a dollar amount.

i. *"Federal Act"* means the Older Americans Act of 1965, 42 U.S.C. §3001 et seq., as amended.

j. *"Home and community-based services"* means a continua of services available in an individual's home or community which include but are not limited to case management services, options counseling, family caregiving, homemaker services, personal care services, adult day services, respite services, congregate and home delivered meals, nutrition counseling, nutrition education, and other medical and social services which contribute to the health and well-being of individuals and their ability to reside in a home or community-based care setting.

k. *"Legal representative"* means a tenant's legal representative as defined in section 231B.1 or 231C.2, or a resident's guardian, conservator, representative payee, or agent under a power of attorney.

l. *"Long-term care facility"* means a long-term care unit of a hospital or a facility licensed under section 135C.1 whether the facility is public or private.

m. *"Long-term care ombudsman"* means an advocate for residents and tenants of long-term care facilities, assisted living programs, and elder group homes who carries out duties as specified in this chapter.

n. *"Older individual"* means an individual who is sixty years of age or older.

o. *"Options counseling"* means a service involving an interactive process, which may include a needs assessment, directed by the recipient individual and which may include other participants of the individual's choosing and the individual's legal representative, in which the individual receives guidance to make informed choices about long-term living and community support services in order to sustain independent living.

p. *"Resident"* means an individual residing in a long-term care facility, excluding facilities licensed primarily to serve persons with an intellectual disability or mental illness.

q. *"Tenant"* means an individual who receives assisted living services through an assisted living program or an individual who receives elder group home services through an elder group home.

r. *"Unit of general purpose local government"* means the governing body of a city, county, township, metropolitan area, or region within the state that has a population of one hundred thousand or more, that is recognized for areawide planning, and that functions as a political subdivision of the state whose authority is general and not limited to only one function or combination of related functions, or a tribal organization.

2. For the purposes of this chapter, *"aging and disability resource center"*, *"area agency on aging"*, *"focal point"*, *"greatest economic need"*, *"greatest social need"*, *"planning and service area"*, and *"tribal organization"* mean as those terms are defined in the federal Act.

86 Acts, ch 1245, §1004
C87, §249D.4
C93, §231.4
2003 Acts, ch 141, §2; 2005 Acts, ch 45, §3; 2009 Acts, ch 23, §15; 2010 Acts, ch 1062, §3, 4; 2011 Acts, ch 25, §143; 2012 Acts, ch 1019, §83; 2012 Acts, ch 1086, §2, 3; 2013 Acts, ch 18, §18; 2018 Acts, ch 1049, §3
Referred to in §235B.6
Subsection 1, paragraphs j, k, and o amended

231.5 through 231.10 Reserved.

SUBCHAPTER II

COMMISSION ON AGING

231.11 Commission established.

The commission on aging is established which shall consist of eleven members. One member each shall be appointed by the president of the senate, after consultation with the majority leader of the senate, and by the minority leader of the senate, from the members of the senate to serve as ex officio, nonvoting members. One member each shall be appointed by the speaker of the house of representatives and by the minority leader of the house of representatives, from the members of the house of representatives to serve as ex officio, nonvoting members. Seven members shall be appointed by the governor subject to confirmation by the senate. Not more than a simple majority of the governor's appointees shall belong to the same political party. At least four of the seven members appointed by the governor shall be fifty-five years of age or older when appointed.

86 Acts, ch 1245, §1005
C87, §249D.11
90 Acts, ch 1223, §22
C93, §231.11
2008 Acts, ch 1156, §32, 58; 2009 Acts, ch 23, §16
Confirmation, see §2.32

231.12 Terms.

All members of the commission appointed by the governor shall be appointed for terms of four years, with staggered expiration dates. The terms of office of members appointed by the governor shall commence and end as provided by section 69.19. Legislative members of the commission shall serve terms of office as provided in section 69.16B. A vacancy on the commission shall be filled for the unexpired term of the vacancy in the same manner as the original appointment was made. If a legislative member ceases to be a member of the general assembly the legislative member may continue to serve until a successor is appointed.

86 Acts, ch 1245, §1006
C87, §249D.12
88 Acts, ch 1134, §59
C93, §231.12
2008 Acts, ch 1156, §33, 58

231.13 Meetings — officers.

Members of the commission shall elect from the commission's membership a chairperson, and other officers as commission members deem necessary, who shall serve for a period of two years. The commission shall meet at regular intervals at least four times each year and may hold special meetings at the call of the chairperson or at the request of a majority of the commission membership. The commission shall meet at the seat of government or such other place as the commission may designate. Members shall be paid a per diem as specified in section 7E.6 and shall receive reimbursement for actual expenses for their official duties.

86 Acts, ch 1245, §1007
C87, §249D.13
90 Acts, ch 1256, §42
C93, §231.13
2003 Acts, ch 141, §3

231.14 Commission duties and authority.

1. The commission is the policymaking body of the sole state agency responsible for administration of the federal Act. The commission shall:

a. Approve state and area plans on aging.

b. Adopt policies to coordinate state activities related to the purposes of this chapter.

c. Serve as an effective and visible advocate for older individuals by establishing policies

for reviewing and commenting upon all state plans, budgets, and policies which affect older individuals and for providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals.

d. Divide the state into distinct planning and service areas after considering the geographical distribution of older individuals in the state, the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal services, the distribution of older individuals who have low incomes residing in such areas, the distribution of resources available to provide such services or centers, the boundaries of existing areas within the state which are drawn for the planning or administration of supportive services programs, the location of units of general purpose, local government within the state, and any other relevant factors.

e. Designate for each planning and service area a public or private nonprofit agency or organization as the area agency on aging for that area. The commission may revoke the designation of an area agency on aging pursuant to section 231.32.

f. Adopt policies to assure that the department will take into account the views of older individuals in the development of policy.

g. Adopt a method for the distribution of federal Act and state funds taking into account, to the maximum extent feasible, the best available data on the geographic distribution of older individuals in the state, and publish the method for review and comment.

h. Adopt policies and measures to assure that preference will be given to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas.

i. Adopt policies to administer state programs authorized by this chapter.

j. Adopt policies and administrative rules pursuant to chapter 17A that support the capabilities of the area agencies on aging and the aging and disabilities resource centers to serve older individuals and persons with disabilities experiencing Alzheimer's disease or related dementias.

2. The commission shall adopt administrative rules pursuant to chapter 17A to administer the duties specified in this chapter and in all other chapters under the department's jurisdiction.

86 Acts, ch 1245, §1008
C87, §249D.14
88 Acts, ch 1073, §1
C93, §231.14
2003 Acts, ch 141, §4; 2005 Acts, ch 45, §4, 5; 2009 Acts, ch 23, §17; 2009 Acts, ch 41, §263; 2012 Acts, ch 1086, §4, 5; 2018 Acts, ch 1049, §4
Subsection 1, paragraph g amended

231.15 through 231.20 Reserved.

SUBCHAPTER III

DEPARTMENT ON AGING

231.21 Department on aging.

An Iowa department on aging is established which shall administer this chapter under the policy direction of the commission on aging. The department on aging shall be administered by a director.

86 Acts, ch 1245, §1009
C87, §249D.21
C93, §231.21
2009 Acts, ch 23, §18
Referred to in §7E.5, 231E.3

231.22 Director — assistant director.

1. The governor, subject to confirmation by the senate, shall appoint a director of the department on aging who shall, subject to chapter 8A, subchapter IV, employ and direct staff as necessary to carry out the powers and duties created by this chapter. The director shall serve at the pleasure of the governor. However, the director is subject to reconfirmation by the senate as provided in section 2.32, subsection 4. The governor shall set the salary for the director within the range set by the general assembly.

2. The director shall have the following qualifications and training:

a. Training in the field of gerontology, social work, public health, public administration, or other related fields.

b. Direct experience or extensive knowledge of programs and services related to older individuals.

c. Demonstrated understanding and concern for the welfare of older individuals.

d. Demonstrated competency and recent working experience in an administrative, supervisory, or management position.

3. The director may appoint an assistant director who shall be in charge of the department in the absence of the director. The appointment shall be based on the appointee's training, experience, and capabilities.

86 Acts, ch 1245, §1010
C87, §249D.22
C93, §231.22
2003 Acts, ch 145, §214; 2008 Acts, ch 1031, §107; 2009 Acts, ch 23, §19; 2012 Acts, ch 1086, §6

231.23 Department on aging — duties and authority.

The department on aging director shall:

1. Develop and administer a state plan on aging.

2. Assist the commission in the review and approval of area plans.

3. Pursuant to commission policy, coordinate state activities related to the purposes of this chapter and all other chapters under the department's jurisdiction.

4. Advocate for older individuals by reviewing and commenting upon all state plans, budgets, laws, rules, regulations, and policies which affect older individuals and by providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals.

5. Assist the commission in dividing the state into distinct planning and service areas.

6. Assist the commission in designating for each area a public or private nonprofit agency or organization as the area agency on aging for that area.

7. Pursuant to commission policy, take into account the views of older Iowans.

8. Assist the commission in adopting a method for the distribution of funds available from the federal Act and state appropriations and allocations.

9. Assist the commission in assuring that preference will be given to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas.

10. Assist the commission in developing, adopting, and enforcing administrative rules, by issuing necessary forms and procedures.

11. Apply for, receive, and administer grants, devises, donations, gifts, or bequests of real or personal property from any source to conduct projects consistent with the purposes of the department. Notwithstanding section 8.33, moneys received by the department pursuant to this section are not subject to reversion to the general fund of the state.

12. Administer state authorized programs.

13. Establish a procedure for an area agency on aging to use in selection of members of the agency's board of directors. The selection procedure shall be incorporated into the bylaws of the board of directors.

86 Acts, ch 1245, §1011
C87, §249D.23

C93, §231.23
2003 Acts, ch 141, §5; 2005 Acts, ch 45, §6; 2006 Acts, ch 1184, §106; 2007 Acts, ch 81, §1; 2009 Acts, ch 23, §20, 21; 2012 Acts, ch 1086, §7; 2018 Acts, ch 1049, §5
Referred to in §231.33
Subsection 8 amended

231.23A Programs and services.

The department on aging shall provide or administer, but is not limited to providing or administering, all of the following programs and services:

1. Services for older individuals, persons with disabilities eighteen years of age and older, family caregivers, and veterans as defined by the department in the most current version of the department's reporting manual and pursuant to the federal Act and regulations.
2. The older American community service employment program.
3. Case management services.
4. The aging and disability resource center.
5. The legal assistance development program.
6. The nutrition and health promotion program.
7. The Iowa family caregiver program.
8. Elder abuse prevention, detection, intervention, and awareness including neglect and exploitation.
9. Other programs and services authorized by law.

2003 Acts, ch 141, §6; 2005 Acts, ch 42, §5; 2005 Acts, ch 45, §7; 2006 Acts, ch 1010, §69; 2009 Acts, ch 23, §22; 2010 Acts, ch 1062, §5; 2012 Acts, ch 1086, §8; 2013 Acts, ch 18, §19, 20; 2014 Acts, ch 1026, §48; 2018 Acts, ch 1049, §6
Older American community service employment program, see §231.51, 231.53
Prevention of elder abuse, neglect, and exploitation program, see §231.56A
Aging and disability resource center, see §231.64
Legal assistance development program, see §231.65
Nutrition and health promotion program, see §231.66
Section amended

231.24 Certified retirement communities. Repealed by 2012 Acts, ch 1086, §16.

231.25 through 231.30 Reserved.

SUBCHAPTER IV

PLANNING AND SERVICE DELIVERY

231.31 State plan on aging.

The department on aging shall develop, and submit to the commission on aging for approval, a multiyear state plan on aging. The state plan on aging shall meet all applicable federal requirements.

86 Acts, ch 1245, §1012
C87, §249D.31
C93, §231.31
2003 Acts, ch 141, §7; 2009 Acts, ch 23, §23

231.32 Criteria for designation of area agencies on aging.

1. The commission shall designate an area agency on aging for each planning and service area. The commission shall continue the designation until an area agency on aging's designation is removed for cause as determined by the commission, until the time of renewal or the annual update of an area plan, until the agency voluntarily withdraws as an area agency on aging, or until a change in the designation of planning and service areas or area agencies on aging is required by state or federal law. In that event, the commission shall proceed in accordance with subsections 2, 3, and 4. Designated area agencies on aging shall comply with the requirements of the federal Act.

2. The commission shall designate an area agency to serve each planning and service

area, after consideration of the views offered by units of general purpose local government. An area agency may be:

a. An established office of aging which is operating within a planning and service area designated by the commission.

b. Any office or agency of a unit of general purpose local government, which is designated to function only for the purpose of serving as an area agency on aging by the chief elected official of such unit.

c. Any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act only on behalf of such combination for such purpose.

d. Any public or nonprofit private agency in a planning and service area or any separate organizational unit within such agency which is under the supervision or direction for this purpose of the department on aging and which can and will engage only in the planning or provision of a broad range of long-term living and community support services or nutrition services within the planning and service area.

3. When the commission designates a new area agency on aging the commission shall give the right of first refusal to a unit of general purpose local government if:

a. Such unit can meet the requirements of subsection 1.

b. The boundaries of such a unit and the boundaries of the area are reasonably contiguous.

4. Each area agency shall provide assurance, determined adequate by the commission, that the area agency has the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area. In designating an area agency on aging within the planning and service area, the commission shall give preference to an established office of aging, unless the commission finds that no such office within the planning and service area has the capacity to carry out the area plan.

5. Upon designation, an area agency on aging shall be considered an instrumentality of the state and shall adhere to all state and federal mandates applicable to an instrumentality of the state.

86 Acts, ch 1245, §1013
C87, §249D.32
C93, §231.32
2003 Acts, ch 141, §8; 2009 Acts, ch 23, §24; 2009 Acts, ch 41, §230; 2009 Acts, ch 133, §218, 219; 2010 Acts, ch 1069, §66, 147; 2012 Acts, ch 1028, §1, 3; 2013 Acts, ch 18, §21; 2018 Acts, ch 1049, §7, 8
Referred to in §231.14
Subsection 1 amended
Subsection 2, paragraph d amended

231.33 Area agencies on aging duties.

Each area agency on aging shall:

1. Develop and administer an area plan on aging approved by the commission.

2. Assess the types and levels of services needed by older individuals and their caregivers in the planning and service area, and the effectiveness of other public or private programs serving those needs.

3. Enter into contracts to provide services under the plan.

4. Provide technical assistance as needed, document quarterly monitoring, and provide a written report of an annual on-site assessment of all service providers funded by the area agency.

5. Coordinate the administration of its plan with federal programs and with other federal, state, and local resources in order to develop a comprehensive and coordinated service system.

6. Establish an advisory council.

7. Give preference in the delivery of services under the area plan to older individuals with the greatest economic or social need, with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas.

8. Assure that older individuals and their caregivers in the planning and service area have reasonably convenient access to information and assistance services.

9. Provide adequate and effective opportunities for older individuals to express their views to the area agency on policy development and program implementation under the area plan.

10. Designate community focal points.

11. Conduct outreach efforts to identify older individuals with the greatest economic or social needs, with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas, and inform them of the availability of services under the area plan.

12. Develop and publish the methods that the agency uses to establish preferences and priorities for services.

13. Submit all fiscal and performance reports in accordance with the policies of the commission.

14. Monitor, evaluate, and comment on laws, rules, regulations, policies, programs, hearings, levies, and community actions which significantly affect the lives of older individuals.

15. Conduct public hearings on the needs of older individuals and their caregivers.

16. Represent the interests of older individuals and their caregivers to public officials, public and private agencies, or organizations.

17. Coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for older individuals.

18. Coordinate planning with other agencies for assuring the safety of older individuals in a natural disaster or other safety threatening situation.

19. Incorporate into the bylaws of the area agency's board of directors and comply with the procedure established by the department for selection of members to the board of directors as provided in section 231.23.

20. Provide the opportunity for older individuals residing in the planning and service area to offer substantive suggestions regarding the employment practices of the area agency on aging.

21. Comply with all applicable requirements of the Iowa public employees' retirement system established pursuant to chapter 97B. Notwithstanding any provision to the contrary, an employee of an area agency on aging that was enrolled in an alternative qualified plan prior to July 1, 2012, may continue participation in that alternative qualified plan in lieu of mandatory participation in the Iowa public employees' retirement system.

22. Encourage the development of public and private partnerships, entrepreneurial activities, and other mutually collaborative efforts.

86 Acts, ch 1245, §1014
C87, §249D.33
89 Acts, ch 241, §6
C93, §231.33
99 Acts, ch 129, §12; 2003 Acts, ch 141, §9; 2005 Acts, ch 45, §8, 9; 2006 Acts, ch 1184, §107; 2007 Acts, ch 218, §38; 2009 Acts, ch 23, §25; 2010 Acts, ch 1192, §51, 73; 2012 Acts, ch 1086, §9; 2013 Acts, ch 18, §22; 2013 Acts, ch 138, §48, 54, 55; 2018 Acts, ch 1049, §9, 10
Subsections 1 and 3 amended
NEW subsection 22

231.34 Limitation of funds used for administrative purposes.

Of the state funds appropriated or allocated to the department for programs of the area agencies on aging, not more than seven and one-half percent of the total amount shall be used for area agencies on aging administrative purposes.

2005 Acts, ch 175, §100

231.35 through 231.40 Reserved.

SUBCHAPTER V

LONG-TERM CARE OMBUDSMAN

231.41 Purpose.

The purpose of this subchapter is to establish and provide for the operation of the office of long-term care ombudsman; to carry out, through the office, a state long-term care ombudsman program within the department in accordance with the requirements of the federal Act; and to adopt the supporting federal regulations and guidelines for its operation.

86 Acts, ch 1245, §1015
C87, §249D.41
C93, §231.41
2003 Acts, ch 141, §10; 2009 Acts, ch 23, §26; 2010 Acts, ch 1062, §6; 2013 Acts, ch 18, §23

231.42 Office of long-term care ombudsman — duties — penalties for violations.

1. *Office established.* The office of long-term care ombudsman is established within the department, in accordance with the federal Act, and state law. The office shall consist of the state long-term care ombudsman, any local long-term care ombudsmen, and any certified volunteer long-term care ombudsmen.

2. *State long-term care ombudsman.* The director of the department shall appoint the state long-term care ombudsman who shall do all of the following:

a. Establish and implement a statewide confidential uniform reporting system for receiving, analyzing, referring, investigating, and resolving complaints about administrative actions and the health, safety, welfare, and rights of residents or tenants of long-term care facilities, assisted living programs, and elder group homes, excluding facilities licensed primarily to serve persons with an intellectual disability or mental illness.

b. Publicize the office of long-term care ombudsman and provide information and education to consumers, the public, and other agencies about issues related to long-term care in Iowa.

c. Monitor the development and implementation of federal, state, and local laws, regulations, and policies that relate to long-term care in Iowa.

d. Annually report to the governor and general assembly on the activities of the office and make recommendations for improving the health, safety, welfare, and rights of residents and tenants.

e. Cooperate with persons and public or private agencies with regard to, and participate in, inquiries, meetings, or studies that may lead to improvements in the health, safety, welfare, and rights of residents and tenants.

3. *Local long-term care ombudsmen.* The local long-term care ombudsmen established pursuant to this section shall do all of the following:

a. Accept, investigate, verify, and work to resolve complaints relating to any action or inaction that may adversely affect the health, safety, welfare, or rights of residents or tenants.

b. Provide information about long-term care, the rights of residents and tenants, payment sources for care, and selection of a long-term care facility, assisted living program, or elder group home to providers, consumers, family members, volunteers, and the public.

c. Make referrals to appropriate licensing, certifying, and enforcement agencies to assure appropriate investigation of abuse complaints and corrective actions.

d. Assist in the training and education of certified volunteers associated with the office of long-term care ombudsman.

e. Make noncomplaint-related visits to long-term care facilities, assisted living programs, and elder group homes to observe daily routines, meals, and activities, and work to resolve complaints if any are identified during these visits.

4. *Referrals of abuse, neglect, or exploitation.*

a. If abuse, neglect, or exploitation of a resident or tenant is suspected, the state or a local long-term care ombudsman shall, with the permission of the resident or tenant as applicable under federal law, make an immediate referral to the department of inspections

and appeals, the department of human services, the department on aging, or the appropriate law enforcement agency, as applicable.

b. If the department of inspections and appeals responds to a complaint referred by the state or a local long-term care ombudsman against a long-term care facility, assisted living program, elder group home, or an employee of such entity, copies of related inspection reports, plans of correction, and notice of any citations and sanctions levied against the facility, program, or home shall be forwarded to the office of long-term care ombudsman.

5. *Access to long-term care facility, assisted living program, or elder group home and residents and tenants.* The state or a local long-term care ombudsman or a certified volunteer may enter any long-term care facility, assisted living program, or elder group home at any time with or without prior notice or complaint and shall be granted access to residents and tenants at all times for the purpose of carrying out the duties specified in this section. As used in this section, *"access"* means the right to do all of the following:

a. Enter any long-term care facility, assisted living program, or elder group home and provide identification.

b. Seek consent from the resident, tenant, or legal representative to communicate privately and without restriction with any resident, tenant, or legal representative.

c. Communicate privately and without restriction with any resident, tenant, or legal representative.

d. Review the medical, social, or other records of a resident or tenant.

e. Observe all resident or tenant areas of a long-term care facility, assisted living program, or elder group home except the living area of any resident or tenant who protests the observation.

6. *Access to medical and social records.*

a. The state or a local long-term care ombudsman or certified volunteer long-term care ombudsman shall have access to the medical and social records of a resident or tenant, if any of the following applies:

(1) The state or local long-term care ombudsman or certified volunteer long-term care ombudsman has the permission of the resident or tenant, or the legal representative of the resident or tenant.

(2) The resident or tenant is unable to consent to the access and has no legal representative.

(3) Access to the records is necessary to investigate a complaint if all of the following apply:

(a) A legal representative of the resident or tenant refuses to give the permission.

(b) The state or local long-term care ombudsman or a certified volunteer long-term care ombudsman has reasonable cause to believe that the legal representative is not acting in the best interest of the resident or tenant.

(c) The local long-term care ombudsman or a certified volunteer long-term care ombudsman obtains the approval of the state long-term care ombudsman.

b. Records may be reproduced by the state or a local long-term care ombudsman or by a certified volunteer long-term care ombudsman.

c. Upon request of the state or a local long-term care ombudsman, a long-term care facility, assisted living program, or elder group home shall provide the name, address, and telephone number of the legal representative or next of kin of any resident or tenant.

d. A long-term care facility, assisted living program, or elder group home or personnel of such a facility, program, or home who discloses records in compliance with this section and the procedures adopted pursuant to this section shall not be liable for such disclosure.

7. *Access to administrative records.*

a. Pursuant to the federal Act, the state or a local long-term care ombudsman or a certified volunteer shall have access to the administrative records, policies, and documents of the long-term care facility, assisted living program, or elder group home, which are accessible to residents, tenants, or the general public.

b. Pursuant to the federal Act, the state or a local long-term care ombudsman or a certified volunteer shall have access to, and upon request, copies of, all licensing and

certification records maintained by the state with respect to a long-term care facility, assisted living program, or elder group home.

8. *Interference prohibited — penalties.*

a. An officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home who intentionally prevents, interferes with, or attempts to impede the work of the state or a local long-term care ombudsman or a certified volunteer is subject to a penalty imposed by the director of not more than one thousand five hundred dollars for each violation. If the director imposes a penalty for a violation under this paragraph, no other state agency shall impose a penalty for the same interference violation. Any moneys collected pursuant to this subsection shall be deposited in the general fund of the state.

b. The office of long-term care ombudsman shall adopt rules specifying procedures for notice and appeal of penalties imposed pursuant to this subsection.

c. The director, in consultation with the office of long-term care ombudsman, shall notify the county attorney of the county in which the long-term care facility, assisted living program, or elder group home is located, or the attorney general, of any violation of this subsection.

9. *Retaliation prohibited — penalties.* An officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home shall not retaliate against any person for having filed a complaint with, or provided information to, the state or a local long-term care ombudsman or a certified volunteer. A person who retaliates or discriminates in violation of this subsection is guilty of a simple misdemeanor.

10. *Change in operations.* A long-term care facility, assisted living program, or elder group home shall inform the office of long-term care ombudsman in writing at least thirty days prior to any change in operations, programs, services, licensure, or certification that affects residents or tenants, including but not limited to the intention to close, decertify, or change ownership. In an emergency situation, or when a long-term care facility, assisted living program, or elder group home is evacuated, the department of inspections and appeals shall notify the office of long-term care ombudsman.

11. *Immunity.* The state or a local long-term care ombudsman, certified volunteer, or any representative of the office participating in the good faith performance of their official duties shall have immunity from any civil or criminal liability that otherwise might result by reason of taking, investigating, or pursuing a complaint under this section.

12. *Confidentiality.*

a. Information relating to any complaint made to or investigation by the state or a local long-term care ombudsman or certified volunteer that discloses the identity of a complainant, resident, or tenant; information related to a resident's or tenant's social or medical records; or files maintained by the state long-term care ombudsman program that disclose the identity of a complainant, resident, or tenant, shall remain confidential and shall not be disclosed unless any of the following applies:

(1) The complainant, resident, tenant, or a legal representative consents to the disclosure and the consent is given in writing.

(2) The complainant, resident, or tenant gives consent orally and the consent is documented contemporaneously in a writing made by the state long-term care ombudsman or a local long-term care ombudsman.

(3) The disclosure is required by a court order.

b. The department shall adopt rules pursuant to chapter 17A to administer this subsection.

13. *Posting of state long-term care ombudsman information.* Every long-term care facility, assisted living program, and elder group home shall post information in a prominent location that includes the name, address, and telephone number, and a brief description of the services provided by the office of long-term care ombudsman. The information posted shall be approved or provided by the office of long-term care ombudsman.

86 Acts, ch 1245, §1016

C87, §249D.42

C93, §231.42
99 Acts, ch 129, §13; 2003 Acts, ch 141, §11; 2005 Acts, ch 45, §10; 2009 Acts, ch 23, §27 – 29; 2009 Acts, ch 41, §93; 2010 Acts, ch 1062, §7; 2012 Acts, ch 1019, §84; 2013 Acts, ch 18, §24; 2018 Acts, ch 1049, §11 – 13
Referred to in **§22.7(62)**, 135C.1, 231.45, 231B.1, 231C.2
Subsection 4, paragraph a amended
Subsection 6, paragraph a, unnumbered paragraph 1 amended
Subsection 6, paragraph b amended

231.43 Authority and responsibilities of the commission. Repealed by 2010 Acts, ch 1062, §10.

231.44 Utilization of resources — assistance and advocacy related to long-term services and supports under the Medicaid program.

1. The office of long-term care ombudsman may utilize its available resources to provide assistance and advocacy services to eligible recipients, or the families or legal representatives of such eligible recipients, of long-term services and supports provided through the Medicaid program. Such assistance and advocacy shall include but is not limited to all of the following:

a. Assisting recipients in understanding the services, coverage, and access provisions and their rights under Medicaid managed care.

b. Developing procedures for the tracking and reporting of the outcomes of individual requests for assistance, the obtaining of necessary services and supports, and other aspects of the services provided to eligible recipients.

c. Providing advice and assistance relating to the preparation and filing of complaints, grievances, and appeals of complaints or grievances, including through processes available under managed care plans and the state appeals process, relating to long-term services and supports under the Medicaid program.

2. A representative of the office of long-term care ombudsman providing assistance and advocacy services authorized under this section for an individual, shall be provided access to the individual, and shall be provided access to the individual's medical and social records as authorized by the individual or the individual's legal representative, as necessary to carry out the duties specified in this section.

3. A representative of the office of long-term care ombudsman providing assistance and advocacy services authorized under this section for an individual, shall be provided access to administrative records related to the provision of the long-term services and supports to the individual, as necessary to carry out the duties specified in this section.

4. The office of long-term care ombudsman and representatives of the office, when providing assistance and advocacy services under this section, shall be considered a health oversight agency as defined in 45 C.F.R. §164.501 for the purposes of health oversight activities as described in 45 C.F.R. §164.512(d). Recipient information available to the office of long-term care ombudsman and representatives of the office under this subsection shall be limited to the recipient's protected health information as defined in 45 C.F.R. §160.103 for the purpose of recipient case resolution. When providing assistance and advocacy services under this section, the office of long-term care ombudsman shall act as an independent agency, and the office of long-term care ombudsman and representatives of the office shall be free of any undue influence that restrains the ability of the office or the office's representatives from providing such services and assistance. The office of long-term care ombudsman shall adopt rules applicable to long-term care ombudsmen providing assistance and advocacy services under this section to authorize such ombudsmen to function in a manner consistent with long-term care ombudsmen under the federal Act.

5. For the purposes of this section:

a. *"Institutional setting"* includes a long-term care facility, an elder group home, or an assisted living program.

b. *"Long-term services and supports"* means the broad range of health, health-related, and personal care assistance services and supports, provided in both institutional settings and home and community-based settings, necessary for older individuals and persons with

disabilities who experience limitations in their capacity for self-care due to a physical, cognitive, or mental disability or condition.

2015 Acts, ch 137, §65, 162, 163; 2016 Acts, ch 1139, §98

231.45 Certified volunteer long-term care ombudsman program.

1. The department shall establish a certified volunteer long-term care ombudsman program in accordance with the federal Act to provide assistance to the state and local long-term care ombudsmen.

2. The department shall develop and implement a certification process for volunteer long-term care ombudsmen including but not limited to an application process, provision for background checks, classroom or on-site training, orientation, and continuing education.

3. Unless specifically excluded, the provisions of section 231.42 relating to local long-term care ombudsmen shall apply to certified volunteer long-term care ombudsmen.

4. The department shall adopt rules pursuant to chapter 17A to administer this section.

2012 Acts, ch 1133, §97; 2013 Acts, ch 18, §25

Referred to in §135C.1, 225C.4, 231.4

231.46 through 231.50 Reserved.

SUBCHAPTER VI

PROGRAMS

231.51 Older American community service employment program.

1. The department shall direct and administer the older American community service employment program as authorized by the federal Act in coordination with the department of workforce development.

2. The purpose of the program is to foster individual economic self-sufficiency and to increase the number of participants placed in unsubsidized employment in the public and private sectors while maintaining the community service focus of the program.

3. Funds appropriated to the department from the United States department of labor shall be distributed to subgrantees in accordance with federal requirements.

4. The department shall require such uniform reporting and financial accounting by subgrantees as may be necessary to fulfill the purposes of this section.

86 Acts, ch 1245, §1019

C87, §249D.51

C93, §231.51

96 Acts, ch 1186, §23; 2002 Acts, ch 1058, §1; 2005 Acts, ch 45, §13; 2011 Acts, ch 118, §85, 89; 2013 Acts, ch 18, §26

231.52 Senior internship program. Repealed by 2013 Acts, ch 18, §34.

231.53 Coordination with Workforce Innovation and Opportunity Act.

The older American community service employment program shall be coordinated with the federal Workforce Innovation and Opportunity Act administered by the department of workforce development.

2002 Acts, ch 1058, §3; 2009 Acts, ch 23, §33; 2013 Acts, ch 18, §27; 2018 Acts, ch 1049, §14

Section amended

231.54 Elderlaw education program. Repealed by 2003 Acts, ch 141, §16.

231.55 Retired senior volunteer programs. Repealed by 2005 Acts, ch 42, §6. See §15H.2.

231.56 Services and programs.

The department shall administer long-term living and community support services and programs that allow older individuals to secure and maintain maximum independence and dignity in a home environment that provides for self-care with appropriate supportive services, assist in removing individual and social barriers to economic and personal independence for older individuals, and provide a continuum of care for older individuals and individuals with disabilities. Funds appropriated for this purpose shall be allocated based on administrative rules adopted by the commission. The department shall require such records as needed to administer this section.

86 Acts, ch 1245, §1024
C87, §249D.56
C93, §231.56
2005 Acts, ch 45, §14; 2009 Acts, ch 23, §34; 2012 Acts, ch 1086, §11; 2013 Acts, ch 90, §58; 2018 Acts, ch 1049, §15
Section amended

231.56A Prevention of elder abuse, neglect, and exploitation program.

1. The department shall administer the prevention of elder abuse, neglect, and exploitation program in accordance with the requirements of the federal Act. The purpose of the program is to carry out activities for intervention in and response to elder abuse, neglect, and exploitation including financial exploitation.

2. The department shall adopt rules to implement this section.

2003 Acts, ch 98, §1; 2003 Acts, ch 179, §67; 2009 Acts, ch 23, §35; 2012 Acts, ch 1086, §12; 2013 Acts, ch 18, §28; 2018 Acts, ch 1049, §16
Subsection 1 amended

231.57 Coordination of advocacy.

The department shall administer a program for the coordination of information and assistance provided within the state to assist older individuals and their caregivers in obtaining and protecting their rights and benefits. State and local agencies providing information and assistance to older individuals and their caregivers in seeking their rights and benefits shall cooperate with the department in administering this program.

86 Acts, ch 1245, §1025
C87, §249D.57
C93, §231.57
2003 Acts, ch 141, §13; 2009 Acts, ch 23, §36

231.58 Long-term living coordination.

The director may convene meetings, as necessary, of the director and the directors of human services, public health, and inspections and appeals, to assist in the coordination of policy, service delivery, and long-range planning relating to the long-term living system and older Iowans in the state. The group may consult with individuals, institutions and entities with expertise in the area of the long-term living system and older Iowans, as necessary, to facilitate the group's efforts.

86 Acts, ch 1245, §1026
C87, §249D.58
89 Acts, ch 52, §1
C93, §231.58
2000 Acts, ch 1004, §13, 22; 2003 Acts, ch 141, §14; 2003 Acts, ch 145, §215; 2005 Acts, ch 45, §15; 2008 Acts, ch 1156, §34, 58; 2009 Acts, ch 23, §37, 38; 2009 Acts, ch 182, §90

231.59 and 231.60 Repealed by 2003 Acts, ch 141, §16.

231.61 Adult day services requirements — oversight. Repealed by 2003 Acts, ch 165, §20. See chapter 231D.

231.62 Alzheimer's disease services and assistance.

Pursuant to the federal Act, the department shall direct the area agencies on aging to use outreach efforts to identify older individuals with Alzheimer's disease and related disorders and to establish supportive services for those individuals and their families. The department shall regularly review trends and initiatives to address the long-term living needs of Iowans to determine how the needs of persons with Alzheimer's disease and related disorders can be appropriately met.

2008 Acts, ch 1140, §2; 2011 Acts, ch 34, §57; 2012 Acts, ch 1086, §13

231.63 End-of-life care information. Repealed by 2012 Acts, ch 1086, §16.

231.64 Aging and disability resource center.

1. The aging and disability resource center shall be administered by the department consistent with the federal Act. The department shall designate area agencies on aging to establish, in consultation with other stakeholders including organizations representing the disability community, a coordinated system for providing all of the following:

a. Comprehensive information, referral, and assistance regarding the full range of available public and private long-term living and community support services, options, service providers, and resources within a community, including information on the availability of integrated long-term care.

b. Options counseling to assist individuals in assessing their existing or anticipated long-term care needs and developing and implementing a plan for long-term care designed to meet their specific needs and circumstances. The plan for long-term living and community support services may include support with person-centered care transitions to assist consumers and family caregivers with transitions between home and care settings.

c. Consumer access to the range of publicly-supported long-term living and community support services for which consumers may be eligible, by serving as a convenient point of entry for such services. The aging and disability resource center shall offer information online and be available via a toll-free telephone number, electronic communications, and in person.

2. The aging and disability resource center shall assist older individuals, persons with disabilities age eighteen or older, family caregivers, and people who inquire about or request assistance on behalf of members of these groups, as they seek long-term living and community support services.

2009 Acts, ch 23, §39; 2012 Acts, ch 1086, §14; 2013 Acts, ch 18, §29; 2013 Acts, ch 140, §19; 2018 Acts, ch 1049, §17

Section amended

231.65 Legal assistance development program.

A legal assistance development program shall be administered by the department in accordance with the requirements of the federal Act. The purpose of the program is to provide leadership for improving the quality and quantity of legal advocacy assistance as a means of ensuring a comprehensive elder rights system for Iowa's older individuals. The extent of implementation of this program shall be based on available resources.

2009 Acts, ch 23, §40

231.66 Nutrition and health promotion program.

A nutrition and health promotion program shall be administered by the department, in accordance with the requirements of the federal Act, including congregate and home-delivered nutrition programs, nutrition screening, nutrition education, nutrition counseling, and evidence-based health promotion programs to promote health and well-being, reduce food insecurity, promote socialization, and maximize independence of older individuals.

2009 Acts, ch 23, §41; 2012 Acts, ch 1086, §15