

Reprinted

FILED MAR 21 1995

SENATE FILE **454**
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 295)

Passed Senate, Date ^(P.1002) 4-3-95 Passed House, Date ^(P.2070) 5/1/96
Vote: Ayes 49 Nays 0 Vote: Ayes 95 Nays 0
Approved May 17, 1996

A BILL FOR

1 An Act relating to the establishment of an assisted living
2 program within the department of elder affairs, providing for
3 implementation, and providing penalties.

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

5

SENATE FILE 454

S-3320

- 1 Amend Senate File 454 as follows:
- 2 1. Page 2, by striking lines 7 through 14 and
- 3 inserting the following:
- 4 "3. "Health-related care" means services provided
- 5 by a registered nurse or a licensed practical nurse,
- 6 on a part-time or intermittent basis, and services
- 7 provided by other licensed health care professionals,
- 8 on a part-time or intermittent basis, as defined by
- 9 rule."
- 10 2. Page 2, line 26, by striking the words
- 11 "skilled nursing" and inserting the following:
- 12 "health-related care".
- 13 3. Page 2, line 29, by striking the words
- 14 "skilled nursing" and inserting the following:
- 15 "health-related care".
- 16 4. Page 4, line 14, by inserting after the figure
- 17 "135C," the following: "a licensed health care
- 18 professional providing health-related care or personal
- 19 care through contractual agreement,".

By MAGGIE TINSMAN

S-3320 FILED APRIL 3, 1995

ADOPTED

(P.1002)

23

24

S.F. 454

1 Section 1. NEW SECTION. 231C.1 FINDINGS AND PURPOSE.

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

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

9 a. To encourage the establishment and maintenance of a
10 safe and homelike environment for individuals of all income
11 levels who require assistance to live independently but who do
12 not require the intensity of services provided by a nursing
13 facility.

14 b. To establish standards for assisted living programs
15 that promote the rights of individuals, safety, and sanitary
16 conditions while not being overly restrictive so as to
17 discourage the development of assisted living programs.

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

23 d. To encourage general public participation in the
24 development of assisted living programs.

25 Sec. 2. NEW SECTION. 231C.2 DEFINITIONS.

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

28 1. "Assisted living" means provision of services including
29 but not limited to housing, health-related care, personal
30 care, and assistance with instrumental activities of daily
31 living to six or more tenants in a physical structure which
32 provides a homelike environment. "Assisted living" also
33 includes encouragement of family involvement, resident self-
34 direction, and resident participation in decisions that
35 emphasize choice, dignity, privacy, individuality, shared

1 risk, and independence. "Assisted living" does not include
2 the provision of housing and assistance with instrumental
3 activities of daily living which does not also include
4 provision of personal care or health-related care.

5 2. "Department" means the department of elder affairs
6 created in chapter 231 or the department's designee.

7 3. "Health-related care" means services provided by a
8 licensed nurse or other licensed health care professional on a
9 part-time or intermittent basis. "Health-related care" may
10 include but is not limited to administration of medications,
11 skin care, health assessment, and monitoring of clinical
12 symptoms, but does not include twenty-four-hour care provided
13 by a licensed nurse or other licensed health care
14 professional.

15 4. "Instrumental activities of daily living" means those
16 activities that reflect the tenant's ability to perform
17 household and other tasks necessary to meet the tenant's needs
18 within the community, including but not limited to shopping,
19 cooking, cleaning, and traveling within the community.

20 5. "Manager" means an individual who is eighteen years of
21 age or older who is responsible for the daily management of an
22 assisted living program.

23 6. "Owner" means the owner or operator of an assisted
24 living program.

25 7. "Part-time" or "intermittent" means up to and including
26 thirty-five hours per week of skilled nursing and personal
27 care services, combined, provided on a less than daily basis,
28 or up to and including eight hours per day of necessary
29 skilled nursing and personal care services, combined, which
30 are provided seven days per week for temporary, but not
31 indefinite, periods of time of not more than twenty-one days.

32 8. "Personal care" means assistance with the essential
33 activities of daily living which may include but are not
34 limited to transferring, bathing, personal hygiene, dressing,
35 grooming, housekeeping chores essential to the health and

1 welfare of the tenant, and supervising of self-administered
2 medications, but does not include the administration of
3 medications.

4 9. "Personal care as supportive assistance" means personal
5 care provided to maintain general health but not provided as
6 part of medical treatment.

7 10. "Provides" means making services available through
8 contractual agreement between the assisted living program
9 owner and the tenant.

10 11. "Shared risk" means an agreement between the tenant
11 and the assisted living program owner stating that the
12 recipient understands the inherent risks involved in the
13 consumer-control philosophy of the program and that the owner
14 will be held harmless in incidents involving tenant-chosen
15 action.

16 12. "Tenant" means an individual who receives assisted
17 living services through an assisted living program.

18 Sec. 3. NEW SECTION. 231C.3 CERTIFICATION OF ASSISTED
19 LIVING PROGRAMS.

20 1. The department shall establish, by rule in accordance
21 with chapter 17A, a program for certification and monitoring
22 of assisted living programs. The rules adopted shall be
23 consistent with all applicable state rules and federal
24 regulations. An assisted living program certified under this
25 section is exempt from the requirements of section 135.63
26 relating to certificate of need requirements.

27 2. The rules adopted under this section shall include but
28 are not limited to all of the following:

29 a. Requirements for certification of assisted living
30 programs which include but are not limited to all of the
31 following:

32 (1) Certification for a period of five years, unless
33 certification is revoked by the department for good cause.

34 (2) Review of the assisted living program at the time of
35 certification and at the time of recertification.

1 (3) Employment of an assisted living program manager to
2 provide services to meet the needs of the tenants.

3 (4) Provision of a minimum private space for each tenant
4 sufficient for sleeping and dressing.

5 (5) Provision of core service capacity which at a minimum
6 includes twenty-four-hour response capability to meet
7 unscheduled or unpredictable needs of tenants, the ability to
8 create individualized service plans based on a needs
9 assessment of tenants, and the ability to coordinate services.

10 (6) Provision of health-related care and personal care as
11 part of medical treatment by a Medicare-certified home health
12 agency, a certified assisted living program, a hospital
13 licensed pursuant to chapter 135B, a health care facility as
14 defined in chapter 135C, or a relative of the tenant by
15 consanguinity or affinity. The rules shall also provide that
16 personal care support assistance may be provided by a home
17 care aide service approved by the department of public health
18 pursuant to the rules adopted for the home care aid service
19 program under section 135.11.

20 (7) A written contract between the owner of the assisted
21 living program and the tenant regarding shared risk.

22 b. Rules to provide for the granting of a variance in
23 accordance with a written procedure, from the requirements
24 established by rule, if the need for a variance is established
25 by the owner of the assisted living program and the variance
26 applies only to the assisted living program filing the
27 request.

28 c. Rules governing ownership, operation, and management of
29 an assisted living program.

30 d. Rules to establish appropriate sanctions and penalties
31 to ensure compliance with the laws and rules regulating
32 assisted living programs and for the safety and protection of
33 tenants. The sanctions may include civil monetary penalties
34 and decertification of an assisted living program.

35 e. Rules to establish procedures for the appointment of

1 members of a care review committee for each assisted living
2 program.

3 f. Rules to establish a fee schedule for certification
4 which is consistent with the costs of administering the
5 certification process.

6 3. Each assisted living program operating in the state
7 shall be certified with the department. The owner or manager
8 of an assisted living program shall comply with the rules
9 adopted by the department for an assisted living program. A
10 person shall not represent an assisted living program to the
11 public as a certified program unless the program is certified
12 pursuant to this chapter.

13 4. Services provided by a certified assisted living
14 program may be provided directly by staff of the assisted
15 living program, by individuals contracting with the assisted
16 living program to provide services, or by individuals employed
17 by the tenant if the tenant agrees to assume the
18 responsibility and risk of the employment.

19 5. The department shall certify and monitor assisted
20 living programs in cooperation with other affected agencies.
21 The department may enter into contracts to provide
22 certification and monitoring. The department shall have full
23 access to a program during certification and monitoring of the
24 program.

25 Sec. 4. NEW SECTION. 231C.4 REFERRAL TO UNCERTIFIED
26 ASSISTED LIVING PROGRAM PROHIBITED.

27 1. A person, including but not limited to public agencies
28 and service coordinators, shall not place, refer, or recommend
29 the placement of an individual in an assisted living program
30 if the program has not been certified pursuant to this
31 chapter.

32 2. A person who has knowledge that an assisted living
33 program is operating without certification may report the name
34 and address of the program to the department. The department
35 shall investigate any reports made pursuant to this

1 subsection.

2 Sec. 5. NEW SECTION. 231C.5 FIRE AND SAFETY STANDARDS.

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

7 Sec. 6. NEW SECTION. 231C.6 COORDINATION OF THE LONG-
8 TERM CARE SYSTEM.

9 1. Any person representing a program to the public as an
10 assisted living program prior to July 1, 1995, shall be
11 granted a temporary certification by the department and shall
12 meet the requirements of this chapter within one year of the
13 issuance of the temporary certification to receive subsequent
14 certification.

15 2. A hospital licensed pursuant to chapter 135B or a
16 health care facility licensed pursuant to chapter 135C may
17 operate an assisted living program, located in a distinct part
18 of or separate structure under the control of the hospital or
19 health care facility, if certified pursuant to this chapter.

20 3. This chapter shall not be construed to require that a
21 facility licensed as a different type of facility also comply
22 with the requirements of this chapter, unless the facility is
23 represented to the public as an assisted living program.

24 4. A continuing care retirement community which has filed
25 a current disclosure statement with the division of insurance
26 of the department of commerce as required pursuant to chapter
27 523D is not required to also comply with the requirements of
28 this chapter, unless the facility is represented to the public
29 as an assisted living program.

30 Sec. 7. Section 235B.3, subsection 2, Code 1995, is
31 amended by adding the following new paragraph:

32 NEW PARAGRAPH. g. An owner or manager of a certified
33 assisted living program regulated under chapter 231C.

34 Sec. 8. MEDICAL ASSISTANCE WAIVER. The department of
35 human services shall seek an assisted living program waiver

1 from the health care financing administration of the United
2 States department of health and human services to provide
3 assisted living program services under the medical assistance
4 program.

5 Sec. 9. IMPLEMENTATION. It is the intent of the general
6 assembly that sections 1 through 6 of this Act be implemented
7 only to the extent that existing funding is available.

8

EXPLANATION

9 This bill directs the department of elder affairs to
10 establish a program for the certification of assisted living
11 programs. The bill provides findings and purposes related to
12 the establishment of the program and provides definitions
13 including the definition of "assisted living". The bill also
14 establishes an assisted living program certification program
15 which requires certification of any assisted living program in
16 the state and which includes five-year certification, minimum
17 and required services and environmental standards, provisions
18 for the granting of variances from the requirements, the
19 adoption of rules by the department to establish sanctions and
20 penalties for noncompliance with the chapter, the appointment
21 of a care review committee for each program, and the
22 establishment of a fee schedule for the certification process.

23 The bill also provides for the adoption of rules by the
24 state fire marshal, in coordination with the department, for
25 assisted living programs; prohibits referral to an uncertified
26 assisted living program; provides for a one-year temporary
27 certification process for assisted living programs existing at
28 the time of enactment of the bill; provides that a program
29 which is not represented as an assisted living program is not
30 required to also be certified as an assisted living program;
31 and provides that a continuing care retirement community which
32 has filed a current disclosure statement with the division of
33 insurance is not also required to comply with the requirements
34 of the bill, unless the facility is represented to the public
35 as an assisted living program.

1 The bill includes owners and managers of assisted living
2 programs as mandatory reporters of dependent adult abuse,
3 directs the department of human services to apply for an
4 assisted living program waiver from the health care financing
5 administration of the United States department of health and
6 human services for inclusion in the medical assistance
7 program, and provides that the assisted living program is only
8 to be implemented to the extent that existing funding is
9 available.

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SENATE FILE 454
FISCAL NOTE

A fiscal note for Senate File 454 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 454 establishes the Assisted Living Program in the Department of Elder Affairs.

ASSUMPTIONS:

1. Monitoring of care would be contracted to the Department of Public Health or the Department of Inspection and Appeals.
2. Monitoring of building safety would be contracted to the State Fire Marshall's Office.
3. Area agencies on aging estimate increased cost for additional care review committees recruitment and training.
4. Health Care Financing Administration (HCFA) is responsible for developing the plan for Medicaid payment to eligible individuals living in assisted living programs. None of the facilities receiving certification will request Medicaid approval in FY 1996 and 50.0% of the facilities will request Medicaid approval in FY 1997. Of those facilities receiving approval, approximately 20.0% of the tenants in the assisted living programs will receive Medicaid coverage for 1/2 the year at the 60.0% federal/40.0% State reimbursement rate.
5. The anticipated application fee for certification is \$100.

FISCAL EFFECT: Assisted Living Program
(dollars in thousands)

	<u>FY 1996</u>	<u>FY 1997</u>
<u>REVENUE</u>		
General Fund	\$ 5	\$ 5
Federal Funds	0	212
Total	\$ 5	\$ 217
<u>EXPENDITURES</u>		
Care Monitoring Contract	\$ 59	\$ 59
Building Safety Contract	50	100
Overall Admin of Program	39	52
Care Review Committees	16	16
State Medicaid Waiver Match	0	141
Total	\$ 164	\$ 368
<u>NET EFFECT</u>	\$ - 159	\$ - 151

Source: Department of Elder Affairs

(LSB 2506sv, RRS)

1 Section 1. NEW SECTION. 231C.1 FINDINGS AND PURPOSE.

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3 important part of the long-term care system in this state.
4 Assisted living emphasizes the independence and dignity of the
5 individual while providing services in a cost-effective
6 manner.

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

9 a. To encourage the establishment and maintenance of a
10 safe and homelike environment for individuals of all income
11 levels who require assistance to live independently but who do
12 not require the intensity of services provided by a nursing
13 facility.

14 b. To establish standards for assisted living programs
15 that promote the rights of individuals, safety, and sanitary
16 conditions while not being overly restrictive so as to
17 discourage the development of assisted living programs.

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

23 d. To encourage general public participation in the
24 development of assisted living programs.

25 Sec. 2. NEW SECTION. 231C.2 DEFINITIONS.

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31 living to six or more tenants in a physical structure which
32 provides a homelike environment. "Assisted living" also
33 includes encouragement of family involvement, resident self-
34 direction, and resident participation in decisions that
35 emphasize choice, dignity, privacy, individuality, shared

1 risk, and independence. "Assisted living" does not include
2 the provision of housing and assistance with instrumental
3 activities of daily living which does not also include
4 provision of personal care or health-related care.

5 2. "Department" means the department of elder affairs
6 created in chapter 231 or the department's designee.

7 3. "Health-related care" means services provided by a
8 registered nurse or a licensed practical nurse, on a part-time
9 or intermittent basis, and services provided by other licensed
10 health care professionals, on a part-time or intermittent
11 basis, as defined by rule.

12 4. "Instrumental activities of daily living" means those
13 activities that reflect the tenant's ability to perform
14 household and other tasks necessary to meet the tenant's needs
15 within the community, including but not limited to shopping,
16 cooking, cleaning, and traveling within the community.

17 5. "Manager" means an individual who is eighteen years of
18 age or older who is responsible for the daily management of an
19 assisted living program.

20 6. "Owner" means the owner or operator of an assisted
21 living program.

22 7. "Part-time" or "intermittent" means up to and including
23 thirty-five hours per week of health-related care and personal
24 care services, combined, provided on a less than daily basis,
25 or up to and including eight hours per day of necessary
26 health-related care and personal care services, combined,
27 which are provided seven days per week for temporary, but not
28 indefinite, periods of time of not more than twenty-one days.

29 8. "Personal care" means assistance with the essential
30 activities of daily living which may include but are not
31 limited to transferring, bathing, personal hygiene, dressing,
32 grooming, housekeeping chores essential to the health and
33 welfare of the tenant, and supervising of self-administered
34 medications, but does not include the administration of
35 medications.

1 9. "Personal care as supportive assistance" means personal
2 care provided to maintain general health but not provided as
3 part of medical treatment.

4 10. "Provides" means making services available through
5 contractual agreement between the assisted living program
6 owner and the tenant.

7 11. "Shared risk" means an agreement between the tenant
8 and the assisted living program owner stating that the
9 recipient understands the inherent risks involved in the
10 consumer-control philosophy of the program and that the owner
11 will be held harmless in incidents involving tenant-chosen
12 action.

13 12. "Tenant" means an individual who receives assisted
14 living services through an assisted living program.

15 Sec. 3. NEW SECTION. 231C.3 CERTIFICATION OF ASSISTED
16 LIVING PROGRAMS.

17 1. The department shall establish, by rule in accordance
18 with chapter 17A, a program for certification and monitoring
19 of assisted living programs. The rules adopted shall be
20 consistent with all applicable state rules and federal
21 regulations. An assisted living program certified under this
22 section is exempt from the requirements of section 135.63
23 relating to certificate of need requirements.

24 2. The rules adopted under this section shall include but
25 are not limited to all of the following:

26 a. Requirements for certification of assisted living
27 programs which include but are not limited to all of the
28 following:

29 (1) Certification for a period of five years, unless
30 certification is revoked by the department for good cause.

31 (2) Review of the assisted living program at the time of
32 certification and at the time of recertification.

33 (3) Employment of an assisted living program manager to
34 provide services to meet the needs of the tenants.

35 (4) Provision of a minimum private space for each tenant

1 sufficient for sleeping and dressing.

2 (5) Provision of core service capacity which at a minimum
3 includes twenty-four-hour response capability to meet
4 unscheduled or unpredictable needs of tenants, the ability to
5 create individualized service plans based on a needs
6 assessment of tenants, and the ability to coordinate services.

7 (6) Provision of health-related care and personal care as
8 part of medical treatment by a Medicare-certified home health
9 agency, a certified assisted living program, a hospital
10 licensed pursuant to chapter 135B, a health care facility as
11 defined in chapter 135C, a licensed health care professional
12 providing health-related care or personal care through
13 contractual agreement, or a relative of the tenant by
14 consanguinity or affinity. The rules shall also provide that
15 personal care support assistance may be provided by a home
16 care aide service approved by the department of public health
17 pursuant to the rules adopted for the home care aid service
18 program under section 135.11.

19 (7) A written contract between the owner of the assisted
20 living program and the tenant regarding shared risk.

21 b. Rules to provide for the granting of a variance in
22 accordance with a written procedure, from the requirements
23 established by rule, if the need for a variance is established
24 by the owner of the assisted living program and the variance
25 applies only to the assisted living program filing the
26 request.

27 c. Rules governing ownership, operation, and management of
28 an assisted living program.

29 d. Rules to establish appropriate sanctions and penalties
30 to ensure compliance with the laws and rules regulating
31 assisted living programs and for the safety and protection of
32 tenants. The sanctions may include civil monetary penalties
33 and decertification of an assisted living program.

34 e. Rules to establish procedures for the appointment of
35 members of a care review committee for each assisted living

1 program.

2 f. Rules to establish a fee schedule for certification
3 which is consistent with the costs of administering the
4 certification process.

5 3. Each assisted living program operating in the state
6 shall be certified with the department. The owner or manager
7 of an assisted living program shall comply with the rules
8 adopted by the department for an assisted living program. A
9 person shall not represent an assisted living program to the
10 public as a certified program unless the program is certified
11 pursuant to this chapter.

12 4. Services provided by a certified assisted living
13 program may be provided directly by staff of the assisted
14 living program, by individuals contracting with the assisted
15 living program to provide services, or by individuals employed
16 by the tenant if the tenant agrees to assume the
17 responsibility and risk of the employment.

18 5. The department shall certify and monitor assisted
19 living programs in cooperation with other affected agencies.
20 The department may enter into contracts to provide
21 certification and monitoring. The department shall have full
22 access to a program during certification and monitoring of the
23 program.

24 Sec. 4. NEW SECTION. 231C.4 REFERRAL TO UNCERTIFIED
25 ASSISTED LIVING PROGRAM PROHIBITED.

26 1. A person, including but not limited to public agencies
27 and service coordinators, shall not place, refer, or recommend
28 the placement of an individual in an assisted living program
29 if the program has not been certified pursuant to this
30 chapter.

31 2. A person who has knowledge that an assisted living
32 program is operating without certification may report the name
33 and address of the program to the department. The department
34 shall investigate any reports made pursuant to this
35 subsection.

1 Sec. 5. NEW SECTION. 231C.5 FIRE AND SAFETY STANDARDS.

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

6 Sec. 6. NEW SECTION. 231C.6 COORDINATION OF THE LONG-
7 TERM CARE SYSTEM.

8 1. Any person representing a program to the public as an
9 assisted living program prior to July 1, 1995, shall be
10 granted a temporary certification by the department and shall
11 meet the requirements of this chapter within one year of the
12 issuance of the temporary certification to receive subsequent
13 certification.

14 2. A hospital licensed pursuant to chapter 135B or a
15 health care facility licensed pursuant to chapter 135C may
16 operate an assisted living program, located in a distinct part
17 of or separate structure under the control of the hospital or
18 health care facility, if certified pursuant to this chapter.

19 3. This chapter shall not be construed to require that a
20 facility licensed as a different type of facility also comply
21 with the requirements of this chapter, unless the facility is
22 represented to the public as an assisted living program.

23 4. A continuing care retirement community which has filed
24 a current disclosure statement with the division of insurance
25 of the department of commerce as required pursuant to chapter
26 523D is not required to also comply with the requirements of
27 this chapter, unless the facility is represented to the public
28 as an assisted living program.

29 Sec. 7. Section 235B.3, subsection 2, Code 1995, is
30 amended by adding the following new paragraph:

31 NEW PARAGRAPH. g. An owner or manager of a certified
32 assisted living program regulated under chapter 231C.

33 Sec. 8. MEDICAL ASSISTANCE WAIVER. The department of
34 human services shall seek an assisted living program waiver
35 from the health care financing administration of the United

1 States department of health and human services to provide
2 assisted living program services under the medical assistance
3 program.

4 Sec. 9. IMPLEMENTATION. It is the intent of the general
5 assembly that sections 1 through 6 of this Act be implemented
6 only to the extent that existing funding is available.

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SENATE FILE 454

H-5700

1 Amend Senate File 454, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 231C.1 DEFINITIONS.

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

8 1. "Assisted living program" means a program which
9 provides housing and which additionally provides or
10 arranges for services including but not limited to
11 health-related care, personal care, and assistance
12 with instrumental activities of daily living to six or
13 more tenants in a physical structure which provides a
14 homelike environment. An assisted living program is
15 characterized by service provision which is consumer-
16 driven, flexible, and individualized, and that
17 maximizes consumer independence, choice, and dignity.
18 "Assisted living program" does not include the
19 provision of housing and assistance with instrumental
20 activities of daily living which does not also include
21 the provision of personal or health-related care.

22 2. "Department" means the department of elder
23 affairs created in chapter 231 or the department's
24 designee.

25 3. "Health-related care" means services provided
26 by a licensed or certified health care professional.

27 4. "Instrumental activities of daily living" means
28 those activities that reflect the tenant's ability to
29 perform household and other tasks necessary to meet
30 the tenant's needs within the community, including but
31 not limited to shopping, cooking, housekeeping and
32 other household tasks, and traveling within the
33 community.

34 5. "Personal care" means assistance with the
35 essential activities of daily living which may include
36 but are not limited to transferring, bathing, personal
37 hygiene, dressing, grooming, housekeeping essential to
38 the health and welfare of the tenant, and supervising
39 of self-administered medications. "Personal care"
40 does not include administration of medications.

41 6. "Tenant" means an individual who is a recipient
42 of assisted living program services.

43 Sec. 2. NEW SECTION. 231C.2 ACCREDITATION OF
44 ASSISTED LIVING PROGRAMS.

45 1. A program which is represented to the public as
46 an assisted living program shall be accredited by an
47 independent entity.

48 2. An independent entity which provides
49 accreditation services shall provide copies of all
50 requested materials relating to the accreditation

H-5700

H-5700

Page 2

1 process to the department.

2 3. A hospital licensed pursuant to chapter 135B or
3 a health care facility licensed pursuant to chapter
4 135C may operate an assisted living program, located
5 in a distinct part of or a separate structure under
6 the control of the hospital or health care facility,
7 if the program is accredited pursuant to this chapter.

8 Sec. 3. NEW SECTION. 231C.3 SANCTIONS.

9 The department may adopt rules to establish
10 sanctions for failure to comply with the accreditation
11 provisions of this chapter. Additional sanctions
12 shall not be imposed for violations for which
13 sanctions exist under other law including but not
14 limited to building code and fire safety violations,
15 dependent adult abuse and adult protective services
16 provisions, and home health care regulations.

17 Sec. 4. MEDICAL ASSISTANCE WAIVER. The department
18 of human services shall seek a waiver from the health
19 care financing administration of the United States
20 department of health and human services to include
21 assisted living programs as eligible providers under
22 the medical assistance home and community-based
23 services waiver for the elderly.

24 Sec. 5. IMPLEMENTATION.

25 1. The department shall approve at least one
26 independent entity for the purposes of accrediting
27 assisted living programs on or before July 1, 1997.

28 2. The requirements of this chapter relating to
29 accreditation of assisted living programs take effect
30 July 1, 1998, if the program represents itself to the
31 public as an assisted living program."

32 2. Title page, line 2, by inserting after the
33 word "program" the following: "accreditation
34 process".

35 3. Title page, line 3, by striking the word
36 "penalties" and inserting the following: "sanctions".

By WITT of Black Hawk
CARROLL of Poweshiek

H-5700 FILED MARCH 27, 1996

o/p/order 5/1/96 (p.2070)

SENATE FILE 454

H-5639

1 Amend Senate File 454, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 231C.1 FINDINGS AND
6 PURPOSE.

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

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

14 a. To encourage the establishment and maintenance
15 of a safe and homelike environment for individuals of
16 all income levels who require assistance to live
17 independently but who do not require the nursing care
18 on a twenty-four-hour per day basis.

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

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

27 Sec. 2. NEW SECTION. 231C.2 DEFINITIONS.

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

30 1. "Assisted living" means provision of housing
31 with services which may include but are not limited to
32 health-related care, personal care, and assistance
33 with instrumental activities of daily living to six or
34 more tenants in a physical structure which provides a
35 homelike environment. "Assisted living" also includes
36 encouragement of family involvement, tenant self-
37 direction, and tenant participation in decisions that
38 emphasize choice, dignity, privacy, individuality,
39 shared risk, and independence. "Assisted living" does
40 not include the provision of housing and assistance
41 with instrumental activities of daily living which
42 does not also include provision of personal care or
43 health-related care.

44 2. "Department" means the department of elder
45 affairs created in chapter 231 or the department's
46 designee.

47 3. "Health-related care" means services provided
48 by a registered nurse or a licensed practical nurse,
49 on a part-time or intermittent basis, and services
50 provided by other licensed health care professionals,

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1 on a part-time or intermittent basis, as defined by
2 rule.

3 4. "Instrumental activities of daily living" means
4 those activities that reflect the tenant's ability to
5 perform household and other tasks necessary to meet
6 the tenant's needs within the community, which may
7 include but are not limited to shopping, cooking,
8 housekeeping, chores, and traveling within the
9 community.

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

17 6. "Tenant" means an individual who receives
18 assisted living services through a certified or
19 accredited assisted living program.

20 Sec. 3. NEW SECTION. 231C.3 CERTIFICATION OR
21 VOLUNTARY ACCREDITATION OF ASSISTED LIVING PROGRAMS.

22 1. The department shall establish, by rule in
23 accordance with chapter 17A, a program for
24 certification or voluntary accreditation and
25 monitoring of assisted living programs. An assisted
26 living program certified or voluntarily accredited
27 under this section is exempt from the requirements of
28 section 135.63 relating to certificate of need
29 requirements.

30 2. Each assisted living program operating in the
31 state shall be certified or voluntarily accredited
32 with the department. The owner or manager of an
33 assisted living program shall comply with the rules
34 adopted by the department for an assisted living
35 program. A person shall not represent an assisted
36 living program to the public as a certified or
37 voluntarily accredited program unless the program is
38 certified or voluntarily accredited pursuant to this
39 chapter.

40 3. Services provided by a certified or voluntarily
41 accredited assisted living program may be provided
42 directly by staff of the assisted living program, by
43 individuals contracting with the assisted living
44 program to provide services, or by individuals
45 employed by the tenant or with whom the tenant
46 contracts if the tenant agrees to assume the
47 responsibility and risk of the employment or the
48 contractual relationship.

49 4. The department shall certify or voluntarily
50 accredit and monitor assisted living programs and may

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1 enter into contracts to provide certification or
2 voluntary accreditation and monitoring. The
3 department shall have full access to a program during
4 certification or voluntary accreditation and
5 monitoring of the program.

6 Sec. 4. NEW SECTION. 231C.4 FIRE AND SAFETY
7 STANDARDS.

8 The state fire marshal shall adopt rules, in
9 coordination with the department, relating to the
10 certification or voluntary accreditation and
11 monitoring of the fire and safety of certified or
12 voluntarily accredited assisted living programs.

13 Sec. 5. NEW SECTION. 231C.5 COORDINATION OF THE
14 LONG-TERM CARE SYSTEM.

15 1. Any person representing a program to the public
16 as an assisted living program prior to July 1, 1996,
17 shall be granted a temporary certification or
18 voluntary accreditation by the department and shall
19 meet the requirements of this chapter within one year
20 of the issuance of the temporary certification or
21 voluntary accreditation to receive subsequent
22 certification or voluntary accreditation.

23 2. A hospital licensed pursuant to chapter 135B or
24 a health care facility licensed pursuant to chapter
25 135C may operate an assisted living program, located
26 in a distinct part of or separate structure under the
27 control of the hospital or health care facility, if
28 certified or voluntarily accredited pursuant to this
29 chapter.

30 3. This chapter shall not be construed to require
31 that a facility licensed as a different type of
32 facility also comply with the requirements of this
33 chapter, unless the facility is represented to the
34 public as a certified or voluntarily accredited
35 assisted living program.

36 Sec. 6. MEDICAL ASSISTANCE WAIVER. The department
37 of human services shall seek an assisted living
38 program waiver from the health care financing
39 administration of the United States department of
40 health and human services to add a certified or
41 voluntarily accredited assisted living program as an
42 eligible provider under the medical assistance home
43 and community-based services waiver for the elderly.

44 Sec. 7. IMPLEMENTATION. It is the intent of the
45 general assembly that sections 1 through 5 of this Act
46 be implemented following the establishment of a
47 funding source for implementation and administration
48 of this Act."

By MARTIN of Scott
DAGGETT of Union

ERTL of Dubuque
BLODGETT of Cerro Gordo

H-5639 FILED MARCH 26, 1996

a dopted
5/1/96 (p. 2069)

SENATE FILE 454

H-3942

- 1 Amend Senate File 454, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, lines 28 and 29, by striking the words
4 "including but" and inserting the following: "which
5 may include but are".
6 2. Page 2, line 16, by striking the word
7 "cleaning" and inserting the following: "housekeeping
8 chores".
9 3. Page 2, by striking lines 22 through 28.
10 4. Page 5, by striking lines 2 through 4 and
11 inserting the following:
12 "f. Rules to establish a fee schedule for
13 certification."
14 5. Page 7, by striking line 6 and inserting the
15 following: "when a funding source for the Act's
16 implementation and administration is established."
17 6. By renumbering as necessary.

By MARTIN of Scott

H-3942 FILED APRIL 13, 1995

O/O/ordw
5/1/96
(p. 2069)

SENATE FILE 454

H-6059

1 Amend the amendment, H-5639, to Senate File 454, as
2 amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, line 17, by striking the words "the
5 nursing care" and inserting the following: "health-
6 related care".

7 2. Page 1, line 18, by inserting after the word
8 "a" the following: "continuous".

9 3. Page 2, line 24, by striking the words "or
10 voluntary accreditation".

11 4. Page 2, line 25, by inserting after the word
12 "programs." the following: "An assisted living
13 program which is voluntarily accredited is not
14 required to also be certified by the department and
15 the department shall accept voluntary accreditation in
16 lieu of certification by the department."

17 5. Page 2, by striking lines 31 and 32 and
18 inserting the following: "state shall be certified
19 with the department or shall be voluntarily
20 accredited. The owner or manager of a certified".

21 6. By striking page 2, line 49, through page 3,
22 line 5, and inserting the following:

23 "4. The department may enter into contracts to
24 provide certification and monitoring of assisted
25 living programs. The department shall have full
26 access to a program during certification and
27 monitoring of programs seeking certification or
28 currently certified. Upon the request of the
29 department the entity providing accreditation of a
30 program shall provide copies to the department of all
31 materials related to the accreditation process."

32 7. Page 3, by striking lines 17 and 18 and
33 inserting the following: "shall be granted a
34 temporary certification by the department or shall be
35 voluntarily accredited and shall".

36 8. Page 3, by striking lines 36 through 43 and
37 inserting the following:

38 "Sec. 6. MEDICAL ASSISTANCE WAIVER. The
39 department of human services shall take any actions
40 necessary to allow a certified or voluntarily
41 accredited assisted living program to be a provider of
42 personal care services under the medical assistance
43 home and community-based services waiver for the
44 elderly."

By CARROLL of Poweshiek
WITT of Black Hawk
MARTIN of Scott

H-6059 FILED APRIL 30, 1996

Adopted 5/1/96
(p. 2069)

SENATE FILE 454

H-5715

1 Amend the amendment, H-5639, to Senate File 454, as
2 amended, passed, and reprinted by the Senate, as
3 follows:

4 1. By striking page 1, line 3, through page 3,
5 line 48, and inserting the following:

6 "_____. By striking everything after the enacting
7 clause and inserting the following:

8 "Section 1. NEW SECTION. 231C.1 DEFINITIONS.

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

11 1. "Assisted living program" means a program which
12 provides housing and which additionally provides or
13 arranges for services including but not limited to
14 health-related care, personal care, and assistance
15 with instrumental activities of daily living to six or
16 more tenants in a physical structure which provides a
17 homelike environment. An assisted living program is
18 characterized by service provision which is consumer-
19 driven, flexible, and individualized, and that
20 maximizes consumer independence, choice, and dignity.

21 "Assisted living program" does not include the
22 provision of housing and assistance with instrumental
23 activities of daily living which does not also include
24 the provision of personal or health-related care.

25 2. "Department" means the department of elder
26 affairs created in chapter 231 or the department's
27 designee.

28 3. "Health-related care" means services provided
29 by a licensed or certified health care professional.

30 4. "Instrumental activities of daily living" means
31 those activities that reflect the tenant's ability to
32 perform household and other tasks necessary to meet
33 the tenant's needs within the community, including but
34 not limited to shopping, cooking, housekeeping and
35 other household tasks, and traveling within the
36 community.

37 5. "Personal care" means assistance with the
38 essential activities of daily living which may include
39 but are not limited to transferring, bathing, personal
40 hygiene, dressing, grooming, housekeeping essential to
41 the health and welfare of the tenant, and supervising
42 of self-administered medications. "Personal care"
43 does not include administration of medications.

44 6. "Tenant" means an individual who is a recipient
45 of assisted living program services.

46 Sec. 2. NEW SECTION. 231C.2 ACCREDITATION OF
47 ASSISTED LIVING PROGRAMS.

48 1. A program which is represented to the public as
49 an assisted living program shall be accredited by an
50 independent entity.

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1 2. An independent entity which provides
2 accreditation services shall provide copies of all
3 requested materials relating to the accreditation
4 process to the department.

5 3. A hospital licensed pursuant to chapter 135B or
6 a health care facility licensed pursuant to chapter
7 135C may operate an assisted living program, located
8 in a distinct part of or a separate structure under
9 the control of the hospital or health care facility,
10 if the program is accredited pursuant to this chapter.

11 Sec. 3. NEW SECTION. 231C.3 SANCTIONS.

12 The department may adopt rules to establish
13 sanctions for failure to comply with the accreditation
14 provisions of this chapter. Additional sanctions
15 shall not be imposed for violations for which
16 sanctions exist under other law including but not
17 limited to building code and fire safety violations,
18 dependent adult abuse and adult protective services
19 provisions, and home health care regulations.

20 Sec. 4. MEDICAL ASSISTANCE WAIVER. The department
21 of human services shall seek a waiver from the health
22 care financing administration of the United States
23 department of health and human services to include
24 assisted living programs as eligible providers under
25 the medical assistance home and community-based
26 services waiver for the elderly.

27 Sec. 5. IMPLEMENTATION.

28 1. The department shall approve at least one
29 independent entity for the purposes of accrediting
30 assisted living programs on or before July 1, 1997.

31 2. The requirements of this chapter relating to
32 accreditation of assisted living programs take effect
33 July 1, 1998, if the program represents itself to the
34 public as an assisted living program."

35 _____. Title page, line 2, by inserting after the
36 word "program" the following: "accreditation
37 process".

38 _____. Title page, line 3, by striking the word
39 "penalties" and inserting the following:
40 "sanctions".

41 2. By renumbering as necessary.

By WITT of Black Hawk
CARROLL of Poweshiek

H-5715 FILED MARCH 28, 1996

Adopted 4-2-96 (p. 1306)
motion to R/C by Blodgett 4-2-96 (p. 1306)

Now — **WITHDRAWN**
5-1-96 (p. 2068)

HOUSE AMENDMENT TO
SENATE FILE 454

S-5877

1 Amend Senate File 454, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 231C.1 FINDINGS AND
6 PURPOSE.

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

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

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

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

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

27 Sec. 2. NEW SECTION. 231C.2 DEFINITIONS.

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

30 1. "Assisted living" means provision of housing
31 with services which may include but are not limited to
32 health-related care, personal care, and assistance
33 with instrumental activities of daily living to six or
34 more tenants in a physical structure which provides a
35 homelike environment. "Assisted living" also includes
36 encouragement of family involvement, tenant self-
37 direction, and tenant participation in decisions that
38 emphasize choice, dignity, privacy, individuality,
39 shared risk, and independence. "Assisted living" does
40 not include the provision of housing and assistance
41 with instrumental activities of daily living which
42 does not also include provision of personal care or
43 health-related care.

44 2. "Department" means the department of elder
45 affairs created in chapter 231 or the department's
46 designee.

47 3. "Health-related care" means services provided
48 by a registered nurse or a licensed practical nurse,
49 on a part-time or intermittent basis, and services
50 provided by other licensed health care professionals,

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1 on a part-time or intermittent basis, as defined by
2 rule.

3 4. "Instrumental activities of daily living" means
4 those activities that reflect the tenant's ability to
5 perform household and other tasks necessary to meet
6 the tenant's needs within the community, which may
7 include but are not limited to shopping, cooking,
8 housekeeping, chores, and traveling within the
9 community.

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

17 6. "Tenant" means an individual who receives
18 assisted living services through a certified or
19 accredited assisted living program.

20 Sec. 3. NEW SECTION. 231C.3 CERTIFICATION OR
21 VOLUNTARY ACCREDITATION OF ASSISTED LIVING PROGRAMS.

22 1. The department shall establish, by rule in
23 accordance with chapter 17A, a program for
24 certification and monitoring of assisted living
25 programs. An assisted living program which is
26 voluntarily accredited is not required to also be
27 certified by the department and the department shall
28 accept voluntary accreditation in lieu of
29 certification by the department. An assisted living
30 program certified or voluntarily accredited under this
31 section is exempt from the requirements of section
32 135.63 relating to certificate of need requirements.

33 2. Each assisted living program operating in the
34 state shall be certified with the department or shall
35 be voluntarily accredited. The owner or manager of a
36 certified assisted living program shall comply with
37 the rules adopted by the department for an assisted
38 living program. A person shall not represent an
39 assisted living program to the public as a certified
40 or voluntarily accredited program unless the program
41 is certified or voluntarily accredited pursuant to
42 this chapter.

43 3. Services provided by a certified or voluntarily
44 accredited assisted living program may be provided
45 directly by staff of the assisted living program, by
46 individuals contracting with the assisted living
47 program to provide services, or by individuals
48 employed by the tenant or with whom the tenant
49 contracts if the tenant agrees to assume the
50 responsibility and risk of the employment or the

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1 contractual relationship.

2 4. The department may enter into contracts to
3 provide certification and monitoring of assisted
4 living programs. The department shall have full
5 access to a program during certification and
6 monitoring of programs seeking certification or
7 currently certified. Upon the request of the
8 department the entity providing accreditation of a
9 program shall provide copies to the department of all
10 materials related to the accreditation process.

11 Sec. 4. NEW SECTION. 231C.4 FIRE AND SAFETY
12 STANDARDS.

13 The state fire marshal shall adopt rules, in
14 coordination with the department, relating to the
15 certification or voluntary accreditation and
16 monitoring of the fire and safety of certified or
17 voluntarily accredited assisted living programs.

18 Sec. 5. NEW SECTION. 231C.5 COORDINATION OF THE
19 LONG-TERM CARE SYSTEM.

20 1. Any person representing a program to the public
21 as an assisted living program prior to July 1, 1996,
22 shall be granted a temporary certification by the
23 department or shall be voluntarily accredited and
24 shall meet the requirements of this chapter within one
25 year of the issuance of the temporary certification or
26 voluntary accreditation to receive subsequent
27 certification or voluntary accreditation.

28 2. A hospital licensed pursuant to chapter 135B or
29 a health care facility licensed pursuant to chapter
30 135C may operate an assisted living program, located
31 in a distinct part of or separate structure under the
32 control of the hospital or health care facility, if
33 certified or voluntarily accredited pursuant to this
34 chapter.

35 3. This chapter shall not be construed to require
36 that a facility licensed as a different type of
37 facility also comply with the requirements of this
38 chapter, unless the facility is represented to the
39 public as a certified or voluntarily accredited
40 assisted living program.

41 Sec. 6. MEDICAL ASSISTANCE WAIVER. The department
42 of human services shall take any actions necessary to
43 allow a certified or voluntarily accredited assisted
44 living program to be a provider of personal care
45 services under the medical assistance home and
46 community-based services waiver for the elderly.

47 Sec. 7. IMPLEMENTATION. It is the intent of the
48 general assembly that sections 1 through 5 of this Act
49 be implemented following the establishment of a
50 funding source for implementation and administration

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Page 4

1 of this Act."

RECEIVED FROM THE HOUSE

S-5877 FILED MAY 1, 1996
CONCURRED

(P. 58)

Tinsman
Kramer
Szymoniak

SSB-295

Succeeded By Human Resources
SF/HF _____

SENATE FILE 454

BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON SZYMONIAK)

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

A BILL FOR

1 An Act relating to the establishment of an assisted living
2 program within the department of elder affairs and providing
3 penalties.

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

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1 Section 1. NEW SECTION. 231C.1 FINDINGS AND PURPOSE.

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

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

9 a. To encourage the establishment and maintenance of a
10 safe and homelike environment for individuals of all income
11 levels who require assistance to live independently but who do
12 not require the intensity of services provided by a nursing
13 facility.

14 b. To establish standards for assisted living programs
15 that promote the rights of individuals, safety, and sanitary
16 conditions while not being overly restrictive so as to
17 discourage the development of assisted living programs.

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

23 d. To encourage general public participation in the
24 development of assisted living programs.

25 Sec. 2. NEW SECTION. 231C.2 DEFINITIONS.

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

28 1. "Assisted living" means provision of services including
29 but not limited to housing, health-related care, personal
30 care, and assistance with instrumental activities of daily
31 living to six or more tenants in a physical structure which
32 provides a homelike environment. "Assisted living" also
33 includes encouragement of family involvement, resident self-
34 direction, and resident participation in decisions that
35 emphasize choice, dignity, privacy, individuality, shared

1 risk, and independence. "Assisted living" does not include
2 the provision of housing and assistance with instrumental
3 activities of daily living which does not also include
4 provision of personal care or health-related care.

5 2. "Department" means the department of elder affairs
6 created in chapter 231 or the department's designee.

7 3. "Health-related care" means services provided by a
8 licensed nurse or other licensed health care professional on a
9 part-time or intermittent basis. "Health-related care" may
10 include but is not limited to administration of medications,
11 skin care, health assessment, and monitoring of clinical
12 symptoms, but does not include twenty-four-hour care provided
13 by a licensed nurse or other licensed health care
14 professional.

15 4. "Instrumental activities of daily living" means those
16 activities that reflect the tenant's ability to perform
17 household and other tasks necessary to meet the tenant's needs
18 within the community, including but not limited to shopping,
19 cooking, cleaning, and traveling within the community.

20 5. "Manager" means an individual who is eighteen years of
21 age or older who is responsible for the daily management of an
22 assisted living program.

23 6. "Part-time" or "intermittent" means up to and including
24 twenty-eight hours per week of skilled nursing and personal
25 care services, combined, provided on a less than daily basis,
26 or up to and including eight hours per day of necessary
27 skilled nursing and personal care services, combined, which
28 are provided seven days per week for temporary, but not
29 indefinite, periods of time of not more than twenty-one days.

30 7. "Personal care" means assistance with the essential
31 activities of daily living which may include but are not
32 limited to transferring, bathing, personal hygiene, dressing,
33 grooming, housekeeping chores essential to the health and
34 welfare of the tenant, and supervising of self-administered
35 medications, but does not include the administration of

1 medications.

2 8. "Personal care as supportive assistance" means personal
3 care provided to maintain general health but not provided as
4 part of medical treatment.

5 9. "Provides" means making services available through
6 contractual agreement between the assisted living program
7 manager and the tenant.

8 10. "Shared risk" means an agreement between the tenant
9 and the assisted living program manager stating that the
10 recipient understands the inherent risks involved in the
11 consumer-control philosophy of the program and that the
12 manager will be held harmless in incidents involving tenant-
13 chosen action.

14 11. "Tenant" means an individual who receives assisted
15 living services through an assisted living program.

16 Sec. 3. NEW SECTION. 231C.3 CERTIFICATION OF ASSISTED
17 LIVING PROGRAMS.

18 1. The department shall establish, by rule in accordance
19 with chapter 17A, a program for certification and monitoring
20 of assisted living programs. The rules adopted shall be
21 consistent with all applicable state rules and federal
22 regulations. An assisted living program certified under this
23 section is exempt from the requirements of section 135.63
24 relating to certificate of need requirements.

25 2. The rules adopted under this section shall include but
26 are not limited to all of the following:

27 a. Requirements for certification of assisted living
28 programs which include but are not limited to all of the
29 following:

30 (1) Certification for a period of five years, unless
31 certification is revoked by the department for good cause.

32 (2) Review of the assisted living program at the time of
33 certification and at the time of recertification.

34 (3) Employment of an assisted living program manager to
35 provide services to meet the needs of the tenants.

1 (4) Provision of a minimum private space for each tenant
2 sufficient for sleeping and dressing.

3 (5) Provision of core service capacity which at a minimum
4 includes twenty-four-hour response capability to meet
5 unscheduled or unpredictable needs of tenants, the ability to
6 create individualized service plans based on a needs
7 assessment of tenants, and the ability to coordinate services.

8 (6) Provision of health-related care and personal care as
9 part of medical treatment by a Medicare-certified home health
10 agency, a certified assisted living program, a hospital
11 licensed pursuant to chapter 135B, a health care facility as
12 defined in chapter 135C, a relative of the tenant by
13 consanguinity or affinity. The rules shall also provide that
14 personal care support assistance may be provided by a home
15 care aide service approved by the department of public health
16 pursuant to the rules adopted for the home care aid service
17 program under section 135.11.

18 (7) A written contract between the operator of the
19 assisted living program and the tenant regarding shared risk.

20 b. Rules to provide for the granting of a variance in
21 accordance with a written procedure, from the requirements
22 established by rule, if the need for a variance is established
23 by the manager of the assisted living program and the variance
24 applies only to the assisted living program filing the
25 request.

26 c. Rules governing ownership, operation, and management of
27 an assisted living program.

28 d. Rules to establish appropriate sanctions and penalties
29 to ensure compliance with the laws and rules regulating
30 assisted living programs and for the safety and protection of
31 tenants. The sanctions may include civil monetary penalties
32 and decertification of an assisted living program.

33 e. Rules to establish procedures for the appointment of
34 members of a care review committee for each assisted living
35 program.

1 f. Rules to establish a fee schedule for certification
2 which is consistent with the costs of administering the
3 certification process.

4 3. Each assisted living program operating in the state
5 shall be certified with the department. The owner or manager
6 of an assisted living program shall comply with the rules
7 adopted by the department for an assisted living program. A
8 person shall not represent an assisted living program to the
9 public as a certified program unless the program is certified
10 pursuant to this chapter.

11 4. Services provided by a certified assisted living
12 program may be provided directly by staff of the assisted
13 living program, by individuals contracting with the assisted
14 living program to provide services, or by individuals employed
15 by the tenant if the tenant agrees to assume the
16 responsibility and risk of the employment.

17 5. The department shall certify and monitor assisted
18 living programs in cooperation with other affected agencies.
19 The department may enter into contracts to provide
20 certification and monitoring. The department shall have full
21 access to a program during certification and monitoring of the
22 program.

23 Sec. 4. NEW SECTION. 231C.4 REFERRAL TO UNCERTIFIED
24 ASSISTED LIVING PROGRAM PROHIBITED.

25 1. A person, including but not limited to public agencies
26 and service coordinators, shall not place, refer, or recommend
27 the placement of an individual in an assisted living program
28 if the program has not been certified pursuant to this
29 chapter.

30 2. A person who has knowledge that an assisted living
31 program is operating without certification may report the name
32 and address of the program to the department. The department
33 shall investigate any reports made pursuant to this
34 subsection.

35 Sec. 5. NEW SECTION. 231C.5 FIRE AND SAFETY STANDARDS.

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

5 Sec. 6. NEW SECTION. 231C.6 COORDINATION OF THE LONG-
6 TERM CARE SYSTEM.

7 1. Any person representing a program to the public as an
8 assisted living program prior to July 1, 1995, shall be
9 granted a temporary certification by the department and shall
10 meet the requirements of this chapter within one year of the
11 issuance of the temporary certification to receive subsequent
12 certification.

13 2. A hospital licensed pursuant to chapter 135B or a
14 health care facility licensed pursuant to chapter 135C may
15 operate an assisted living program, located in a distinct part
16 of or separate structure under the control of the hospital or
17 health care facility, if certified pursuant to this chapter.

18 3. This chapter shall not be construed to require that a
19 facility licensed as a different type of facility also comply
20 with the requirements of this chapter, unless the facility is
21 represented to the public as an assisted living program.

22 Sec. 7. Section 235B.3, subsection 2, Code 1995, is
23 amended by adding the following new paragraph:

24 NEW PARAGRAPH. g. An owner or manager of a certified
25 assisted living program regulated under chapter 231C.

26 EXPLANATION

27 This bill directs the department of elder affairs to
28 establish a program for the certification of assisted living
29 programs. The bill provides findings and purposes related to
30 the establishment of the program and provides definitions
31 including the definition of "assisted living". The bill also
32 establishes an assisted living program certification program
33 which requires certification of any assisted living program in
34 the state and which includes five-year certification, minimum
35 and required services and environmental standards, provisions

1 for the granting of variances from the requirements, the
2 adoption of rules by the department to establish sanctions and
3 penalties for noncompliance with the chapter, the appointment
4 of a care review committee for each program, and the
5 establishment of a fee schedule for the certification process.

6 The bill also provides for the adoption of rules by the
7 state fire marshal, in coordination with the department, for
8 assisted living programs, prohibits referral to an uncertified
9 assisted living program, provides for a one-year temporary
10 certification process for assisted living programs existing at
11 the time of enactment of the bill, and provides that a program
12 which is not represented as an assisted living program is not
13 required to also be certified as an assisted living program.

14 The bill also includes owners and managers of assisted
15 living programs as mandatory reporters of dependent adult
16 abuse.

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SENATE FILE 454

AN ACT

RELATING TO THE ESTABLISHMENT OF AN ASSISTED LIVING PROGRAM
WITHIN THE DEPARTMENT OF ELDER AFFAIRS, PROVIDING FOR
IMPLEMENTATION, AND PROVIDING PENALTIES.

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

Section 1. NEW SECTION. 231C.1 FINDINGS AND PURPOSE.

1. The general assembly finds that assisted living is an important part of the long-term care system 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 individual independence, individual needs and desires, and consumer-driven quality of service.

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

Sec. 2. NEW SECTION. 231C.2 DEFINITIONS.

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

1. "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 six 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" does not include the provision of housing and assistance with instrumental activities of daily living which does not also include provision of personal care or health-related care.

2. "Department" means the department of elder affairs created in chapter 231 or the department's designee.

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

4. "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.

5. "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, housekeeping essential to the health and welfare of the tenant, and supervising of self-administered medications, but does not include the administration of medications.

6. "Tenant" means an individual who receives assisted living services through a certified or accredited assisted living program.

Sec. 3. NEW SECTION. 231C.3 CERTIFICATION OR VOLUNTARY ACCREDITATION OF ASSISTED LIVING PROGRAMS.

1. The department shall establish, by rule in accordance with chapter 17A, a program for certification and monitoring of assisted living programs. An assisted living program which is voluntarily accredited is not required to also be certified by the department and the department shall accept voluntary accreditation in lieu of certification by the department. An assisted living program certified or voluntarily accredited under this section is exempt from the requirements of section 135.63 relating to certificate of need requirements.

2. Each assisted living program operating in the state shall be certified with the department or shall be voluntarily accredited. 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 shall not represent an assisted living program to the public as a certified or voluntarily accredited program unless the program is certified or voluntarily accredited pursuant to this chapter.

3. Services provided by a certified or voluntarily accredited 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.

4. The department may enter into contracts to provide certification and monitoring of assisted living programs. The department shall have full access to a program during certification and monitoring of programs seeking certification

or currently certified. Upon the request of the department the entity providing accreditation of a program shall provide copies to the department of all materials related to the accreditation process.

Sec. 4. NEW SECTION. 231C.4 FIRE AND SAFETY STANDARDS.

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

Sec. 5. NEW SECTION. 231C.5 COORDINATION OF THE LONG-TERM CARE SYSTEM.

1. Any person representing a program to the public as an assisted living program prior to July 1, 1996, shall be granted a temporary certification by the department or shall be voluntarily accredited and shall meet the requirements of this chapter within one year of the issuance of the temporary certification or voluntary accreditation to receive subsequent certification or voluntary accreditation.

2. A hospital licensed pursuant to chapter 135B or a health care facility licensed pursuant to chapter 135C may operate an assisted living program, located in a distinct part of or separate structure under the control of the hospital or health care facility, if certified or voluntarily accredited pursuant to this chapter.

3. 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 or voluntarily accredited assisted living program.

Sec. 6. MEDICAL ASSISTANCE WAIVER. The department of human services shall take any actions necessary to allow a certified or voluntarily accredited assisted living program to be a provider of personal care services under the medical assistance home and community-based services waiver for the elderly.

Sec. 7. IMPLEMENTATION. It is the intent of the general assembly that sections 1 through 5 of this Act be implemented following the establishment of a funding source for implementation and administration of this Act.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 454, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 17, 1996

TERRY E. BRANSTAD
Governor

SF 454