

Senate Study Bill 295

Conference Committee Text

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1 1 Section 1. NEW SECTION. 231C.1 FINDINGS AND PURPOSE.
1 2 1. The general assembly finds that assisted living is an
1 3 important part of the long-term care system in this state.
1 4 Assisted living emphasizes the independence and dignity of the
1 5 individual while providing services in a cost-effective
1 6 manner.
1 7 2. The purposes of establishing an assisted living program
1 8 include all of the following:
1 9 a. To encourage the establishment and maintenance of a
1 10 safe and homelike environment for individuals of all income
1 11 levels who require assistance to live independently but who do
1 12 not require the intensity of services provided by a nursing
1 13 facility.
1 14 b. To establish standards for assisted living programs
1 15 that promote the rights of individuals, safety, and sanitary
1 16 conditions while not being overly restrictive so as to
1 17 discourage the development of assisted living programs.
1 18 c. To establish standards for assisted living programs
1 19 that allow flexibility in design which promotes a social model
1 20 of service delivery by focusing on individual independence,
1 21 individual needs and desires, and consumer-driven quality of
1 22 service.
1 23 d. To encourage general public participation in the
1 24 development of assisted living programs.
1 25 Sec. 2. NEW SECTION. 231C.2 DEFINITIONS.
1 26 As used in this chapter, unless the context otherwise
1 27 requires:
1 28 1. "Assisted living" means provision of services including
1 29 but not limited to housing, health-related care, personal
1 30 care, and assistance with instrumental activities of daily
1 31 living to six or more tenants in a physical structure which
1 32 provides a homelike environment. "Assisted living" also
1 33 includes encouragement of family involvement, resident self-
1 34 direction, and resident participation in decisions that
1 35 emphasize choice, dignity, privacy, individuality, shared
2 1 risk, and independence. "Assisted living" does not include
2 2 the provision of housing and assistance with instrumental
2 3 activities of daily living which does not also include
2 4 provision of personal care or health-related care.
2 5 2. "Department" means the department of elder affairs
2 6 created in chapter 231 or the department's designee.
2 7 3. "Health-related care" means services provided by a
2 8 licensed nurse or other licensed health care professional on a
2 9 part-time or intermittent basis. "Health-related care" may
2 10 include but is not limited to administration of medications,
2 11 skin care, health assessment, and monitoring of clinical
2 12 symptoms, but does not include twenty-four-hour care provided
2 13 by a licensed nurse or other licensed health care
2 14 professional.
2 15 4. "Instrumental activities of daily living" means those
2 16 activities that reflect the tenant's ability to perform
2 17 household and other tasks necessary to meet the tenant's needs
2 18 within the community, including but not limited to shopping,
2 19 cooking, cleaning, and traveling within the community.
2 20 5. "Manager" means an individual who is eighteen years of
2 21 age or older who is responsible for the daily management of an

2 22 assisted living program.

2 23 6. "Part-time" or "intermittent" means up to and including
2 24 twenty-eight hours per week of skilled nursing and personal
2 25 care services, combined, provided on a less than daily basis,
2 26 or up to and including eight hours per day of necessary
2 27 skilled nursing and personal care services, combined, which
2 28 are provided seven days per week for temporary, but not
2 29 indefinite, periods of time of not more than twenty-one days.

2 30 7. "Personal care" means assistance with the essential
2 31 activities of daily living which may include but are not
2 32 limited to transferring, bathing, personal hygiene, dressing,
2 33 grooming, housekeeping chores essential to the health and
2 34 welfare of the tenant, and supervising of self-administered
2 35 medications, but does not include the administration of

3 1 medications.

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

3 5 9. "Provides" means making services available through
3 6 contractual agreement between the assisted living program
3 7 manager and the tenant.

3 8 10. "Shared risk" means an agreement between the tenant
3 9 and the assisted living program manager stating that the
3 10 recipient understands the inherent risks involved in the
3 11 consumer-control philosophy of the program and that the
3 12 manager will be held harmless in incidents involving tenant-
3 13 chosen action.

3 14 11. "Tenant" means an individual who receives assisted
3 15 living services through an assisted living program.

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

3 18 1. The department shall establish, by rule in accordance
3 19 with chapter 17A, a program for certification and monitoring
3 20 of assisted living programs. The rules adopted shall be
3 21 consistent with all applicable state rules and federal
3 22 regulations. An assisted living program certified under this
3 23 section is exempt from the requirements of section 135.63
3 24 relating to certificate of need requirements.

3 25 2. The rules adopted under this section shall include but
3 26 are not limited to all of the following:

3 27 a. Requirements for certification of assisted living
3 28 programs which include but are not limited to all of the
3 29 following:

3 30 (1) Certification for a period of five years, unless
3 31 certification is revoked by the department for good cause.

3 32 (2) Review of the assisted living program at the time of
3 33 certification and at the time of recertification.

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

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

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

4 8 (6) Provision of health-related care and personal care as
4 9 part of medical treatment by a Medicare-certified home health
4 10 agency, a certified assisted living program, a hospital
4 11 licensed pursuant to chapter 135B, a health care facility as
4 12 defined in chapter 135C, a relative of the tenant by
4 13 consanguinity or affinity. The rules shall also provide that
4 14 personal care support assistance may be provided by a home
4 15 care aide service approved by the department of public health
4 16 pursuant to the rules adopted for the home care aid service
4 17 program under section 135.11.

4 18 (7) A written contract between the operator of the

4 19 assisted living program and the tenant regarding shared risk.
4 20 b. Rules to provide for the granting of a variance in
4 21 accordance with a written procedure, from the requirements
4 22 established by rule, if the need for a variance is established
4 23 by the manager of the assisted living program and the variance
4 24 applies only to the assisted living program filing the
4 25 request.

4 26 c. Rules governing ownership, operation, and management of
4 27 an assisted living program.

4 28 d. Rules to establish appropriate sanctions and penalties
4 29 to ensure compliance with the laws and rules regulating
4 30 assisted living programs and for the safety and protection of
4 31 tenants. The sanctions may include civil monetary penalties
4 32 and decertification of an assisted living program.

4 33 e. Rules to establish procedures for the appointment of
4 34 members of a care review committee for each assisted living
4 35 program.

5 1 f. Rules to establish a fee schedule for certification
5 2 which is consistent with the costs of administering the
5 3 certification process.

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

5 11 4. Services provided by a certified assisted living
5 12 program may be provided directly by staff of the assisted
5 13 living program, by individuals contracting with the assisted
5 14 living program to provide services, or by individuals employed
5 15 by the tenant if the tenant agrees to assume the
5 16 responsibility and risk of the employment.

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

5 23 Sec. 4. NEW SECTION. 231C.4 REFERRAL TO UNCERTIFIED
5 24 ASSISTED LIVING PROGRAM PROHIBITED.

5 25 1. A person, including but not limited to public agencies
5 26 and service coordinators, shall not place, refer, or recommend
5 27 the placement of an individual in an assisted living program
5 28 if the program has not been certified pursuant to this
5 29 chapter.

5 30 2. A person who has knowledge that an assisted living
5 31 program is operating without certification may report the name
5 32 and address of the program to the department. The department
5 33 shall investigate any reports made pursuant to this
5 34 subsection.

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

6 1 The state fire marshal shall adopt rules, in coordination
6 2 with the department, relating to the certification and
6 3 monitoring of the fire and safety of certified assisted living
6 4 programs.

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

6 7 1. Any person representing a program to the public as an
6 8 assisted living program prior to July 1, 1995, shall be
6 9 granted a temporary certification by the department and shall
6 10 meet the requirements of this chapter within one year of the
6 11 issuance of the temporary certification to receive subsequent
6 12 certification.

6 13 2. A hospital licensed pursuant to chapter 135B or a
6 14 health care facility licensed pursuant to chapter 135C may
6 15 operate an assisted living program, located in a distinct part

6 16 of or separate structure under the control of the hospital or
6 17 health care facility, if certified pursuant to this chapter.
6 18 3. This chapter shall not be construed to require that a
6 19 facility licensed as a different type of facility also comply
6 20 with the requirements of this chapter, unless the facility is
6 21 represented to the public as an assisted living program.

6 22 Sec. 7. Section [235B.3](#), subsection 2, Code 1995, is
6 23 amended by adding the following new paragraph:

6 24 NEW PARAGRAPH. g. An owner or manager of a certified
6 25 assisted living program regulated under chapter 231C.

6 26 EXPLANATION

6 27 This bill directs the department of elder affairs to
6 28 establish a program for the certification of assisted living
6 29 programs. The bill provides findings and purposes related to
6 30 the establishment of the program and provides definitions
6 31 including the definition of "assisted living". The bill also
6 32 establishes an assisted living program certification program
6 33 which requires certification of any assisted living program in
6 34 the state and which includes five-year certification, minimum
6 35 and required services and environmental standards, provisions
7 1 for the granting of variances from the requirements, the
7 2 adoption of rules by the department to establish sanctions and
7 3 penalties for noncompliance with the chapter, the appointment
7 4 of a care review committee for each program, and the
7 5 establishment of a fee schedule for the certification process.

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

7 14 The bill also includes owners and managers of assisted
7 15 living programs as mandatory reporters of dependent adult
7 16 abuse.

7 17 LSB 2506SC 76

7 18 pf/sc/14