

MAR 3 2003
Place On Calendar

HOUSE FILE **386**
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 143)

Passed House, Date Passed 3/17/03 ^{4/22/03} Passed Senate, Date Passed 4/15/03
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved 5/21/03

A BILL FOR

1 An Act relating to the department of elder affairs including
2 provisions relating to the elder Iowans Act.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 386

1 Section 1. Section 231.3, subsections 1, 3, and 4, Code
2 2003, are amended to read as follows:

3 1. An adequate income ~~in-retirement.~~

4 3. Suitable housing, ~~appropriate-to-the-special~~ that
5 reflects the needs of older people.

6 4. Full restorative services for those who require
7 institutional care, and a comprehensive array of community-
8 based, long-term care services adequate to sustain older
9 people in their communities and, whenever possible, in their
10 homes, including support for caregivers.

11 Sec. 2. Section 231.4, Code 2003, is amended to read as
12 follows:

13 231.4 DEFINITIONS.

14 For purposes of this chapter, unless the context otherwise
15 requires:

16 1. "Administrative action" means an action or decision
17 made by an owner, employee, or agent of a long-term care
18 facility, or by a governmental agency, which affects the
19 service provided to residents covered in this chapter.

20 2. "Commission" means the commission of elder affairs.

21 ~~3. "Comprehensive and coordinated system" means a system~~
22 ~~for providing all necessary supportive services, including~~
23 ~~nutrition services, in a manner designed to:~~

24 ~~a. Facilitate accessibility to, and utilization of, all~~
25 ~~supportive services and nutrition services provided within the~~
26 ~~geographic area served by the system by any public or private~~
27 ~~agency or organization.~~

28 ~~b. Develop and make the most efficient use of supportive~~
29 ~~services and nutrition services in meeting the needs of~~
30 ~~elders.~~

31 ~~c. Use available resources efficiently and with a minimum~~
32 ~~of duplication.~~

33 ~~4.~~ 3. "Department" means the department of elder affairs.

34 ~~5.~~ 4. "Director" means the director of the department of
35 elder affairs.

1 6. 5. "Elder" means an individual who is sixty years of
2 age or older. "Elderly" means individuals sixty years of age
3 or older.

4 7. 6. "Equivalent support" means in-kind contributions of
5 services, goods, volunteer support time, administrative
6 support, or other support reasonably determined by the
7 commission department as equivalent to a dollar amount.

8 8. 7. "Federal Act" means the Older Americans Act of 1965,
9 42 U.S.C. § 3001 et seq., as amended ~~to-and-including-February~~
10 ~~17-1986.~~

11 9. --"Focal-point"-means-a-facility-established-to-encourage
12 the-maximum-collocation-and-coordination-of-services-for
13 elders.

14 10. --"Greatest-economic-need"-means-the-need-resulting-from
15 an-income-level-at-or-below-the-poverty-threshold-established
16 by-the-bureau-of-the-census.

17 11. --"Greatest-social-need"-means-the-need-caused-by
18 noneconomic-factors-which-include-physical-and-mental
19 disabilities, language-barriers, and-cultural-or-social
20 isolation-including-that-caused-by-racial-or-ethnic-status
21 which-restricts-an-individual's-ability-to-perform-normal
22 daily-tasks-or-which-threatens-the-elder's-capacity-to-live
23 independently.

24 12. --"Information-and-referral-source"-means-a-location
25 where-a-department-of-elder-affairs-or-any-public-or-private
26 agency-or-organization.

27 a. --Maintains-current-information-with-respect-to-the
28 opportunities-and-services-available-to-elders, and-develops
29 current-lists-of-elders-in-need-of-services-and-opportunities.

30 b. --Employs, where-feasible, a-specially-trained-staff-to
31 assess-the-needs-and-capacities-of-elders, and-to-inform
32 elders-of-the-opportunities-and-services.

33 13. --"Legal-assistance"-means-legal-advice-and
34 representation-by-an-attorney-including, but-not-limited-to,
35 counseling-or-other-appropriate-assistance-by-a-paralegal-or

~~1 law-student-under-the-supervision-of-an-attorney, and includes
2 counseling-or-representation-by-a-person-who-does-not-possess
3 a-juris-doctorate, where-permitted-by-law, of-elders-with
4 economic-or-social-needs.~~

5 ~~14: 8.~~ "Long-term care facility" means a long-term care
6 unit of a hospital, ~~a-licensed-hospice-program, a-foster-group
7 home, a-group-living-arrangement,~~ or a facility licensed under
8 section 135C.1 whether the facility is public or private.

9 ~~15:--"Multipurpose-senior-center"--means-a-community
10 facility-for-the-organization-and-provision-of-a-broad
11 spectrum-of-services, which-shall-include, but-not-be-limited
12 to, health, social, nutritional, and-educational-services-and
13 the-provision-of-facilities-for-recreational-activities-for
14 elders.~~

15 ~~16: 9.~~ "Resident's advocate program" means the state long-
16 term care resident's advocate program operated by the
17 ~~commission~~ department of elder affairs and administered by the
18 long-term care resident's advocate.

19 10. "Unit of general purpose local government" means a
20 political subdivision of the state whose authority is general
21 and not limited to one function or combination of related
22 functions.

23 For the purposes of this chapter, "focal point", "greatest
24 economic need", and "greatest social need" mean as those terms
25 are defined in the federal Act.

26 Sec. 3. Section 231.13, Code 2003, is amended to read as
27 follows:

28 231.13 MEETINGS -- OFFICERS.

29 Members of the commission shall elect from the commission's
30 membership a chairperson, and other officers as commission
31 members deem necessary, who shall serve for a period of two
32 years. The commission shall meet at regular intervals at
33 least ~~six~~ four times each year and may hold special meetings
34 at the call of the chairperson or at the request of a majority
35 of the commission membership. The commission shall meet at

1 the seat of government or such other place as the commission
2 may designate. Members shall be paid a per diem as specified
3 in section 7E.6 and shall receive reimbursement for actual
4 expenses for their official duties.

5 Sec. 4. Section 231.14, unnumbered paragraph 1, and
6 subsections 6, 7, 8, and 10, Code 2003, are amended to read as
7 follows:

8 The commission is the policymaking body of the sole state
9 agency responsible for administration of the ~~Elder-Americans~~
10 federal Act of 1965, as amended. The commission shall:

11 6. Adopt policies to assure that the department will take
12 into account the views of ~~recipients of supportive services or~~
13 ~~nutrition services, or~~ elders using multipurpose senior
14 centers in the development of policy.

15 7. Adopt a formula for the distribution of federal ~~Elder~~
16 Americans Act, state elderly services, and senior living
17 program funds taking into account, to the maximum extent
18 feasible, the best available data on the geographic
19 distribution of elders in the state, and publish the formula
20 for review and comment.

21 8. Adopt policies and measures to assure that preference
22 will be given to providing services to elders with the
23 greatest economic or social needs, with particular attention
24 to low-income minority elders, ~~and include methods of carrying~~
25 ~~out the preference in the state plan.~~

26 ~~10. Adopt policies by which eligibility for federal,~~
27 ~~state, and local funding is established at age sixty, with~~
28 ~~preference in service delivery given to elders age seventy-~~
29 ~~five or older.~~

30 Sec. 5. Section 231.23, subsection 4, Code 2003, is
31 amended to read as follows:

32 4. Advocate for elders by reviewing and commenting upon
33 all state plans, budgets, laws, rules, regulations, and
34 policies which affect elders and by providing technical
35 assistance to any agency, organization, association, or

1 individual representing the needs of the elders.

2 Sec. 6. Section 231.31, Code 2003, is amended by striking
3 the section and inserting in lieu thereof the following:

4 231.31 STATE PLAN ON AGING.

5 The department of elder affairs shall develop, and submit
6 to the commission of elder affairs for approval, a multiyear
7 state plan on aging. The state plan on aging shall meet all
8 applicable federal requirements.

9 Sec. 7. Section 231.32, Code 2003, is amended to read as
10 follows:

11 231.32 CRITERIA FOR DESIGNATION OF AREA AGENCIES ON AGING.

12 1. The commission shall designate thirteen area agencies
13 on aging, the same of which existed on July 1, 1985. The
14 commission shall continue the designation until an area agency
15 on aging's designation is removed for cause as determined by
16 the commission or until the agency voluntarily withdraws as an
17 area agency on aging. In that event, the commission shall
18 then proceed in accordance with subsections 2 and 3.

19 Designated area agencies on aging shall comply with the
20 requirements of the federal Act.

21 2. The commission shall designate an area agency to serve
22 each planning and service area, after consideration of the
23 views offered by ~~the political subdivisions in the area~~ units
24 of general purpose local government. An area agency may be:

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

28 b. Any office or agency of a unit of ~~a political~~
29 subdivision general purpose local government, which is
30 designated for the purpose of serving as an area agency by the
31 chief elected official of such unit.

32 c. Any office or agency designated by the appropriate
33 chief elected officials of any combination of ~~political~~
34 subdivisions units of general purpose local government to act
35 on behalf of the combination for such purpose.

1 d. Any public or nonprofit private agency in a planning
2 and service area or any separate organizational unit within
3 such agency which is under the supervision or direction for
4 this purpose of the department of elder affairs and which can
5 engage in the planning or provision of a broad range of
6 supportive services or nutrition services within the planning
7 and service area.

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

18 3. When the commission designates a new area agency on
19 aging the commission shall give the right of first refusal to
20 a ~~political-subdivision~~ unit of general purpose local
21 government if:

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

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

25 Sec. 8. Section 231.33, Code 2003, is amended to read as
26 follows:

27 231.33 AREA AGENCIES ON AGING DUTIES.

28 Each area agency on aging shall:

29 1. Develop and administer an area plan on aging.

30 2. Assess the types and levels of services needed by older
31 persons in the planning and service area, and the
32 effectiveness of other public or private programs serving
33 those needs.

34 3. Enter into subgrants or contracts to provide ~~all~~
35 services under the plan.

1 4. Provide technical assistance as needed, prepare written
2 monitoring reports at least quarterly, and provide a written
3 report of an annual on-site assessment of all service
4 providers funded by the area agency.

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

9 6. Establish an advisory council.

10 7. Give preference in the delivery of services under the
11 area plan to elders with the greatest economic or social need.

12 8. Assure that elders in the planning and service area
13 have reasonably convenient access to information and referral
14 services.

15 9. Provide adequate and effective opportunities for elders
16 to express their views to the area agency on policy
17 development and program implementation under the area plan.

18 10. Designate community focal points.

19 11. Contact outreach efforts, with special emphasis on the
20 rural elderly, to identify elders with greatest economic or
21 social needs and inform them of the availability of services
22 under the area plan.

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

25 ~~13. Attempt to involve the area lawyers in legal~~
26 ~~assistance activities.~~

27 ~~14.~~ 13. Submit all fiscal and performance reports in
28 accordance with the policies of the commission.

29 ~~15.~~ 14. Monitor, evaluate, and comment on laws, rules,
30 regulations, policies, programs, hearings, levies, and
31 community actions which significantly affect the lives of
32 elders.

33 ~~16.~~ 15. Conduct public hearings on the needs of elders.

34 ~~17.~~ 16. Represent the interests of elders to public
35 officials, public and private agencies, or organizations.

1 ~~18.~~ 17. Coordinate activities in support of the statewide
2 long-term care resident's advocate program.

3 ~~19.~~ 18. Coordinate planning with other agencies and
4 organizations to promote new or expanded benefits and
5 opportunities for elders.

6 ~~20.~~ 19. Coordinate planning with other agencies for
7 assuring the safety of elders in a natural disaster or other
8 safety threatening situation.

9 ~~21.--Submit-a-report-to-the-department-of-elder-affairs~~
10 ~~every-six-months,-of-the-name-of-each-health-care-facility-in~~
11 ~~its-area-for-which-the-resident-advocate-committee-has-failed~~
12 ~~to-submit-the-report-required-by-rules-adopted-pursuant-to~~
13 ~~section-231-44.~~

14 Sec. 9. Section 231.41, Code 2003, is amended to read as
15 follows:

16 231.41 PURPOSE.

17 The purpose of this subchapter is to establish the long-
18 term care resident's advocate program operated by the Iowa
19 commission of elder affairs in accordance with the
20 requirements of the ~~Older-Americans~~ federal Act of ~~1965~~, and
21 to adopt the supporting federal regulations and guidelines for
22 its implementation. In accordance with chapter 17A, the
23 commission of elder affairs shall adopt and enforce rules for
24 the implementation of this subchapter.

25 Sec. 10. Section 231.42, unnumbered paragraph 1, and
26 subsections 1, 3, and 5, Code 2003, are amended to read as
27 follows:

28 The Iowa commission of elder affairs, in accordance with
29 section 3027(a)(12) of the federal Act, shall establish the
30 office of long-term care resident's advocate within the
31 commission department. The long-term care resident's advocate
32 shall:

33 1. Investigate and resolve complaints about administrative
34 actions that may adversely affect the health, safety, welfare,
35 or rights of ~~elderly~~ residents in long-term care facilities,

1 excluding facilities licensed primarily to serve persons with
2 mental retardation or mental illness.

3 3. Provide information to other agencies and to the public
4 about the problems of elderly residents in long-term care
5 facilities, excluding facilities licensed primarily to serve
6 persons with mental retardation or mental illness.

7 5. Carry out other activities consistent with the
8 resident's-advocate state long-term care ombudsman program
9 provisions of the federal Act.

10 Sec. 11. Section 231.44, subsections 2, 3, and 4, Code
11 2003, are amended to read as follows:

12 2. The responsibilities of the resident advocate committee
13 are in accordance with the rules adopted by the commission
14 pursuant to chapter 17A. When adopting the rules, the
15 commission shall consider the needs of elder
16 group homes as defined in section 231B.1 and each category of
17 licensed health care facility as defined in section 135C.1,
18 subsection 6, and the services each facility may render. The
19 commission shall coordinate the development of rules with the
20 mental health and developmental disabilities commission
21 created in section 225C.5 to the extent the rules would apply
22 to a facility primarily serving persons with mental illness,
23 mental retardation, or a developmental disability. The
24 commission shall coordinate the development of appropriate
25 rules with other state agencies.

26 3. A ~~health~~ long-term care facility shall disclose the
27 names, addresses, and phone numbers of a resident's family
28 members, if requested, to a resident advocate committee
29 member, unless permission for this disclosure is refused in
30 writing by a family member.

31 4. ~~Neither-the~~ The state, nor any resident advocate
32 committee member is, any resident advocate coordinator, and
33 any sponsoring area agency on aging are not liable for an
34 action undertaken by a resident advocate committee member or a
35 resident advocate committee coordinator in the performance of

1 duty, if the action is undertaken and carried out in good
2 faith.

3 Sec. 12. Section 231.57, Code 2003, is amended to read as
4 follows:

5 231.57 COORDINATION OF ADVOCACY.

6 The department shall establish a program for the
7 coordination of information and assistance provided within the
8 state to assist elders in obtaining and protecting their
9 rights and benefits. ~~The insurance division of the department~~
10 ~~of commerce, office of the attorney general, the citizens'~~
11 ~~aid, and other state~~ State and local agencies providing
12 information and assistance to elders in seeking their rights
13 and benefits shall cooperate with the department in developing
14 and implementing this program. ~~The program shall include~~
15 ~~review of health insurance policies marketed to elders and~~
16 ~~other health-related written material distributed to elders~~
17 ~~for marketing purposes.~~

18 Sec. 13. Section 231.58, subsection 4, paragraph a, Code
19 2003, is amended to read as follows:

20 a. Develop, for legislative review, the mechanisms and
21 procedures necessary to implement, ~~utilizing current~~
22 ~~personnel,~~ a case-managed system of long-term care based on a
23 uniform comprehensive assessment tool.

24 Sec. 14. Section 514D.5, subsections 3 and 4, Code 2003,
25 are amended to read as follows:

26 3. The commissioner ~~after consultation with the commission~~
27 ~~of elder affairs~~ shall prescribe disclosure rules for medicare
28 Medicare supplement coverage which are determined to be in the
29 public interest and which are designed to adequately inform
30 the prospective insured of the need for and extent of coverage
31 offered as medicare Medicare supplement coverage. For
32 medicare Medicare supplement coverage, the outline of coverage
33 required by subsection 2 shall be furnished to the prospective
34 insured with the application form.

35 4. The commissioner ~~after consultation with the commission~~

1 ~~of-elder-affairs~~ shall further prescribe by rule a standard
2 form for and the contents of an informational brochure for
3 persons eligible for ~~medicare~~ Medicare by reason of age, which
4 is intended to improve the buyer's ability to select the most
5 appropriate coverage and to improve the buyer's understanding
6 of ~~medicare~~ Medicare. Except in the case of direct response
7 insurance policies, the commissioner may require by rule that
8 this informational brochure be provided to prospective
9 insureds eligible for ~~medicare~~ Medicare concurrently with
10 delivery of the outline of coverage. With respect to direct
11 response insurance policies, the commissioner may require by
12 rule that this brochure must be provided to prospective
13 insureds eligible for ~~medicare~~ Medicare by reason of age upon
14 request, but not later than at the time of delivery of the
15 policy or contract. ~~The-commissioner-shall-provide-the~~
16 ~~information-received-from-insurers-pursuant-to-subsection-3~~
17 ~~and-this-subsection-and-information-relating-to-section-231-59~~
18 ~~to-the-director-of-the-department-of-elder-affairs.~~

19 Sec. 15. Sections 231.24, 231.54, 231.59, and 231.60, Code
20 2003, are repealed.

21 EXPLANATION

22 This bill includes provisions relating to the department of
23 elder affairs including the elder Iowans Act (Code chapter
24 231).

25 The bill amends definitions used in the elder Iowans Act to
26 reference definitions used in the federal Older Americans Act
27 as amended.

28 The bill changes the number of times the commission on
29 elder affairs is required to meet from a minimum of six times
30 annually to a minimum of four times annually.

31 The bill replaces the specific listing of elements to be
32 included in the state plan on aging with a requirement that
33 the state plan meet all applicable federal requirements.

34 The bill directs area agencies on aging to comply with the
35 federal Act and replaces the reference to a "political

1 subdivision" with a reference to a "unit of general purpose
2 local government", which is a political subdivision of the
3 state whose authority is general and not linked to only one
4 function or combination of related functions.

5 The bill specifies that the long-term care resident's
6 advocate is responsible for providing advocacy services for
7 residents of long-term care facilities, with the exception of
8 facilities licensed primarily to serve persons with mental
9 retardation or mental illness. However, the bill does not
10 change the duties of the resident's advocate relating to
11 resident advocate committees, which are administered by the
12 resident's advocate program and which serve all facilities
13 including these facilities primarily serving persons with
14 mental illness, mental retardation, or a developmental
15 disability.

16 The bill also eliminates the elder law education program,
17 which ended operation when the state appropriation was
18 discontinued in state fiscal year 1992, and eliminates the
19 role of the department of elder affairs in the representative
20 payee projects which are currently sponsored locally. The
21 bill also eliminates the directive to the department of elder
22 affairs to develop and disseminate information regarding
23 insurance policies available to supplement Medicare and to
24 review health insurance policies since that function is
25 performed by the insurance division of the department of
26 commerce.

27 The bill also amends the section relating to coordination
28 of advocacy to remove the directive to specific agencies to
29 cooperate with the department of elder affairs and removes the
30 directive to review specific materials distributed to elders.

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HOUSE FILE 386

S-3203

1 Amend House File 386, as passed by the House, as
2 follows:

3 1. Page 10, line 1, by inserting after the word
4 "out" the following: "reasonably and".

By JACK HOLVECK
JERRY BEHN

S-3203 FILED APRIL 14, 2003

Adopted 4/15/03

HOUSE FILE 386

S-3208

1 Amend House File 386, as passed by the House, as
2 follows:

3 1. Page 5, by inserting after line 1 the
4 following:

5 "Sec. ____ . NEW SECTION. 231.23A PROGRAMS AND
6 SERVICES.

7 The department of elder affairs shall provide *for*
8 administer, but is not limited to providing *or*
9 administering, all of the following programs and
10 services:

11 1. Elderly services including but not limited *to*
12 home and community-based services such as adult *day*
13 services, assessment and intervention, transportation
14 chore services, counseling, homemaker services,
15 material aid, personal care, reassurance, respite
16 services, visitation, caregiver support, emergency
17 response system services, mental health outreach, *and*
18 home repair.

19 2. The senior internship program.

20 3. The retired senior volunteer program.

21 4. The case management program for the frail
22 elderly.

23 5. Administration relating to the long-term *care*
24 resident's advocate program.

25 6. Administration relating to the area agencies on
26 aging.

27 7. Other programs and services authorized by law."

By MAGGIE TINSMAN
JERRY BEHN

S-3208 FILED APRIL 14, 2003

Withdrawn 4/15/03

HOUSE FILE 386

S-3222

1 Amend House File 386, as passed by the House, as
2 follows:

3 1. Page 5, by inserting after line 1 the
4 following:

5 "Sec. ____ . NEW SECTION. 231.23A PROGRAMS ~~AND~~
6 SERVICES.

7 The department of elder affairs shall provide ~~for~~
8 administer, but is not limited to providing or
9 administering, all of the following programs ~~and~~
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12 home and community-based services such as adult day
13 services, assessment and intervention, transportation,
14 chore services, counseling, homemaker services,
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16 services, visitation, caregiver support, emergency
17 response system services, mental health outreach, and
18 home repair.

19 2. The senior internship program.

20 3. The retired senior volunteer program.

21 4. The case management program for the frail
22 elderly.

23 5. Administration relating to the long-term care
24 resident's advocate program and training for resident
25 advocate committees.

26 6. Administration relating to the area agencies on
27 aging.

28 7. Other programs and services authorized by law."

By MAGGIE TINSMAN

JERRY BEHN

S-3222 FILED APRIL 15, 2003

ADOPTED

SENATE AMENDMENT TO
HOUSE FILE 386

H-1349

1 Amend House File 386, as passed by the House, as
2 follows:

3 1. Page 5, by inserting after line 1 the
4 following:

5 "Sec. ____ . NEW SECTION. 231.23A PROGRAMS AND
6 SERVICES.

7 The department of elder affairs shall provide or
8 administer, but is not limited to providing or
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16 services, visitation, caregiver support, emergency
17 response system services, mental health outreach, and
18 home repair..

19 2. The senior internship program.

20 3. The retired senior volunteer program.

21 4. The case management program for the frail
22 elderly.

23 5. Administration relating to the long-term care
24 resident's advocate program and training for resident
25 advocate committees.

26 6. Administration relating to the area agencies on
27 aging.

28 7. Other programs and services authorized by law."

29 2. Page 10, line 1, by inserting after the word
30 "out" the following: "reasonably and".

31 3. By renumbering, relettering, or redesignating
32 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-1349 FILED APRIL 16, 2003

House concurred 4/22/03

Succeeded By
386

HSB 143
HUMAN RESOURCES

*Upmeyer
Boddicker
Miller*

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

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

A BILL FOR

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2 provisions relating to the elder Iowans Act.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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8 based, long-term care services adequate to sustain older
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11 Sec. 2. Section 231.4, Code 2003, is amended to read as
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13 231.4 DEFINITIONS.

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17 made by an owner, employee, or agent of a long-term care
18 facility, or by a governmental agency, which affects the
19 service provided to residents covered in this chapter.

20 2. "Commission" means the commission of elder affairs.

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22 ~~for providing all necessary supportive services, including~~
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25 ~~supportive services and nutrition services provided within the~~
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27 ~~agency or organization.~~

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29 ~~services and nutrition services in meeting the needs of~~
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31 ~~c. Use available resources efficiently and with a minimum~~
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34 ~~5.~~ 4. "Director" means the director of the department of
35 elder affairs.

1 6- 5. "Elder" means an individual who is sixty years of
2 age or older. "Elderly" means individuals sixty years of age
3 or older.

4 7- 6. "Equivalent support" means in-kind contributions of
5 services, goods, volunteer support time, administrative
6 support, or other support reasonably determined by the
7 commission department as equivalent to a dollar amount.

8 8- 7. "Federal Act" means the Older Americans Act of 1965,
9 42 U.S.C. § 3001 et seq., as amended to-and-including-February
10 17-1986.

11 9- --"Focal point" means a facility established to encourage
12 the maximum collocation and coordination of services for
13 elders.

14 10- --"Greatest economic need" means the need resulting from
15 an income level at or below the poverty threshold established
16 by the bureau of the census.

17 11- --"Greatest social need" means the need caused by
18 noneconomic factors which include physical and mental
19 disabilities, language barriers, and cultural or social
20 isolation including that caused by racial or ethnic status
21 which restricts an individual's ability to perform normal
22 daily tasks or which threatens the elder's capacity to live
23 independently.

24 12- --"Information and referral source" means a location
25 where a department of elder affairs or any public or private
26 agency or organization:

27 a- --Maintains current information with respect to the
28 opportunities and services available to elders, and develops
29 current lists of elders in need of services and opportunities.

30 b- --Employs, where feasible, a specially trained staff to
31 assess the needs and capacities of elders, and to inform
32 elders of the opportunities and services.

33 13- --"Legal assistance" means legal advice and
34 representation by an attorney including, but not limited to,
35 counseling or other appropriate assistance by a paralegal or

~~1 law student under the supervision of an attorney, and includes
2 counseling or representation by a person who does not possess
3 a juris doctorate, where permitted by law, of elders with
4 economic or social needs.~~

5 ~~14.~~ 8. "Long-term care facility" means a long-term care
6 unit of a hospital, a licensed hospice program, a foster group
7 home, a group living arrangement, or a facility licensed under
8 section 135C.1 whether the facility is public or private.

9 ~~15.~~ 15. "Multipurpose senior center" means a community
10 facility for the organization and provision of a broad
11 spectrum of services, which shall include, but not be limited
12 to, health, social, nutritional, and educational services and
13 the provision of facilities for recreational activities for
14 elders.

15 ~~16.~~ 9. "Resident's advocate program" means the state long-
16 term care resident's advocate program operated by the
17 commission department of elder affairs and administered by the
18 long-term care resident's advocate.

19 10. "Unit of general purpose local government" means a
20 political subdivision of the state whose authority is general
21 and not limited to one function or combination of related
22 functions.

23 For the purposes of this chapter, "focal point", "greatest
24 economic need", and "greatest social need" mean as those terms
25 are defined in the federal Act.

26 Sec. 3. Section 231.13, Code 2003, is amended to read as
27 follows:

28 231.13 MEETINGS -- OFFICERS.

29 Members of the commission shall elect from the commission's
30 membership a chairperson, and other officers as commission
31 members deem necessary, who shall serve for a period of two
32 years. The commission shall meet at regular intervals at
33 least ~~six~~ four times each year and may hold special meetings
34 at the call of the chairperson or at the request of a majority
35 of the commission membership. The commission shall meet at

1 the seat of government or such other place as the commission
2 may designate. Members shall be paid a per diem as specified
3 in section 7E.6 and shall receive reimbursement for actual
4 expenses for their official duties.

5 Sec. 4. Section 231.14, unnumbered paragraph 1, and
6 subsections 6, 7, 8, and 10, Code 2003, are amended to read as
7 follows:

8 The commission is the policymaking body of the sole state
9 agency responsible for administration of the ~~Older-Americans~~
10 federal Act of 1965, as amended. The commission shall:

11 6. Adopt policies to assure that the department will take
12 into account the views of ~~recipients of supportive services or~~
13 ~~nutrition services, or~~ elders using ~~multipurpose senior~~
14 ~~centers~~ in the development of policy.

15 7. Adopt a formula for the distribution of federal ~~Older~~
16 Americans Act, state elderly services, and senior living
17 program funds taking into account, to the maximum extent
18 feasible, the best available data on the geographic
19 distribution of elders in the state, and publish the formula
20 for review and comment.

21 8. Adopt policies and measures to assure that preference
22 will be given to providing services to elders with the
23 greatest economic or social needs, with particular attention
24 to low-income minority elders, ~~and include methods of carrying~~
25 ~~out the preference in the state plan.~~

26 ~~10. -- Adopt policies by which eligibility for federal,~~
27 ~~state, and local funding is established at age sixty, with~~
28 ~~preference in service delivery given to elders age seventy-~~
29 ~~five or older.~~

30 Sec. 5. Section 231.23, subsection 4, Code 2003, is
31 amended to read as follows:

32 4. Advocate for elders by reviewing and commenting upon
33 all state plans, budgets, laws, rules, regulations, and
34 policies which affect elders and by providing technical
35 assistance to any agency, organization, association, or

1 individual representing the needs of the elders.

2 Sec. 6. Section 231.31, Code 2003, is amended by striking
3 the section and inserting in lieu thereof the following:

4 231.31 STATE PLAN ON AGING.

5 The department of elder affairs shall develop, and submit
6 to the commission of elder affairs for approval, a multiyear
7 state plan on aging. The state plan on aging shall meet all
8 applicable federal requirements.

9 Sec. 7. Section 231.32, Code 2003, is amended to read as
10 follows:

11 231.32 CRITERIA FOR DESIGNATION OF AREA AGENCIES ON AGING.

12 1. The commission shall designate thirteen area agencies
13 on aging, the same of which existed on July 1, 1985. The
14 commission shall continue the designation until an area agency
15 on aging's designation is removed for cause as determined by
16 the commission or until the agency voluntarily withdraws as an
17 area agency on aging. In that event, the commission shall
18 then proceed in accordance with subsections 2 and 3.

19 Designated area agencies on aging shall comply with the
20 requirements of the federal Act.

21 2. The commission shall designate an area agency to serve
22 each planning and service area, after consideration of the
23 views offered by ~~the political subdivisions in the area~~ units
24 of general purpose local government. An area agency may be:

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

28 b. Any office or agency of a unit of ~~a political~~
29 ~~subdivision~~ general purpose local government, which is
30 designated for the purpose of serving as an area agency by the
31 chief elected official of such unit.

32 c. Any office or agency designated by the appropriate
33 chief elected officials of any combination of ~~political~~
34 ~~subdivisions~~ units of general purpose local government to act
35 on behalf of the combination for such purpose.

1 d. Any public or nonprofit private agency in a planning
2 and service area or any separate organizational unit within
3 such agency which is under the supervision or direction for
4 this purpose of the department of elder affairs and which can
5 engage in the planning or provision of a broad range of
6 supportive services or nutrition services within the planning
7 and service area.

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

18 3. When the commission designates a new area agency on
19 aging the commission shall give the right of first refusal to
20 a ~~political-subdivision~~ unit of general purpose local
21 government if:

- 22 a. Such unit can meet the requirements of subsection 1.
- 23 b. The boundaries of such a unit and the boundaries of the
24 area are reasonably contiguous.

25 Sec. 8. Section 231.33, Code 2003, is amended to read as
26 follows:

27 231.33 AREA AGENCIES ON AGING DUTIES.

28 Each area agency on aging shall:

- 29 1. Develop and administer an area plan on aging.
- 30 2. Assess the types and levels of services needed by older
31 persons in the planning and service area, and the
32 effectiveness of other public or private programs serving
33 those needs.

34 3. Enter into subgrants or contracts to provide all
35 services under the plan.

- 1 4. Provide technical assistance as needed, prepare written
2 monitoring reports at least quarterly, and provide a written
3 report of an annual on-site assessment of all service
4 providers funded by the area agency.
- 5 5. Coordinate the administration of its plan with federal
6 programs and with other federal, state, and local resources in
7 order to develop a comprehensive and coordinated service
8 system.
- 9 6. Establish an advisory council.
- 10 7. Give preference in the delivery of services under the
11 area plan to elders with the greatest economic or social need.
- 12 8. Assure that elders in the planning and service area
13 have reasonably convenient access to information and referral
14 services.
- 15 9. Provide adequate and effective opportunities for elders
16 to express their views to the area agency on policy
17 development and program implementation under the area plan.
- 18 10. Designate community focal points.
- 19 11. Contact outreach efforts, with special emphasis on the
20 rural elderly, to identify elders with greatest economic or
21 social needs and inform them of the availability of services
22 under the area plan.
- 23 12. Develop and publish the methods that the agency uses
24 to establish preferences and priorities for services.
- 25 ~~13--Attempt to involve the area lawyers in legal~~
26 ~~assistance activities.~~
- 27 ~~14.~~ 13. Submit all fiscal and performance reports in
28 accordance with the policies of the commission.
- 29 ~~15.~~ 14. Monitor, evaluate, and comment on laws, rules,
30 regulations, policies, programs, hearings, levies, and
31 community actions which significantly affect the lives of
32 elders.
- 33 ~~16.~~ 15. Conduct public hearings on the needs of elders.
- 34 ~~17.~~ 16. Represent the interests of elders to public
35 officials, public and private agencies, or organizations.

1 ~~18-~~ 17. Coordinate activities in support of the statewide
2 long-term care resident's advocate program.

3 ~~19-~~ 18. Coordinate planning with other agencies and
4 organizations to promote new or expanded benefits and
5 opportunities for elders.

6 ~~20-~~ 19. Coordinate planning with other agencies for
7 assuring the safety of elders in a natural disaster or other
8 safety threatening situation.

9 ~~21---Submit-a-report-to-the-department-of-elder-affairs~~
10 ~~every-six-months,-of-the-name-of-each-health-care-facility-in~~
11 ~~its-area-for-which-the-resident-advocate-committee-has-failed~~
12 ~~to-submit-the-report-required-by-rules-adopted-pursuant-to~~
13 ~~section-231.44-~~

14 Sec. 9. Section 231.41, Code 2003, is amended to read as
15 follows:

16 231.41 PURPOSE.

17 The purpose of this subchapter is to establish the long-
18 term care resident's advocate program operated by the Iowa
19 commission of elder affairs in accordance with the
20 requirements of the Elder-Americans federal Act of 1965, and
21 to adopt the supporting federal regulations and guidelines for
22 its implementation. In accordance with chapter 17A, the
23 commission of elder affairs shall adopt and enforce rules for
24 the implementation of this subchapter.

25 Sec. 10. Section 231.42, unnumbered paragraph 1, and
26 subsections 1, 3, and 5, Code 2003, are amended to read as
27 follows:

28 The Iowa commission of elder affairs, in accordance with
29 section 3027(a)(12) of the federal Act, shall establish the
30 office of long-term care resident's advocate within the
31 commission department. The long-term care resident's advocate
32 shall:

33 1. Investigate and resolve complaints about administrative
34 actions that may adversely affect the health, safety, welfare,
35 or rights of elderly residents in long-term care facilities,

1 excluding facilities licensed primarily to serve persons with
2 mental retardation or mental illness.

3 3. Provide information to other agencies and to the public
4 about the problems of elderly residents in long-term care
5 facilities, excluding facilities licensed primarily to serve
6 persons with mental retardation or mental illness.

7 5. Carry out other activities consistent with the
8 resident's-advocate state long-term care ombudsman program
9 provisions of the federal Act.

10 Sec. 11. Section 231.44, subsections 2, 3, and 4, Code
11 2003, are amended to read as follows:

12 2. The responsibilities of the resident advocate committee
13 are in accordance with the rules adopted by the commission
14 pursuant to chapter 17A. When adopting the rules, the
15 commission shall consider the needs of residents of elder
16 group homes as defined in section 231B.1 and each category of
17 licensed health care facility as defined in section 135C.1,
18 subsection 6, and the services each facility may render. The
19 commission shall coordinate the development of rules with the
20 mental health and developmental disabilities commission
21 created in section 225C.5 to the extent the rules would apply
22 to a facility primarily serving persons with mental illness,
23 mental retardation, or a developmental disability. The
24 commission shall coordinate the development of appropriate
25 rules with other state agencies.

26 3. A health long-term care facility shall disclose the
27 names, addresses, and phone numbers of a resident's family
28 members, if requested, to a resident advocate committee
29 member, unless permission for this disclosure is refused in
30 writing by a family member.

31 4. ~~Neither the~~ The state, nor any resident advocate
32 committee member is, any resident advocate coordinator, and
33 any sponsoring area agency on aging are not liable for an
34 action undertaken by a resident advocate committee member or a
35 resident advocate committee coordinator in the performance of

1 duty, if the action is undertaken and carried out in good
2 faith.

3 Sec. 12. Section 231.57, Code 2003, is amended to read as
4 follows:

5 231.57 COORDINATION OF ADVOCACY.

6 The department shall establish a program for the
7 coordination of information and assistance provided within the
8 state to assist elders in obtaining and protecting their
9 rights and benefits. ~~The insurance division of the department~~
10 ~~of commerce, office of the attorney general, the citizens'~~
11 ~~aide, and other state~~ State and local agencies providing
12 information and assistance to elders in seeking their rights
13 and benefits shall cooperate with the department in developing
14 and implementing this program. ~~The program shall include~~
15 ~~review of health insurance policies marketed to elders and~~
16 ~~other health-related written material distributed to elders~~
17 ~~for marketing purposes.~~

18 Sec. 13. Section 231.58, subsection 4, paragraph a, Code
19 2003, is amended to read as follows:

20 a. Develop, for legislative review, the mechanisms and
21 procedures necessary to implement, ~~utilizing current~~
22 ~~personnel,~~ a case-managed system of long-term care based on a
23 uniform comprehensive assessment tool.

24 Sec. 14. Section 514D.5, subsections 3 and 4, Code 2003,
25 are amended to read as follows:

26 3. The commissioner ~~after consultation with the commission~~
27 ~~of elder affairs~~ shall prescribe disclosure rules for ~~medicare~~
28 Medicare supplement coverage which are determined to be in the
29 public interest and which are designed to adequately inform
30 the prospective insured of the need for and extent of coverage
31 offered as ~~medicare~~ Medicare supplement coverage. For
32 ~~medicare~~ Medicare supplement coverage, the outline of coverage
33 required by subsection 2 shall be furnished to the prospective
34 insured with the application form.

35 4. The commissioner ~~after consultation with the commission~~

1 ~~of-elder-affairs~~ shall further prescribe by rule a standard
2 form for and the contents of an informational brochure for
3 persons eligible for ~~medicare~~ Medicare by reason of age, which
4 is intended to improve the buyer's ability to select the most
5 appropriate coverage and to improve the buyer's understanding
6 of ~~medicare~~ Medicare. Except in the case of direct response
7 insurance policies, the commissioner may require by rule that
8 this informational brochure be provided to prospective
9 insureds eligible for ~~medicare~~ Medicare concurrently with
10 delivery of the outline of coverage. With respect to direct
11 response insurance policies, the commissioner may require by
12 rule that this brochure must be provided to prospective
13 insureds eligible for ~~medicare~~ Medicare by reason of age upon
14 request, but not later than at the time of delivery of the
15 policy or contract. ~~The-commissioner-shall-provide-the~~
16 ~~information-received-from-insurers-pursuant-to-subsection-3~~
17 ~~and-this-subsection-and-information-relating-to-section-231-59~~
18 ~~to-the-director-of-the-department-of-elder-affairs.~~

19 Sec. 15. Sections 231.24, 231.54, 231.59, and 231.60, Code
20 2003, are repealed.

21 EXPLANATION

22 This bill includes provisions relating to the department of
23 elder affairs including the elder Iowans Act (Code chapter
24 231).

25 The bill amends definitions used in the elder Iowans Act to
26 reference definitions used in the federal Older Americans Act
27 as amended.

28 The bill changes the number of times the commission on
29 elder affairs is required to meet from a minimum of six times
30 annually to a minimum of four times annually.

31 The bill replaces the specific listing of elements to be
32 included in the state plan on aging with a requirement that
33 the state plan meet all applicable federal requirements.

34 The bill directs area agencies on aging to comply with the
35 federal Act and replaces the reference to a "political

1 subdivision" with a reference to a "unit of general purpose
2 local government", which is a political subdivision of the
3 state whose authority is general and not linked to only one
4 function or combination of related functions.

5 The bill specifies that the long-term care resident's
6 advocate is responsible for providing advocacy services for
7 residents of long-term care facilities, with the exception of
8 facilities licensed primarily to serve persons with mental
9 retardation or mental illness. However, the bill does not
10 change the duties of the resident's advocate relating to
11 resident advocate committees, which are administered by the
12 resident's advocate program and which serve all facilities
13 including these facilities primarily serving persons with
14 mental illness, mental retardation, or a developmental
15 disability.

16 The bill also eliminates the elder law education program,
17 which ended operation when the state appropriation was
18 discontinued in state fiscal year 1992, and eliminates the
19 role of the department of elder affairs in the representative
20 payee projects which are currently sponsored locally. The
21 bill also eliminates the directive to the department of elder
22 affairs to develop and disseminate information regarding
23 insurance policies available to supplement Medicare and to
24 review health insurance policies since that function is
25 performed by the insurance division of the department of
26 commerce.

27 The bill also amends the section relating to coordination
28 of advocacy to remove the directive to specific agencies to
29 cooperate with the department of elder affairs and removes the
30 directive to review specific materials distributed to elders.

31
32
33
34
35



STATE OF IOWA

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

DEPARTMENT OF ELDER AFFAIRS
MARK A. HAVERLAND, INTERIM DIRECTOR

MEMORANDUM

TO: Members of Iowa's General Assembly
From: Mark Haverland
RE: 2003 Prefiling of Iowa Code Changes, Chapter 231 "Elder Iowans Act"
Date: November 1, 2002

Attached are proposed changes to Iowa Code, Chapter 231, and "Elder Iowans Act." The proposed changes are a result of the reauthorization of the Federal Older Americans Act on November 13, 2001.

The technical changes to the Elder Iowans Act achieve two goals:

1. To delete statutory language pertaining to obsolete programs.
2. To achieve consistency in definitions and statutory intent between the reauthorized Federal Older Americans Act and the Elder Iowans Act.

Mark Haverland, Interim Director
Iowa Department of Elder Affairs
200 10th St. Des Moines, Iowa 50309
515-242-3302

HOUSE FILE 386

AN ACT

RELATING TO THE DEPARTMENT OF ELDER AFFAIRS INCLUDING
PROVISIONS RELATING TO THE ELDER IOWANS ACT.

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

Section 1. Section 231.3, subsections 1, 3, and 4, Code 2003, are amended to read as follows:

1. An adequate income ~~in retirement.~~

3. Suitable housing, ~~appropriate to the special~~ that reflects the needs of older people.

4. Full restorative services for those who require institutional care, and a comprehensive array of community-based, long-term care services adequate to sustain older people in their communities and, whenever possible, in their homes, including support for caregivers.

Sec. 2. Section 231.4, Code 2003, is amended to read as follows:

231.4 DEFINITIONS.

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

1. "Administrative action" means an action or decision made by an owner, employee, or agent of a long-term care facility, or by a governmental agency, which affects the service provided to residents covered in this chapter.

2. "Commission" means the commission of elder affairs.

3. ~~"Comprehensive and coordinated system" means a system for providing all necessary supportive services, including nutrition services, in a manner designed to:~~

~~a. Facilitate accessibility to, and utilization of, all supportive services and nutrition services provided within the~~

~~geographic area served by the system by any public or private agency or organization;~~

~~b. Develop and make the most efficient use of supportive services and nutrition services in meeting the needs of elders;~~

~~c. Use available resources efficiently and with a minimum of duplication;~~

4. 3. "Department" means the department of elder affairs.

5. 4. "Director" means the director of the department of elder affairs.

6. 5. "Elder" means an individual who is sixty years of age or older. "Elderly" means individuals sixty years of age or older.

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

8. 7. "Federal Act" means the Older Americans Act of 1965, 42 U.S.C. § 3001 et seq., as amended ~~to and including February 17, 1986.~~

9. ~~"Focal point" means a facility established to encourage the maximum collocation and coordination of services for elders;~~

10. ~~"Greatest economic need" means the need resulting from an income level at or below the poverty threshold established by the bureau of the census;~~

11. ~~"Greatest social need" means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural or social isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threatens the elder's capacity to live independently.~~

12. ~~"Information and referral source" means a location where a department of elder affairs or any public or private agency or organization;~~

~~a7--Maintains-current-information-with-respect-to-the opportunities-and-services-available-to-elders, and develops current-lists-of-elders-in-need-of-services-and-opportunities.~~

~~b7--Employs, where-feasible, a-specially-trained-staff-to assess-the-needs-and-capacities-of-elders, and-to-inform elders-of-the-opportunities-and-services.~~

~~137--"Legal-assistance" means-legal-advice-and representation-by-an-attorney-including, but-not-limited-to counseling-or-other-appropriate-assistance-by-a-paralegal-or law-student-under-the-supervision-of-an-attorney, and-includes counseling-or-representation-by-a-person-who-does-not-possess a-juris-doctorate, where-permitted-by-law, of-elders-with economic-or-social-needs.~~

~~147 8. "Long-term care facility" means a long-term care unit of a hospital, a-licensed-hospice-program, a-foster-group home, a-group-living-arrangement, or a facility licensed under section 135C.1 whether the facility is public or private.~~

~~157--"Multipurpose-senior-center" means-a-community facility-for-the-organization-and-provision-of-a-broad spectrum-of-services, which-shall-include, but-not-be-limited to, health, social, nutritional, and-educational-services-and the-provision-of-facilities-for-recreational-activities-for elders.~~

~~167 9. "Resident's advocate program" means the state long-term care resident's advocate program operated by the commission department of elder affairs and administered by the long-term care resident's advocate.~~

~~10. "Unit of general purpose local government" means a political subdivision of the state whose authority is general and not limited to one function or combination of related functions.~~

~~For the purposes of this chapter, "focal point", "greatest economic need", and "greatest social need" mean as those terms are defined in the federal Act.~~

Sec. 3. Section 231.13, Code 2003, is amended to read as follows:

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 six 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.

Sec. 4. Section 231.14, unnumbered paragraph 1, and subsections 6, 7, 8, and 10, Code 2003, are amended to read as follows:

The commission is the policymaking body of the sole state agency responsible for administration of the Older-Americans federal Act of 1965, as amended. The commission shall:

6. Adopt policies to assure that the department will take into account the views of recipients of supportive services or nutrition services, or elders using multipurpose senior centers in the development of policy.

7. Adopt a formula for the distribution of federal Older Americans Act, state elderly services, and senior living program funds taking into account, to the maximum extent feasible, the best available data on the geographic distribution of elders in the state, and publish the formula for review and comment.

8. Adopt policies and measures to assure that preference will be given to providing services to elders with the greatest economic or social needs, with particular attention to low-income minority elders, and include methods of carrying out the preference in the state plan.

~~to adopt policies by which eligibility for federal state and local funding is established at age sixty, with preference in service delivery given to elders age seventy-five or older.~~

Sec. 5. Section 231.23, subsection 4, Code 2003, is amended to read as follows:

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

Sec. 6. NEW SECTION. 231.23A PROGRAMS AND SERVICES.

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

1. Elderly services including but not limited to home and community-based services such as adult day services, assessment and intervention, transportation, chore services, counseling, homemaker services, material aid, personal care, reassurance, respite services, visitation, caregiver support, emergency response system services, mental health outreach, and home repair.

2. The senior internship program.

3. The retired senior volunteer program.

4. The case management program for the frail elderly.

5. Administration relating to the long-term care resident's advocate program and training for resident advocate committees.

6. Administration relating to the area agencies on aging.

7. Other programs and services authorized by law.

Sec. 7. Section 231.31, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

231.31 STATE PLAN ON AGING.

The department of elder affairs shall develop, and submit to the commission of elder affairs for approval, a multiyear

state plan on aging. The state plan on aging shall meet all applicable federal requirements.

Sec. 8. Section 231.32, Code 2003, is amended to read as follows:

231.32 CRITERIA FOR DESIGNATION OF AREA AGENCIES ON AGING.

1. The commission shall designate thirteen area agencies on aging, the same of which existed on July 1, 1985. The commission shall continue the designation until an area agency on aging's designation is removed for cause as determined by the commission or until the agency voluntarily withdraws as an area agency on aging. In that event, the commission shall then proceed in accordance with subsections 2 and 3. 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 ~~the political subdivisions in the area~~ 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 ~~a political subdivision~~ general purpose local government, which is designated for the purpose of serving as an area agency by the chief elected official of such unit.

c. Any office or agency designated by the appropriate chief elected officials of any combination of ~~political subdivisions~~ units of general purpose local government to act on behalf of the 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 of elder affairs and which can engage in the planning or provision of a broad range of supportive services or nutrition services within the planning and service area.

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.

3. When the commission designates a new area agency on aging the commission shall give the right of first refusal to a ~~political-subdivision~~ 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.

Sec. 9. Section 231.33, Code 2003, is amended to read as follows:

231.33 AREA AGENCIES ON AGING DUTIES.

Each area agency on aging shall:

1. Develop and administer an area plan on aging.
2. Assess the types and levels of services needed by older persons in the planning and service area, and the effectiveness of other public or private programs serving those needs.
3. Enter into subgrants or contracts to provide ~~all~~ services under the plan.
4. Provide technical assistance as needed, prepare written monitoring reports at least quarterly, 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 elders with the greatest economic or social need.
8. Assure that elders in the planning and service area have reasonably convenient access to information and referral services.
9. Provide adequate and effective opportunities for elders to express their views to the area agency on policy development and program implementation under the area plan.
10. Designate community focal points.
11. Contact outreach efforts, with special emphasis on the rural elderly, to identify elders with greatest economic or social needs 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. Attempt to involve the area lawyers in legal assistance activities.~~
- ~~14.~~ 13. Submit all fiscal and performance reports in accordance with the policies of the commission.
- ~~15.~~ 14. Monitor, evaluate, and comment on laws, rules, regulations, policies, programs, hearings, levies, and community actions which significantly affect the lives of elders.
- ~~16.~~ 15. Conduct public hearings on the needs of elders.
- ~~17.~~ 16. Represent the interests of elders to public officials, public and private agencies, or organizations.
- ~~18.~~ 17. Coordinate activities in support of the statewide long-term care resident's advocate program.
- ~~19.~~ 18. Coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for elders.
- ~~20.~~ 19. Coordinate planning with other agencies for assuring the safety of elders in a natural disaster or other safety threatening situation.

~~21--Submit a report to the department of elder affairs every six months of the name of each health care facility in its area for which the resident advocate committee has failed to submit the report required by rules adopted pursuant to section 231.44.~~

Sec. 10. Section 231.41, Code 2003, is amended to read as follows:

231.41 PURPOSE.

The purpose of this subchapter is to establish the long-term care resident's advocate program operated by the Iowa commission of elder affairs in accordance with the requirements of the ~~Elder-Americans~~ federal Act of 1965, and to adopt the supporting federal regulations and guidelines for its implementation. In accordance with chapter 17A, the commission of elder affairs shall adopt and enforce rules for the implementation of this subchapter.

Sec. 11. Section 231.42, unnumbered paragraph 1, and subsections 1, 3, and 5, Code 2003, are amended to read as follows:

The Iowa commission of elder affairs, in accordance with section 3027(a)(12) of the federal Act, shall establish the office of long-term care resident's advocate within the commission department. The long-term care resident's advocate shall:

1. Investigate and resolve complaints about administrative actions that may adversely affect the health, safety, welfare, or rights of elderly residents in long-term care facilities, excluding facilities licensed primarily to serve persons with mental retardation or mental illness.

3. Provide information to other agencies and to the public about the problems of elderly residents in long-term care facilities, excluding facilities licensed primarily to serve persons with mental retardation or mental illness.

5. Carry out other activities consistent with the resident's advocate state long-term care ombudsman program provisions of the federal Act.

Sec. 12. Section 231.44, subsections 2, 3, and 4, Code 2003, are amended to read as follows:

2. The responsibilities of the resident advocate committee are in accordance with the rules adopted by the commission pursuant to chapter 17A. When adopting the rules, the commission shall consider the needs of residents of elder group homes as defined in section 231B.1 and each category of licensed health care facility as defined in section 135C.1, subsection 6, and the services each facility may render. The commission shall coordinate the development of rules with the mental health and developmental disabilities commission created in section 225C.5 to the extent the rules would apply to a facility primarily serving persons with mental illness, mental retardation, or a developmental disability. The commission shall coordinate the development of appropriate rules with other state agencies.

3. A health long-term care facility shall disclose the names, addresses, and phone numbers of a resident's family members, if requested, to a resident advocate committee member, unless permission for this disclosure is refused in writing by a family member.

4. ~~Neither the~~ The state, nor any resident advocate committee member is, any resident advocate coordinator, and any sponsoring area agency on aging are not liable for an action undertaken by a resident advocate committee member or a resident advocate committee coordinator in the performance of duty, if the action is undertaken and carried out reasonably and in good faith.

Sec. 13. Section 231.57, Code 2003, is amended to read as follows:

231.57 COORDINATION OF ADVOCACY.

The department shall establish a program for the coordination of information and assistance provided within the state to assist elders in obtaining and protecting their rights and benefits. ~~The insurance division of the department~~

~~of-commerce, office-of-the-attorney-general, the-citizens-
aide, and other state~~ State and local agencies providing
information and assistance to elders in seeking their rights
and benefits shall cooperate with the department in developing
and implementing this program. ~~The program shall include
review-of-health-insurance-policies-marketed-to-elders-and
other-health-related-written-material-distributed-to-elders
for-marketing-purposes.~~

Sec. 14. Section 231.58, subsection 4, paragraph a, Code
2003, is amended to read as follows:

a. Develop, for legislative review, the mechanisms and
procedures necessary to implement, ~~utilizing current
personnel,~~ a case-managed system of long-term care based on a
uniform comprehensive assessment tool.

Sec. 15. Section 514D.5, subsections 3 and 4, Code 2003,
are amended to read as follows:

3. The commissioner ~~after consultation with the commission
of-elder-affairs~~ shall prescribe disclosure rules for medicare
Medicare supplement coverage which are determined to be in the
public interest and which are designed to adequately inform
the prospective insured of the need for and extent of coverage
offered as medicare Medicare supplement coverage. For
medicare Medicare supplement coverage, the outline of coverage
required by subsection 2 shall be furnished to the prospective
insured with the application form.

4. The commissioner ~~after consultation with the commission
of-elder-affairs~~ shall further prescribe by rule a standard
form for and the contents of an informational brochure for
persons eligible for medicare Medicare by reason of age, which
is intended to improve the buyer's ability to select the most
appropriate coverage and to improve the buyer's understanding
of medicare Medicare. Except in the case of direct response
insurance policies, the commissioner may require by rule that
this informational brochure be provided to prospective
insureds eligible for medicare Medicare concurrently with

delivery of the outline of coverage. With respect to direct
response insurance policies, the commissioner may require by
rule that this brochure must be provided to prospective
insureds eligible for medicare Medicare by reason of age upon
request, but not later than at the time of delivery of the
policy or contract. ~~The commissioner shall provide the
information received from insurers pursuant to subsection 3
and this subsection and information relating to section 231.59
to the director of the department of elder affairs.~~

Sec. 16. Sections 231.24, 231.54, 231.59, and 231.60, Code
2003, are repealed.

CHRISTOPHER C. RANTS
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 386, Eightieth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2003

THOMAS J. VILSACK
Governor