

Withdrawn  
4/23/03

MAR 17 2003  
APPROPRIATIONS

HOUSE FILE 596  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 239)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the regulation of adult day services, and  
2 providing for appropriations and penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 596

1 Section 1. NEW SECTION. 231D.1 DEFINITIONS.

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

4 1. "Adult day services", "adult day services program", or  
5 "program" means an organized program providing a variety of  
6 health, social, and related support services for sixteen hours  
7 or less in a twenty-four-hour period to two or more persons  
8 with a functional impairment on a regularly scheduled,  
9 contractual basis.

10 2. "Functional impairment" means a psychological,  
11 cognitive, or physical impairment creating the inability to  
12 perform personal and instrumental activities of daily living  
13 and associated tasks necessitating some form of supervision or  
14 assistance or both.

15 3. "Governmental unit" means the state, or any county,  
16 municipality, or other political subdivision or any  
17 department, division, board, or other agency of any of these  
18 entities.

19 4. "Nursing care" means services which are required to be  
20 provided only under the direction of a registered nurse or a  
21 licensed practical nurse.

22 5. "Recognized accrediting entity" means a nationally  
23 recognized accrediting entity that the department of elder  
24 affairs, in cooperation with the department of inspections and  
25 appeals, recognizes as having specific adult day services  
26 program standards equivalent to the standards established by  
27 the department of elder affairs, in cooperation with the  
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29 6. "Social services" means services relating to the  
30 psychological and social needs of the individual in adjusting  
31 to participating in an adult day services program, and  
32 minimizing the stress arising from that circumstance.

33 7. "Supervision" means direct oversight and inspection of  
34 the act of accomplishing a function or activity.

35 Sec. 2. NEW SECTION. 231D.2 PURPOSE -- RULES -- SPECIAL

1 CLASSIFICATIONS.

2 1. The purpose of this chapter is to promote and encourage  
3 adequate and safe care for adults with functional impairments.

4 2. The department of elder affairs, in cooperation with  
5 the department of inspections and appeals, shall establish, by  
6 rule in accordance with chapter 17A, a program for  
7 certification and monitoring of and complaint investigations  
8 related to adult day services programs. The department of  
9 elder affairs, in cooperation with the department of  
10 inspections and appeals, in establishing standards for adult  
11 day services programs, may adopt by rule in accordance with  
12 chapter 17A, nationally recognized standards for adult day  
13 services programs. The rules shall include specification of  
14 recognized accrediting entities. The rules and standards  
15 adopted shall be formulated in consultation with affected  
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22 shall issue separate certificates for each special  
23 classification for which a provider is certified.

24 Sec. 3. NEW SECTION. 231D.3 CERTIFICATION REQUIRED.

25 1. A person or governmental unit acting severally or  
26 jointly with any other person or governmental unit shall not  
27 establish or operate an adult day services program and shall  
28 not represent an adult day services program to the public as  
29 certified unless and until the program is certified pursuant  
30 to this chapter. If an adult day services program is  
31 voluntarily accredited by a recognized accrediting entity with  
32 specific adult day services standards, the department of  
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34 as the basis for certification by the department. The owner  
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14 3. An adult day services program that has been certified  
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17 program is certified in a manner that affects continuing  
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19 inspections and appeals. The department of inspections and  
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5 Sec. 4. NEW SECTION. 231D.4 APPLICATION AND FEES.

6 1. Certificates for adult day services programs shall be  
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8 Applications shall be upon such forms and shall include such  
9 information as the department of inspections and appeals may  
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12 Each application for certification shall be accompanied by the  
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14 2. The department of elder affairs, in cooperation with  
15 the department of inspections and appeals, shall establish  
16 certification fees by rule in accordance with chapter 17A.  
17 The department of inspections and appeals shall collect and  
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19 be deposited in an adult day services program fund created in  
20 the state treasury under the authority of the department of  
21 inspections and appeals and are appropriated to the department  
22 of inspections and appeals to carry out the purposes of this  
23 chapter. Amounts deposited in the fund shall not be  
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26 Notwithstanding section 12C.7, subsection 2, interest or  
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28 to the fund. Notwithstanding section 8.33, amounts deposited  
29 in the fund that remain unexpended or unencumbered at the  
30 close of the fiscal year shall remain in the fund for  
31 utilization as provided in this section for the following  
32 fiscal year.

33 Sec. 5. NEW SECTION. 231D.5 DENIAL, SUSPENSION, OR  
34 REVOCATION.

35 1. The department of inspections and appeals may deny,

1 suspend, or revoke certification if the department of  
2 inspections and appeals finds that there has been a  
3 substantial or repeated failure on the part of the adult day  
4 services program to comply with this chapter or the rules or  
5 minimum standards adopted pursuant to this chapter, or for any  
6 of the following reasons:

7 a. Cruelty or indifference to adult day services program  
8 service recipients.

9 b. Appropriation or conversion of the property of an adult  
10 day services programs service recipient without the  
11 recipient's written consent or the written consent of the  
12 service recipient's legal guardian.

13 c. Permitting, aiding, or abetting the commission of any  
14 illegal act in the adult day services program.

15 d. Obtaining or attempting to obtain or retain  
16 certification by fraudulent means, misrepresentation, or by  
17 submitting false information.

18 e. Habitual intoxication or addiction to the use of drugs  
19 by the applicant, owner, manager, or supervisor of the adult  
20 day services program.

21 f. Securing the devise or bequest of the property of a  
22 recipient of services of an adult day services program by  
23 undue influence.

24 g. Failure or neglect to maintain a continuing education  
25 and training program for all personnel employed in the adult  
26 day services program.

27 h. Founded dependent adult abuse as defined in section  
28 235B.2.

29 i. For any other reason as provided by law or  
30 administrative rule.

31 2. In the case of an application by an existing  
32 certificate holder for a new or newly acquired adult day  
33 services program, continuing or repeated failure of the  
34 certificate holder to operate any previously certified adult  
35 day services program in compliance with this chapter or of the

1 rules adopted pursuant to this chapter.

2 3. In the case of a certificate applicant or existing  
3 certificate holder which is an entity other than an  
4 individual, the department of inspections and appeals may  
5 deny, suspend, or revoke a certificate if any individual who  
6 is in a position of control or is an officer of the entity  
7 engages in any act or omission proscribed by this section.

8 Sec. 6. NEW SECTION. 231D.6 NOTICE -- APPEAL --  
9 EMERGENCY PROVISIONS.

10 1. The denial, suspension, or revocation of a certificate  
11 shall be effected by delivering to the applicant or  
12 certificate holder by restricted certified mail or by personal  
13 service a notice setting forth the particular reasons for the  
14 action. The denial, suspension, or revocation shall become  
15 effective thirty days after the mailing or service of the  
16 notice, unless the applicant or certificate holder, within the  
17 thirty-day period, requests a hearing, in writing, of the  
18 department of inspections and appeals, in which case the  
19 notice shall be deemed to be suspended.

20 2. The denial, suspension, or revocation of a certificate  
21 may be appealed in accordance with rules adopted by the  
22 department of inspections and appeals.

23 3. When the department of inspections and appeals finds  
24 that an immediate danger to the health or safety of recipients  
25 of services from an adult day services program exists which  
26 requires action on an emergency basis, the department of  
27 inspections and appeals may direct the removal of all  
28 recipients of services from an adult day services program and  
29 suspend the certificate prior to a hearing.

30 Sec. 7. NEW SECTION. 231D.7 CONDITIONAL OPERATION.

31 The department of inspections and appeals may, as an  
32 alternative to denial, suspension, or revocation of  
33 certification under section 231D.5, conditionally issue or  
34 continue certification dependent upon the performance by the  
35 adult day services program of reasonable conditions within a

1 reasonable period of time as prescribed by the department of  
2 inspections and appeals so as to permit the program to  
3 commence or continue the operation of the program pending full  
4 compliance with this chapter or the rules adopted pursuant to  
5 this chapter. If the adult day services program does not make  
6 diligent efforts to comply with the conditions prescribed, the  
7 department of inspections and appeals may, under the  
8 proceedings prescribed by this chapter, suspend or revoke the  
9 certificate. An adult day services program shall not be  
10 operated under conditional certification for more than one  
11 year.

12 Sec. 8. NEW SECTION. 231D.8 DEPARTMENT NOTIFIED OF  
13 CASUALTIES.

14 The department of inspections and appeals shall be notified  
15 within twenty-four hours, by the most expeditious means  
16 available, of any accident causing substantial injury or  
17 death, and any substantial fire or natural or other disaster  
18 occurring at or near an adult day services program.

19 Sec. 9. NEW SECTION. 231D.9 COMPLAINTS AND  
20 CONFIDENTIALITY.

21 1. A person with concerns regarding the operations or  
22 service delivery of an adult day services program may file a  
23 complaint with the department of inspections and appeals. The  
24 name of the person who files a complaint with the department  
25 of inspections and appeals and any personal identifying  
26 information of the person or any recipient of program services  
27 identified in the complaint shall be kept confidential and  
28 shall not be subject to discovery, subpoena, or other means of  
29 legal compulsion for its release to a person other than  
30 employees of the department of inspections and appeals  
31 involved in the investigation of the complaint.

32 2. The department of elder affairs, in cooperation with  
33 the department of inspections and appeals, shall establish  
34 procedures for the disposition of complaints received in  
35 accordance with this section.



1     Sec. 10. NEW SECTION. 231D.10 PUBLIC DISCLOSURE OF  
2 FINDINGS.

3     Following a monitoring evaluation or complaint  
4 investigation of an adult day services program by the  
5 department of inspections and appeals pursuant to this  
6 chapter, the department's final findings with respect to  
7 compliance by the adult day services program with requirements  
8 for certification shall be made available to the public in a  
9 readily available form and place. Other information relating  
10 to an adult day services program that is obtained by the  
11 department of inspections and appeals which does not  
12 constitute the department's final findings from a monitoring  
13 evaluation or complaint investigation of the adult day  
14 services program shall not be made available to the public  
15 except in proceedings involving the denial, suspension, or  
16 revocation of a certificate under this chapter.

17     Sec. 11. NEW SECTION. 231D.11 PENALTIES.

18     1. A person establishing, conducting, managing, or  
19 operating an adult day services program without a certificate  
20 is guilty of a serious misdemeanor. Each day of continuing  
21 violation after conviction or notice from the department of  
22 inspections and appeals by certified mail of a violation shall  
23 be considered a separate offense or chargeable offense. A  
24 person establishing, conducting, managing, or operating an  
25 adult day services program without a certificate may be  
26 temporarily or permanently restrained by a court of competent  
27 jurisdiction from such activity in an action brought by the  
28 state.

29     2. A person who prevents or interferes with or attempts to  
30 impede in any way any duly authorized representative of the  
31 department of inspections and appeals in the lawful  
32 enforcement of this chapter or of the rules adopted pursuant  
33 to this chapter is guilty of a simple misdemeanor. As used in  
34 this subsection, lawful enforcement includes but is not  
35 limited to:

1 a. Contacting or interviewing any participant of an adult  
2 day services program in private at any reasonable hour and  
3 without advance notice.

4 b. Examining any relevant records of an adult day services  
5 program.

6 c. Preserving evidence of any violation of this chapter or  
7 of the rules adopted pursuant to this chapter.

8 3. A civil penalty, as established by rule, may apply in  
9 any of the following situations:

10 a. Program noncompliance with one or more regulatory  
11 requirements has caused or is likely to cause harm, serious  
12 injury, threat, or death to a recipient of program services.

13 b. Program failure or refusal to comply with regulatory  
14 requirements within prescribed time frames.

15 Sec. 12. NEW SECTION. 231D.12 RETALIATION BY AN ADULT  
16 DAY SERVICES PROGRAM PROHIBITED.

17 1. An adult day services program shall not discriminate or  
18 retaliate in any way against a recipient, recipient's family,  
19 or an employee of the program who has initiated or  
20 participated in any proceeding authorized by this chapter. An  
21 adult day services program that violates this section is  
22 subject to a penalty as established by administrative rule, to  
23 be assessed and collected by the department of inspections and  
24 appeals and paid into the state treasury to be credited to the  
25 general fund of the state, or to immediate revocation of the  
26 program's certificate.

27 2. Any attempt to discharge a recipient from an adult day  
28 services program by whom or upon whose behalf a complaint has  
29 been submitted to the department of inspections and appeals  
30 under section 231D.9, within ninety days after the filing of  
31 the complaint or the conclusion of any proceeding resulting  
32 from the complaint, shall raise a rebuttable presumption that  
33 the action was taken by the program in retaliation for the  
34 filing of the complaint, except in situations in which the  
35 recipient is discharged due to changes in health status which

1 exceed the level of care offered by the adult day services  
2 program or in other situations as specified by rule.

3 Sec. 13. NEW SECTION. 231D.13 NURSING ASSISTANT AND  
4 MEDICATION AIDE -- CERTIFICATION.

5 The department of inspections and appeals, in cooperation  
6 with other appropriate agencies, shall establish a procedure  
7 to allow nursing assistants or medication aides to claim work  
8 within adult day services programs as credit toward sustaining  
9 the nursing assistant's or medication aide's certification.

10 Sec. 14. NEW SECTION. 231D.14 CRIMINAL RECORDS  
11 INVESTIGATION CHECK.

12 An adult day services program shall comply with section  
13 135C.33.

14 Sec. 15. NEW SECTION. 231D.15 FIRE AND SAFETY STANDARDS.

15 The state fire marshal shall adopt rules, in coordination  
16 with the department of inspections and appeals, relating to  
17 the certification and monitoring of the fire and safety  
18 standards of adult day services programs.

19 Sec. 16. NEW SECTION. 231D.16 TRANSITION PROVISIONS.

20 Adult day services programs voluntarily accredited by a  
21 recognized accrediting entity prior to July 1, 2003, shall  
22 comply with this chapter by June 30, 2004.

23 Sec. 17. Section 100.1, subsection 6, Code 2003, is  
24 amended to read as follows:

25 6. To adopt rules designating a fee to be assessed to each  
26 building, structure, or facility for which a fire safety  
27 inspection or plan review by the state fire marshal is  
28 required ~~as-a-condition-of-licensure~~ by law. The fee  
29 designated by rule shall be set in an amount that is  
30 reasonably related to the costs of conducting the applicable  
31 inspection or plan review. The fees collected by the state  
32 fire marshal shall be retained by the state fire marshal and  
33 deposited in the-general a separate fund of created in the  
34 state treasury under the authority of the state fire marshal  
35 and are appropriated to the state fire marshal to carry out

1 the purpose of this subsection. Amounts deposited in the fund  
2 shall not be transferred, used, obligated, appropriated, or  
3 otherwise encumbered, except as provided in this subsection.  
4 Notwithstanding section 12C.7, subsection 2, interest or  
5 earnings on moneys deposited in the fund shall be credited to  
6 the fund. Notwithstanding section 8.33, amounts deposited in  
7 the fund that remain unexpended or unencumbered at the close  
8 of the fiscal year shall remain in the fund for utilization as  
9 provided in this subsection for the following fiscal year.

10 Sec. 18. Section 135C.1, subsection 1, Code 2003, is  
11 amended to read as follows:

12 1. "Adult day services" means adult day services as  
13 defined in section ~~231.61~~ 231D.1 that are provided in a  
14 licensed health care facility.

15 Sec. 19. Section 231C.2, Code 2003, is amended by adding  
16 the following new subsection:

17 NEW SUBSECTION. 0A. "Adult day services" means adult day  
18 services as defined in section 231D.1.

19 Sec. 20. Section 231.61, Code 2003, is repealed.

20 EXPLANATION

21 This bill establishes regulatory provisions for adult day  
22 services.

23 Currently, provisions relating to regulation of adult day  
24 services are included in Code section 231.61, which is  
25 repealed in the bill. Under that section, regulation of adult  
26 day services consisted of development of a system of oversight  
27 by affected state agencies, industry representatives, and  
28 consumers under the department of elder affairs.

29 Under the bill, a new Code chapter, 231D, is created to  
30 provide for the regulation of adult day services under the  
31 department of elder affairs with the cooperation of the  
32 department of inspections and appeals. The bill directs the  
33 department of elder affairs, with the cooperation of the  
34 department of inspections and appeals, to establish a program  
35 for certification and monitoring of and complaint

1 investigations related to adult day services. The rules and  
2 standards are to be formulated in consultation with affected  
3 industry, professional, and consumer groups. Under the bill,  
4 all adult day services programs are required to be certified  
5 by the department of inspections and appeals. The bill  
6 establishes application and fee requirements; provides a  
7 procedure for denial, suspension, or revocation of  
8 certification; provides for the department of inspections and  
9 appeals to be notified of casualties relative to an adult day  
10 services program; provides a complaint process; provides for  
11 disclosure of final findings by the department of inspections  
12 and appeals related to monitoring evaluations or complaint  
13 investigations; provides penalties for noncompliance with  
14 certification requirements and enforcement of the provisions  
15 of the chapter; prohibits retaliation by an adult day services  
16 program; provides for nursing assistants and medication aides  
17 to claim work within adult day services programs as credit  
18 toward certification; provides for fire and safety standards;  
19 and provides transition provisions.

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*Lipman  
Boddicker  
Murphy*

Succeeded by  
SF 0596

HSB 239  
HUMAN RESOURCES

HOUSE FILE \_\_\_\_\_

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

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
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33 fiscal year.

34 Sec. 5. NEW SECTION. 231D.5 DENIAL, SUSPENSION, OR  
35 REVOCATION.

1 1. The department of inspections and appeals may deny,  
2 suspend, or revoke certification if the department of  
3 inspections and appeals finds that there has been a  
4 substantial or repeated failure on the part of the adult day  
5 services program to comply with this chapter or the rules or  
6 minimum standards adopted pursuant to this chapter, or for any  
7 of the following reasons:

8 a. Cruelty or indifference to adult day services program  
9 service recipients.

10 b. Appropriation or conversion of the property of an adult  
11 day services programs service recipient without the  
12 recipient's written consent or the written consent of the  
13 service recipient's legal guardian.

14 c. Permitting, aiding, or abetting the commission of any  
15 illegal act in the adult day services program.

16 d. Obtaining or attempting to obtain or retain  
17 certification by fraudulent means, misrepresentation, or by  
18 submitting false information.

19 e. Habitual intoxication or addiction to the use of drugs  
20 by the applicant, owner, manager, or supervisor of the adult  
21 day services program.

22 f. Securing the devise or bequest of the property of a  
23 recipient of services of an adult day services program by  
24 undue influence.

25 g. Failure or neglect to maintain a continuing education  
26 and training program for all personnel employed in the adult  
27 day services program.

28 h. Founded dependent adult abuse as defined in section  
29 235B.2.

30 i. For any other reason as provided by law or  
31 administrative rule.

32 2. In the case of an application by an existing  
33 certificate holder for a new or newly acquired adult day  
34 services program, continuing or repeated failure of the  
35 certificate holder to operate any previously certified adult

1 day services program in compliance with this chapter or of the  
2 rules adopted pursuant to this chapter.

3 3. In the case of a certificate applicant or existing  
4 certificate holder which is an entity other than an  
5 individual, the department of inspections and appeals may  
6 deny, suspend, or revoke a certificate if any individual who  
7 is in a position of control or is an officer of the entity  
8 engages in any act or omission proscribed by this section.

9 Sec. 6. NEW SECTION. 231D.6 NOTICE -- APPEAL --  
10 EMERGENCY PROVISIONS.

11 1. The denial, suspension, or revocation of a certificate  
12 shall be effected by delivering to the applicant or  
13 certificate holder by restricted certified mail or by personal  
14 service a notice setting forth the particular reasons for the  
15 action. The denial, suspension, or revocation shall become  
16 effective thirty days after the mailing or service of the  
17 notice, unless the applicant or certificate holder, within the  
18 thirty-day period, requests a hearing, in writing, of the  
19 department of inspections and appeals, in which case the  
20 notice shall be deemed to be suspended.

21 2. The denial, suspension, or revocation of a certificate  
22 may be appealed in accordance with rules adopted by the  
23 department of inspections and appeals.

24 3. When the department of inspections and appeals finds  
25 that an immediate danger to the health or safety of recipients  
26 of services from an adult day services program exists which  
27 requires action on an emergency basis, the department of  
28 inspections and appeals may direct the removal of all  
29 recipients of services from an adult day services program and  
30 suspend the certificate prior to a hearing.

31 Sec. 7. NEW SECTION. 231D.7 CONDITIONAL OPERATION.

32 The department of inspections and appeals may, as an  
33 alternative to denial, suspension, or revocation of  
34 certification under section 231D.5, conditionally issue or  
35 continue certification dependent upon the performance by the

1 adult day services program of reasonable conditions within a  
2 reasonable period of time as prescribed by the department of  
3 inspections and appeals so as to permit the program to  
4 commence or continue the operation of the program pending full  
5 compliance with this chapter or the rules adopted pursuant to  
6 this chapter. If the adult day services program does not make  
7 diligent efforts to comply with the conditions prescribed, the  
8 department of inspections and appeals may, under the  
9 proceedings prescribed by this chapter, suspend or revoke the  
10 certificate. An adult day services program shall not be  
11 operated under conditional certification for more than one  
12 year.

13 Sec. 8. NEW SECTION. 231D.8 DIRECTOR NOTIFIED OF  
14 CASUALTIES.

15 The director of inspections and appeals shall be notified  
16 within twenty-four hours, by the most expeditious means  
17 available, of any accident causing substantial injury or  
18 death, and any substantial fire or natural or other disaster  
19 occurring at or near an adult day services program.

20 Sec. 9. NEW SECTION. 231D.9 COMPLAINTS AND  
21 CONFIDENTIALITY.

22 1. A person with concerns regarding the operations or  
23 service delivery of an adult day services program may file a  
24 complaint with the department of inspections and appeals. The  
25 name of the person who files a complaint with the department  
26 of inspections and appeals and any personal identifying  
27 information of the person or any recipient of program services  
28 identified in the complaint shall be kept confidential and  
29 shall not be subject to discovery, subpoena, or other means of  
30 legal compulsion for its release to a person other than  
31 employees of the department of inspections and appeals  
32 involved in the investigation of the complaint.

33 2. The department of elder affairs, in cooperation with  
34 the department of inspections and appeals, shall establish  
35 procedures for the disposition of complaints received in

1 accordance with this section.

2     Sec. 10. NEW SECTION. 231D.10 PUBLIC DISCLOSURE OF  
3 FINDINGS.

4     Following a monitoring evaluation or complaint  
5 investigation of an adult day services program by the  
6 department of inspections and appeals pursuant to this  
7 chapter, the department's final findings with respect to  
8 compliance by the adult day services program with requirements  
9 for certification shall be made available to the public in a  
10 readily available form and place. Other information relating  
11 to an adult day services program that is obtained by the  
12 department of inspections and appeals which does not  
13 constitute the department's final findings from a monitoring  
14 evaluation or complaint investigation of the adult day  
15 services program shall not be made available to the public  
16 except in proceedings involving the denial, suspension, or  
17 revocation of a certificate under this chapter.

18     Sec. 11. NEW SECTION. 231D.11 PENALTIES.

19     1. A person establishing, conducting, managing, or  
20 operating an adult day services program without a certificate  
21 is guilty of a serious misdemeanor. Each day of continuing  
22 violation after conviction or notice from the department of  
23 inspections and appeals by certified mail of a violation shall  
24 be considered a separate offense or chargeable offense. A  
25 person establishing, conducting, managing, or operating an  
26 adult day services program without a certificate may be  
27 temporarily or permanently restrained by a court of competent  
28 jurisdiction from such activity in an action brought by the  
29 state.

30     2. A person who prevents or interferes with or attempts to  
31 impede in any way any duly authorized representative of the  
32 department of inspections and appeals in the lawful  
33 enforcement of this chapter or of the rules adopted pursuant  
34 to this chapter is guilty of a simple misdemeanor. As used in  
35 this subsection, lawful enforcement includes but is not

1 limited to:

2 a. Contacting or interviewing any participant of an adult  
3 day services program in private at any reasonable hour and  
4 without advance notice.

5 b. Examining any relevant records of an adult day services  
6 program.

7 c. Preserving evidence of any violation of this chapter or  
8 of the rules adopted pursuant to this chapter.

9 3. A civil penalty, as established by rule, may apply in  
10 any of the following situations:

11 a. Program noncompliance with one or more regulatory  
12 requirements has caused or is likely to cause harm, serious  
13 injury, threat, or death to a recipient of program services.

14 b. Program failure or refusal to comply with regulatory  
15 requirements within prescribed time frames.

16 Sec. 12. NEW SECTION. 231D.12 RETALIATION BY AN ADULT  
17 DAY SERVICES PROVIDER PROHIBITED.

18 1. An adult day services provider shall not discriminate  
19 or retaliate in any way against a recipient, recipient's  
20 family, or an employee of the program who has initiated or  
21 participated in any proceeding authorized by this chapter. An  
22 adult day services program that violates this section is  
23 subject to a penalty as established by administrative rule, to  
24 be assessed and collected by the department of inspections and  
25 appeals and paid into the state treasury to be credited to the  
26 general fund of the state, or to immediate revocation of the  
27 program's certificate.

28 2. Any attempt to discharge a recipient from an adult day  
29 services program by whom or upon whose behalf a complaint has  
30 been submitted to the department of inspections and appeals  
31 under section 231D.9, within ninety days after the filing of  
32 the complaint or the conclusion of any proceeding resulting  
33 from the complaint, shall raise a rebuttable presumption that  
34 the action was taken by the program in retaliation for the  
35 filing of the complaint, except in situations in which the

1 recipient is discharged due to changes in health status which  
2 exceed the level of care offered by the adult day services  
3 program.

4 Sec. 13. NEW SECTION. 231D.13 NURSING ASSISTANT AND  
5 MEDICATION AIDE -- CERTIFICATION.

6 The department of inspections and appeals, in cooperation  
7 with other appropriate agencies, shall establish a procedure  
8 to allow nursing assistants or medication aides to claim work  
9 within adult day services programs as credit toward sustaining  
10 the nursing assistant's or medication aide's certification.

11 Sec. 14. NEW SECTION. 231D.14 CRIMINAL RECORDS  
12 INVESTIGATION CHECK.

13 An adult day services program shall comply with section  
14 135C.33.

15 Sec. 15. NEW SECTION. 231D.15 FIRE AND SAFETY STANDARDS.

16 The state fire marshal shall adopt rules, in coordination  
17 with the department of inspections and appeals, relating to  
18 the certification and monitoring of the fire and safety  
19 standards of adult day services programs.

20 Sec. 16. NEW SECTION. 231D.16 TRANSITION PROVISIONS.

21 Adult day services programs existing prior to July 1, 2003,  
22 shall comply with this chapter by June 30, 2004.

23 Sec. 17. Section 100.1, subsection 6, Code 2003, is  
24 amended to read as follows:

25 6. To adopt rules designating a fee to be assessed to each  
26 building, structure, or facility for which a fire safety  
27 inspection or plan review by the state fire marshal is  
28 required ~~as-a-condition-of-licensure~~ by law. The fee  
29 designated by rule shall be set in an amount that is  
30 reasonably related to the costs of conducting the applicable  
31 inspection or plan review. The fees collected by the state  
32 fire marshal shall be retained by the state fire marshal and  
33 deposited in the-general a separate fund of created in the  
34 state treasury under the authority of the state fire marshal  
35 and are appropriated to the state fire marshal to carry out



1 the purpose of this subsection. Amounts deposited in the fund  
2 shall not be transferred, used, obligated, appropriated, or  
3 otherwise encumbered, except as provided in this subsection.  
4 Notwithstanding section 12C.7, subsection 2, interest or  
5 earnings on moneys deposited in the fund shall be credited to  
6 the fund. Notwithstanding section 8.33, amounts deposited in  
7 the fund that remain unexpended or unencumbered at the close  
8 of the fiscal year shall remain in the fund for utilization as  
9 provided in this subsection for the following fiscal year.

10 Sec. 18. Section 135C.1, subsection 1, Code 2003, is  
11 amended to read as follows:

12 1. "Adult day services" means adult day services as  
13 defined in section ~~231.61~~ 231D.1 that are provided in a  
14 licensed health care facility.

15 Sec. 19. Section 231C.2, Code 2003, is amended by adding  
16 the following new subsection:

17 NEW SUBSECTION. 0A. "Adult day services" means adult day  
18 services as defined in section 231D.1.

19 Sec. 20. IMPLEMENTATION -- CONTINGENCY. This Act takes  
20 effect only when the general assembly appropriates funding and  
21 specifically states in the language of the appropriation that  
22 the funding is sufficient, based upon an estimate on file with  
23 the house of origin of the Act, for the implementation and  
24 administration of the Act. The department of elder affairs  
25 shall notify the Code editor when sufficient funds are  
26 appropriated to implement and administer this Act.

27 Sec. 21. Section 231.61, Code 2003, is repealed.

28 **EXPLANATION**

29 This bill establishes regulatory provisions for adult day  
30 services.

31 Currently, provisions relating to regulation of adult day  
32 services are included in Code section 231.61, which is  
33 repealed in the bill. Under that section, regulation of adult  
34 day services consisted of development of a system of oversight  
35 by affected state agencies, industry representatives, and

1 consumers under the department of elder affairs.

2 Under the bill, a new Code chapter, 231D, is created to  
3 provide for the regulation of adult day services under the  
4 department of elder affairs with the cooperation of the  
5 department of inspections and appeals. The bill directs the  
6 department of elder affairs, with the cooperation of the  
7 department of inspections and appeals, to establish a program  
8 for certification and monitoring of and complaint  
9 investigations related to adult day services. The rules and  
10 standards are to be formulated in consultation with affected  
11 industry, professional, and consumer groups. Under the bill,  
12 all adult day services programs are required to be certified  
13 by the department of inspections and appeals. The bill  
14 establishes application and fee requirements; provides a  
15 procedure for denial, suspension, or revocation of  
16 certification; provides for the director of inspections and  
17 appeals to be notified of casualties relative to an adult day  
18 services program; provides a complaint process; provides for  
19 disclosure of final findings by the department of inspections  
20 and appeals related to monitoring evaluations or complaint  
21 investigations; provides penalties for noncompliance with  
22 certification requirements and enforcement of the provisions  
23 of the chapter; prohibits retaliation by a provider of adult  
24 day services; provides for nursing assistants and medication  
25 aides to claim work within adult day services programs as  
26 credit toward certification; provides for fire and safety  
27 standards; and provides transition provisions. The bill also  
28 provides for contingent implementation of the bill.

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