

APR 9 2003
APPROPRIATIONS CALENDAR

HOUSE FILE 672
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO HF 596)
(SUCCESSOR TO HSB 239)

Passed House, Date 4/23/03 Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation of adult day services,
2 providing for appropriations and penalties, and providing an
3 effective date.

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

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HF 672

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
28 department of inspections and appeals, for adult day services.

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 -- INTENT -- RULES

1 -- SPECIAL 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. It is the intent of the general assembly that the
5 department of elder affairs establish policy for adult day
6 services programs and that the department of inspections and
7 appeals, in cooperation with the department of elder affairs,
8 enforce this chapter.

9 3. The department of elder affairs, in cooperation with
10 the department of inspections and appeals, shall establish, by
11 rule in accordance with chapter 17A, a program for
12 certification and monitoring of and complaint investigations
13 related to adult day services programs. The department of
14 elder affairs, in cooperation with the department of
15 inspections and appeals, in establishing standards for adult
16 day services programs, may adopt by rule in accordance with
17 chapter 17A, nationally recognized standards for adult day
18 services programs. The rules shall include specification of
19 recognized accrediting entities. The rules and standards
20 adopted shall be formulated in consultation with affected
21 industry, professional, and consumer groups and shall be
22 designed to accomplish the purpose of this chapter.

23 4. In addition to the adoption of standards and rules for
24 adult day services programs, the department of elder affairs,
25 in cooperation with the department of inspections and appeals,
26 and in consultation with affected industry, professional, and
27 consumer groups, shall issue interpretive guidelines,
28 including the expectations of program certification monitors,
29 to provide direction to adult day services programs in
30 complying with certification requirements.

31 5. The department of elder affairs, in cooperation with
32 the department of inspections and appeals, may establish by
33 administrative rule special classifications for adult day
34 services providers. The department of inspections and appeals
35 shall issue separate certificates for each special

1 classification for which a provider is certified.

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

3 1. A person or governmental unit acting severally or
4 jointly with any other person or governmental unit shall not
5 establish or operate an adult day services program and shall
6 not represent an adult day services program to the public as
7 certified unless and until the program is certified pursuant
8 to this chapter. If an adult day services program is
9 voluntarily accredited by a recognized accrediting entity with
10 specific adult day services standards, the department of
11 inspections and appeals shall accept voluntary accreditation
12 as the basis for certification by the department. The owner
13 or manager of a certified adult day services program shall
14 comply with the rules adopted by the department of elder
15 affairs, in cooperation with the department of inspections and
16 appeals, for an adult day services program.

17 2. An adult day services program may provide any type of
18 adult day services for which the program is certified,
19 including any special classification of adult day services.
20 An adult day services program shall provide services and
21 supervision commensurate with the needs of the recipients. An
22 adult day services program shall not provide services to
23 individuals requiring a level or type of services for which
24 the program is not certified and services provided shall not
25 exceed the level or type of services for which the program is
26 certified.

27 3. An adult day services program that has been certified
28 by the department of inspections and appeals shall not alter
29 the program, operation, or adult day services for which the
30 program is certified in a manner that affects continuing
31 certification without prior approval of the department of
32 inspections and appeals. The department of inspections and
33 appeals shall specify, by rule, alterations that are subject
34 to prior approval.

35 4. A department, agency, or officer of this state or of

1 any political subdivision shall not pay or approve for payment
2 from public funds any amount to an adult day services program
3 for an actual or perspective recipient, unless the program
4 holds a current certificate issued by the department of
5 inspections and appeals and meets all current requirements for
6 certification.

7 5. The department of elder affairs, in cooperation with
8 the department of inspections and appeals, shall adopt rules
9 regarding the conducting or operating of another business or
10 activity in the distinct part of the physical structure in
11 which the adult day services program is provided, if the
12 business or activity serves nonrecipients of adult day
13 services. The rules shall be developed in consultation with
14 affected industry, professional, and consumer groups.

15 Sec. 4. NEW SECTION. 231D.4 APPLICATION AND FEES.

16 1. Certificates for adult day services programs shall be
17 obtained from the department of inspections and appeals.
18 Applications shall be upon such forms and shall include such
19 information as the department of inspections and appeals may
20 reasonably require, which may include affirmative evidence of
21 compliance with applicable statutes and local ordinances.
22 Each application for certification shall be accompanied by the
23 appropriate fee.

24 2. The department of elder affairs, in cooperation with
25 the department of inspections and appeals, shall establish
26 certification fees by rule in accordance with chapter 17A.
27 The department of inspections and appeals shall collect and
28 retain adult day services certification fees. The fees shall
29 be deposited in an adult day services program fund created in
30 the state treasury under the authority of the department of
31 inspections and appeals and are appropriated to the department
32 of inspections and appeals to carry out the purposes of this
33 chapter. Amounts deposited in the fund shall not be
34 transferred, used, obligated, appropriated, or otherwise
35 encumbered except as provided in this section.

1 Notwithstanding section 12C.7, subsection 2, interest or
2 earnings on moneys deposited into the fund shall be credited
3 to the fund. Notwithstanding section 8.33, amounts deposited
4 in the fund that remain unexpended or unencumbered at the
5 close of the fiscal year shall remain in the fund for
6 utilization as provided in this section for the following
7 fiscal year.

8 Sec. 5. NEW SECTION. 231D.5 DENIAL, SUSPENSION, OR
9 REVOCATION.

10 1. The department of inspections and appeals may deny,
11 suspend, or revoke certification if the department of
12 inspections and appeals finds that there has been a
13 substantial or repeated failure on the part of the adult day
14 services program to comply with this chapter or the rules or
15 minimum standards adopted pursuant to this chapter, or for any
16 of the following reasons:

17 a. Cruelty or indifference to adult day services program
18 service recipients.

19 b. Appropriation or conversion of the property of an adult
20 day services programs service recipient without the
21 recipient's written consent or the written consent of the
22 service recipient's legal guardian.

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

25 d. Obtaining or attempting to obtain or retain
26 certification by fraudulent means, misrepresentation, or by
27 submitting false information.

28 e. Habitual intoxication or addiction to the use of drugs
29 by the applicant, owner, manager, or supervisor of the adult
30 day services program.

31 f. Securing the devise or bequest of the property of a
32 recipient of services of an adult day services program by
33 undue influence.

34 g. Failure or neglect to maintain a continuing education
35 and training program for all personnel employed in the adult

1 day services program.

2 h. Founded dependent adult abuse as defined in section
3 235B.2.

4 i. For any other reason as provided by law or
5 administrative rule.

6 2. In the case of an application by an existing
7 certificate holder for a new or newly acquired adult day
8 services program, continuing or repeated failure of the
9 certificate holder to operate any previously certified adult
10 day services program in compliance with this chapter or of the
11 rules adopted pursuant to this chapter.

12 3. In the case of a certificate applicant or existing
13 certificate holder which is an entity other than an
14 individual, the department of inspections and appeals may
15 deny, suspend, or revoke a certificate if any individual who
16 is in a position of control or is an officer of the entity
17 engages in any act or omission proscribed by this section.

18 Sec. 6. NEW SECTION. 231D.6 NOTICE -- APPEAL --
19 EMERGENCY PROVISIONS.

20 1. The denial, suspension, or revocation of a certificate
21 shall be effected by delivering to the applicant or
22 certificate holder by restricted certified mail or by personal
23 service a notice setting forth the particular reasons for the
24 action. The denial, suspension, or revocation shall become
25 effective thirty days after the mailing or service of the
26 notice, unless the applicant or certificate holder, within the
27 thirty-day period, requests a hearing, in writing, of the
28 department of inspections and appeals, in which case the
29 notice shall be deemed to be suspended.

30 2. The denial, suspension, or revocation of a certificate
31 may be appealed in accordance with rules adopted by the
32 department of inspections and appeals in accordance with
33 chapter 17A.

34 3. When the department of inspections and appeals finds
35 that an immediate danger to the health or safety of recipients

1 of services from an adult day services program exists which
2 requires action on an emergency basis, the department of
3 inspections and appeals may direct the removal of all
4 recipients of services from an adult day services program and
5 suspend the certificate prior to a hearing.

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

7 The department of inspections and appeals may, as an
8 alternative to denial, suspension, or revocation of
9 certification under section 231D.5, conditionally issue or
10 continue certification dependent upon the performance by the
11 adult day services program of reasonable conditions within a
12 reasonable period of time as prescribed by the department of
13 inspections and appeals so as to permit the program to
14 commence or continue the operation of the program pending full
15 compliance with this chapter or the rules adopted pursuant to
16 this chapter. If the adult day services program does not make
17 diligent efforts to comply with the conditions prescribed, the
18 department of inspections and appeals may, under the
19 proceedings prescribed by this chapter, suspend or revoke the
20 certificate. An adult day services program shall not be
21 operated under conditional certification for more than one
22 year.

23 Sec. 8. NEW SECTION. 231D.8 DEPARTMENT NOTIFIED OF
24 CASUALTIES.

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

30 Sec. 9. NEW SECTION. 231D.9 COMPLAINTS AND
31 CONFIDENTIALITY.

32 1. A person with concerns regarding the operations or
33 service delivery of an adult day services program may file a
34 complaint with the department of inspections and appeals. The
35 name of the person who files a complaint with the department

1 of inspections and appeals and any personal identifying
2 information of the person or any recipient of program services
3 identified in the complaint shall be kept confidential and
4 shall not be subject to discovery, subpoena, or other means of
5 legal compulsion for its release to a person other than
6 employees of the department of inspections and appeals
7 involved in the investigation of the complaint.

8 2. The department of elder affairs, in cooperation with
9 the department of inspections and appeals, shall establish
10 procedures for the disposition of complaints received in
11 accordance with this section.

12 Sec. 10. NEW SECTION. 231D.10 PUBLIC DISCLOSURE OF
13 FINDINGS.

14 Following a monitoring evaluation or complaint
15 investigation of an adult day services program by the
16 department of inspections and appeals pursuant to this
17 chapter, the department's final findings with respect to
18 compliance by the adult day services program with requirements
19 for certification shall be made available to the public in a
20 readily available form and place. Other information relating
21 to an adult day services program that is obtained by the
22 department of inspections and appeals which does not
23 constitute the department's final findings from a monitoring
24 evaluation or complaint investigation of the adult day
25 services program shall not be made available to the public
26 except in proceedings involving the denial, suspension, or
27 revocation of a certificate under this chapter.

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

29 1. A person establishing, conducting, managing, or
30 operating an adult day services program without a certificate
31 is guilty of a serious misdemeanor. Each day of continuing
32 violation after conviction or notice from the department of
33 inspections and appeals by certified mail of a violation shall
34 be considered a separate offense or chargeable offense. A
35 person establishing, conducting, managing, or operating an

1 adult day services program without a certificate may be ,
2 temporarily or permanently restrained by a court of competent
3 jurisdiction from such activity in an action brought by the
4 state.

5 2. A person who prevents or interferes with or attempts to
6 impede in any way any duly authorized representative of the
7 department of inspections and appeals in the lawful
8 enforcement of this chapter or of the rules adopted pursuant
9 to this chapter is guilty of a simple misdemeanor. As used in
10 this subsection, lawful enforcement includes but is not
11 limited to:

12 a. Contacting or interviewing any participant of an adult
13 day services program in private at any reasonable hour and
14 without advance notice.

15 b. Examining any relevant records of an adult day services
16 program.

17 c. Preserving evidence of any violation of this chapter or
18 of the rules adopted pursuant to this chapter.

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

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

24 b. Program failure or refusal to comply with regulatory
25 requirements within prescribed time frames.

26 Sec. 12. NEW SECTION. 231D.12 RETALIATION BY AN ADULT
27 DAY SERVICES PROGRAM PROHIBITED.

28 1. An adult day services program shall not discriminate or
29 retaliate in any way against a recipient, recipient's family,
30 or an employee of the program who has initiated or
31 participated in any proceeding authorized by this chapter. An
32 adult day services program that violates this section is
33 subject to a penalty as established by administrative rule, to
34 be assessed and collected by the department of inspections and
35 appeals and paid into the state treasury to be credited to the

1 general fund of the state.

2 2. Any attempt to discharge a recipient from an adult day
3 services program by whom or upon whose behalf a complaint has
4 been submitted to the department of inspections and appeals
5 under section 231D.9, within ninety days after the filing of
6 the complaint or the conclusion of any proceeding resulting
7 from the complaint, shall raise a rebuttable presumption that
8 the action was taken by the program in retaliation for the
9 filing of the complaint, except in situations in which the
10 recipient is discharged due to changes in health status which
11 exceed the level of care offered by the adult day services
12 program or in other situations as specified by rule.

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

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

20 Sec. 14. NEW SECTION. 231D.14 CRIMINAL RECORDS
21 INVESTIGATION CHECK.

22 An adult day services program shall comply with section
23 135C.33.

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

25 The state fire marshal shall adopt rules, in coordination
26 with the department of inspections and appeals, relating to
27 the certification and monitoring of the fire and safety
28 standards of adult day services programs.

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

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

33 2. Adult day services programs that are serving at least
34 two but not more than five persons that are not voluntarily
35 accredited by a recognized accrediting entity prior to July 1,

1 2003, shall comply with this chapter by June 30, 2005.

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

4 6. To adopt rules designating a fee to be assessed to each
5 building, structure, or facility for which a fire safety
6 inspection or plan review by the state fire marshal is
7 required ~~as-a-condition-of-licensure~~ by law. The fee
8 designated by rule shall be set in an amount that is
9 reasonably related to the costs of conducting the applicable
10 inspection or plan review. The fees collected by the state
11 fire marshal shall be retained by the state fire marshal and
12 deposited in the-general a separate fund of created in the
13 state treasury under the authority of the state fire marshal
14 and are appropriated to the state fire marshal to carry out
15 the purpose of this subsection. Amounts deposited in the fund
16 shall not be transferred, used, obligated, appropriated, or
17 otherwise encumbered, except as provided in this subsection.
18 Notwithstanding section 12C.7, subsection 2, interest or
19 earnings on moneys deposited in the fund shall be credited to
20 the fund. Notwithstanding section 8.33, amounts deposited in
21 the fund that remain unexpended or unencumbered at the close
22 of the fiscal year shall remain in the fund for utilization as
23 provided in this subsection for the following fiscal year.

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

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

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

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

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

34 Sec. 21. DEPARTMENTAL REPORT. The department of
35 inspections and appeals, in consultation with the department

1 of elder affairs and the department of public safety, shall
2 submit a written report to the general assembly by December
3 31, 2004, with copies to the joint appropriations subcommittee
4 on health and human services that provides details regarding
5 the implementation of this Act, including fees collected
6 annually, and expenses incurred by the affected state agencies
7 for administration, certification issuance, inspection, and
8 other costs related to this Act. The department of
9 inspections and appeals shall also include information in the
10 report regarding its projections as to whether the fees
11 imposed under this Act are sufficient to cover future expenses
12 of affected state agencies under this Act.

13 Sec. 22. ADULT DAY SERVICES -- PERSONS WITH MENTAL
14 RETARDATION. For the period beginning July 1, 2003, and
15 ending June 30, 2004, if an adult day services program serving
16 persons with mental retardation is voluntarily accredited by
17 the commission on accreditation of rehabilitation facilities
18 (CARF) for personal and social services or by the council on
19 quality and leadership in supports for persons with
20 disabilities, prior to July 1, 2003, the department of
21 inspections and appeals shall accept voluntary accreditation
22 as the basis for certification as an adult day services
23 program by the department.

24 Sec. 23. EFFECTIVE DATE. The section of this Act relating
25 to adult day services serving persons with mental retardation,
26 being deemed of immediate importance, takes effect upon
27 enactment.

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 department 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 an adult day services
24 program; provides for nursing assistants and medication aides
25 to claim work within adult day services programs as credit
26 toward certification; provides for fire and safety standards;
27 and provides transition provisions. The bill also requires
28 the department of inspections and appeals, in consultation
29 with the departments of elder affairs and public safety to
30 submit a written report to the general assembly and the joint
31 appropriations subcommittee on health and human services
32 regarding implementation of the bill. The bill also provides
33 that if an adult day services program for persons with mental
34 retardation is voluntarily accredited prior to July 1, 2003,
35 the department of inspections and appeals is to accept the

1 voluntary accreditation as the basis for certification for the
2 period beginning July 1, 2003, and ending June 30, 2004. This
3 provision takes effect upon enactment.

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H-1408

- 1 Amend House File 672 as follows:
 2 1. Page 1, by inserting after line 9, the
 3 following:
 4 "____. "Department" means the department of elder
 5 affairs created in chapter 231."
 6 2. Page 1, by striking lines 19 through 21.
 7 3. Page 1, by striking lines 23 through 28, and
 8 inserting the following: "recognized accrediting
 9 entity that the department recognizes as having
 10 specific adult day services program standards
 11 equivalent to the standards established by the
 12 department for adult day services."
 13 4. Page 2, by striking line 7, and inserting the
 14 following: "appeals".
 15 5. Page 2, by striking lines 9 and 10, and
 16 inserting the following:
 17 "3. The department shall establish, by".
 18 6. Page 2, by striking lines 13 through 15, and
 19 inserting the following: "related to adult day
 20 services programs. The department, in establishing
 21 standards for adult".
 22 7. Page 2, line 20, by inserting after the word
 23 "with" the following: "the department of inspections
 24 and appeals and".
 25 8. Page 2, by striking lines 24 through 26, and
 26 inserting the following: "adult day services
 27 programs, the department in consultation with the
 28 department of inspections and appeals and affected
 29 industry, professional, and".
 30 9. Page 2, by striking lines 31 and 32, and
 31 inserting the following:
 32 "5. The department may establish by".
 33 10. Page 3, by striking lines 14 through 16, and
 34 inserting the following: "comply with the rules
 35 adopted by the department for an adult day services
 36 program."
 37 11. Page 4, line 1, by striking the words
 38 "political subdivision" and inserting the following:
 39 "governmental unit".
 40 12. Page 4, by striking lines 7 and 8, and
 41 inserting the following:
 42 "5. The department shall adopt rules".
 43 13. Page 4, line 13, by inserting after the word
 44 "with" the following: "the department of inspections
 45 and appeals and".
 46 14. By striking page 4, line 24 through page 5,
 47 line 7 and inserting the following:
 48 "2. a. The department of inspections and appeals
 49 shall collect adult day services certification fees.
 50 The fees shall be deposited in the general fund of the

H-1408

H-1408

Page 2

1 state.

2 b. The following certification and related fees
3 shall apply to adult day services programs:

4 (1) For a two-year initial certification, seven
5 hundred fifty dollars.

6 (2) For a two-year recertification, one thousand
7 dollars.

8 (3) For a blueprint review, nine hundred dollars.

9 (4) For an optional preliminary plan review, five
10 hundred dollars."

11 15. Page 8, line 8, by striking the words "of
12 elder affairs".

13 16. Page 10, line 26, by inserting after the word
14 "the" the following: "department of elder affairs and
15 the".

16 17. Page 11, by striking lines 11 through 23, and
17 inserting the following: "fire marshal shall be
18 deposited in the general fund of the state."

19 18. Title page, line 2, by striking the words
20 "appropriations and".

21 19. By renumbering as necessary.

By UPMEYER of Hancock

H-1408 FILED APRIL 23, 2003

ADOPTED

HOUSE FILE 672
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO HF 596)
(SUCCESSOR TO HSB 239)

(As Amended and Passed by the House April 23, 2003)

Passed House, Date 4/23/03 Passed Senate, Date 4/28/03
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved 5/30/03

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House Amendments _____
Deleted Language *

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7 or less in a twenty-four-hour period to two or more persons
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10 2. "Department" means the department of elder affairs
11 created in chapter 231.

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33 -- SPECIAL CLASSIFICATIONS.

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14 department of inspections and appeals and affected industry,
15 professional, and consumer groups and shall be designed to
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18 adult day services programs, the department in consultation
19 with the department of inspections and appeals and affected
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22 certification monitors, to provide direction to adult day
23 services programs in complying with certification
24 requirements.

25 5. The department may establish by administrative rule
26 special classifications for adult day services providers. The
27 department of inspections and appeals shall issue separate
28 certificates for each special classification for which a
29 provider is certified.

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

31 1. A person or governmental unit acting severally or
32 jointly with any other person or governmental unit shall not
33 establish or operate an adult day services program and shall
34 not represent an adult day services program to the public as
35 certified unless and until the program is certified pursuant

1 to this chapter. If an adult day services program is
2 voluntarily accredited by a recognized accrediting entity with
3 specific adult day services standards, the department of
4 inspections and appeals shall accept voluntary accreditation
5 as the basis for certification by the department. The owner
6 or manager of a certified adult day services program shall
7 comply with the rules adopted by the department for an adult
8 day services program.

9 2. An adult day services program may provide any type of
10 adult day services for which the program is certified,
11 including any special classification of adult day services.
12 An adult day services program shall provide services and
13 supervision commensurate with the needs of the recipients. An
14 adult day services program shall not provide services to
15 individuals requiring a level or type of services for which
16 the program is not certified and services provided shall not
17 exceed the level or type of services for which the program is
18 certified.

19 3. An adult day services program that has been certified
20 by the department of inspections and appeals shall not alter
21 the program, operation, or adult day services for which the
22 program is certified in a manner that affects continuing
23 certification without prior approval of the department of
24 inspections and appeals. The department of inspections and
25 appeals shall specify, by rule, alterations that are subject
26 to prior approval.

27 4. A department, agency, or officer of this state or of
28 any governmental unit shall not pay or approve for payment
29 from public funds any amount to an adult day services program
30 for an actual or perspective recipient, unless the program
31 holds a current certificate issued by the department of
32 inspections and appeals and meets all current requirements for
33 certification.

34 5. The department shall adopt rules regarding the
35 conducting or operating of another business or activity in the

1 distinct part of the physical structure in which the adult day
2 services program is provided, if the business or activity
3 serves nonrecipients of adult day services. The rules shall
4 be developed in consultation with the department of
5 inspections and appeals and affected industry, professional,
6 and consumer groups.

7 Sec. 4. NEW SECTION. 231D.4 APPLICATION AND FEES.

8 1. Certificates for adult day services programs shall be
9 obtained from the department of inspections and appeals.
10 Applications shall be upon such forms and shall include such
11 information as the department of inspections and appeals may
12 reasonably require, which may include affirmative evidence of
13 compliance with applicable statutes and local ordinances.
14 Each application for certification shall be accompanied by the
15 appropriate fee.

16 2. a. The department of inspections and appeals shall
17 collect adult day services certification fees. The fees shall
18 be deposited in the general fund of the state.

19 b. The following certification and related fees shall
20 apply to adult day services programs:

21 (1) For a two-year initial certification, seven hundred
22 fifty dollars.

23 (2) For a two-year recertification, one thousand dollars.

24 (3) For a blueprint review, nine hundred dollars.

25 (4) For an optional preliminary plan review, five hundred
26 dollars.

27 Sec. 5. NEW SECTION. 231D.5 DENIAL, SUSPENSION, OR
28 REVOCATION.

29 1. The department of inspections and appeals may deny,
30 suspend, or revoke certification if the department of
31 inspections and appeals finds that there has been a
32 substantial or repeated failure on the part of the adult day
33 services program to comply with this chapter or the rules or
34 minimum standards adopted pursuant to this chapter, or for any
35 of the following reasons:

- 1 a. Cruelty or indifference to adult day services program
2 service recipients.
 - 3 b. Appropriation or conversion of the property of an adult
4 day services programs service recipient without the
5 recipient's written consent or the written consent of the
6 service recipient's legal guardian.
 - 7 c. Permitting, aiding, or abetting the commission of any
8 illegal act in the adult day services program.
 - 9 d. Obtaining or attempting to obtain or retain
10 certification by fraudulent means, misrepresentation, or by
11 submitting false information.
 - 12 e. Habitual intoxication or addiction to the use of drugs
13 by the applicant, owner, manager, or supervisor of the adult
14 day services program.
 - 15 f. Securing the devise or bequest of the property of a
16 recipient of services of an adult day services program by
17 undue influence.
 - 18 g. Failure or neglect to maintain a continuing education
19 and training program for all personnel employed in the adult
20 day services program.
 - 21 h. Founded dependent adult abuse as defined in section
22 235B.2.
 - 23 i. For any other reason as provided by law or
24 administrative rule.
- 25 2. In the case of an application by an existing
26 certificate holder for a new or newly acquired adult day
27 services program, continuing or repeated failure of the
28 certificate holder to operate any previously certified adult
29 day services program in compliance with this chapter or of the
30 rules adopted pursuant to this chapter.
 - 31 3. In the case of a certificate applicant or existing
32 certificate holder which is an entity other than an
33 individual, the department of inspections and appeals may
34 deny, suspend, or revoke a certificate if any individual who
35 is in a position of control or is an officer of the entity

1 engages in any act or omission proscribed by this section.

2 Sec. 6. NEW SECTION. 231D.6 NOTICE -- APPEAL --
3 EMERGENCY PROVISIONS.

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

14 2. The denial, suspension, or revocation of a certificate
15 may be appealed in accordance with rules adopted by the
16 department of inspections and appeals in accordance with
17 chapter 17A.

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

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

26 The department of inspections and appeals may, as an
27 alternative to denial, suspension, or revocation of
28 certification under section 231D.5, conditionally issue or
29 continue certification dependent upon the performance by the
30 adult day services program of reasonable conditions within a
31 reasonable period of time as prescribed by the department of
32 inspections and appeals so as to permit the program to
33 commence or continue the operation of the program pending full
34 compliance with this chapter or the rules adopted pursuant to
35 this chapter. If the adult day services program does not make

1 diligent efforts to comply with the conditions prescribed, the
2 department of inspections and appeals may, under the
3 proceedings prescribed by this chapter, suspend or revoke the
4 certificate. An adult day services program shall not be
5 operated under conditional certification for more than one
6 year.

7 Sec. 8. NEW SECTION. 231D.8 DEPARTMENT NOTIFIED OF
8 CASUALTIES.

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

14 Sec. 9. NEW SECTION. 231D.9 COMPLAINTS AND
15 CONFIDENTIALITY.

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

* 27 2. The department, in cooperation with the department of
28 inspections and appeals, shall establish procedures for the
29 disposition of complaints received in accordance with this
30 section.

31 Sec. 10. NEW SECTION. 231D.10 PUBLIC DISCLOSURE OF
32 FINDINGS.

33 Following a monitoring evaluation or complaint
34 investigation of an adult day services program by the
35 department of inspections and appeals pursuant to this

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

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

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

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

31 a. Contacting or interviewing any participant of an adult
32 day services program in private at any reasonable hour and
33 without advance notice.

34 b. Examining any relevant records of an adult day services
35 program.

1 c. Preserving evidence of any violation of this chapter or
2 of the rules adopted pursuant to this chapter.

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

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

8 b. Program failure or refusal to comply with regulatory
9 requirements within prescribed time frames.

10 Sec. 12. NEW SECTION. 231D.12 RETALIATION BY AN ADULT
11 DAY SERVICES PROGRAM PROHIBITED.

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

21 2. Any attempt to discharge a recipient from an adult day
22 services program by whom or upon whose behalf a complaint has
23 been submitted to the department of inspections and appeals
24 under section 231D.9, within ninety days after the filing of
25 the complaint or the conclusion of any proceeding resulting
26 from the complaint, shall raise a rebuttable presumption that
27 the action was taken by the program in retaliation for the
28 filing of the complaint, except in situations in which the
29 recipient is discharged due to changes in health status which
30 exceed the level of care offered by the adult day services
31 program or in other situations as specified by rule.

32 Sec. 13. NEW SECTION. 231D.13 NURSING ASSISTANT AND
33 MEDICATION AIDE -- CERTIFICATION.

34 The department of inspections and appeals, in cooperation
35 with other appropriate agencies, shall establish a procedure

1 to allow nursing assistants or medication aides to claim work
2 within adult day services programs as credit toward sustaining
3 the nursing assistant's or medication aide's certification.

4 Sec. 14. NEW SECTION. 231D.14 CRIMINAL RECORDS
5 INVESTIGATION CHECK.

6 An adult day services program shall comply with section
7 135C.33.

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

9 The state fire marshal shall adopt rules, in coordination
10 with the department of elder affairs and the department of
11 inspections and appeals, relating to the certification and
12 monitoring of the fire and safety standards of adult day
13 services programs.

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

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

18 2. Adult day services programs that are serving at least
19 two but not more than five persons that are not voluntarily
20 accredited by a recognized accrediting entity prior to July 1,
21 2003, shall comply with this chapter by June 30, 2005.

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

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

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

35 1. "Adult day services" means adult day services as

1 defined in section ~~231.61~~ 231D.1 that are provided in a
2 licensed health care facility.

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

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

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

8 Sec. 21. DEPARTMENTAL REPORT. The department of
9 inspections and appeals, in consultation with the department
10 of elder affairs and the department of public safety, shall
11 submit a written report to the general assembly by December
12 31, 2004, with copies to the joint appropriations subcommittee
13 on health and human services that provides details regarding
14 the implementation of this Act, including fees collected
15 annually, and expenses incurred by the affected state agencies
16 for administration, certification issuance, inspection, and
17 other costs related to this Act. The department of
18 inspections and appeals shall also include information in the
19 report regarding its projections as to whether the fees
20 imposed under this Act are sufficient to cover future expenses
21 of affected state agencies under this Act.

22 Sec. 22. ADULT DAY SERVICES -- PERSONS WITH MENTAL
23 RETARDATION. For the period beginning July 1, 2003, and
24 ending June 30, 2004, if an adult day services program serving
25 persons with mental retardation is voluntarily accredited by
26 the commission on accreditation of rehabilitation facilities
27 (CARF) for personal and social services or by the council on
28 quality and leadership in supports for persons with
29 disabilities, prior to July 1, 2003, the department of
30 inspections and appeals shall accept voluntary accreditation
31 as the basis for certification as an adult day services
32 program by the department.

33 Sec. 23. EFFECTIVE DATE. The section of this Act relating
34 to adult day services serving persons with mental retardation,
35 being deemed of immediate importance, takes effect upon

- 1 enactment.
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SUCCESS
SF 0672

HSB 239
HUMAN RESOURCES

*Upmeyer
Boddicker
Murphy*

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON BODDICKER)

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,
2 providing for appropriations and penalties, and providing a
3 contingent effective date.

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

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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 persons with a
8 functional impairment on a regularly scheduled, contractual
9 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
28 department of inspections and appeals, for adult day services.

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
16 industry, professional, and consumer groups and shall be
17 designed to accomplish the purpose of this chapter.

18 3. The department of elder affairs, in cooperation with
19 the department of inspections and appeals, may establish by
20 administrative rule special classifications for adult day
21 services providers. The department of inspections and appeals
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
33 inspections and appeals shall accept voluntary accreditation
34 as the basis for certification by the department. The owner
35 or manager of a certified adult day services program shall

1 comply with the rules adopted by the department of elder
2 affairs, in cooperation with the department of inspections and
3 appeals, for an adult day services program.

4 2. An adult day services program may provide any type of
5 adult day services for which the program is certified,
6 including any special classification of adult day services.
7 An adult day services program shall provide services and
8 supervision commensurate with the needs of the recipients. An
9 adult day services program shall not provide services to
10 individuals requiring a level or type of services for which
11 the program is not certified and services provided shall not
12 exceed the level or type of services for which the program is
13 certified.

14 3. An adult day services program that has been certified
15 by the department of inspections and appeals shall not alter
16 the program, operation, or adult day services for which the
17 program is certified in a manner that affects continuing
18 certification without prior approval of the department of
19 inspections and appeals. The department of inspections and
20 appeals shall specify, by rule, alterations that are subject
21 to prior approval.

22 4. A department, agency, or officer of this state or of
23 any political subdivision shall not pay or approve for payment
24 from public funds any amount to an adult day services program
25 for an actual or prospective recipient, unless the program
26 holds a current certificate issued by the department of
27 inspections and appeals and meets all current requirements for
28 certification.

29 5. An adult day services program shall not conduct or
30 operate another business or activity within the program
31 without the prior approval of the department of inspections
32 and appeals, if the business or activity serves primarily
33 nonrecipients of adult day services. The department of elder
34 affairs, in cooperation with the department of inspections and
35 appeals, and in accordance with chapter 17A, shall adopt rules

1 which establish criteria for approval of a business or
2 activity to be conducted or operated within the program. The
3 rules shall be developed in consultation with affected
4 industry, professional, and consumer groups.

5 Sec. 4. NEW SECTION. 231D.4 APPLICATION AND FEES.

6 1. Certificates for adult day services programs shall be
7 obtained from the department of inspections and appeals.
8 Applications shall be upon such forms and shall include such
9 information as the department of inspections and appeals may
10 reasonably require, which may include affirmative evidence of
11 compliance with applicable statutes and local ordinances.
12 Each application for certification shall be accompanied by the
13 appropriate fee, subject to refund to the applicant if the
14 certification is denied.

15 2. The department of elder affairs, in cooperation with
16 the department of inspections and appeals, shall establish
17 certification fees by rule in accordance with chapter 17A.
18 The department of inspections and appeals shall collect and
19 retain adult day services certification fees. The fees shall
20 be deposited in an adult day services program fund created in
21 the state treasury under the authority of the department of
22 inspections and appeals and are appropriated to the department
23 of inspections and appeals to carry out the purposes of this
24 chapter. Amounts deposited in the fund shall not be
25 transferred, used, obligated, appropriated, or otherwise
26 encumbered except as provided in this section.
27 Notwithstanding section 12C.7, subsection 2, interest or
28 earnings on moneys deposited into the fund shall be credited
29 to the fund. Notwithstanding section 8.33, amounts deposited
30 in the fund that remain unexpended or unencumbered at the
31 close of the fiscal year shall remain in the fund for
32 utilization as provided in this section for the following
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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AN ACT

RELATING TO THE REGULATION OF ADULT DAY SERVICES, PROVIDING
FOR PENALTIES, AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

2. "Department" means the department of elder affairs created in chapter 231.

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

4. "Governmental unit" means the state, or any county, municipality, or other political subdivision or any department, division, board, or other agency of any of these entities.

5. "Recognized accrediting entity" means a nationally recognized accrediting entity that the department recognizes as having specific adult day services program standards equivalent to the standards established by the department for adult day services.

6. "Social services" means services relating to the psychological and social needs of the individual in adjusting to participating in an adult day services program, and minimizing the stress arising from that circumstance.

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

Sec. 2. NEW SECTION. 231D.2 PURPOSE -- INTENT -- RULES -- SPECIAL CLASSIFICATIONS.

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

2. It is the intent of the general assembly that the department of elder affairs establish policy for adult day services programs and that the department of inspections and appeals enforce this chapter.

3. The department shall establish, by rule in accordance with chapter 17A, a program for certification and monitoring of and complaint investigations related to adult day services programs. The department, in establishing standards for adult day services programs, may adopt by rule in accordance with chapter 17A, nationally recognized standards for adult day services programs. The rules shall include specification of recognized accrediting entities. The rules and standards adopted shall be formulated in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups and shall be designed to accomplish the purpose of this chapter.

4. In addition to the adoption of standards and rules for adult day services programs, the department in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups, shall issue interpretive guidelines, including the expectations of program certification monitors, to provide direction to adult day services programs in complying with certification requirements.

5. The department may establish by administrative rule special classifications for adult day services providers. The department of inspections and appeals shall issue separate certificates for each special classification for which a provider is certified.

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

1. A person or governmental unit acting severally or jointly with any other person or governmental unit shall not establish or operate an adult day services program and shall not represent an adult day services program to the public as certified unless and until the program is certified pursuant to this chapter. If an adult day services program is voluntarily accredited by a recognized accrediting entity with specific adult day services standards, the department of inspections and appeals shall accept voluntary accreditation as the basis for certification by the department. The owner or manager of a certified adult day services program shall comply with the rules adopted by the department for an adult day services program.

2. An adult day services program may provide any type of adult day services for which the program is certified, including any special classification of adult day services. An adult day services program shall provide services and supervision commensurate with the needs of the recipients. An adult day services program shall not provide services to individuals requiring a level or type of services for which the program is not certified and services provided shall not exceed the level or type of services for which the program is certified.

3. An adult day services program that has been certified by the department of inspections and appeals shall not alter the program, operation, or adult day services for which the program is certified in a manner that affects continuing certification without prior approval of the department of inspections and appeals. The department of inspections and

appeals shall specify, by rule, alterations that are subject to prior approval.

4. A department, agency, or officer of this state or of any governmental unit shall not pay or approve for payment from public funds any amount to an adult day services program for an actual or perspective recipient, unless the program holds a current certificate issued by the department of inspections and appeals and meets all current requirements for certification.

5. The department shall adopt rules regarding the conducting or operating of another business or activity in the distinct part of the physical structure in which the adult day services program is provided, if the business or activity serves nonrecipients of adult day services. The rules shall be developed in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups.

Sec. 4. NEW SECTION. 231D.4 APPLICATION AND FEES.

1. Certificates for adult day services programs shall be obtained from the department of inspections and appeals. Applications shall be upon such forms and shall include such information as the department of inspections and appeals may reasonably require, which may include affirmative evidence of compliance with applicable statutes and local ordinances. Each application for certification shall be accompanied by the appropriate fee.

2. a. The department of inspections and appeals shall collect adult day services certification fees. The fees shall be deposited in the general fund of the state.

b. The following certification and related fees shall apply to adult day services programs:

(1) For a two-year initial certification, seven hundred fifty dollars.

(2) For a two-year recertification, one thousand dollars.

(3) For a blueprint review, nine hundred dollars.

(4) For an optional preliminary plan review, five hundred dollars.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. The denial, suspension, or revocation of a certificate may be appealed in accordance with rules adopted by the department of inspections and appeals in accordance with chapter 17A.

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

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

The department of inspections and appeals may, as an alternative to denial, suspension, or revocation of certification under section 231D.5, conditionally issue or continue certification dependent upon the performance by the adult day services program of reasonable conditions within a reasonable period of time as prescribed by the department of inspections and appeals so as to permit the program to commence or continue the operation of the program pending full compliance with this chapter or the rules adopted pursuant to this chapter. If the adult day services program does not make diligent efforts to comply with the conditions prescribed, the department of inspections and appeals may, under the proceedings prescribed by this chapter, suspend or revoke the certificate. An adult day services program shall not be operated under conditional certification for more than one year.

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

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

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

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

2. The department, in cooperation with the department of inspections and appeals, shall establish procedures for the disposition of complaints received in accordance with this section.

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

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

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

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

2. A person who prevents or interferes with or attempts to impede in any way any duly authorized representative of the department of inspections and appeals in the lawful

enforcement of this chapter or of the rules adopted pursuant to this chapter is guilty of a simple misdemeanor. As used in this subsection, lawful enforcement includes but is not limited to:

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

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

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

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

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

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

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

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

2. Any attempt to discharge a recipient from an adult day services program by whom or upon whose behalf a complaint has been submitted to the department of inspections and appeals under section 231D.9, within ninety days after the filing of the complaint or the conclusion of any proceeding resulting from the complaint, shall raise a rebuttable presumption that

the action was taken by the program in retaliation for the filing of the complaint, except in situations in which the recipient is discharged due to changes in health status which exceed the level of care offered by the adult day services program or in other situations as specified by rule.

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

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

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

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

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

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

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

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

2. Adult day services programs that are serving at least two but not more than five persons that are not voluntarily accredited by a recognized accrediting entity prior to July 1, 2003, shall comply with this chapter by June 30, 2005.

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

6. To adopt rules designating a fee to be assessed to each building, structure, or facility for which a fire safety inspection or plan review by the state fire marshal is

required ~~as-a-condition-of-licensure~~ by law. The fee designated by rule shall be set in an amount that is reasonably related to the costs of conducting the applicable inspection or plan review. The fees collected by the state fire marshal shall be deposited in the general fund of the state.

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

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

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

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

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

Sec. 21. DEPARTMENTAL REPORT. The department of inspections and appeals, in consultation with the department of elder affairs and the department of public safety, shall submit a written report to the general assembly by December 31, 2004, with copies to the joint appropriations subcommittee on health and human services that provides details regarding the implementation of this Act, including fees collected annually, and expenses incurred by the affected state agencies for administration, certification issuance, inspection, and other costs related to this Act. The department of inspections and appeals shall also include information in the report regarding its projections as to whether the fees imposed under this Act are sufficient to cover future expenses of affected state agencies under this Act.

Sec. 22. ADULT DAY SERVICES -- PERSONS WITH MENTAL RETARDATION. For the period beginning July 1, 2003, and ending June 30, 2004, if an adult day services program serving persons with mental retardation is voluntarily accredited by the commission on accreditation of rehabilitation facilities

(CARF) for personal and social services or by the council on quality and leadership in supports for persons with disabilities, prior to July 1, 2003, the department of inspections and appeals shall accept voluntary accreditation as the basis for certification as an adult day services program by the department.

Sec. 23. EFFECTIVE DATE. The section of this Act relating to adult day services serving persons with mental retardation, being deemed of immediate importance, takes effect upon enactment.

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 672, Eightieth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2003

THOMAS J. VILSACK
Governor