

APR 9 2003
APPROPRIATIONS CALENDAR

HOUSE FILE 675
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO HF 582)
(SUCCESSOR TO HSB 233)

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 elder family homes, elder
2 group homes, and assisted living programs, providing for
3 appropriation of fees, and providing penalties.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

HF 675

1 Section 1. Section 100.1, subsection 6, Code 2003, is
2 amended to read as follows:

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

23 Sec. 2. Section 135C.33, subsection 5, paragraph e, Code
24 2003, is amended to read as follows:

25 e. An employee of an assisted living facility program
26 ~~certified or-voluntarily-accredited~~ under chapter 231C, if the
27 employee provides direct services to consumers.

28 Sec. 3. Section 231B.1, subsection 2, Code 2003, is
29 amended by striking the subsection.

30 Sec. 4. Section 231B.1, subsection 4, Code 2003, is
31 amended to read as follows:

32 4. "Elder group home" means a single-family residence that
33 is ~~a-residence-of~~ operated by a person who is providing room,
34 board, and personal care to three through five elders who are
35 not related to the person providing the service within the

1 third degree of consanguinity or affinity.

2 Sec. 5. Section 231B.2, subsection 1, Code 2003, is
3 amended to read as follows:

4 1. 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 special classification
7 for elder group homes. An elder group home established
8 pursuant to this subsection is exempt from the requirements of
9 section 135.63.

10 Sec. 6. Section 231B.2, subsection 2, unnumbered paragraph
11 1, Code 2003, is amended to read as follows:

12 The department of elder affairs, in cooperation with the
13 department of inspections and appeals, shall adopt rules to
14 establish requirements for certification of elder group homes.
15 The requirements shall include but are not limited to all of
16 the following:

17 Sec. 7. Section 231B.2, subsection 2, paragraph c, Code
18 2003, is amended to read as follows:

19 c. An elder group home shall be ~~owner-occupied, or owned~~
20 ~~by a nonprofit corporation and occupied by a resident manager~~
21 staffed by an on-site manager twenty-four hours per day, seven
22 days per week. A resident manager shall reside in and provide
23 ~~services for no more than one elder group home.~~

24 Sec. 8. Section 231B.2, subsections 3 through 5, Code
25 2003, are amended to read as follows:

26 3. An elder group home established pursuant to this
27 chapter shall be certified by the department of inspections
28 and appeals.

29 4. A provider under the special classification shall
30 comply with the rules adopted by the department of elder
31 affairs, in cooperation with the department of inspections and
32 appeals, for an elder group home.

33 5. Inspections and certification services shall be
34 provided by the department of inspections and appeals.

35 ~~However, beginning July 17, 1994, the department may enter into~~

1 ~~contracts with the area agencies on aging to provide these~~
2 ~~services.~~

3 Sec. 9. Section 231B.3, subsection 2, Code 2003, is
4 amended to read as follows:

5 2. A person who has knowledge that an elder group home is
6 operating without certification shall report the name and
7 address of the home to the department of inspections and
8 appeals. The department of inspections and appeals shall
9 investigate a report made pursuant to this section.

10 Sec. 10. Section 231C.1, Code 2003, is amended to read as
11 follows:

12 231C.1 FINDINGS, AND PURPOSE, AND INTENT.

13 1. The general assembly finds that assisted living is an
14 important part of the long-term care system in this state.
15 Assisted living emphasizes the independence and dignity of the
16 individual while providing services in a cost-effective
17 manner.

18 2. The purposes of establishing an assisted living program
19 include all of the following:

20 a. To encourage the establishment and maintenance of a
21 safe and homelike environment for individuals of all income
22 levels who require assistance to live independently but who do
23 not require health-related care on a continuous twenty-four
24 hour per day basis.

25 b. To establish standards for assisted living programs
26 that allow flexibility in design which promotes a social model
27 of service delivery by focusing on individual independence,
28 individual needs and desires, and consumer-driven quality of
29 service.

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

33 3. It is the intent of the general assembly that the
34 department of elder affairs establish policy for assisted
35 living programs and that the department of inspections and

1 appeals, in cooperation with the department of elder affairs,
2 enforce this chapter.

3 Sec. 11. Section 231C.2, subsections 1 and 6, Code 2003,
4 are amended to read as follows:

5 1. "Assisted living" means provision of housing with
6 services which may include but are not limited to health-
7 related care, personal care, and assistance with instrumental
8 activities of daily living to ~~six~~ three or more tenants in a
9 physical structure which provides a homelike environment.

10 "Assisted living" also includes encouragement of family
11 involvement, tenant self-direction, and tenant participation
12 in decisions that emphasize choice, dignity, privacy,
13 individuality, shared risk, and independence. "Assisted
14 living" includes the provision of housing and assistance with
15 instrumental activities of daily living only if personal care
16 or health-related care is also included.

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

20 Sec. 12. Section 231C.2, subsection 2, Code 2003, is
21 amended by striking the subsection.

22 Sec. 13. Section 231C.2, Code 2003, is amended by adding
23 the following new subsections:

24 NEW SUBSECTION. 2A. "Governmental unit" means the state,
25 or any county, municipality, or other political subdivision or
26 any department, division, board, or other agency of any of
27 these entities.

28 NEW SUBSECTION. 4A. "Legal representative" means a person
29 appointed by the court to act on behalf of the tenant, or a
30 person acting pursuant to a power of attorney.

31 NEW SUBSECTION. 4B. "Occupancy agreement" means a written
32 agreement entered into between an assisted living program and
33 a tenant that clearly describes the rights and
34 responsibilities of the assisted living program and a tenant,
35 and other information required by rule. "Occupancy agreement"

1 may include a separate signed lease and signed service
2 agreement.

3 NEW SUBSECTION. 5A. "Recognized accrediting entity" means
4 a nationally recognized accrediting entity that the department
5 of elder affairs, in cooperation with the department of
6 inspections and appeals, recognizes as having specific
7 assisted living program standards equivalent to the standards
8 established by the department of elder affairs, in cooperation
9 with the department of inspections and appeals, for assisted
10 living programs.

11 NEW SUBSECTION. 6A. "Tenant advocate" means the office of
12 long-term care resident's advocate established in section
13 231.42.

14 NEW SUBSECTION. 7. "Tenant's representative" means a
15 tenant's legal representative or any representative authorized
16 by the tenant to act on behalf of the tenant.

17 Sec. 14. Section 231C.3, Code 2003, is amended by striking
18 the section and inserting in lieu thereof the following:

19 231C.3 CERTIFICATION OF ASSISTED LIVING PROGRAMS.

20 1. The department of elder affairs, in cooperation with
21 the department of inspections and appeals, shall establish, by
22 rule in accordance with chapter 17A, a program for
23 certification and monitoring of assisted living programs. The
24 department of elder affairs, in cooperation with the
25 department of inspections and appeals, may adopt by reference
26 with or without amendment, nationally recognized standards and
27 rules for assisted living programs. The rules shall include
28 specification of recognized accrediting entities and
29 provisions related to dementia-specific programs. The
30 standards and rules shall be formulated in consultation with
31 affected industry, professional, and consumer groups and shall
32 be designed to accomplish the purposes of this chapter and
33 shall include but are not limited to rules relating to all of
34 the following:

35 a. Provisions to ensure, to the greatest extent possible,

1 the health, safety, and well-being and appropriate treatment
2 of tenants.

3 b. Requirements that assisted living programs furnish the
4 department of elder affairs and the department of inspections
5 and appeals with specified information necessary to administer
6 this chapter.

7 c. Standards for tenant evaluation or assessment, which
8 may vary in accordance with the nature of the services
9 provided or the status of the tenant.

10 d. Provisions for granting short-term waivers for tenants
11 who exceed occupancy criteria.

12 2. In addition to the adoption of standards and rules for
13 assisted living programs, the department of elder affairs, in
14 cooperation with the department of inspections and appeals,
15 and in consultation with affected industry, professional, and
16 consumer groups, shall issue interpretive guidelines,
17 including the expectations of program certification monitors,
18 to provide direction to assisted living programs in complying
19 with certification requirements.

20 3. Each assisted living program operating in this state
21 shall be certified by the department of inspections and
22 appeals. If an assisted living program is voluntarily
23 accredited by a recognized accrediting entity, the department
24 of inspections and appeals shall certify the assisted living
25 program on the basis of the voluntary accreditation. An
26 assisted living program that is certified by the department of
27 inspections and appeals on the basis of voluntary
28 accreditation shall not be subject to payment of the
29 certification fee prescribed in section 231C.18, but shall be
30 subject to an administrative fee as prescribed by rule. An
31 assisted living program certified under this section is exempt
32 from the requirements of section 135.63 relating to
33 certificate of need requirements.

34 4. The owner or manager of a certified assisted living
35 program shall comply with the rules adopted by the department

1 of elder affairs, in cooperation with the department of
2 inspections and appeals, for an assisted living program. A
3 person including a governmental unit shall not represent an
4 assisted living program to the public as an assisted living
5 program or as a certified assisted living program unless and
6 until the program is certified pursuant to this chapter.

7 5. a. Services provided by a certified assisted living
8 program may be provided directly by staff of the assisted
9 living program, by individuals contracting with the assisted
10 living program to provide services, or by individuals employed
11 by the tenant or with whom the tenant contracts if the tenant
12 agrees to assume the responsibility and risk of the employment
13 or the contractual relationship.

14 b. If a tenant is terminally ill and has elected to
15 receive hospice services under the federal Medicare program
16 from a Medicare-certified hospice program, the assisted living
17 program and the Medicare-certified hospice program shall enter
18 into a written agreement under which the hospice program
19 retains professional management responsibility for those
20 services.

21 6. The department of inspections and appeals may enter
22 into contracts to provide certification and monitoring of
23 assisted living programs. The department of inspections and
24 appeals shall:

25 a. Have full access at reasonable times to all records,
26 materials, and common areas pertaining to the provision of
27 services and care to the tenants of a program during
28 certification, monitoring, and complaint investigations of
29 programs seeking certification, currently certified, or
30 alleged to be uncertified.

31 b. With the consent of the tenant, visit the tenant's
32 unit.

33 c. Require that the recognized accrediting entity
34 providing accreditation for a program provide copies to the
35 department of all materials related to the accreditation,

1 monitoring, and complaint process.

2 7. The department of elder affairs, in cooperation with
3 the department of inspections and appeals, may also establish
4 by rule in accordance with chapter 17A a special
5 classification for affordable assisted living programs. The
6 rules shall be formulated in consultation with affected
7 industry, professional, and consumer groups.

8 8. A department, agency, or officer of this state or of
9 any political subdivision shall not pay or approve for payment
10 from public funds any amount to an assisted living program for
11 an actual or prospective tenant, unless the program holds a
12 current certificate issued by the department of inspections
13 and appeals and meets all current requirements for
14 certification.

15 9. The department of elder affairs, in cooperation with
16 the department of inspections and appeals, shall adopt rules
17 regarding the conducting or operating of another business or
18 activity in the distinct part of the physical structure in
19 which the assisted living program is provided, if the business
20 or activity serves nontenants. The rules shall be developed
21 in consultation with affected industry, professional, and
22 consumer groups.

23 10. An assisted living program shall comply with section
24 135C.33.

25 Sec. 15. Section 231C.4, Code 2003, is amended to read as
26 follows:

27 231C.4 FIRE AND SAFETY STANDARDS.

28 The state fire marshal shall adopt rules, in coordination
29 with the department of elder affairs and the department of
30 inspections and appeals, relating to the certification ~~or~~
31 ~~voluntary-accreditation~~ and monitoring of the fire and safety
32 standards of certified ~~or-voluntarily-accredited~~ assisted
33 living programs.

34 Sec. 16. Section 231C.5, Code 2003, is amended by striking
35 the section and inserting in lieu thereof the following:

1 231C.5 WRITTEN OCCUPANCY AGREEMENT REQUIRED.

2 1. An assisted living program shall not operate in this
3 state unless a written occupancy agreement, as prescribed in
4 subsection 2, is executed between the assisted living program
5 and each tenant or tenant's representative, prior to the
6 tenant's occupancy, and unless the assisted living program
7 operates in accordance with the terms of the occupancy
8 agreement. The assisted living program shall deliver to the
9 tenant or tenant's representative a complete copy of the
10 occupancy agreement and all supporting documents and
11 attachments and shall deliver, at least thirty days prior to
12 any changes, a written copy of changes to the occupancy
13 agreement if any changes to the copy originally delivered are
14 subsequently made.

15 2. An assisted living program occupancy agreement shall
16 clearly describe the rights and responsibilities of the tenant
17 and the program. The occupancy agreement shall also include
18 but is not limited to inclusion of all of the following
19 information in the body of the agreement or in the supporting
20 documents and attachments:

21 a. A description of all fees, charges, and rates
22 describing tenancy and basic services covered, and any
23 additional and optional services and their related costs.

24 b. A statement regarding the impact of the fee structure
25 on third-party payments, and whether third-party payments and
26 resources are accepted by the assisted living program.

27 c. The procedure followed for nonpayment of fees.

28 d. Identification of the party responsible for payment of
29 fees and identification of the tenant's representative, if
30 any.

31 e. The term of the occupancy agreement.

32 f. A statement that the assisted living program shall
33 notify the tenant or the tenant's representative, as
34 applicable, in writing at least thirty days prior to any
35 change being made in the occupancy agreement with the

1 following exceptions:

2 (1) When the tenant's health status or behavior
3 constitutes a substantial threat to the health or safety of
4 the tenant, other tenants, or others, including when the
5 tenant refuses to consent to relocation.

6 (2) When an emergency or a significant change in the
7 tenant's condition results in the need for the provision of
8 services that exceed the type or level of services included in
9 the occupancy agreement and the necessary services cannot be
10 safely provided by the assisted living program.

11 g. A statement that all tenant information shall be
12 maintained in a confidential manner to the extent required
13 under state and federal law.

14 h. Occupancy, involuntary transfer, and transfer criteria
15 and procedures, which ensure a safe and orderly transfer. The
16 internal appeals process provided relative to an involuntary
17 transfer.

18 i. The program's policies and procedures for addressing
19 grievances between the assisted living program and the
20 tenants, including grievances relating to transfer and
21 occupancy.

22 j. A statement of the prohibition against retaliation as
23 prescribed in section 231C.13.

24 k. The emergency response policy.

25 l. The staffing policy which specifies if the staff is
26 available twenty-four hours per day, if nurse delegation will
27 be used, and how staffing will be adapted to meet changing
28 tenant needs.

29 m. In dementia-specific assisted living programs, a
30 description of the services and programming provided to meet
31 the life skills and social activities of tenants.

32 n. The refund policy.

33 o. A statement regarding billing and payment procedures.

34 3. Occupancy agreements and related documents executed by
35 each tenant or tenant's representative shall be maintained by

1 the assisted living program in program files from the date of
2 execution until three years from the date the occupancy
3 agreement is terminated. A copy of the most current occupancy
4 agreement shall be provided to members of the general public,
5 upon request. Occupancy agreements and related documents
6 shall be made available for on-site inspection to the
7 department of inspections and appeals upon request and at
8 reasonable times.

9 Sec. 17. Section 231C.6, Code 2003, is amended by striking
10 the section and inserting in lieu thereof the following:

11 231C.6 INVOLUNTARY TRANSFER.

12 1. If an assisted living program initiates the involuntary
13 transfer of a tenant and the action is not a result of a
14 monitoring evaluation or complaint investigation by the
15 department of inspections and appeals, and if the tenant or
16 tenant's representative contests the transfer, the following
17 procedure shall apply:

18 a. The assisted living program shall notify the tenant or
19 tenant's representative, in accordance with the occupancy
20 agreement, of the need to transfer, the reason for the
21 transfer, and the contact information of the tenant advocate.

22 b. The assisted living program shall provide the tenant
23 advocate with a copy of the notification to the tenant.

24 c. The tenant advocate shall offer the notified tenant or
25 tenant's representative assistance with the program's internal
26 appeals process. The tenant is not required to accept the
27 assistance of the tenant advocate.

28 d. If, following the internal appeals process, the
29 assisted living program upholds the transfer decision, the
30 tenant may utilize other remedies authorized by law to contest
31 the transfer.

32 2. The department of elder affairs, in cooperation with
33 the department of inspections and appeals and in consultation
34 with affected industry, professional, and consumer groups,
35 shall establish, by rule in accordance with chapter 17A,

1 procedures to be followed, including the opportunity for
2 hearing, when the transfer of a tenant results from a
3 monitoring evaluation or complaint investigation conducted by
4 the department of inspections and appeals.

5 Sec. 18. NEW SECTION. 231C.7 COMPLAINTS.

6 1. Any person with concerns regarding the operations or
7 service delivery of an assisted living program may file a
8 complaint with the department of inspections and appeals. The
9 name of the person who files a complaint with the department
10 of inspections and appeals and any personal identifying
11 information of the person or any tenant identified in the
12 complaint shall be kept confidential and shall not be subject
13 to discovery, subpoena, or other means of legal compulsion for
14 its release to a person other than department of inspections
15 and appeals' employees involved with the complaint.

16 2. The department of elder affairs, in cooperation with
17 the department of inspections and appeals, shall establish
18 procedures for the disposition of complaints received in
19 accordance with this section.

20 Sec. 19. NEW SECTION. 231C.8 INFORMAL REVIEW.

21 If an assisted living program contests the regulatory
22 insufficiencies of a monitoring evaluation or complaint
23 investigation, the program shall submit written information,
24 demonstrating that the program was in compliance with the
25 applicable requirement at the time of the monitoring
26 evaluation or complaint investigation, in support of the
27 contesting of the regulatory insufficiencies, to the
28 department of inspections and appeals for review. The
29 department of inspections and appeals shall review the written
30 information submitted within ten working days of the receipt
31 of the information. At the conclusion of the review, the
32 department of inspections and appeals may affirm, modify, or
33 dismiss the regulatory insufficiencies. The department of
34 inspections and appeals shall notify the program in writing of
35 the decision to affirm, modify, or dismiss the regulatory

1 insufficiencies, and the reasons for the decision. In the
2 case of a complaint investigation, the department of
3 inspections and appeals shall also notify the complainant, if
4 known, of the decision and the reasons for the decision.

5 Sec. 20. NEW SECTION. 231C.9 PUBLIC DISCLOSURE OF
6 FINDINGS.

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

22 Sec. 21. NEW SECTION. 231C.10 DENIAL, SUSPENSION, OR
23 REVOCATION -- CONDITIONAL OPERATION.

24 1. The department of inspections and appeals may deny,
25 suspend, or revoke a certificate in any case where the
26 department of inspections and appeals finds that there has
27 been a substantial or repeated failure on the part of the
28 assisted living program to comply with this chapter or the
29 rules, or minimum standards adopted under this chapter, or for
30 any of the following reasons:

31 a. Cruelty or indifference to assisted living program
32 tenants.

33 b. Appropriation or conversion of the property of an
34 assisted living program tenant without the tenant's written
35 consent or the written consent of the tenant's legal guardian.

1 c. Permitting, aiding, or abetting the commission of any
2 illegal act in the assisted living program.

3 d. Obtaining or attempting to obtain or retain a
4 certificate by fraudulent means, misrepresentation, or by
5 submitting false information.

6 e. Habitual intoxication or addiction to the use of drugs
7 by the applicant, administrator, executive director, manager,
8 or supervisor of the assisted living program.

9 f. Securing the devise or bequest of the property of a
10 tenant of an assisted living program by undue influence.

11 g. Founded dependent adult abuse as defined in section
12 235B.2.

13 h. In the case of any officer, member of the board of
14 directors, trustee, or designated manager of the program or
15 any stockholder, partner, or individual who has greater than a
16 ten percent equity interest in the program, who has or has had
17 an ownership interest in an assisted living program, home
18 health agency, residential care facility, or licensed nursing
19 facility in any state which has been closed due to removal of
20 program, agency, or facility licensure or certification or
21 involuntary termination from participation in either the
22 medical assistance or Medicare programs, or who has been found
23 to have failed to provide adequate protection or services for
24 tenants to prevent abuse or neglect.

25 i. In the case of a certificate applicant or an existing
26 certified owner or operator who is an entity other than an
27 individual, the person is in a position of control or is an
28 officer of the entity and engages in any act or omission
29 proscribed by this chapter.

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

32 2. The department of inspections and appeals may as an
33 alternative to denial, suspension, or revocation conditionally
34 issue or continue a certificate dependent upon the performance
35 by the assisted living program of reasonable conditions within

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

11 Sec. 22. NEW SECTION. 231C.11 NOTICE -- APPEAL --
12 EMERGENCY PROVISIONS.

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

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

27 3. When the department of inspections and appeals finds
28 that an imminent danger to the health or safety of tenants of
29 an assisted living program exists which requires action on an
30 emergency basis, the department of inspections and appeals may
31 direct removal of all tenants of an assisted living program
32 and suspend the certificate prior to a hearing.

33 Sec. 23. NEW SECTION. 231C.12 DEPARTMENT NOTIFIED OF
34 CASUALTIES.

35 The department of inspections and appeals shall be notified

1 within twenty-four hours, by the most expeditious means
2 available, of any accident causing substantial injury or
3 death, and any substantial fire or natural or other disaster
4 occurring at or near an assisted living program.

5 Sec. 24. NEW SECTION. 231C.13 RETALIATION BY ASSISTED
6 LIVING PROGRAM PROHIBITED.

7 An assisted living program shall not discriminate or
8 retaliate in any way against a tenant, tenant's family, or an
9 employee of the program who has initiated or participated in
10 any proceeding authorized by this chapter. An assisted living
11 program that violates this section is subject to a penalty as
12 established by administrative rule in accordance with chapter
13 17A and to be assessed and collected by the department of
14 inspections and appeals and paid into the state treasury to be
15 credited to the general fund of the state.

16 Sec. 25. NEW SECTION. 231C.14 CIVIL PENALTIES.

17 The department of elder affairs, in cooperation with the
18 department of inspections and appeals, may establish by rule,
19 in accordance with chapter 17A, civil penalties for the
20 following violations by an assisted living program:

21 1. Noncompliance with any regulatory requirements which
22 presents an imminent danger or a substantial probability of
23 resultant death or physical harm to a tenant.

24 2. Following receipt of notice from the department of
25 inspections and appeals, continued failure or refusal to
26 comply within a prescribed time frame with regulatory
27 requirements that have a direct relationship to the health,
28 safety, or security of program tenants.

29 Sec. 26. NEW SECTION. 231C.15 CRIMINAL PENALTIES AND
30 INJUNCTIVE RELIEF.

31 1. A person establishing, conducting, managing, or
32 operating any assisted living program without a certificate is
33 guilty of a serious misdemeanor. Each day of continuing
34 violation after conviction or notice from the department of
35 inspections and appeals by certified mail of a violation shall

1 be considered a separate offense or chargeable offense. A
2 person establishing, conducting, managing, or operating an
3 assisted living program without a certificate may be
4 temporarily or permanently restrained by a court of competent
5 jurisdiction from such activity in an action brought by the
6 state.

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

14 a. Contacting or interviewing any tenant of an assisted
15 living program in private at any reasonable hour and without
16 advance notice.

17 b. Examining any relevant records of an assisted living
18 program.

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

21 Sec. 27. NEW SECTION. 231C.16 NURSING ASSISTANT AND
22 MEDICATION AIDE -- CERTIFICATION.

23 The department of inspections and appeals, in cooperation
24 with other appropriate agencies, shall establish a procedure
25 to allow nursing assistants or medication aides to claim work
26 within an assisted living program as credit toward sustaining
27 the nursing assistant's or medication aide's certification.

28 Sec. 28. NEW SECTION. 231C.17 COORDINATION OF THE LONG-
29 TERM CARE SYSTEM -- TRANSITIONAL PROVISIONS.

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

35 2. This chapter shall not be construed to require that a

1 facility licensed as a different type of facility also comply
2 with the requirements of this chapter, unless the facility is
3 represented to the public as a certified assisted living
4 program.

5 3. A certified assisted living program that complies with
6 the requirements of this chapter shall not be required to be
7 licensed as a health care facility pursuant to chapter 135C,
8 unless the facility is represented to the public as a licensed
9 health care facility.

10 Sec. 29. NEW SECTION. 231C.18 IOWA ASSISTED LIVING FEES.

11 The department of inspections and appeals shall collect and
12 retain assisted living program certification and related fees
13 as established by rule in accordance with chapter 17A. An
14 assisted living program that is certified by the department of
15 inspections and appeals on the basis of voluntary
16 accreditation by a recognized accrediting entity shall not be
17 subject to payment of the certification fee, but shall be
18 subject to an administrative fee as prescribed by rule. Fees
19 collected and retained pursuant to this section shall be
20 deposited into an assisted living program fund created in the
21 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. 30. NEW SECTION. 231C.19 APPLICATION OF LANDLORD
35 AND TENANT ACT.

1 Chapter 562A, the uniform residential landlord and tenant
2 Act, shall apply to assisted living programs under this
3 chapter.

4 Sec. 31. Section 235B.3, subsection 2, paragraph d, Code
5 2003, is amended to read as follows:

6 d. A person who performs inspections of elder group homes
7 for the department of ~~elder-affairs~~ inspections and appeals
8 and a resident advocate committee member assigned to an elder
9 group home pursuant to chapter 231B.

10 Sec. 32. Chapter 231A, Code 2003, is repealed.

11 Sec. 33. TRANSITION OF STAFF. All employees of the
12 department of elder affairs performing functions related to
13 certification and monitoring of or complaint investigations
14 related to assisted living programs as of June 30, 2003, shall
15 become employees of the department of inspections and appeals
16 without loss of classification, pay, or benefits, effective
17 July 1, 2003. All employees of the department of elder
18 affairs performing functions related to affordable assisted
19 living as of June 30, 2003, shall become employees of the Iowa
20 finance authority without loss of classification, pay, or
21 benefits, effective July 1, 2003.

22 EXPLANATION

23 This bill provides for regulation of elder group homes and
24 assisted living programs.

25 The bill provides for regulation of elder group homes by
26 the department of elder affairs in cooperation with the
27 department of inspections and appeals. The bill changes the
28 definition of elder group home to mean a single-family
29 residence operated by a person, rather than being the
30 residence of the person providing room, board, and personal
31 care to elders. The bill also provides that rather than being
32 owner-occupied or owned by a nonprofit corporation and
33 occupied by a resident manager, the elder group home is
34 required only to be staffed by an on-site manager 24 hours per
35 day, seven days per week.

1 The bill provides for regulation of assisted living
2 programs by directing the department of elder affairs, in
3 cooperation with the department of inspections and appeals, to
4 establish, by rule, a program for certification and monitoring
5 related to assisted living programs. The rules are to be
6 formulated in consultation with affected industry,
7 professional, and consumer groups. In addition to the rules,
8 interpretive guidelines are also to be issued. Each assisted
9 living program operating in the state is to be certified by
10 the department of inspections and appeals. If an assisted
11 living program is voluntarily accredited by a recognized
12 accrediting entity, the department of inspections and appeals
13 is to certify the program based upon the voluntary
14 accreditation. The bill provides specifically that if the
15 tenant is terminally ill and has elected to receive hospice
16 services under the federal Medicare program from a Medicare-
17 certified hospice program, the assisted living program and the
18 hospice program are to enter an agreement under which the
19 hospice program retains professional management responsibility
20 for those services.

21 The bill provides that the department of elder affairs in
22 cooperation with the department of inspections and appeals may
23 establish by administrative rule a special classification for
24 affordable assisted living programs. The bill also provides
25 that a department, agency, or officer of this state, or of any
26 political subdivision shall not pay or approve for payment
27 from public funds any amount to an assisted living program for
28 an actual or prospective tenant, unless the program holds a
29 current certificate and meets all requirements for
30 certification. The bill also directs the department of elder
31 affairs in cooperation with the department of inspections and
32 appeals to adopt rules regarding the conducting or operating
33 of another business or activity in the distinct part of the
34 physical structure in which the assisted living program is
35 provided, if the business or activity serves nontenants. The

1 rules are to be developed in consultation with affected
2 industry, professional, and consumer groups.

3 The bill specifies requirements for written occupancy
4 agreements and provides a process for involuntary transfer of
5 a tenant.

6 The bill provides for the filing and disposition of
7 complaints; provides for an informal review of contests to the
8 results of a monitoring evaluation or complaint investigation;
9 provides for public disclosure of the final findings with
10 respect to a monitoring evaluation or complaint investigation;
11 provides the bases for the denial, suspension, or revocation
12 of certification and for conditional operation of a program as
13 an alternative to denial, suspension, or revocation of
14 certification; provides for notice and hearings related to
15 denial, suspension, or revocation of certification; provides
16 for the notification of the department of inspections and
17 appeals of any casualties at an assisted living program;
18 prohibits retaliation by an assisted living program against a
19 tenant, tenant's family, or an employee of the program who has
20 initiated or participated in any proceeding under the Code
21 chapter; establishes civil and criminal penalties for certain
22 violations of the bill; provides for nursing assistants and
23 medication aides to claim work within assisted living programs
24 as credit toward their certification; and provides
25 transitional provisions for long-term care providers. The
26 bill provides for collection and retaining of assisted living
27 program fees by the department of inspections and appeals and
28 provides that if an assisted living program is certified based
29 upon voluntary accreditation, the program is not subject to
30 payment of the certification fee but is subject to payment of
31 an administrative fee as prescribed by rule. The bill
32 provides that the uniform residential landlord and tenant Act
33 (chapter 562A) applies to assisted living programs.

34 The bill provides for transition of staff used in the
35 regulation of assisted living programs by providing that

1 employees of the department of elder affairs who performed
2 functions related to certification and monitoring of or
3 complaint investigations related to assisted living programs
4 as of June 30, 2003, are to become employees of the department
5 of inspections and appeals without loss of classification,
6 pay, or benefits, effective July 1, 2003. Additionally, all
7 employees of the department of elder affairs performing
8 functions related to affordable assisted living as of June 30,
9 2003, are to become employees of the Iowa finance authority
10 without loss of classification, pay, or benefits, effective
11 July 1, 2003.

12 The bill also repeals Code chapter 231A, relating to elder
13 family homes.

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

HOUSE FILE 675

H-1407

- 1 Amend House File 675 as follows:
- 2 1. Page 1, by striking lines 10 through 22 and
- 3 inserting the following: "fire marshal shall be
- 4 deposited in the general fund of the state."
- 5 2. Page 1, by striking lines 28 and 29.
- 6 3. Page 2, by striking lines 2 through 16.
- 7 4. Page 2, line 24, by striking the word
- 8 "through" and inserting the following: "and".
- 9 5. Page 2, by striking lines 29 through 32.
- 10 6. Page 4, by striking line 1, and inserting the
- 11 following: "appeals".
- 12 7. Page 4, by striking lines 20 and 21.
- 13 8. Page 5, by striking lines 5 through 9, and
- 14 inserting the following: "recognizes as having
- 15 specific assisted living program standards equivalent
- 16 to the standards established by the department for
- 17 assisted".
- 18 9. Page 5, by striking lines 20 and 21, and
- 19 inserting the following:
- 20 "1. The department shall establish by".
- 21 10. Page 5, by striking lines 24 and 25, and
- 22 inserting the following: "department may adopt by
- 23 reference".
- 24 11. Page 5, line 30, by inserting after the word
- 25 "with" the following: "the department of inspections
- 26 and appeals, and".
- 27 12. Page 6, by striking lines 13 through 15, and
- 28 inserting the following: "assisted living programs,
- 29 the department in consultation with the department of
- 30 inspections and appeals and affected industry,
- 31 professional, and".
- 32 13. Page 7, by striking lines 1 and 2, and
- 33 inserting the following: "for an assisted living
- 34 program. A".
- 35 14. Page 8, by striking lines 2 and 3, and
- 36 inserting the following:
- 37 "7. The department may also establish".
- 38 15. Page 8, line 6, by inserting after the word
- 39 "with" the following: "the department of inspections
- 40 and appeals and".
- 41 16. Page 8, line 9, by striking the words
- 42 "political subdivision" and inserting the following:
- 43 "governmental unit".
- 44 17. Page 8, by striking lines 15 and 16, and
- 45 inserting the following:
- 46 "9. The department shall adopt rules".
- 47 18. Page 8, line 21, by inserting after the word
- 48 "with" the following: "the department of inspections
- 49 and appeals and".
- 50 19. Page 11, by striking lines 32 through 34, and

H-1407

H-1407

Page 2

- 1 inserting the following:
- 2 "2. The department, in consultation with the
- 3 department of inspections and appeals and affected
- 4 industry, professional, and consumer groups,".
- 5 20. Page 12, line 16, by striking the words "of
- 6 elder affairs".
- 7 21. Page 16, by striking lines 17 and 18, and
- 8 inserting the following:
- 9 "The department may establish by rule,".
- 10 22. Page 18, by striking lines 11 through 13, and
- 11 inserting the following:
- 12 "1. The department of inspections and appeals
- 13 shall collect assisted living program certification
- 14 and related fees. An".
- 15 23. Page 18, by striking lines 20 through 33 and
- 16 inserting the following: "deposited in the general
- 17 fund of the state.
- 18 2. The following certification and related fees
- 19 shall apply to assisted living programs:
- 20 a. For a two-year initial certification, seven
- 21 hundred fifty dollars.
- 22 b. For a two-year recertification, one thousand
- 23 dollars.
- 24 c. For a blueprint plan review, nine hundred
- 25 dollars.
- 26 d. For an optional preliminary plan review, five
- 27 hundred dollars."
- 28 24. Title page, line 3, by striking the words
- 29 "appropriation of".
- 30 25. By renumbering as necessary.

By UPMEYER of Hancock

H-1407 FILED APRIL 22, 2003

Adopted 4/23/03

HOUSE FILE 675
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO HF 582)
(SUCCESSOR TO HSB 233)

(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

A BILL FOR

1 An Act relating to the regulation of elder family homes, elder
2 group homes, and assisted living programs, providing for
* 3 fees, and providing penalties.

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

5

6

House Amendments _____

7

Deleted Language *

8

9

10

11

12

13

14

15

16

17

18

19

20

1 Section 1. Section 100.1, subsection 6, Code 2003, is
2 amended to read as follows:

3 6. To adopt rules designating a fee to be assessed to each
4 building, structure, or facility for which a fire safety
5 inspection or plan review by the state fire marshal is
6 required ~~as-a-condition-of-licensure~~ by law. The fee
7 designated by rule shall be set in an amount that is
8 reasonably related to the costs of conducting the applicable
9 inspection or plan review. The fees collected by the state
10 fire marshal shall be deposited in the general fund of the
11 state.

12 Sec. 2. Section 135C.33, subsection 5, paragraph e, Code
13 2003, is amended to read as follows:

14 e. An employee of an assisted living facility program
15 ~~certified or voluntarily accredited~~ under chapter 231C, if the
16 employee provides direct services to consumers.

* 17 Sec. 3. Section 231B.1, subsection 4, Code 2003, is
18 amended to read as follows:

19 4. "Elder group home" means a single-family residence that
20 is ~~a-residence-of~~ operated by a person who is providing room,
21 board, and personal care to three through five elders who are
22 not related to the person providing the service within the
23 third degree of consanguinity or affinity.

* 24 Sec. 4. Section 231B.2, subsection 2, paragraph c, Code
25 2003, is amended to read as follows:

26 c. An elder group home shall be ~~owner-occupied, or owned~~
27 ~~by-a-nonprofit-corporation-and-occupied-by-a-resident-manager~~
28 staffed by an on-site manager twenty-four hours per day, seven
29 days per week. ~~A-resident-manager-shall-reside-in-and-provide~~
30 ~~services-for-no-more-than-one-elder-group-home.~~

31 Sec. 5. Section 231B.2, subsections 3 and 5, Code 2003,
32 are amended to read as follows:

33 3. An elder group home established pursuant to this
34 chapter shall be certified by the department of inspections
35 and appeals.

* 1 5. Inspections and certification services shall be
2 provided by the department of inspections and appeals.
3 ~~However, beginning July 17, 1994, the department may enter into~~
4 ~~contracts with the area agencies on aging to provide these~~
5 ~~services.~~

6 Sec. 6. Section 231B.3, subsection 2, Code 2003, is
7 amended to read as follows:

8 2. A person who has knowledge that an elder group home is
9 operating without certification shall report the name and
10 address of the home to the department of inspections and
11 appeals. The department of inspections and appeals shall
12 investigate a report made pursuant to this section.

13 Sec. 7. Section 231C.1, Code 2003, is amended to read as
14 follows:

15 231C.1 FINDINGS, AND PURPOSE, AND INTENT.

16 1. The general assembly finds that assisted living is an
17 important part of the long-term care system in this state.
18 Assisted living emphasizes the independence and dignity of the
19 individual while providing services in a cost-effective
20 manner.

21 2. The purposes of establishing an assisted living program
22 include all of the following:

23 a. To encourage the establishment and maintenance of a
24 safe and homelike environment for individuals of all income
25 levels who require assistance to live independently but who do
26 not require health-related care on a continuous twenty-four
27 hour per day basis.

28 b. To establish standards for assisted living programs
29 that allow flexibility in design which promotes a social model
30 of service delivery by focusing on individual independence,
31 individual needs and desires, and consumer-driven quality of
32 service.

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

1 3. It is the intent of the general assembly that the
2 department of elder affairs establish policy for assisted
3 living programs and that the department of inspections and
4 appeals enforce this chapter.

5 Sec. 8. Section 231C.2, subsections 1 and 6, Code 2003,
6 are amended to read as follows:

7 1. "Assisted living" means provision of housing with
8 services which may include but are not limited to health-
9 related care, personal care, and assistance with instrumental
10 activities of daily living to ~~six~~ three or more tenants in a
11 physical structure which provides a homelike environment.
12 "Assisted living" also includes encouragement of family
13 involvement, tenant self-direction, and tenant participation
14 in decisions that emphasize choice, dignity, privacy,
15 individuality, shared risk, and independence. "Assisted
16 living" includes the provision of housing and assistance with
17 instrumental activities of daily living only if personal care
18 or health-related care is also included.

19 6. "Tenant" means an individual who receives assisted
20 living services through a certified ~~or-accredited~~ assisted
21 living program.

* 22 Sec. 9. Section 231C.2, Code 2003, is amended by adding
23 the following new subsections:

24 NEW SUBSECTION. 2A. "Governmental unit" means the state,
25 or any county, municipality, or other political subdivision or
26 any department, division, board, or other agency of any of
27 these entities.

28 NEW SUBSECTION. 4A. "Legal representative" means a person
29 appointed by the court to act on behalf of the tenant, or a
30 person acting pursuant to a power of attorney.

31 NEW SUBSECTION. 4B. "Occupancy agreement" means a written
32 agreement entered into between an assisted living program and
33 a tenant that clearly describes the rights and
34 responsibilities of the assisted living program and a tenant,
35 and other information required by rule. "Occupancy agreement"

1 may include a separate signed lease and signed service
2 agreement.

3 NEW SUBSECTION. 5A. "Recognized accrediting entity" means
4 a nationally recognized accrediting entity that the department
5 recognizes as having specific assisted living program
6 standards equivalent to the standards established by the
7 department for assisted living programs.

8 NEW SUBSECTION. 6A. "Tenant advocate" means the office of
9 long-term care resident's advocate established in section
10 231.42.

11 NEW SUBSECTION. 7. "Tenant's representative" means a
12 tenant's legal representative or any representative authorized
13 by the tenant to act on behalf of the tenant.

14 Sec. 10. Section 231C.3, Code 2003, is amended by striking
15 the section and inserting in lieu thereof the following:

16 231C.3 CERTIFICATION OF ASSISTED LIVING PROGRAMS.

17 1. The department shall establish by rule in accordance
18 with chapter 17A, a program for certification and monitoring
19 of assisted living programs. The department may adopt by
20 reference with or without amendment, nationally recognized
21 standards and rules for assisted living programs. The rules
22 shall include specification of recognized accrediting entities
23 and provisions related to dementia-specific programs. The
24 standards and rules shall be formulated in consultation with
25 the department of inspections and appeals, and affected
26 industry, professional, and consumer groups and shall be
27 designed to accomplish the purposes of this chapter and shall
28 include but are not limited to rules relating to all of the
29 following:

30 a. Provisions to ensure, to the greatest extent possible,
31 the health, safety, and well-being and appropriate treatment
32 of tenants.

33 b. Requirements that assisted living programs furnish the
34 department of elder affairs and the department of inspections
35 and appeals with specified information necessary to administer

1 this chapter.

2 c. Standards for tenant evaluation or assessment, which
3 may vary in accordance with the nature of the services
4 provided or the status of the tenant.

5 d. Provisions for granting short-term waivers for tenants
6 who exceed occupancy criteria.

7 2. In addition to the adoption of standards and rules for
8 assisted living programs, the department in consultation with
9 the department of inspections and appeals and affected
10 industry, professional, and consumer groups, shall issue
11 interpretive guidelines, including the expectations of program
12 certification monitors, to provide direction to assisted
13 living programs in complying with certification requirements.

14 3. Each assisted living program operating in this state
15 shall be certified by the department of inspections and
16 appeals. If an assisted living program is voluntarily
17 accredited by a recognized accrediting entity, the department
18 of inspections and appeals shall certify the assisted living
19 program on the basis of the voluntary accreditation. An
20 assisted living program that is certified by the department of
21 inspections and appeals on the basis of voluntary
22 accreditation shall not be subject to payment of the
23 certification fee prescribed in section 231C.18, but shall be
24 subject to an administrative fee as prescribed by rule. An
25 assisted living program certified under this section is exempt
26 from the requirements of section 135.63 relating to
27 certificate of need requirements.

28 4. The owner or manager of a certified assisted living
29 program shall comply with the rules adopted by the department
30 for an assisted living program. A person including a
31 governmental unit shall not represent an assisted living
32 program to the public as an assisted living program or as a
33 certified assisted living program unless and until the program
34 is certified pursuant to this chapter.

35 5. a. Services provided by a certified assisted living

1 program may be provided directly by staff of the assisted
2 living program, by individuals contracting with the assisted
3 living program to provide services, or by individuals employed
4 by the tenant or with whom the tenant contracts if the tenant
5 agrees to assume the responsibility and risk of the employment
6 or the contractual relationship.

7 b. If a tenant is terminally ill and has elected to
8 receive hospice services under the federal Medicare program
9 from a Medicare-certified hospice program, the assisted living
10 program and the Medicare-certified hospice program shall enter
11 into a written agreement under which the hospice program
12 retains professional management responsibility for those
13 services.

14 6. The department of inspections and appeals may enter
15 into contracts to provide certification and monitoring of
16 assisted living programs. The department of inspections and
17 appeals shall:

18 a. Have full access at reasonable times to all records,
19 materials, and common areas pertaining to the provision of
20 services and care to the tenants of a program during
21 certification, monitoring, and complaint investigations of
22 programs seeking certification, currently certified, or
23 alleged to be uncertified.

24 b. With the consent of the tenant, visit the tenant's
25 unit.

26 c. Require that the recognized accrediting entity
27 providing accreditation for a program provide copies to the
28 department of all materials related to the accreditation,
29 monitoring, and complaint process.

30 7. The department may also establish by rule in accordance
31 with chapter 17A a special classification for affordable
32 assisted living programs. The rules shall be formulated in
33 consultation with the department of inspections and appeals
34 and affected industry, professional, and consumer groups.

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

1 any governmental unit shall not pay or approve for payment
2 from public funds any amount to an assisted living program for
3 an actual or prospective tenant, unless the program holds a
4 current certificate issued by the department of inspections
5 and appeals and meets all current requirements for
6 certification.

7 9. The department shall adopt rules regarding the
8 conducting or operating of another business or activity in the
9 distinct part of the physical structure in which the assisted
10 living program is provided, if the business or activity serves
11 nontenants. The rules shall be developed in consultation with
12 the department of inspections and appeals and affected
13 industry, professional, and consumer groups.

14 10. An assisted living program shall comply with section
15 135C.33.

16 Sec. 11. Section 231C.4, Code 2003, is amended to read as
17 follows:

18 231C.4 FIRE AND SAFETY STANDARDS.

19 The state fire marshal shall adopt rules, in coordination
20 with the department of elder affairs and the department of
21 inspections and appeals, relating to the certification ~~or~~
22 ~~voluntary-accreditation~~ and monitoring of the fire and safety
23 standards of certified ~~or-voluntarily-accredited~~ assisted
24 living programs.

25 Sec. 12. Section 231C.5, Code 2003, is amended by striking
26 the section and inserting in lieu thereof the following:

27 231C.5 WRITTEN OCCUPANCY AGREEMENT REQUIRED.

28 1. An assisted living program shall not operate in this
29 state unless a written occupancy agreement, as prescribed in
30 subsection 2, is executed between the assisted living program
31 and each tenant or tenant's representative, prior to the
32 tenant's occupancy, and unless the assisted living program
33 operates in accordance with the terms of the occupancy
34 agreement. The assisted living program shall deliver to the
35 tenant or tenant's representative a complete copy of the

1 occupancy agreement and all supporting documents and
2 attachments and shall deliver, at least thirty days prior to
3 any changes, a written copy of changes to the occupancy
4 agreement if any changes to the copy originally delivered are
5 subsequently made.

6 2. An assisted living program occupancy agreement shall
7 clearly describe the rights and responsibilities of the tenant
8 and the program. The occupancy agreement shall also include
9 but is not limited to inclusion of all of the following
10 information in the body of the agreement or in the supporting
11 documents and attachments:

12 a. A description of all fees, charges, and rates
13 describing tenancy and basic services covered, and any
14 additional and optional services and their related costs.

15 b. A statement regarding the impact of the fee structure
16 on third-party payments, and whether third-party payments and
17 resources are accepted by the assisted living program.

18 c. The procedure followed for nonpayment of fees.

19 d. Identification of the party responsible for payment of
20 fees and identification of the tenant's representative, if
21 any.

22 e. The term of the occupancy agreement.

23 f. A statement that the assisted living program shall
24 notify the tenant or the tenant's representative, as
25 applicable, in writing at least thirty days prior to any
26 change being made in the occupancy agreement with the
27 following exceptions:

28 (1) When the tenant's health status or behavior
29 constitutes a substantial threat to the health or safety of
30 the tenant, other tenants, or others, including when the
31 tenant refuses to consent to relocation.

32 (2) When an emergency or a significant change in the
33 tenant's condition results in the need for the provision of
34 services that exceed the type or level of services included in
35 the occupancy agreement and the necessary services cannot be

1 safely provided by the assisted living program.

2 g. A statement that all tenant information shall be
3 maintained in a confidential manner to the extent required
4 under state and federal law.

5 h. Occupancy, involuntary transfer, and transfer criteria
6 and procedures, which ensure a safe and orderly transfer. The
7 internal appeals process provided relative to an involuntary
8 transfer.

9 i. The program's policies and procedures for addressing
10 grievances between the assisted living program and the
11 tenants, including grievances relating to transfer and
12 occupancy.

13 j. A statement of the prohibition against retaliation as
14 prescribed in section 231C.13.

15 k. The emergency response policy.

16 l. The staffing policy which specifies if the staff is
17 available twenty-four hours per day, if nurse delegation will
18 be used, and how staffing will be adapted to meet changing
19 tenant needs.

20 m. In dementia-specific assisted living programs, a
21 description of the services and programming provided to meet
22 the life skills and social activities of tenants.

23 n. The refund policy.

24 o. A statement regarding billing and payment procedures.

25 3. Occupancy agreements and related documents executed by
26 each tenant or tenant's representative shall be maintained by
27 the assisted living program in program files from the date of
28 execution until three years from the date the occupancy
29 agreement is terminated. A copy of the most current occupancy
30 agreement shall be provided to members of the general public,
31 upon request. Occupancy agreements and related documents
32 shall be made available for on-site inspection to the
33 department of inspections and appeals upon request and at
34 reasonable times.

35 Sec. 13. Section 231C.6, Code 2003, is amended by striking

1 the section and inserting in lieu thereof the following:

2 231C.6 INVOLUNTARY TRANSFER.

3 1. If an assisted living program initiates the involuntary
4 transfer of a tenant and the action is not a result of a
5 monitoring evaluation or complaint investigation by the
6 department of inspections and appeals, and if the tenant or
7 tenant's representative contests the transfer, the following
8 procedure shall apply:

9 a. The assisted living program shall notify the tenant or
10 tenant's representative, in accordance with the occupancy
11 agreement, of the need to transfer, the reason for the
12 transfer, and the contact information of the tenant advocate.

13 b. The assisted living program shall provide the tenant
14 advocate with a copy of the notification to the tenant.

15 c. The tenant advocate shall offer the notified tenant or
16 tenant's representative assistance with the program's internal
17 appeals process. The tenant is not required to accept the
18 assistance of the tenant advocate.

19 d. If, following the internal appeals process, the
20 assisted living program upholds the transfer decision, the
21 tenant may utilize other remedies authorized by law to contest
22 the transfer.

23 2. The department, in consultation with the department of
24 inspections and appeals and affected industry, professional,
25 and consumer groups, shall establish, by rule in accordance
26 with chapter 17A, procedures to be followed, including the
27 opportunity for hearing, when the transfer of a tenant results
28 from a monitoring evaluation or complaint investigation
29 conducted by the department of inspections and appeals.

30 Sec. 14. NEW SECTION. 231C.7 COMPLAINTS.

31 1. Any person with concerns regarding the operations or
32 service delivery of an assisted living program may file a
33 complaint with the department of inspections and appeals. The
34 name of the person who files a complaint with the department
35 of inspections and appeals and any personal identifying

1 information of the person or any tenant identified in the
2 complaint shall be kept confidential and shall not be subject
3 to discovery, subpoena, or other means of legal compulsion for
4 its release to a person other than department of inspections
5 and appeals' employees involved with the complaint.

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

10 Sec. 15. NEW SECTION. 231C.8 INFORMAL REVIEW.

11 If an assisted living program contests the regulatory
12 insufficiencies of a monitoring evaluation or complaint
13 investigation, the program shall submit written information,
14 demonstrating that the program was in compliance with the
15 applicable requirement at the time of the monitoring
16 evaluation or complaint investigation, in support of the
17 contesting of the regulatory insufficiencies, to the
18 department of inspections and appeals for review. The
19 department of inspections and appeals shall review the written
20 information submitted within ten working days of the receipt
21 of the information. At the conclusion of the review, the
22 department of inspections and appeals may affirm, modify, or
23 dismiss the regulatory insufficiencies. The department of
24 inspections and appeals shall notify the program in writing of
25 the decision to affirm, modify, or dismiss the regulatory
26 insufficiencies, and the reasons for the decision. In the
27 case of a complaint investigation, the department of
28 inspections and appeals shall also notify the complainant, if
29 known, of the decision and the reasons for the decision.

30 Sec. 16. NEW SECTION. 231C.9 PUBLIC DISCLOSURE OF
31 FINDINGS.

32 Following a monitoring evaluation or complaint
33 investigation of an assisted living program by the department
34 of inspections and appeals pursuant to this chapter, the
35 department of inspections and appeals' final findings with

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

12 Sec. 17. NEW SECTION. 231C.10 DENIAL, SUSPENSION, OR
13 REVOCATION -- CONDITIONAL OPERATION.

14 1. The department of inspections and appeals may deny,
15 suspend, or revoke a certificate in any case where the
16 department of inspections and appeals finds that there has
17 been a substantial or repeated failure on the part of the
18 assisted living program to comply with this chapter or the
19 rules, or minimum standards adopted under this chapter, or for
20 any of the following reasons:

21 a. Cruelty or indifference to assisted living program
22 tenants.

23 b. Appropriation or conversion of the property of an
24 assisted living program tenant without the tenant's written
25 consent or the written consent of the tenant's legal guardian.

26 c. Permitting, aiding, or abetting the commission of any
27 illegal act in the assisted living program.

28 d. Obtaining or attempting to obtain or retain a
29 certificate by fraudulent means, misrepresentation, or by
30 submitting false information.

31 e. Habitual intoxication or addiction to the use of drugs
32 by the applicant, administrator, executive director, manager,
33 or supervisor of the assisted living program.

34 f. Securing the devise or bequest of the property of a
35 tenant of an assisted living program by undue influence.

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

3 h. In the case of any officer, member of the board of
4 directors, trustee, or designated manager of the program or
5 any stockholder, partner, or individual who has greater than a
6 ten percent equity interest in the program, who has or has had
7 an ownership interest in an assisted living program, home
8 health agency, residential care facility, or licensed nursing
9 facility in any state which has been closed due to removal of
10 program, agency, or facility licensure or certification or
11 involuntary termination from participation in either the
12 medical assistance or Medicare programs, or who has been found
13 to have failed to provide adequate protection or services for
14 tenants to prevent abuse or neglect.

15 i. In the case of a certificate applicant or an existing
16 certified owner or operator who is an entity other than an
17 individual, the person is in a position of control or is an
18 officer of the entity and engages in any act or omission
19 proscribed by this chapter.

20 j. For any other reason as provided by law or
21 administrative rule.

22 2. The department of inspections and appeals may as an
23 alternative to denial, suspension, or revocation conditionally
24 issue or continue a certificate dependent upon the performance
25 by the assisted living program of reasonable conditions within
26 a reasonable period of time as set by the department of
27 inspections and appeals so as to permit the program to
28 commence or continue the operation of the program pending full
29 compliance with this chapter or the rules adopted pursuant to
30 this chapter. If the assisted living program does not make
31 diligent efforts to comply with the conditions prescribed, the
32 department of inspections and appeals may, under the
33 proceedings prescribed by this chapter, suspend, or revoke the
34 certificate. An assisted living program shall not be operated
35 on a conditional certificate for more than one year.

1 Sec. 18. NEW SECTION. 231C.11 NOTICE -- APPEAL --
2 EMERGENCY PROVISIONS.

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

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

17 3. When the department of inspections and appeals finds
18 that an imminent danger to the health or safety of tenants of
19 an assisted living program exists which requires action on an
20 emergency basis, the department of inspections and appeals may
21 direct removal of all tenants of an assisted living program
22 and suspend the certificate prior to a hearing.

23 Sec. 19. NEW SECTION. 231C.12 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 assisted living program.

30 Sec. 20. NEW SECTION. 231C.13 RETALIATION BY ASSISTED
31 LIVING PROGRAM PROHIBITED.

32 An assisted living program shall not discriminate or
33 retaliate in any way against a tenant, tenant's family, or an
34 employee of the program who has initiated or participated in
35 any proceeding authorized by this chapter. An assisted living

1 program that violates this section is subject to a penalty as
2 established by administrative rule in accordance with chapter
3 17A and to be assessed and collected by the department of
4 inspections and appeals and paid into the state treasury to be
5 credited to the general fund of the state.

6 Sec. 21. NEW SECTION. 231C.14 CIVIL PENALTIES.

7 The department may establish by rule, in accordance with
8 chapter 17A, civil penalties for the following violations by
9 an assisted living program:

10 1. Noncompliance with any regulatory requirements which
11 presents an imminent danger or a substantial probability of
12 resultant death or physical harm to a tenant.

13 2. Following receipt of notice from the department of
14 inspections and appeals, continued failure or refusal to
15 comply within a prescribed time frame with regulatory
16 requirements that have a direct relationship to the health,
17 safety, or security of program tenants.

18 Sec. 22. NEW SECTION. 231C.15 CRIMINAL PENALTIES AND
19 INJUNCTIVE RELIEF.

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

31 2. A person who prevents or interferes with or attempts to
32 impede in any way any duly authorized representative of the
33 department of inspections and appeals in the lawful
34 enforcement of this chapter or of the rules adopted pursuant
35 to this chapter is guilty of a simple misdemeanor. As used in

1 this subsection, lawful enforcement includes but is not
2 limited to:

3 a. Contacting or interviewing any tenant of an assisted
4 living program in private at any reasonable hour and without
5 advance notice.

6 b. Examining any relevant records of an assisted living
7 program.

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

10 Sec. 23. NEW SECTION. 231C.16 NURSING ASSISTANT AND
11 MEDICATION AIDE -- CERTIFICATION.

12 The department of inspections and appeals, in cooperation
13 with other appropriate agencies, shall establish a procedure
14 to allow nursing assistants or medication aides to claim work
15 within an assisted living program as credit toward sustaining
16 the nursing assistant's or medication aide's certification.

17 Sec. 24. NEW SECTION. 231C.17 COORDINATION OF THE LONG-
18 TERM CARE SYSTEM -- TRANSITIONAL PROVISIONS.

19 1. A hospital licensed pursuant to chapter 135B or a
20 health care facility licensed pursuant to chapter 135C may
21 operate an assisted living program, located in a distinct part
22 of or separate structure under the control of the hospital or
23 health care facility, if certified pursuant to this chapter.

24 2. This chapter shall not be construed to require that a
25 facility licensed as a different type of facility also comply
26 with the requirements of this chapter, unless the facility is
27 represented to the public as a certified assisted living
28 program.

29 3. A certified assisted living program that complies with
30 the requirements of this chapter shall not be required to be
31 licensed as a health care facility pursuant to chapter 135C,
32 unless the facility is represented to the public as a licensed
33 health care facility.

34 Sec. 25. NEW SECTION. 231C.18 IOWA ASSISTED LIVING FEES.

35 1. The department of inspections and appeals shall collect

1 assisted living program certification and related fees. An
2 assisted living program that is certified by the department of
3 inspections and appeals on the basis of voluntary
4 accreditation by a recognized accrediting entity shall not be
5 subject to payment of the certification fee, but shall be
6 subject to an administrative fee as prescribed by rule. Fees
7 collected and retained pursuant to this section shall be
8 deposited in the general fund of the state.

9 2. The following certification and related fees shall
10 apply to assisted living programs:

11 a. For a two-year initial certification, seven hundred
12 fifty dollars.

13 b. For a two-year recertification, one thousand dollars.

14 c. For a blueprint plan review, nine hundred dollars.

15 d. For an optional preliminary plan review, five hundred
16 dollars.

17 Sec. 26. NEW SECTION. 231C.19 APPLICATION OF LANDLORD
18 AND TENANT ACT.

19 Chapter 562A, the uniform residential landlord and tenant
20 Act, shall apply to assisted living programs under this
21 chapter.

22 Sec. 27. Section 235B.3, subsection 2, paragraph d, Code
23 2003, is amended to read as follows:

24 d. A person who performs inspections of elder group homes
25 for the department of ~~elder-affairs~~ inspections and appeals
26 and a resident advocate committee member assigned to an elder
27 group home pursuant to chapter 231B.

28 Sec. 28. Chapter 231A, Code 2003, is repealed.

29 Sec. 29. TRANSITION OF STAFF. All employees of the
30 department of elder affairs performing functions related to
31 certification and monitoring of or complaint investigations
32 related to assisted living programs as of June 30, 2003, shall
33 become employees of the department of inspections and appeals
34 without loss of classification, pay, or benefits, effective
35 July 1, 2003. All employees of the department of elder

1 affairs performing functions related to affordable assisted
2 living as of June 30, 2003, shall become employees of the Iowa
3 finance authority without loss of classification, pay, or
4 benefits, effective July 1, 2003.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

HOUSE FILE 675

S-3329

1 Amend House File 675, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 16, by inserting after line 33, the
4 following:

5 "4. A continuing care retirement community that is
6 in compliance with chapter 523D shall not be held in
7 violation of this chapter if the continuing care
8 retirement community provides services to its
9 independent living residents."

10 2. By renumbering as necessary.

By MARY A. LUNDBY

S-3329 FILED APRIL 28, 2003
ADOPTED

**SENATE AMENDMENT TO
HOUSE FILE 675**

H-1496

1 Amend House File 675, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 16, by inserting after line 33, the
4 following:

5 "4. A continuing care retirement community that is
6 in compliance with chapter 523D shall not be held in
7 violation of this chapter if the continuing care
8 retirement community provides services to its
9 independent living residents."

10 2. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-1496 FILED APRIL 28, 2003

House concurred 4/29/03

Upmeyer Ch.
Boddicker
Murphy

Succeeded By
SF, 0675

HSB 233
HUMAN RESOURCES

HOUSE FILE _____

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

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

A BILL FOR

1 An Act relating to the regulation of elder family homes, elder
2 group homes, and assisted living programs, providing for
3 appropriation of fees, and providing penalties.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

1 Section 1. Section 100.1, subsection 6, Code 2003, is
2 amended to read as follows:

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

23 Sec. 2. Section 135C.33, subsection 5, paragraph e, Code
24 2003, is amended to read as follows:

25 e. An employee of an assisted living facility certified or
26 ~~voluntarily-accredited~~ under chapter 231C, if the employee
27 provides direct services to consumers.

28 Sec. 3. Section 231B.1, subsection 2, Code 2003, is
29 amended by striking the subsection.

30 Sec. 4. Section 231B.2, subsection 1, Code 2003, is
31 amended to read as follows:

32 1. The department of elder affairs, in cooperation with
33 the department of inspections and appeals, shall establish by
34 rule in accordance with chapter 17A a special classification
35 for elder group homes. An elder group home established

1 pursuant to this subsection is exempt from the requirements of
2 section 135.63.

3 Sec. 5. Section 231B.2, subsection 2, unnumbered paragraph
4 1, Code 2003, is amended to read as follows:

5 The department of elder affairs, in cooperation with the
6 department of inspections and appeals, shall adopt rules to
7 establish requirements for certification of elder group homes.
8 The requirements shall include but are not limited to all of
9 the following:

10 Sec. 6. Section 231B.2, subsections 3 through 5, Code
11 2003, are amended to read as follows:

12 3. An elder group home established pursuant to this
13 chapter shall be certified by the department of inspections
14 and appeals.

15 4. A provider under the special classification shall
16 comply with the rules adopted by the department of elder
17 affairs, in cooperation with the department of inspections and
18 appeals, for an elder group home.

19 5. Inspections and certification services shall be
20 provided by the department of inspections and appeals.
21 ~~However, beginning July 1, 1994, the department may enter into~~
22 ~~contracts with the area agencies on aging to provide these~~
23 ~~services.~~

24 Sec. 7. Section 231B.3, subsection 2, Code 2003, is
25 amended to read as follows:

26 2. A person who has knowledge that an elder group home is
27 operating without certification shall report the name and
28 address of the home to the department of inspections and
29 appeals. The department of inspections and appeals shall
30 investigate a report made pursuant to this section.

31 Sec. 8. Section 231B.4, Code 2003, is amended to read as
32 follows:

33 231B.4 APPLICABILITY.

34 1. This chapter shall not be construed to require that a
35 facility, currently licensed or licensed as a different type

1 of facility and serving persons sixty years of age or older,
2 also comply with the requirements of this chapter.

3 2. This chapter shall apply only to those elder group
4 homes certified by the department of elder affairs prior to
5 July 1, 2003. Applications for certification as an elder
6 group home shall not be accepted or approved on or after July
7 1, 2003.

8 Sec. 9. Section 231C.2, subsections 1 and 6, Code 2003,
9 are amended to read as follows:

10 1. "Assisted living" means provision of housing with
11 services which may include but are not limited to health-
12 related care, personal care, and assistance with instrumental
13 activities of daily living to ~~six~~ three or more tenants in a
14 physical structure which provides a homelike environment.
15 "Assisted living" also includes encouragement of family
16 involvement, tenant self-direction, and tenant participation
17 in decisions that emphasize choice, dignity, privacy,
18 individuality, shared risk, and independence. "Assisted
19 living" includes the provision of housing and assistance with
20 instrumental activities of daily living only if personal care
21 or health-related care is also included.

22 6. "Tenant" means an individual who receives assisted
23 living services through a certified ~~or-accredited~~ assisted
24 living program.

25 Sec. 10. Section 231C.2, subsection 2, Code 2003, is
26 amended by striking the subsection.

27 Sec. 11. Section 231C.2, Code 2003, is amended by adding
28 the following new subsections:

29 NEW SUBSECTION. 2A. "Governmental unit" means the state,
30 or any county, municipality, or other political subdivision or
31 any department, division, board, or other agency of any of
32 these entities.

33 NEW SUBSECTION. 4A. "Legal representative" means a person
34 appointed by the court to act on behalf of the tenant, or a
35 person acting pursuant to a power of attorney.

1 NEW SUBSECTION. 5A. "Recognized accrediting entity" means
2 a nationally recognized accrediting entity that the department
3 of elder affairs, in cooperation with the department of
4 inspections and appeals, recognizes as having specific
5 assisted living program standards equivalent to the standards
6 established by the department of elder affairs, in cooperation
7 with the department of inspections and appeals, for assisted
8 living programs.

9 NEW SUBSECTION. 7. "Tenant's representative" means a
10 tenant's legal representative or any representative authorized
11 by the tenant in the tenant's occupancy agreement to act on
12 behalf of the tenant.

13 Sec. 12. Section 231C.3, Code 2003, is amended by striking
14 the section and inserting in lieu thereof the following:

15 231C.3 CERTIFICATION OF ASSISTED LIVING PROGRAMS.

16 1. The department of elder affairs, in cooperation with
17 the department of inspections and appeals, shall establish, by
18 rule in accordance with chapter 17A, a program for
19 certification and monitoring of assisted living programs. The
20 department of elder affairs, in cooperation with the
21 department of inspections and appeals, may adopt by reference
22 with or without amendment, nationally recognized standards and
23 rules for assisted living programs. The rules shall include
24 specification of recognized accrediting entities. The
25 standards and rules shall be formulated in consultation with
26 affected industry, professional, and consumer groups and shall
27 be designed to accomplish the purposes of this chapter and
28 shall include but are not limited to rules relating to all of
29 the following:

30 a. Provisions to ensure, to the greatest extent possible,
31 the health, safety, and well-being and appropriate treatment
32 of tenants.

33 b. Requirements that assisted living programs furnish the
34 department of elder affairs and the department of inspections
35 and appeals with specified information necessary to administer

1 this chapter.

2 c. Standards for tenant evaluation or assessment, which
3 may vary in accordance with the nature of the services
4 provided or the status of the tenant.

5 2. Each assisted living program operating in this state
6 shall be certified by the department of inspections and
7 appeals. If an assisted living program is voluntarily
8 accredited by a recognized accrediting entity, the department
9 shall certify the assisted living program on the basis of the
10 voluntary accreditation. An assisted living program that is
11 certified by the department on the basis of voluntary
12 accreditation shall not be subject to payment of the
13 certification fees prescribed in section 231C.19. An assisted
14 living program certified under this section is exempt from the
15 requirements of section 135.63 relating to certificate of need
16 requirements.

17 3. The owner or manager of a certified assisted living
18 program shall comply with the rules adopted by the department
19 of elder affairs, in cooperation with the department of
20 inspections and appeals, for an assisted living program. A
21 person including a governmental unit shall not represent an
22 assisted living program to the public as a certified program
23 unless and until the program is certified pursuant to this
24 chapter.

25 4. a. Services provided by a certified assisted living
26 program may be provided directly by staff of the assisted
27 living program, by individuals contracting with the assisted
28 living program to provide services, or by individuals employed
29 by the tenant or with whom the tenant contracts if the tenant
30 agrees to assume the responsibility and risk of the employment
31 or the contractual relationship.

32 b. If a tenant is terminally ill and has elected to
33 receive hospice services under the federal Medicare program
34 from a Medicare-certified hospice program, the assisted living
35 program and the Medicare-certified hospice program shall enter

1 into a written agreement under which the hospice program
2 retains professional management responsibility for those
3 services.

4 5. The department of inspections and appeals may enter
5 into contracts to provide certification and monitoring of
6 assisted living programs. The department of inspections and
7 appeals shall:

8 a. Have full access at reasonable times to all records and
9 common areas pertaining to the care provided to the tenants of
10 a program during certification and monitoring of programs
11 seeking certification or currently certified.

12 b. With the consent of the tenant, visit the assisted
13 living program.

14 c. Require that the recognized accrediting entity
15 providing accreditation for a program provide copies to the
16 department of all materials related to the accreditation and
17 monitoring process.

18 6. The department of elder affairs, in cooperation with
19 the department of inspections and appeals, may also establish
20 by rule in accordance with chapter 17A a special
21 classification for affordable assisted living programs. The
22 rules shall be formulated in consultation with affected
23 industry, professional, and consumer groups.

24 7. A department, agency, or officer of this state or of
25 any political subdivision shall not pay or approve for payment
26 from public funds any amount to an assisted living program for
27 an actual or prospective tenant, unless the program holds a
28 current certificate issued by the department of inspections
29 and appeals and meets all current requirements for
30 certification.

31 8. The department of elder affairs, in cooperation with
32 the department of inspections and appeals, shall adopt rules
33 regarding the conducting or operating of another business or
34 activity in the same physical structure in which the assisted
35 living program is provided, if the business or activity serves

1 primarily nontenants. The rules shall be developed in
2 consultation with affected industry, professional, and
3 consumer groups.

4 9. An assisted living program shall comply with section
5 135C.33.

6 Sec. 13. Section 231C.4, Code 2003, is amended to read as
7 follows:

8 231C.4 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 or
12 ~~voluntary-accreditation~~ and monitoring of the fire and safety
13 standards of certified or ~~voluntarily-accredited~~ assisted
14 living programs.

15 Sec. 14. Section 231C.5, Code 2003, is amended by striking
16 the section and inserting in lieu thereof the following:

17 231C.5 WRITTEN OCCUPANCY AGREEMENT REQUIRED.

18 1. An assisted living program shall not operate in this
19 state unless a written occupancy agreement, as prescribed in
20 subsection 2, is executed between the assisted living program
21 and each tenant or tenant's representative, prior to the
22 tenant's occupancy, and unless the assisted living program
23 operates in accordance with the terms of the occupancy
24 agreement. The assisted living program shall deliver to the
25 tenant or tenant's representative a complete copy of the
26 occupancy agreement and all supporting documents and
27 attachments and shall deliver a written copy of changes to the
28 occupancy agreement if any changes to the copy originally
29 delivered are subsequently made.

30 2. An assisted living program occupancy agreement shall
31 clearly describe the rights and responsibilities of the tenant
32 and the program. The occupancy agreement shall also include
33 but is not limited to inclusion of all of the following
34 information in the body of the agreement or in the supporting
35 documents and attachments:

- 1 a. A description of all fees, charges, and rates
- 2 describing tenancy and basic services covered, and any
- 3 additional and optional services and their related costs.
- 4 b. A statement regarding the impact of the fee structure
- 5 on third-party payments, and whether third-party payments and
- 6 resources are accepted by the assisted living program.
- 7 c. The procedure followed for nonpayment of fees.
- 8 d. Identification of the party responsible for payment of
- 9 fees and identification of the tenant's representative, if
- 10 any.
- 11 e. The term of the occupancy agreement.
- 12 f. A guarantee that the assisted living program will
- 13 notify the tenant or the tenant's representative, as
- 14 applicable, in writing at least thirty days prior to any
- 15 change being made in the occupancy agreement with the
- 16 following exceptions:
 - 17 (1) When the tenant's health status or behavior
 - 18 constitutes a substantial threat to the health or safety of
 - 19 the tenant, other tenants, or others, including when the
 - 20 tenant refuses to consent to relocation.
 - 21 (2) When an emergency or a significant change in the
 - 22 tenant's condition results in the need for the provision of
 - 23 services that exceed the type or level of services included in
 - 24 the occupancy agreement and the necessary services cannot be
 - 25 safely provided by the assisted living program.
- 26 g. A guarantee that all tenant information will be
- 27 maintained in a confidential manner to the extent required
- 28 under state and federal law.
- 29 h. Occupancy, involuntary discharge, and transfer criteria
- 30 and procedures.
- 31 i. The program's policies and procedures for addressing
- 32 grievances between the assisted living program and the
- 33 tenants, including grievances relating to transfer and
- 34 occupancy.
- 35 j. The emergency response policy.

1 k. The staffing policy which specifies if the staff is
2 available twenty-four hours per day, if task delegation will
3 be used, and how staffing will be adapted to meet changing
4 tenant needs.

5 1. In dementia-specific assisted living programs, a
6 description of the services and programming provided to meet
7 the life skills and social activities of tenants.

8 3. Occupancy agreements and related documents executed by
9 each tenant or tenant's representative shall be maintained by
10 the assisted living program in program files from the date of
11 execution until three years from the date the occupancy
12 agreement is terminated. Occupancy agreements and related
13 documents shall be made available for on-site inspection to
14 the department of inspections and appeals upon request and at
15 reasonable times.

16 Sec. 15. Section 231C.6, Code 2003, is amended by striking
17 the section and inserting in lieu thereof the following:

18 231C.6 RETENTION IN AN ASSISTED LIVING PROGRAM.

19 1. The department of inspections and appeals shall not
20 require the removal and relocation of a tenant of an assisted
21 living program if, based upon an assessment by the department,
22 the department determines that the tenant's presence in the
23 program does not endanger the tenant or other tenants and the
24 tenant is able to receive necessary care through services
25 provided by the program in accordance with the program's
26 certification or through services obtained by the tenant from
27 providers other than the program. In assessing whether it is
28 possible for the tenant to be provided or to obtain necessary
29 care without relocating, the department of inspections and
30 appeals shall consider all relevant factors, including
31 placement preference expressed by the tenant, the tenant's
32 representative, or others, and the approval of the program.

33 2. Notwithstanding a determination by the department of
34 inspections and appeals that a tenant's needs exceed occupancy
35 criteria as established in this chapter or rules adopted

1 pursuant to this chapter, the department may grant a waiver to
2 the assisted living program to allow the tenant to remain in
3 the program if, not later than ten business days after the
4 date the program is informed of the specific basis of the
5 department's determination, the department receives all of the
6 following obtained by the assisted living program:

7 a. A written assessment from the tenant's physician that
8 the tenant is appropriately placed.

9 b. A written statement from the tenant, or from the
10 tenant's legal representative if the tenant lacks capacity to
11 provide a written statement, that the tenant wishes to remain
12 in the program.

13 c. A written statement from the program that the program
14 approves of the tenant remaining in the program.

15 3. If a waiver is granted pursuant to subsection 2, the
16 department of inspections and appeals shall regularly monitor
17 the tenant's medical and functional information, for the
18 duration of the waiver, to determine the continued
19 appropriateness of the waiver. If the department of
20 inspections and appeals does not determine a waiver to be
21 inappropriate at any time prior to the completion of the six-
22 month period under the waiver, the waiver granted pursuant to
23 subsection 2 shall be valid for a six-month period. The
24 department may continue an existing waiver for any subsequent
25 periods of up to six months, upon request of the program, if
26 continuation is deemed appropriate by the department. At no
27 time shall ten percent or more of the program's tenancy be
28 based upon waivers. The department of elder affairs, in
29 cooperation with the department of inspections and appeals,
30 shall adopt rules regarding administration of the waivers.
31 4. An assisted living program that has been granted a
32 waiver for a tenant under subsection 2 shall not be found in
33 noncompliance of occupancy criteria if the program complies
34 with the requirements of the waiver.

35 5. a. If the department of inspections and appeals

1 determines that a tenant is inappropriately placed in the
2 assisted living program or that a tenant's needs exceed
3 occupancy criteria and a waiver is not requested and obtained
4 in accordance with the requirements of subsection 2, the
5 program shall discharge the tenant.

6 b. The tenant shall be provided a transition period of
7 thirty days following the date of notice of the discharge to
8 relinquish tenancy in the program.

9 c. Notwithstanding paragraph "b", if the tenant's
10 continued tenancy in the assisted living program following
11 provision of notice would present a danger to the safety or
12 well-being of the tenant, other tenants, or employees of the
13 assisted living program, the transition period of thirty days
14 is waived and the transition provisions relating to an
15 involuntary discharge as provided in the occupancy agreement
16 shall instead apply.

17 Sec. 16. NEW SECTION. 231C.7 TENANT'S BILL OF RIGHTS.

18 The department of elder affairs and the department of
19 inspections and appeals, in consultation with affected
20 industry, professional, and consumer groups shall develop a
21 tenant's bill of rights. An assisted living program certified
22 under this chapter shall provide a written copy of the
23 tenant's bill of rights to each tenant of the program.

24 Sec. 17. NEW SECTION. 231C.8 COMPLAINTS.

25 1. Any person with concerns regarding the operations or
26 service delivery of an assisted living program may file a
27 complaint with the department of inspections and appeals. The
28 name of the person who files a complaint with the department
29 of inspections and appeals and any personal identifying
30 information of the person or any tenant identified in the
31 complaint shall be kept confidential and shall not be subject
32 to discovery, subpoena, or other means of legal compulsion for
33 its release to a person other than department's employees
34 involved with the complaint.

35 2. The department of elder affairs, in cooperation with

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

4 Sec. 18. NEW SECTION. 231C.9 INFORMAL REVIEW.

5 If an assisted living program contests the results of a
6 monitoring evaluation or complaint investigation, the program
7 may submit written information in support of the contesting of
8 the results to the department of inspections and appeals for
9 review. The department of inspections and appeals shall
10 review the written information submitted within ten working
11 days of receipt of the information. At the conclusion of the
12 review, the department may affirm, modify, or dismiss the
13 results. If the results are modified or dismissed, the
14 department shall specify in writing the reasons for the
15 modification or dismissal and shall immediately transmit a
16 copy of the statement to the director of inspections and
17 appeals and to the program.

18 Sec. 19. NEW SECTION. 231C.10 PUBLIC DISCLOSURE OF
19 FINDINGS.

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

34 Sec. 20. NEW SECTION. 231C.11 DENIAL, SUSPENSION, OR
35 REVOCATION -- CONDITIONAL OPERATION.

- 1 1. The department of inspections and appeals may deny,
2 suspend, or revoke a certificate in any case where the
3 department of inspections and appeals finds that there has
4 been a substantial or repeated failure on the part of the
5 assisted living program to comply with this chapter or the
6 rules, or minimum standards adopted under this chapter, or for
7 any of the following reasons:
- 8 a. Cruelty or indifference to assisted living program
9 tenants.
- 10 b. Appropriation or conversion of the property of an
11 assisted living program tenant without the tenant's written
12 consent or the written consent of the tenant's legal guardian.
- 13 c. Permitting, aiding, or abetting the commission of any
14 illegal act in the assisted living program.
- 15 d. Obtaining or attempting to obtain or retain a
16 certificate by fraudulent means, misrepresentation, or by
17 submitting false information.
- 18 e. Habitual intoxication or addiction to the use of drugs
19 by the applicant, administrator, executive director, manager,
20 or supervisor of the assisted living program.
- 21 f. Securing the devise or bequest of the property of a
22 tenant of an assisted living program by undue influence.
- 23 g. Failure or neglect to maintain a continuing education
24 and training program for all personnel employed in the
25 assisted living program.
- 26 h. Founded dependent adult abuse as defined in section
27 235B.2.
- 28 i. In the case of any officer, member of the board of
29 directors, trustee, or designated manager of the program or
30 any stockholder, partner, or individual who has greater than a
31 ten percent equity interest in the program, who has or has had
32 an ownership interest in an assisted living program, home
33 health agency, residential care facility, or licensed nursing
34 facility in any state which has been closed due to removal of
35 program, agency, or facility licensure or certification or

1 involuntary termination from participation in either the
2 medical assistance or Medicare programs, or who has been found
3 to have failed to provide adequate protection or services for
4 tenants to prevent abuse or neglect.

5 j. In the case of a certificate applicant or an existing
6 certified owner or operator who is an entity other than an
7 individual, the person is in a position of control or is an
8 officer of the entity and engages in any act or omission
9 proscribed by this chapter.

10 k. For any other reason as provided by law or
11 administrative rule.

12 2. The department of inspections and appeals may as an
13 alternative to denial, suspension, or revocation conditionally
14 issue or continue a certificate dependent upon the performance
15 by the assisted living program of reasonable conditions within
16 a reasonable period of time as set by the department of
17 inspections and appeals so as to permit the program to
18 commence or continue the operation of the program pending full
19 compliance with this chapter or the rules adopted pursuant to
20 this chapter. If the assisted living program does not make
21 diligent efforts to comply with the conditions prescribed, the
22 department of inspections and appeals may, under the
23 proceedings prescribed by this chapter, suspend, or revoke the
24 certificate. An assisted living program shall not be operated
25 on a conditional certificate for more than one year.

26 **Sec. 21. NEW SECTION. 231C.12 NOTICE -- HEARINGS.**

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

1 notice shall be deemed to be suspended.

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

6 3. When the department of inspections and appeals finds
7 that an imminent danger to the health or safety of tenants of
8 an assisted living program exists which requires action on an
9 emergency basis, the department of inspections and appeals may
10 direct removal of all tenants of an assisted living program
11 and suspend the certificate prior to a hearing.

12 Sec. 22. NEW SECTION. 231C.13 DIRECTOR NOTIFIED OF
13 CASUALTIES.

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

19 Sec. 23. NEW SECTION. 231C.14 RETALIATION BY ASSISTED
20 LIVING PROGRAM PROHIBITED.

21 1. An assisted living program shall not discriminate or
22 retaliate in any way against a tenant, tenant's family, or an
23 employee of the program who has initiated or participated in
24 any proceeding authorized by this chapter. An assisted living
25 program that violates this section is subject to a penalty as
26 established by administrative rule in accordance with chapter
27 17A and to be assessed and collected by the department of
28 inspections and appeals and paid into the state treasury to be
29 credited to the general fund of the state, or to immediate
30 revocation of the program's certificate.

31 2. Any attempt to evict, from an assisted living program,
32 a tenant by whom or upon whose behalf a complaint has been
33 submitted to the department under section 231C.8, within
34 ninety days after the filing of the complaint or the
35 conclusion of any proceeding resulting from the complaint,

1 raises a rebuttable presumption that the action was taken by
2 the program in retaliation for the filing of the complaint,
3 except in situations in which the tenant is evicted due to
4 occupancy and transfer criteria.

5 Sec. 24. NEW SECTION. 231C.15 CIVIL PENALTIES.

6 The department may establish by rule, in accordance with
7 chapter 17A, civil penalties for the following violations by
8 an assisted living program:

9 1. Noncompliance with any regulatory requirements which
10 presents an imminent danger or a substantial probability of
11 resultant death or physical harm to a tenant.

12 2. Following receipt of notice from the department,
13 continued failure or refusal to comply within a prescribed
14 time frame with regulatory requirements that have a direct or
15 immediate relationship to the health, safety, or security of
16 program tenants.

17 Sec. 25. NEW SECTION. 231C.16 CRIMINAL PENALTIES.

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

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

1 a. Contacting or interviewing any tenant of an assisted
2 living program in private at any reasonable hour and without
3 advance notice.

4 b. Examining any relevant records of an assisted living
5 program.

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

8 Sec. 26. NEW SECTION. 231C.17 NURSING ASSISTANT AND
9 MEDICATION AIDE -- CERTIFICATION.

10 The department of inspections and appeals, in cooperation
11 with other appropriate agencies, shall establish a procedure
12 to allow nursing assistants or medication aides to claim work
13 within an assisted living program as credit toward sustaining
14 the nursing assistant's or medication aide's certification.

15 Sec. 27. NEW SECTION. 231C.18 COORDINATION OF THE LONG-
16 TERM CARE SYSTEM -- TRANSITIONAL PROVISIONS.

17 1. An elder group home certified under chapter 231B prior
18 to July 1, 2003, shall be exempt from the requirements of this
19 chapter. If an elder group home certified under chapter 231B
20 prior to July 1, 2003, seeks certification as an assisted
21 living program on or after July 1, 2003, the elder group home
22 shall be granted a conditional assisted living program
23 certification by the department of inspections and appeals for
24 a period of one year from the date the conditional certificate
25 is issued. At the end of the one-year period, the elder group
26 home shall meet the requirements of this chapter to receive
27 subsequent certification as an assisted living program.

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

33 3. This chapter shall not be construed to require that a
34 facility licensed as a different type of facility also comply
35 with the requirements of this chapter, unless the facility is

1 represented to the public as a certified assisted living
2 program.

3 Sec. 28. NEW SECTION. 231C.19 IOWA ASSISTED LIVING FEES.

4 The department of inspections and appeals shall collect and
5 retain assisted living program certification and related fees
6 as established by rule in accordance with chapter 17A. An
7 assisted living program that is certified by the department of
8 inspections and appeals on the basis of voluntary
9 accreditation by a recognized accrediting entity shall not be
10 subject to payment of certification fees. Fees collected and
11 retained pursuant to this section shall be deposited into an
12 assisted living program fund created in the state treasury
13 under the authority of the department of inspections and
14 appeals and are appropriated to the department of inspections
15 and appeals to carry out the purposes of this chapter.
16 Amounts deposited in the fund shall not be transferred, used,
17 obligated, appropriated, or otherwise encumbered except as
18 provided in this section. Notwithstanding section 12C.7,
19 subsection 2, interest or earnings on moneys deposited into
20 the fund shall be credited to the fund. Notwithstanding
21 section 8.33, amounts deposited in the fund that remain
22 unexpended or unencumbered at the close of the fiscal year
23 shall remain in the fund for utilization as provided in this
24 section for the following fiscal year.

25 Sec. 29. Section 235B.3, subsection 2, paragraph d, Code
26 2003, is amended to read as follows:

27 d. A person who performs inspections of elder group homes
28 for the department of ~~elder-affairs~~ inspections and appeals
29 and a resident advocate committee member assigned to an elder
30 group home pursuant to chapter 231B.

31 Sec. 30. Chapter 231A, Code 2003, is repealed.

32 Sec. 31. TRANSITION OF STAFF. All employees of the
33 department of elder affairs performing functions related to
34 certification and monitoring of or complaint investigations
35 related to assisted living programs as of June 30, 2003, shall

1 become employees of the department of inspections and appeals
2 without loss of classification, pay, or benefits, effective
3 July 1, 2003. All employees of the department of elder
4 affairs performing functions related to affordable assisted
5 living as of June 30, 2003, shall become employees of the Iowa
6 finance authority without loss of classification, pay, or
7 benefits, effective July 1, 2003.

8

EXPLANATION

9 *This bill provides for regulation of elder group homes and
10 assisted living programs.

11 *The bill provides for regulation of elder group homes by
12 the department of elder affairs in cooperation with the
13 department of inspections and appeals. The bill also provides
14 that the provisions of the Code chapter apply only to elder
15 group homes certified by the department of elder affairs prior
16 to July 1, 2003, and that applications for certification as an
17 elder group home are not to be accepted or approved on or
18 after July 1, 2003.

19 The bill provides for regulation of assisted living
20 programs by directing the department of elder affairs, in
21 cooperation with the department of inspections and appeals, to
22 establish, by rule, a program for certification and monitoring
23 related to assisted living programs. The rules are to be
24 formulated in consultation with affected industry,
25 professional, and consumer groups. Each assisted living
26 program operating in the state is to be certified by the
27 department of inspections and appeals. If an assisted living
28 program is voluntarily accredited by a recognized accrediting
29 entity, the department of inspections and appeals is to
30 certify the program based upon the voluntary accreditation.
31 The bill provides specifically that if the tenant is
32 terminally ill and has elected to receive hospice services
33 under the federal Medicare program from a Medicare-certified
34 hospice program, the assisted living program and the hospice
35 program are to enter an agreement under which the hospice

1 program retains professional management responsibility for
2 those services.

3 The bill provides that the department of elder affairs in
4 cooperation with the department of inspections and appeals may
5 establish by administrative rule a special classification for
6 affordable assisted living programs. The bill also provides
7 that a department, agency, or officer of this state, or of any
8 political subdivision shall not pay or approve for payment
9 from public funds any amount to an assisted living program for
10 an actual or prospective tenant, unless the program holds a
11 current certificate and meets all requirements for
12 certification. The bill also directs the department of elder
13 affairs in cooperation with the department of inspections and
14 appeals to adopt rules regarding the conducting or operating
15 of another business or activity in the facility in which the
16 assisted living program is provided, if the business or
17 activity serves primarily nontenants. The rules are to be
18 developed in consultation with affected industry,
19 professional, and consumer groups.

20 The bill specifies requirements for written occupancy
21 agreements and provides for retention of a tenant in an
22 assisted living facility, notwithstanding a determination by
23 the department of inspections and appeals that the tenant's
24 needs exceed the occupancy criteria established.

25 The bill directs the department of elder affairs and the
26 department of inspections and appeals, in consultation with
27 affected industry, professional, and consumer groups to
28 develop a tenant's bill of rights.

29 The bill provides for the filing and disposition of
30 complaints; provides for an informal review of contests to the
31 results of a monitoring evaluation or complaint investigation;
32 provides for public disclosure of the final findings with
33 respect to a monitoring evaluation or complaint investigation;
34 provides the bases for the denial, suspension, or revocation
35 of certification and for conditional operation of a program as

1 an alternative to denial, suspension, or revocation of
2 certification; provides for notice and hearings related to
3 denial, suspension, or revocation of certification; provides
4 for the notification of the director of inspections and
5 appeals of any casualties at an assisted living program;
6 prohibits retaliation by an assisted living program against a
7 tenant, tenant's family, or an employee of the program who has
8 initiated or participated in any proceeding under the Code
9 chapter; establishes civil and criminal penalties for certain
10 violations of the bill; provides for nursing assistants and
11 medication aides to claim work within assisted living programs
12 as credit toward their certification; provides transitional
13 provisions for long-term care providers including elder group
14 homes by making elder group homes exempt from the requirements
15 of the assisted living chapter and providing for conditional
16 certification of an elder group home as an assisted living
17 facility if the elder group home was certified as an elder
18 group home prior to July 1, 2003, and seeks certification as
19 an assisted living program on or after July 1, 2003. The bill
20 provides for collection and retaining of assisted living
21 program fees by the department of inspections and appeals and
22 provides that if an assisted living program is certified based
23 upon voluntary accreditation, the program is not subject to
24 payment of certification fees.

25 The bill provides for transition of staff used in the
26 regulation of assisted living programs by providing that
27 employees of the department of elder affairs who performed
28 functions related to certification and monitoring of or
29 complaint investigations related to assisted living programs
30 as of June 30, 2003, are to become employees of the department
31 of inspections and appeals without loss of classification,
32 pay, or benefits, effective July 1, 2003. Additionally, all
33 employees of the department of elder affairs performing
34 functions related to affordable assisted living as of June 30,
35 2003, are to become employees of the Iowa finance authority

1 without loss of classification, pay, or benefits, effective
2 July 1, 2003.

3 The bill also repeals Code chapter 231A, relating to elder
4 family homes.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

AN ACT

RELATING TO THE REGULATION OF ELDER FAMILY HOMES, ELDER GROUP HOMES, AND ASSISTED LIVING PROGRAMS, PROVIDING FOR FEES, AND PROVIDING PENALTIES.

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

Section 1. 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. 2. Section 135C.33, subsection 5, paragraph e, Code 2003, is amended to read as follows:

e. An employee of an assisted living facility program certified ~~or-voluntarily-accredited~~ under chapter 231C, if the employee provides direct services to consumers.

Sec. 3. Section 231B.1, subsection 4, Code 2003, is amended to read as follows:

4. "Elder group home" means a single-family residence that is ~~a-residence-of~~ operated by a person who is providing room, board, and personal care to three through five elders who are not related to the person providing the service within the third degree of consanguinity or affinity.

Sec. 4. Section 231B.2, subsection 2, paragraph c, Code 2003, is amended to read as follows:

c. An elder group home shall be ~~owner-occupied, or owned by a nonprofit corporation and occupied by a resident manager~~ staffed by an on-site manager twenty-four hours per day, seven days per week. ~~A resident manager shall reside in and provide services for no more than one elder group home.~~

Sec. 5. Section 231B.2, subsections 3 and 5, Code 2003, are amended to read as follows:

3. An elder group home established pursuant to this chapter shall be certified by the department of inspections and appeals.

5. Inspections and certification services shall be provided by the department of inspections and appeals. ~~However, beginning July 1, 1994, the department may enter into contracts with the area agencies on aging to provide these services.~~

Sec. 6. Section 231B.3, subsection 2, Code 2003, is amended to read as follows:

2. A person who has knowledge that an elder group home is operating without certification shall report the name and address of the home to the department of inspections and appeals. The department of inspections and appeals shall investigate a report made pursuant to this section.

Sec. 7. Section 231C.1, Code 2003, is amended to read as follows:

231C.1 FINDINGS, AND PURPOSE, AND INTENT.

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

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

a. To encourage the establishment and maintenance of a safe and homelike environment for individuals of all income

levels who require assistance to live independently but who do not require health-related care on a continuous twenty-four hour per day basis.

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

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

3. It is the intent of the general assembly that the department of elder affairs establish policy for assisted living programs and that the department of inspections and appeals enforce this chapter.

Sec. 8. Section 231C.2, subsections 1 and 6, Code 2003, are amended to read as follows:

1. "Assisted living" means provision of housing with services which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living to ~~six~~ three or more tenants in a physical structure which provides a homelike environment. "Assisted living" also includes encouragement of family involvement, tenant self-direction, and tenant participation in decisions that emphasize choice, dignity, privacy, individuality, shared risk, and independence. "Assisted living" includes the provision of housing and assistance with instrumental activities of daily living only if personal care or health-related care is also included.

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

Sec. 9. Section 231C.2, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "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.

NEW SUBSECTION. 4A. "Legal representative" means a person appointed by the court to act on behalf of the tenant, or a person acting pursuant to a power of attorney.

NEW SUBSECTION. 4B. "Occupancy agreement" means a written agreement entered into between an assisted living program and a tenant that clearly describes the rights and responsibilities of the assisted living program and a tenant, and other information required by rule. "Occupancy agreement" may include a separate signed lease and signed service agreement.

NEW SUBSECTION. 5A. "Recognized accrediting entity" means a nationally recognized accrediting entity that the department recognizes as having specific assisted living program standards equivalent to the standards established by the department for assisted living programs.

NEW SUBSECTION. 6A. "Tenant advocate" means the office of long-term care resident's advocate established in section 231.42.

NEW SUBSECTION. 7. "Tenant's representative" means a tenant's legal representative or any representative authorized by the tenant to act on behalf of the tenant.

Sec. 10. Section 231C.3, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

231C.3 CERTIFICATION OF ASSISTED LIVING PROGRAMS.

1. The department shall establish by rule in accordance with chapter 17A, a program for certification and monitoring of assisted living programs. The department may adopt by reference with or without amendment, nationally recognized standards and rules for assisted living programs. The rules shall include specification of recognized accrediting entities and provisions related to dementia-specific programs. The standards and rules 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 purposes of this chapter and shall include but are not limited to rules relating to all of the following:

a. Provisions to ensure, to the greatest extent possible, the health, safety, and well-being and appropriate treatment of tenants.

b. Requirements that assisted living programs furnish the department of elder affairs and the department of inspections and appeals with specified information necessary to administer this chapter.

c. Standards for tenant evaluation or assessment, which may vary in accordance with the nature of the services provided or the status of the tenant.

d. Provisions for granting short-term waivers for tenants who exceed occupancy criteria.

2. In addition to the adoption of standards and rules for assisted living 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 assisted living programs in complying with certification requirements.

3. Each assisted living program operating in this state shall be certified by the department of inspections and appeals. If an assisted living program is voluntarily accredited by a recognized accrediting entity, the department of inspections and appeals shall certify the assisted living program on the basis of the voluntary accreditation. An assisted living program that is certified by the department of inspections and appeals on the basis of voluntary accreditation shall not be subject to payment of the certification fee prescribed in section 231C.18, but shall be subject to an administrative fee as prescribed by rule. An assisted living program certified under this section is exempt from the requirements of section 135.63 relating to certificate of need requirements.

4. The owner or manager of a certified assisted living program shall comply with the rules adopted by the department for an assisted living program. A person including a governmental unit shall not represent an assisted living program to the public as an assisted living program or as a certified assisted living program unless and until the program is certified pursuant to this chapter.

5. a. Services provided by a certified assisted living program may be provided directly by staff of the assisted living program, by individuals contracting with the assisted living program to provide services, or by individuals employed by the tenant or with whom the tenant contracts if the tenant agrees to assume the responsibility and risk of the employment or the contractual relationship.

b. If a tenant is terminally ill and has elected to receive hospice services under the federal Medicare program from a Medicare-certified hospice program, the assisted living program and the Medicare-certified hospice program shall enter into a written agreement under which the hospice program retains professional management responsibility for those services.

6. The department of inspections and appeals may enter into contracts to provide certification and monitoring of assisted living programs. The department of inspections and appeals shall:

a. Have full access at reasonable times to all records, materials, and common areas pertaining to the provision of services and care to the tenants of a program during certification, monitoring, and complaint investigations of programs seeking certification, currently certified, or alleged to be uncertified.

b. With the consent of the tenant, visit the tenant's unit.

c. Require that the recognized accrediting entity providing accreditation for a program provide copies to the department of all materials related to the accreditation, monitoring, and complaint process.

7. The department may also establish by rule in accordance with chapter 17A a special classification for affordable assisted living programs. The rules shall be formulated in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups.

8. 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 assisted living program for an actual or prospective tenant, unless the program holds a current certificate issued by the department of inspections and appeals and meets all current requirements for certification.

9. 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 assisted living program is provided, if the business or activity serves nontenants. The rules shall be developed in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups.

10. An assisted living program shall comply with section 135C.33.

Sec. 11. Section 231C.4, Code 2003, is amended to read as follows:

231C.4 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 ~~or voluntary-accreditation~~ and monitoring of the fire and safety standards of certified ~~or-voluntarily-accredited~~ assisted living programs.

Sec. 12. Section 231C.5, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

231C.5 WRITTEN OCCUPANCY AGREEMENT REQUIRED.

1. An assisted living program shall not operate in this state unless a written occupancy agreement, as prescribed in subsection 2, is executed between the assisted living program

and each tenant or tenant's representative, prior to the tenant's occupancy, and unless the assisted living program operates in accordance with the terms of the occupancy agreement. The assisted living program shall deliver to the tenant or tenant's representative a complete copy of the occupancy agreement and all supporting documents and attachments and shall deliver, at least thirty days prior to any changes, a written copy of changes to the occupancy agreement if any changes to the copy originally delivered are subsequently made.

2. An assisted living program occupancy agreement shall clearly describe the rights and responsibilities of the tenant and the program. The occupancy agreement shall also include but is not limited to inclusion of all of the following information in the body of the agreement or in the supporting documents and attachments:

a. A description of all fees, charges, and rates describing tenancy and basic services covered, and any additional and optional services and their related costs.

b. A statement regarding the impact of the fee structure on third-party payments, and whether third-party payments and resources are accepted by the assisted living program.

c. The procedure followed for nonpayment of fees.

d. Identification of the party responsible for payment of fees and identification of the tenant's representative, if any.

e. The term of the occupancy agreement.

f. A statement that the assisted living program shall notify the tenant or the tenant's representative, as applicable, in writing at least thirty days prior to any change being made in the occupancy agreement with the following exceptions:

(1) When the tenant's health status or behavior constitutes a substantial threat to the health or safety of the tenant, other tenants, or others, including when the tenant refuses to consent to relocation.

(2) When an emergency or a significant change in the tenant's condition results in the need for the provision of services that exceed the type or level of services included in the occupancy agreement and the necessary services cannot be safely provided by the assisted living program.

g. A statement that all tenant information shall be maintained in a confidential manner to the extent required under state and federal law.

h. Occupancy, involuntary transfer, and transfer criteria and procedures, which ensure a safe and orderly transfer. The internal appeals process provided relative to an involuntary transfer.

i. The program's policies and procedures for addressing grievances between the assisted living program and the tenants, including grievances relating to transfer and occupancy.

j. A statement of the prohibition against retaliation as prescribed in section 231C.13.

k. The emergency response policy.

l. The staffing policy which specifies if the staff is available twenty-four hours per day, if nurse delegation will be used, and how staffing will be adapted to meet changing tenant needs.

m. In dementia-specific assisted living programs, a description of the services and programming provided to meet the life skills and social activities of tenants.

n. The refund policy.

o. A statement regarding billing and payment procedures.

3. Occupancy agreements and related documents executed by each tenant or tenant's representative shall be maintained by the assisted living program in program files from the date of execution until three years from the date the occupancy agreement is terminated. A copy of the most current occupancy agreement shall be provided to members of the general public, upon request. Occupancy agreements and related documents shall be made available for on-site inspection to the

department of inspections and appeals upon request and at reasonable times.

Sec. 13. Section 231C.6, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

231C.6 INVOLUNTARY TRANSFER.

1. If an assisted living program initiates the involuntary transfer of a tenant and the action is not a result of a monitoring evaluation or complaint investigation by the department of inspections and appeals, and if the tenant or tenant's representative contests the transfer, the following procedure shall apply:

a. The assisted living program shall notify the tenant or tenant's representative, in accordance with the occupancy agreement, of the need to transfer, the reason for the transfer, and the contact information of the tenant advocate.

b. The assisted living program shall provide the tenant advocate with a copy of the notification to the tenant.

c. The tenant advocate shall offer the notified tenant or tenant's representative assistance with the program's internal appeals process. The tenant is not required to accept the assistance of the tenant advocate.

d. If, following the internal appeals process, the assisted living program upholds the transfer decision, the tenant may utilize other remedies authorized by law to contest the transfer.

2. The department, in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups, shall establish, by rule in accordance with chapter 17A, procedures to be followed, including the opportunity for hearing, when the transfer of a tenant results from a monitoring evaluation or complaint investigation conducted by the department of inspections and appeals.

Sec. 14. NEW SECTION. 231C.7 COMPLAINTS.

1. Any person with concerns regarding the operations or service delivery of an assisted living 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 tenant 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 department of inspections and appeals' employees involved with 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. 15. NEW SECTION. 231C.8 INFORMAL REVIEW.

If an assisted living program contests the regulatory insufficiencies of a monitoring evaluation or complaint investigation, the program shall submit written information, demonstrating that the program was in compliance with the applicable requirement at the time of the monitoring evaluation or complaint investigation, in support of the contesting of the regulatory insufficiencies, to the department of inspections and appeals for review. The department of inspections and appeals shall review the written information submitted within ten working days of the receipt of the information. At the conclusion of the review, the department of inspections and appeals may affirm, modify, or dismiss the regulatory insufficiencies. The department of inspections and appeals shall notify the program in writing of the decision to affirm, modify, or dismiss the regulatory insufficiencies, and the reasons for the decision. In the case of a complaint investigation, the department of inspections and appeals shall also notify the complainant, if known, of the decision and the reasons for the decision.

Sec. 16. NEW SECTION. 231C.9 PUBLIC DISCLOSURE OF FINDINGS.

Following a monitoring evaluation or complaint investigation of an assisted living program by the department of inspections and appeals pursuant to this chapter, the

department of inspections and appeals' final findings with respect to compliance by the assisted living program with requirements for certification shall be made available to the public in a readily available form and place. Other information relating to an assisted living program that is obtained by the department of inspections and appeals which does not constitute the department of inspections and appeals' final findings from a monitoring evaluation or complaint investigation of the assisted living 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. 17. NEW SECTION. 231C.10 DENIAL, SUSPENSION, OR REVOCATION -- CONDITIONAL OPERATION.

1. The department of inspections and appeals may deny, suspend, or revoke a certificate in any case where the department of inspections and appeals finds that there has been a substantial or repeated failure on the part of the assisted living program to comply with this chapter or the rules, or minimum standards adopted under this chapter, or for any of the following reasons:

a. Cruelty or indifference to assisted living program tenants.

b. Appropriation or conversion of the property of an assisted living program tenant without the tenant's written consent or the written consent of the tenant's legal guardian.

c. Permitting, aiding, or abetting the commission of any illegal act in the assisted living program.

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

e. Habitual intoxication or addiction to the use of drugs by the applicant, administrator, executive director, manager, or supervisor of the assisted living program.

f. Securing the devise or bequest of the property of a tenant of an assisted living program by undue influence.

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

h. In the case of any officer, member of the board of directors, trustee, or designated manager of the program or any stockholder, partner, or individual who has greater than a ten percent equity interest in the program, who has or has had an ownership interest in an assisted living program, home health agency, residential care facility, or licensed nursing facility in any state which has been closed due to removal of program, agency, or facility licensure or certification or involuntary termination from participation in either the medical assistance or Medicare programs, or who has been found to have failed to provide adequate protection or services for tenants to prevent abuse or neglect.

i. In the case of a certificate applicant or an existing certified owner or operator who is an entity other than an individual, the person is in a position of control or is an officer of the entity and engages in any act or omission proscribed by this chapter.

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

2. The department of inspections and appeals may as an alternative to denial, suspension, or revocation conditionally issue or continue a certificate dependent upon the performance by the assisted living program of reasonable conditions within a reasonable period of time as set 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 assisted living 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 assisted living program shall not be operated on a conditional certificate for more than one year.

Sec. 18. NEW SECTION. 231C.11 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 such action. Such denial, suspension, or revocation shall become effective thirty days after the mailing or service of the notice, unless the applicant or certificate holder, within such 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 imminent danger to the health or safety of tenants of an assisted living program exists which requires action on an emergency basis, the department of inspections and appeals may direct removal of all tenants of an assisted living program and suspend the certificate prior to a hearing.

Sec. 19. NEW SECTION. 231C.12 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 assisted living program.

Sec. 20. NEW SECTION. 231C.13 RETALIATION BY ASSISTED
LIVING PROGRAM PROHIBITED.

An assisted living program shall not discriminate or retaliate in any way against a tenant, tenant's family, or an employee of the program who has initiated or participated in any proceeding authorized by this chapter. An assisted living program that violates this section is subject to a penalty as

established by administrative rule in accordance with chapter 17A and 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.

Sec. 21. NEW SECTION. 231C.14 CIVIL PENALTIES.

The department may establish by rule, in accordance with chapter 17A, civil penalties for the following violations by an assisted living program:

1. Noncompliance with any regulatory requirements which presents an imminent danger or a substantial probability of resultant death or physical harm to a tenant.

2. Following receipt of notice from the department of inspections and appeals, continued failure or refusal to comply within a prescribed time frame with regulatory requirements that have a direct relationship to the health, safety, or security of program tenants.

Sec. 22. NEW SECTION. 231C.15 CRIMINAL PENALTIES AND INJUNCTIVE RELIEF.

1. A person establishing, conducting, managing, or operating any assisted living 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 assisted living 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 tenant of an assisted living program in private at any reasonable hour and without advance notice.

b. Examining any relevant records of an assisted living program.

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

Sec. 23. NEW SECTION. 231C.16 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 an assisted living program as credit toward sustaining the nursing assistant's or medication aide's certification.

Sec. 24. NEW SECTION. 231C.17 COORDINATION OF THE LONG-TERM CARE SYSTEM -- TRANSITIONAL PROVISIONS.

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

2. This chapter shall not be construed to require that a facility licensed as a different type of facility also comply with the requirements of this chapter, unless the facility is represented to the public as a certified assisted living program.

3. A certified assisted living program that complies with the requirements of this chapter shall not be required to be licensed as a health care facility pursuant to chapter 135C, unless the facility is represented to the public as a licensed health care facility.

4. A continuing care retirement community that is in compliance with chapter 523D shall not be held in violation of this chapter if the continuing care retirement community provides services to its independent living residents.

Sec. 25. NEW SECTION. 231C.18 IOWA ASSISTED LIVING FEES.

1. The department of inspections and appeals shall collect assisted living program certification and related fees. An assisted living program that is certified by the department of inspections and appeals on the basis of voluntary accreditation by a recognized accrediting entity shall not be subject to payment of the certification fee, but shall be subject to an administrative fee as prescribed by rule. Fees collected and retained pursuant to this section shall be deposited in the general fund of the state.

2. The following certification and related fees shall apply to assisted living programs:

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

b. For a two-year recertification, one thousand dollars.

c. For a blueprint plan review, nine hundred dollars.

d. For an optional preliminary plan review, five hundred dollars.

Sec. 26. NEW SECTION. 231C.19 APPLICATION OF LANDLORD AND TENANT ACT.

Chapter 562A, the uniform residential landlord and tenant Act, shall apply to assisted living programs under this chapter.

Sec. 27. Section 235B.3, subsection 2, paragraph d, Code 2003, is amended to read as follows:

d. A person who performs inspections of elder group homes for the department of ~~elder-affairs~~ inspections and appeals and a resident advocate committee member assigned to an elder group home pursuant to chapter 231B.

Sec. 28. Chapter 231A, Code 2003, is repealed.

Sec. 29. TRANSITION OF STAFF. All employees of the department of elder affairs performing functions related to certification and monitoring of or complaint investigations related to assisted living programs as of June 30, 2003, shall become employees of the department of inspections and appeals without loss of classification, pay, or benefits, effective July 1, 2003. All employees of the department of elder

affairs performing functions related to affordable assisted living as of June 30, 2003, shall become employees of the Iowa finance authority without loss of classification, pay, or benefits, effective July 1, 2003.

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 675, Eightieth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2003

THOMAS J. VILSACK
Governor