

# Senate Study Bill 1076

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

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

## A BILL FOR

1 An Act relating to adult day services regulation and providing  
2 penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 1265DP 81  
5 pf/sh/8

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1 1 Section 1. Section 231D.1, Code 2005, is amended to read  
1 2 as follows:  
1 3 231D.1 DEFINITIONS.  
1 4 For the purposes of this chapter, unless the context  
1 5 otherwise requires:  
1 6 1. "Adult day services", "adult day services program", or  
1 7 "program" means an organized program providing a variety of  
1 8 ~~health~~ ~~health-related care~~, social ~~services~~, and ~~other~~ related  
1 9 support services for sixteen hours or less in a twenty-four=  
1 10 hour period to two or more persons with a functional  
1 11 impairment on a regularly scheduled, contractual basis.  
1 12 ~~2. "Contractual agreement" means a written agreement~~  
1 13 ~~entered into between an adult day services program and a~~  
1 14 ~~participant that clearly describes the rights and~~  
1 15 ~~responsibilities of the adult day services program and the~~  
1 16 ~~participant, and other information required by rule.~~  
1 17 ~~2- 3.~~ "Department" means the department of elder affairs  
1 18 created in chapter 231.  
1 19 ~~3- 4.~~ "Functional impairment" means a psychological,  
1 20 cognitive, or physical impairment creating the inability to  
1 21 perform personal and instrumental activities of daily living  
1 22 and associated tasks necessitating some form of supervision or  
1 23 assistance or both.  
1 24 ~~4- 5.~~ "Governmental unit" means the state, or any county,  
1 25 municipality, or other political subdivision or any  
1 26 department, division, board, or other agency of any of these  
1 27 entities.  
1 28 ~~6. "Health-related care" means services provided by a~~  
1 29 ~~registered nurse or a licensed practical nurse, on a part-time~~  
1 30 ~~or intermittent basis, and services provided by other licensed~~  
1 31 ~~health care professionals, on a part-time or intermittent~~  
1 32 ~~basis, as defined by rule, and provided in accordance with~~  
1 33 ~~respective health-related professional governing standards.~~  
1 34 ~~"Health-related care" does not include a twenty-four-hour~~  
1 35 ~~program of health-related care.~~  
2 1 ~~7. "Participant" means an individual who is the recipient~~  
2 2 ~~of services provided by an adult day services program.~~  
2 3 ~~8. "Participant's legal representative" means a person~~  
2 4 ~~appointed by the court to act on behalf of a participant, or a~~  
2 5 ~~person acting pursuant to a power of attorney.~~  
2 6 ~~9. "Personal care" means assistance with the essential~~  
2 7 ~~activities of daily living which may include but are not~~  
2 8 ~~limited to transferring, bathing, personal hygiene, dressing,~~  
2 9 ~~grooming, and housekeeping that are essential to the health~~  
2 10 ~~and welfare of a participant.~~  
2 11 ~~5- 10.~~ "Recognized accrediting entity" means a nationally  
2 12 recognized accrediting entity that the department recognizes  
2 13 as having specific adult day services program standards  
2 14 equivalent to the standards established by the department for  
2 15 adult day services.  
2 16 ~~6- 11.~~ "Social services" means services relating to the  
2 17 psychological and social needs of the individual in adjusting

2 18 to participating in an adult day services program, and  
2 19 minimizing the stress arising from that circumstance.

2 20 ~~7- 12.~~ "Supervision" means direct oversight and  
2 21 inspection of the act of accomplishing a function or activity.  
2 22 Sec. 2. Section 231D.2, Code 2005, is amended to read as  
2 23 follows:

2 24 231D.2 PURPOSE == INTENT == RULES ~~== SPECIAL~~

~~2 25 CLASSIFICATIONS.~~

2 26 1. The purpose of this chapter is to promote and encourage  
2 27 adequate and safe care for adults with functional impairments.

2 28 2. It is the intent of the general assembly that the  
2 29 department of elder affairs establish policy for adult day  
2 30 services programs and that the department of inspections and  
2 31 appeals enforce this chapter.

2 32 3. The department shall establish, by rule in accordance  
2 33 with chapter 17A, a program for certification and monitoring  
2 34 of and complaint investigations related to adult day services

2 35 programs. The department, in establishing minimum standards  
3 1 for adult day services programs, may adopt by rule in  
3 2 accordance with chapter 17A, nationally recognized standards  
3 3 for adult day services programs. The rules shall include  
3 4 specification of recognized accrediting entities. The rules  
3 5 shall include a requirement that sufficient staffing be

3 6 available at all times to fully meet a participant's  
3 7 identified needs. The rules shall include a requirement that

3 8 no fewer than two staff persons who monitor participants as  
3 9 indicated in each participant's service plan shall be awake

3 10 and on duty during the hours of operation when two or more  
3 11 participants are present. The rules and minimum standards

3 12 adopted shall be formulated in consultation with the  
3 13 department of inspections and appeals and affected industry,  
3 14 professional, and consumer groups and shall be designed to  
3 15 accomplish the purpose of this chapter. An adult day services

3 16 program certified under this section is exempt from the  
3 17 requirements of section 135.63 relating to certificate of need  
3 18 requirements.

~~3 19 4. In addition to the adoption of standards and rules for~~  
~~3 20 adult day services programs, the department in consultation~~

~~3 21 with the department of inspections and appeals and affected~~  
~~3 22 industry, professional, and consumer groups, shall issue~~

~~3 23 interpretive guidelines, including the expectations of program~~  
~~3 24 certification monitors, to provide direction to adult day~~

~~3 25 services programs in complying with certification~~  
~~3 26 requirements.~~

3 27 ~~5- 4.~~ The department may establish by administrative  
3 28 rule, ~~special classifications for adult day services~~

~~3 29 providers. The department of inspections and appeals shall~~  
~~3 30 issue separate certificates for each special classification~~

~~3 31 for which a provider is certified. in accordance with chapter~~  
3 32 17A, specific rules related to minimum standards for dementia=

3 33 specific adult day services programs. The rules shall be  
3 34 formulated in consultation with the department of inspections

3 35 and appeals and affected industry, professional, and consumer  
4 1 groups.

4 2 Sec. 3. Section 231D.3, subsections 2, 4, and 5, Code

4 3 2005, are amended to read as follows:

4 4 2. An adult day services program may provide any type of

4 5 adult day services for which the program is certified,  
~~4 6 including any special classification of adult day services.~~

4 7 An adult day services program shall provide services and  
4 8 supervision commensurate with the needs of the ~~recipients~~

4 9 participants. An adult day services program shall not provide  
4 10 services to individuals requiring a level or type of services  
4 11 for which the program is not certified and services provided  
4 12 shall not exceed the level or type of services for which the  
4 13 program is certified.

4 14 4. A department, agency, or officer of this state or of  
4 15 any governmental unit shall not pay or approve for payment  
4 16 from public funds any amount to an adult day services program

4 17 for an actual or prospective recipient participant, unless the  
4 18 program holds a current certificate issued by the department

4 19 of inspections and appeals and meets all current requirements  
4 20 for certification.

4 21 5. The department shall adopt rules regarding the  
4 22 conducting or operating of another business or activity in the

4 23 distinct part of the physical structure in which the adult day  
4 24 services program is provided, if the business or activity

4 25 serves ~~nonrecipients of adult day services~~ persons who are not  
4 26 participants. The rules shall be developed in consultation

4 27 with the department of inspections and appeals and affected  
4 28 industry, professional, and consumer groups.

4 29 Sec. 4. Section 231D.3, Code 2005, is amended by adding  
4 30 the following new subsections:

4 31 NEW SUBSECTION. 6. An adult day services program, an  
4 32 owner or agent of the program, or an employee of the program  
4 33 shall not act as a fiduciary as defined in section 633.1102 or  
4 34 be designated as an attorney in fact under a power of attorney  
4 35 for a participant or any of the participant's property. An  
5 1 adult day services program shall not require a participant or  
5 2 the participant's legal representative to liquidate personal  
5 3 property as a condition of participation in the program.

5 4 NEW SUBSECTION. 7. Certification of an adult day services  
5 5 program shall be for two years unless revoked for good cause  
5 6 by the department of inspections and appeals.

5 7 Sec. 5. Section 231D.4, subsection 2, paragraph b, Code  
5 8 2005, is amended by adding the following new subparagraph:

5 9 NEW SUBPARAGRAPH. (5) For certification via a national  
5 10 body of accreditation, one hundred twenty-five dollars.

5 11 Sec. 6. Section 231D.5, subsections 1 and 2, Code 2005,  
5 12 are amended to read as follows:

5 13 1. The department of inspections and appeals may deny,  
5 14 suspend, or revoke certification if the department of  
5 15 inspections and appeals finds that there has been a  
5 16 substantial or repeated failure on the part of the adult day  
5 17 services program to comply with this chapter or other  
5 18 applicable laws, or the rules or minimum standards adopted  
5 19 pursuant to this chapter or other applicable laws or rules, or  
5 20 for any of the following reasons:

5 21 a. Cruelty or indifference to ~~adult day services program~~  
5 22 ~~service recipients participants.~~

5 23 b. Appropriation or conversion of the property of ~~an adult~~  
5 24 ~~day services programs service recipient a participant~~ without  
5 25 ~~the recipient's participant's~~ written consent or the written  
5 26 consent of the ~~service recipient's participant's~~ legal  
5 27 ~~guardian representative.~~

5 28 c. Permitting, aiding, or abetting the commission of any  
5 29 illegal act in the adult day services program.

5 30 d. Obtaining or attempting to obtain or retain  
5 31 certification by fraudulent means, misrepresentation, or by  
5 32 submitting false information.

5 33 e. Habitual intoxication or addiction to the use of drugs  
5 34 by the applicant, owner, manager, or supervisor of the adult  
5 35 day services program.

6 1 f. Securing the devise or bequest of the property of a  
6 2 ~~recipient of services of an adult day services program~~  
6 3 ~~participant~~ by undue influence.

6 4 g. Failure or neglect to maintain a continuing education  
6 5 and training program for all personnel employed in the adult  
6 6 day services program.

6 7 h. In the case of any officer, member of the board of  
6 8 directors, trustee, or designated manager of the program or  
6 9 any stockholder, partner, or individual who has greater than a  
6 10 ten percent equity interest in the program, who has or has had  
6 11 an ownership interest in an adult day services or assisted  
6 12 living program, home health agency, residential care facility,  
6 13 or licensed nursing facility in this state which has been  
6 14 closed due to removal of program, agency, or facility  
6 15 licensure or certification, or involuntary termination from  
6 16 participation in either the medical assistance or Medicare  
6 17 programs, or who has been found to have failed to provide  
6 18 adequate protection or services for participants to prevent  
6 19 abuse or neglect.

6 20 i. In the case of a certificate applicant or an existing  
6 21 certified owner or operator who is an entity other than an  
6 22 individual, the person is in a position of control or is an  
6 23 officer of the entity and engages in any act or omission  
6 24 proscribed by this chapter.

6 25 ~~h.~~ j. Founded dependent adult abuse as defined in section  
6 26 235B.2.

6 27 ~~i.~~ k. For any other reason as provided by law or  
6 28 administrative rule.

6 29 2. In the case of an application by an existing  
6 30 certificate holder for a new or newly acquired adult day  
6 31 services program, continuing or repeated failure of the  
6 32 certificate holder to operate any previously certified adult  
6 33 day services program in compliance with this chapter or other  
6 34 applicable laws or of the rules adopted pursuant to this  
6 35 chapter.

7 1 Sec. 7. Section 231D.6, subsection 3, Code 2005, is  
7 2 amended to read as follows:

7 3 3. When the department of inspections and appeals finds  
7 4 that an immediate danger to the health or safety of ~~recipients~~

7 5 of services from participants in an adult day services program  
7 6 exists which requires action on an emergency basis, the  
7 7 department of inspections and appeals may direct the removal  
7 8 of all ~~recipients of services from an participants in the~~  
7 9 adult day services program and suspend the certificate prior  
7 10 to a hearing.

7 11 Sec. 8. Section 231D.9, subsection 1, Code 2005, is  
7 12 amended to read as follows:

7 13 1. A person with concerns regarding the operations or  
7 14 service delivery of an adult day services program may file a  
7 15 complaint with the department of inspections and appeals. The  
7 16 name of the person who files a complaint with the department  
7 17 of inspections and appeals and any personal identifying  
7 18 information of the person or any ~~recipient of program services~~  
7 19 participant identified in the complaint shall be kept  
7 20 confidential and shall not be subject to discovery, subpoena,  
7 21 or other means of legal compulsion for its release to a person  
7 22 other than employees of the department of inspections and  
7 23 appeals involved in the investigation of the complaint.

7 24 Sec. 9. NEW SECTION. 231D.9A INFORMAL REVIEW.

7 25 If an adult day services program contests the findings of  
7 26 regulatory insufficiencies of a monitoring evaluation or  
7 27 complaint investigation, the program shall submit written  
7 28 information, demonstrating that the program was in compliance  
7 29 with the applicable requirement at the time of the monitoring  
7 30 evaluation or complaint investigation, to the department of  
7 31 inspections and appeals for review. The department of  
7 32 inspections and appeals shall review the written information  
7 33 submitted within ten working days of the receipt of the  
7 34 information. At the conclusion of the review, the department  
7 35 of inspections and appeals may affirm, modify, or dismiss the  
8 1 regulatory insufficiencies. The department of inspections and  
8 2 appeals shall notify the program in writing of the decision to  
8 3 affirm, modify, or dismiss the regulatory insufficiencies, and  
8 4 the reasons for the decision. In the case of a complaint  
8 5 investigation, the department of inspections and appeals shall  
8 6 also notify the complainant, if known, of the decision and the  
8 7 reasons for the decision.

8 8 Sec. 10. Section 231D.10, Code 2005, is amended to read as  
8 9 follows:

8 10 231D.10 PUBLIC DISCLOSURE OF FINDINGS.

8 11 ~~Following~~ Upon completion of a monitoring evaluation or  
8 12 complaint investigation of an adult day services program by  
8 13 the department of inspections and appeals pursuant to this  
8 14 chapter, the department's final findings with respect to  
8 15 compliance by the adult day services program with requirements  
8 16 for certification shall be made available to the public in a  
8 17 readily available form and place. Other information relating  
8 18 to an adult day services program that is obtained by the  
8 19 department of inspections and appeals which does not  
8 20 constitute the department's final findings from a monitoring  
8 21 evaluation or complaint investigation of the adult day  
8 22 services program shall be made available to the department  
8 23 upon request to facilitate policy decisions, but shall not be  
8 24 made available to the public except in proceedings involving  
8 25 the denial, suspension, or revocation of a certificate under  
8 26 this chapter.

8 27 Sec. 11. Section 231D.11, subsection 3, paragraph a, Code  
8 28 2005, is amended to read as follows:

8 29 a. Program noncompliance with one or more regulatory  
8 30 requirements has caused or is likely to cause harm, serious  
8 31 injury, threat, or death to a ~~recipient of program services~~  
8 32 participant.

8 33 Sec. 12. Section 231D.12, Code 2005, is amended to read as  
8 34 follows:

8 35 231D.12 RETALIATION BY AN ADULT DAY SERVICES PROGRAM  
9 1 PROHIBITED.

9 2 1. An adult day services program shall not discriminate or  
9 3 retaliate in any way against a ~~recipient participant,~~  
9 4 ~~recipient's participant's~~ family, or an employee of the  
9 5 program who has initiated or participated in any proceeding  
9 6 authorized by this chapter. An adult day services program  
9 7 that violates this section is subject to a penalty as  
9 8 established by administrative rule, to be assessed and  
9 9 collected by the department of inspections and appeals and  
9 10 paid into the state treasury to be credited to the general  
9 11 fund of the state.

9 12 2. Any attempt to discharge a ~~recipient participant~~ from  
9 13 an adult day services program by whom or upon whose behalf a  
9 14 complaint has been submitted to the department of inspections  
9 15 and appeals under section 231D.9, within ninety days after the

9 16 filing of the complaint or the conclusion of any proceeding  
9 17 resulting from the complaint, shall raise a rebuttable  
9 18 presumption that the action was taken by the program in  
9 19 retaliation for the filing of the complaint, except in  
9 20 situations in which the ~~recipient participant~~ is discharged  
9 21 due to changes in health status which exceed the level of care  
9 22 offered by the adult day services program or in other  
9 23 situations as specified by rule.

9 24 Sec. 13. Section 231D.16, Code 2005, is amended to read as  
9 25 follows:

9 26 231D.16 TRANSITION PROVISIONS PROVISION.

9 27 ~~1. Adult day services programs voluntarily accredited by a  
9 28 recognized accrediting entity prior to July 1, 2003, shall  
9 29 comply with this chapter by June 30, 2004.~~

9 30 ~~2. Adult day services programs that are serving at least  
9 31 two but not more than five persons that are not voluntarily  
9 32 accredited by a recognized accrediting entity prior to July 1,  
9 33 2003, shall comply with this chapter by June 30, 2005.~~

9 34 Sec. 14. NEW SECTION. 231D.17 WRITTEN CONTRACTUAL  
9 35 AGREEMENT REQUIRED.

10 1 1. An adult day services program shall not operate in this  
10 2 state unless a written contractual agreement is executed  
10 3 between the adult day services program and each participant or  
10 4 the participant's legal representative prior to the  
10 5 participant's admission to the program, and unless the adult  
10 6 day services program operates in accordance with the terms of  
10 7 the written contractual agreement. The adult day services  
10 8 program shall deliver to the participant or the participant's  
10 9 legal representative a complete copy of the written  
10 10 contractual agreement and all supporting documents and  
10 11 attachments, prior to the participant's admission to the  
10 12 program, and shall also deliver a written copy of changes to  
10 13 the written contractual agreement, if any changes to the copy  
10 14 originally delivered are subsequently made, at least thirty  
10 15 days prior to any changes, unless otherwise provided in this  
10 16 section.

10 17 2. An adult day services program written contractual  
10 18 agreement shall clearly describe the rights and  
10 19 responsibilities of the participant and the program. The  
10 20 written contractual agreement shall also include but is not  
10 21 limited to inclusion of all of the following information in  
10 22 the body of the agreement or in the supporting documents and  
10 23 attachments:

10 24 a. A description of all fees, charges, and rates  
10 25 describing admission and basic services covered, and any  
10 26 additional and optional services and their related costs.

10 27 b. A statement regarding the impact of the fee structure  
10 28 on third-party payments, and whether third-party payments and  
10 29 resources are accepted by the adult day services program.

10 30 c. The procedure followed for nonpayment of fees.

10 31 d. Identification of the party responsible for payment of  
10 32 fees and identification of the participant's legal  
10 33 representative, if any.

10 34 e. The term of the written contractual agreement.

10 35 f. A statement that the adult day services program shall  
11 1 notify the participant or the participant's legal  
11 2 representative, as applicable, in writing at least thirty days  
11 3 prior to any change being made in the written contractual  
11 4 agreement, with the following exceptions:

11 5 (1) When the participant's health status or behavior  
11 6 constitutes a substantial threat to the health or safety of  
11 7 the participant, other participants, or others, including when  
11 8 the participant refuses to consent to discharge.

11 9 (2) When an emergency or a significant change in the  
11 10 participant's condition results in the need for the provision  
11 11 of services that exceed the type or level of services included  
11 12 in the written contractual agreement and the necessary  
11 13 services cannot be safely provided by the adult day services  
11 14 program.

11 15 g. A statement that all participant information shall be  
11 16 maintained in a confidential manner to the extent required  
11 17 under state and federal law.

11 18 h. Occupancy, involuntary transfer, and transfer criteria  
11 19 and procedures, which ensure a safe and orderly transfer.

11 20 i. The internal appeals process provided relative to an  
11 21 involuntary transfer.

11 22 j. The program's policies and procedures for addressing  
11 23 grievances between the adult day services program and the  
11 24 participants, including grievances relating to transfer and  
11 25 occupancy.

11 26 k. A statement of the prohibition against retaliation as

11 27 prescribed in section 231D.12.  
11 28 1. The emergency response policy.  
11 29 m. The staffing policy which specifies staff is available  
11 30 during all times of program operation, if nurse delegation  
11 31 will be used, and how staffing will be adapted to meet  
11 32 changing participant needs.  
11 33 n. In dementia-specific adult day services programs, a  
11 34 description of the services and programming provided to meet  
11 35 the life skills and social activities of participants.  
12 1 o. The refund policy.  
12 2 p. A statement regarding billing and payment procedures.  
12 3 3. Written contractual agreements and related documents  
12 4 executed by each participant or participant's legal  
12 5 representative shall be maintained by the adult day services  
12 6 program in program files from the date of execution until  
12 7 three years from the date the written contractual agreement is  
12 8 terminated. A copy of the most current written contractual  
12 9 agreement shall be provided to members of the general public,  
12 10 upon request. Written contractual agreements and related  
12 11 documents shall be made available for on-site inspection to  
12 12 the department of inspections and appeals upon request and at  
12 13 reasonable times.

12 14 Sec. 15. NEW SECTION. 231D.18 INVOLUNTARY TRANSFER.

12 15 1. If an adult day services program initiates the  
12 16 involuntary transfer of a participant and the action is not a  
12 17 result of a monitoring evaluation or complaint investigation  
12 18 by the department of inspections and appeals, and if the  
12 19 participant or participant's legal representative contests the  
12 20 transfer, the following procedure shall apply:

12 21 a. The adult day services program shall notify the  
12 22 participant or participant's legal representative, in  
12 23 accordance with the written contractual agreement, of the need  
12 24 to transfer and the reason for the transfer.

12 25 b. If, following the internal appeals process, the adult  
12 26 day services program upholds the transfer decision, the  
12 27 participant or participant's legal representative may utilize  
12 28 other remedies authorized by law to contest the transfer.

12 29 2. The department, in consultation with the department of  
12 30 inspections and appeals and affected industry, professional,  
12 31 and consumer groups, shall establish by rule, in accordance  
12 32 with chapter 17A, procedures to be followed, including the  
12 33 opportunity for hearing, when the transfer of a participant  
12 34 results from a monitoring evaluation or complaint  
12 35 investigation conducted by the department of inspections and  
13 1 appeals.

13 2 EXPLANATION

13 3 This bill makes changes in the regulation of adult day  
13 4 services programs and provides criminal penalties for  
13 5 violations.

13 6 The bill includes new definitions of terms in the adult day  
13 7 services chapter, including "health-related care",  
13 8 "participant", "participant's legal representative", "personal  
13 9 care", and "contractual agreement".

13 10 The bill directs the department of elder affairs to adopt  
13 11 rules that include a requirement that sufficient staffing be  
13 12 available at all times to fully meet a participant's  
13 13 identified needs. The rules are also to include a requirement  
13 14 that no fewer than two staff persons who monitor participants  
13 15 as indicated in each participant's service plan are to be  
13 16 awake and on duty during the hours of operation when two or  
13 17 more participants are present. The bill also provides that a  
13 18 certified adult day services program is exempt from the  
13 19 requirements of Code section 135.63 relating to certificate of  
13 20 need requirements.

13 21 The bill eliminates the requirement that the department of  
13 22 elder affairs establish, by rule, special classifications for  
13 23 adult day services, but does require that the department  
13 24 establish minimum standards for all services and authorizes  
13 25 the department to adopt minimum standards for dementia-  
13 26 specific adult day services programs. The bill eliminates the  
13 27 requirement that in addition to adoption of rules, the  
13 28 department of elder affairs also issue interpretive  
13 29 guidelines.

13 30 The bill provides that certification of an adult day  
13 31 services program is for two years, unless revoked for good  
13 32 cause. The bill also prohibits an adult day services program,  
13 33 an owner or agent of the program, or an employee of the  
13 34 program to act as a fiduciary or attorney in fact for a  
13 35 participant or a participant's property. An adult day  
14 1 services program is also prohibited from requiring a  
14 2 participant or a participant's legal representative from

14 3 liquidating personal property to participate in the program.  
14 4 The bill provides for imposition of a fee for certification  
14 5 via a national body of accreditation of \$125. The bill  
14 6 provides that the basis for denial, suspension, or revocation  
14 7 of certification may be the conduct of the officers, members  
14 8 of the boards of directors, trustees, managers, stockholders,  
14 9 partners, or individuals with an equity interest in an adult  
14 10 day services or assisted living program, home health agency,  
14 11 residential care facility, or licensed nursing facility that  
14 12 has been closed due to loss of licensure or certification or  
14 13 involuntary termination from participation in the Medicare or  
14 14 medical assistance programs, or that have been found to have  
14 15 failed to provide adequate protection or services for  
14 16 participants to prevent abuse or neglect. The bill also  
14 17 provides that the basis for denial, suspension, or revocation  
14 18 of certification may be, in the case of a certificate  
14 19 applicant or an existing certified owner or operator who is an  
14 20 entity other than an individual, that the person is in a  
14 21 position of control or is an officer of the entity and engages  
14 22 in any act or omission proscribed by Code chapter 231D. The  
14 23 bill provides that other information relating to an adult day  
14 24 services program that is obtained by the department of  
14 25 inspections and appeals which does not constitute the  
14 26 department's final findings from a monitoring evaluation or  
14 27 complaint investigation of the adult day services program is  
14 28 to be made available to the department of elder affairs upon  
14 29 request to facilitate policy decisions.  
14 30 The bill removes a provision affecting certain adult day  
14 31 services programs that were required to comply with  
14 32 regulations governing such programs by June 30, 2004. The  
14 33 bill adds provisions requiring a written contractual agreement  
14 34 for adult day services programs, providing a process for  
14 35 involuntary transfers, and providing for informal review  
15 1 regarding contesting of findings of regulatory insufficiencies  
15 2 of a monitoring evaluation or complaint investigation.  
15 3 LSB 1265DP 81  
15 4 pf/sh/8.1