

# House File 585 - Reprinted

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 95)

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

## A BILL FOR

1 An Act relating to assisted living programs, providing for a fee,  
2 and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 HF 585  
5 pf/es/25

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1 1 Section 1. Section 231C.1, subsection 1, Code 2005, is  
1 2 amended to read as follows:  
1 3 1. The general assembly finds that assisted living is an  
1 4 important part of the long-term care ~~system~~ continua in this  
1 5 state. Assisted living emphasizes the independence and  
1 6 dignity of the individual while providing services in a cost=  
1 7 effective manner.  
1 8 Sec. 2. Section 231C.1, subsection 2, paragraphs b and c,  
1 9 Code 2005, are amended to read as follows:  
1 10 b. To establish standards for assisted living programs  
1 11 that allow flexibility in design which promotes a social model  
1 12 of service delivery by focusing on ~~individual~~ independence,  
1 13 individual needs and desires, and consumer-driven quality of  
1 14 service.  
1 15 c. To encourage ~~general~~ public participation in the  
1 16 development of assisted living programs for individuals of all  
1 17 income levels.  
1 18 Sec. 3. Section 231C.2, subsections 2, 5, and 9, Code  
1 19 2005, are amended to read as follows:  
1 20 2. "Assisted living" means provision of housing with  
1 21 services which may include but are not limited to health=  
1 22 related care, personal care, and assistance with instrumental  
1 23 activities of daily living to three or more tenants in a  
1 24 physical structure which provides a homelike environment.  
1 25 "Assisted living" also includes encouragement of family  
1 26 involvement, tenant self-direction, and tenant participation  
1 27 in decisions that emphasize choice, dignity, privacy,  
1 28 individuality, shared risk, and independence. "Assisted  
1 29 living" includes the provision of housing and assistance with  
1 30 instrumental activities of daily living only if personal care  
1 31 or health-related care is also included. "Assisted living"  
1 32 includes twenty-four-hours per day response staff to meet  
1 33 scheduled and unscheduled or unpredictable needs in a manner  
1 34 that promotes maximum dignity and independence and provides  
1 35 supervision, safety, and security.  
2 1 5. "Health-related care" means services provided by a  
2 2 registered nurse or a licensed practical nurse, on a part=  
2 3 time or intermittent basis, and services provided by other  
2 4 licensed health care professionals, on a part-time or  
2 5 intermittent basis, ~~as defined by rule.~~  
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 the tenant, and supervising of self-  
2 11 administered medications, but does not include the  
2 12 administration of medications.  
2 13 Sec. 4. Section 231C.2, subsection 7, Code 2005, is  
2 14 amended by striking the subsection and inserting in lieu  
2 15 thereof the following:  
2 16 7. "Medication setup" means assistance with various steps  
2 17 of medication administration to support a tenant's autonomy,  
2 18 which may include but is not limited to routine prompting,

2 19 cueing and reminding, opening containers or packaging at the  
2 20 direction of the tenant, reading instructions or other label  
2 21 information, or transferring medications from the original  
2 22 container into suitable medication dispensing containers,  
2 23 reminder containers, or medication cups.

2 24 Sec. 5. Section 231C.2, subsection 13, Code 2005, is  
2 25 amended by striking the subsection and inserting in lieu  
2 26 thereof the following:

2 27 13. "Tenant's legal representative" means a person  
2 28 appointed by the court to act on behalf of a tenant or a  
2 29 person acting pursuant to a power of attorney.

2 30 Sec. 6. Section 231C.3, subsection 1, unnumbered paragraph  
2 31 1, Code 2005, is amended to read as follows:

2 32 The department shall establish by rule in accordance with  
2 33 chapter 17A, ~~a program~~ minimum standards for certification and  
2 34 monitoring of assisted living programs. The department may  
2 35 adopt by reference with or without amendment, nationally  
3 1 recognized standards and rules for assisted living programs.  
3 2 The rules shall include specification of recognized  
3 3 accrediting entities and provisions related to dementia=  
3 4 specific programs. The standards and rules shall be  
3 5 formulated in consultation with the department of inspections  
3 6 and appeals, and affected industry, professional, and consumer  
3 7 groups and shall be designed to accomplish the purposes of  
3 8 this chapter and shall include but are not limited to rules  
3 9 relating to all of the following:

3 10 Sec. 7. Section 231C.3, subsection 1, paragraph b, Code  
3 11 2005, is amended to read as follows:

3 12 b. Requirements that assisted living programs furnish the  
3 13 department of elder affairs and the department of inspections  
3 14 and appeals with specified information necessary to administer  
3 15 this chapter. All information related to a provider  
3 16 application for an assisted living program submitted to either  
3 17 the department of elder affairs or the department of  
3 18 inspections and appeals shall be considered a public record  
3 19 pursuant to chapter 22.

3 20 Sec. 8. Section 231C.3, subsection 2, Code 2005, is  
3 21 amended by striking the subsection.

3 22 Sec. 9. Section 231C.3, subsection 7, Code 2005, is  
3 23 amended to read as follows:

3 24 7. The department may also establish by rule in accordance  
3 25 with chapter 17A ~~a special classification~~ minimum standards  
3 26 ~~for affordable subsidized and dementia-specific~~ assisted  
3 27 living programs. The rules shall be formulated in  
3 28 consultation with the department of inspections and appeals  
3 29 and affected industry, professional, and consumer groups.

3 30 Sec. 10. Section 231C.3, Code 2005, is amended by adding  
3 31 the following new subsections:

3 32 NEW SUBSECTION. 11. The department of elder affairs and  
3 33 the department of inspections and appeals shall conduct joint  
3 34 training sessions for personnel responsible for conducting  
3 35 monitoring evaluations and complaint investigations of  
4 1 assisted living programs.

4 2 NEW SUBSECTION. 12. Certification of an assisted living  
4 3 program shall be for two years unless certification is revoked  
4 4 for good cause by the department of inspections and appeals.

4 5 Sec. 11. Section 231C.5, Code 2005, is amended to read as  
4 6 follows:

4 7 231C.5 WRITTEN OCCUPANCY AGREEMENT REQUIRED.

4 8 1. An assisted living program shall not operate in this  
4 9 state unless a written occupancy agreement, as prescribed in  
4 10 subsection 2, is executed between the assisted living program  
4 11 and each tenant or the tenant's legal representative, prior to  
4 12 the tenant's occupancy, and unless the assisted living program  
4 13 operates in accordance with the terms of the occupancy  
4 14 agreement. The assisted living program shall deliver to the  
4 15 tenant or the tenant's legal representative a complete copy of  
4 16 the occupancy agreement and all supporting documents and  
4 17 attachments and shall deliver, at least thirty days prior to  
4 18 any changes, a written copy of changes to the occupancy  
4 19 agreement if any changes to the copy originally delivered are  
4 20 subsequently made.

4 21 2. An assisted living program occupancy agreement shall  
4 22 clearly describe the rights and responsibilities of the tenant  
4 23 and the program. The occupancy agreement shall also include  
4 24 but is not limited to inclusion of all of the following  
4 25 information in the body of the agreement or in the supporting  
4 26 documents and attachments:

4 27 a. A description of all fees, charges, and rates  
4 28 describing tenancy and basic services covered, and any  
4 29 additional and optional services and their related costs.

4 30 b. A statement regarding the impact of the fee structure  
4 31 on third-party payments, and whether third-party payments and  
4 32 resources are accepted by the assisted living program.

4 33 c. The procedure followed for nonpayment of fees.

4 34 d. Identification of the party responsible for payment of  
4 35 fees and identification of the tenant's legal representative,  
5 1 if any.

5 2 e. The term of the occupancy agreement.

5 3 f. A statement that the assisted living program shall  
5 4 notify the tenant or the tenant's legal representative, as  
5 5 applicable, in writing at least thirty days prior to any  
5 6 change being made in the occupancy agreement with the  
5 7 following exceptions:

5 8 (1) When the tenant's health status or behavior  
5 9 constitutes a substantial threat to the health or safety of  
5 10 tenant, other tenants, or others, including when the  
5 11 tenant refuses to consent to relocation.

5 12 (2) When an emergency or a significant change in the  
5 13 tenant's condition results in the need for the provision of  
5 14 services that exceed the type or level of services included in  
5 15 the occupancy agreement and the necessary services cannot be  
5 16 safely provided by the assisted living program.

5 17 g. A statement that all tenant information shall be  
5 18 maintained in a confidential manner to the extent required  
5 19 under state and federal law.

5 20 h. Occupancy, involuntary transfer, and transfer criteria  
5 21 and procedures, which ensure a safe and orderly transfer.

5 22 i. The internal appeals process provided relative to an  
5 23 involuntary transfer.

5 24 ~~i.~~ j. The program's policies and procedures for  
5 25 addressing grievances between the assisted living program and  
5 26 the tenants, including grievances relating to transfer and  
5 27 occupancy.

5 28 ~~j.~~ k. A statement of the prohibition against retaliation  
5 29 as prescribed in section 231C.13.

5 30 ~~k.~~ l. The emergency response policy.

5 31 ~~l.~~ m. The staffing policy which specifies ~~if the staff is~~  
5 32 ~~available twenty-four hours per day~~, if nurse delegation will  
5 33 be used, and how staffing will be adapted to meet changing  
5 34 tenant needs.

5 35 ~~m.~~ n. In dementia-specific assisted living programs, a  
6 1 description of the services and programming provided to meet  
6 2 the life skills and social activities of tenants.

6 3 ~~n.~~ o. The refund policy.

6 4 ~~o.~~ p. A statement regarding billing and payment  
6 5 procedures.

6 6 3. Occupancy agreements and related documents executed by  
6 7 each tenant or the tenant's legal representative shall be  
6 8 maintained by the assisted living program in program files  
6 9 from the date of execution until three years from the date the  
6 10 occupancy agreement is terminated. A copy of the most current  
6 11 occupancy agreement shall be provided to members of the  
6 12 general public, upon request. Occupancy agreements and  
6 13 related documents shall be made available for on-site  
6 14 inspection to the department of inspections and appeals upon  
6 15 request and at reasonable times.

6 16 Sec. 12. Section 231C.6, subsection 1, Code 2005, is  
6 17 amended to read as follows:

6 18 1. If an assisted living program initiates the involuntary  
6 19 transfer of a tenant and the action is not a result of a  
6 20 monitoring evaluation or complaint investigation by the  
6 21 department of inspections and appeals, and if the tenant or  
6 22 the tenant's legal representative contests the transfer, the  
6 23 following procedure shall apply:

6 24 a. The assisted living program shall notify the tenant or  
6 25 the tenant's legal representative, in accordance with the  
6 26 occupancy agreement, of the need to transfer, the reason for  
6 27 the transfer, and the contact information of the tenant  
6 28 advocate.

6 29 b. The assisted living program shall provide the tenant  
6 30 advocate with a copy of the notification to the tenant.

6 31 c. The tenant advocate shall offer the notified tenant or  
6 32 the tenant's legal representative assistance with the  
6 33 program's internal appeals process. The tenant is not  
6 34 required to accept the assistance of the tenant advocate.

6 35 d. If, following the internal appeals process, the  
7 1 assisted living program upholds the transfer decision, the  
7 2 tenant or the tenant's legal representative may utilize other  
7 3 remedies authorized by law to contest the transfer.

7 4 Sec. 13. Section 231C.8, Code 2005, is amended to read as  
7 5 follows:

7 6 231C.8 INFORMAL REVIEW.

7 7 1. If an assisted living program contests the regulatory  
7 8 insufficiencies of a monitoring evaluation or complaint  
7 9 investigation, the program shall submit written information,  
7 10 demonstrating that the program was in compliance with the  
7 11 applicable requirement at the time of the monitoring  
7 12 evaluation or complaint investigation, in support of the  
7 13 contesting of the regulatory insufficiencies, to the  
7 14 department of inspections and appeals for review.

7 15 2. The department of inspections and appeals shall review  
7 16 the written information submitted within ten working days of  
7 17 the receipt of the information. At the conclusion of the  
7 18 review, the department of inspections and appeals may affirm,  
7 19 modify, or dismiss the regulatory insufficiencies. The  
7 20 department of inspections and appeals shall notify the program  
7 21 in writing of the decision to affirm, modify, or dismiss the  
7 22 regulatory insufficiencies, and the reasons for the decision.

7 23 3. In the case of a complaint investigation, the  
7 24 department of inspections and appeals shall also notify the  
7 25 complainant, if known, of the decision and the reasons for the  
7 26 decision.

7 27 Sec. 14. Section 231C.9, Code 2005, is amended to read as  
7 28 follows:

7 29 231C.9 PUBLIC DISCLOSURE OF FINDINGS.

7 30 ~~Following~~ Upon completion of a monitoring evaluation or  
7 31 complaint investigation of an assisted living program by the  
7 32 department of inspections and appeals pursuant to this  
7 33 chapter, including the conclusion of all administrative  
7 34 appeals processes, the department of inspections and appeals'  
7 35 final findings with respect to compliance by the assisted  
8 1 living program with requirements for certification shall be  
8 2 made available to the public in a readily available form and  
8 3 place. Other information relating to an assisted living  
8 4 program that is obtained by the department of inspections and  
8 5 appeals which does not constitute the department of  
8 6 inspections and appeals' final findings from a monitoring  
8 7 evaluation or complaint investigation of the assisted living  
8 8 program shall be made available to the department of elder  
8 9 affairs upon request in order to facilitate policy decisions,

~~8 10 but shall not be made available to the public except in~~  
8 11 proceedings involving the denial, suspension, or revocation of  
8 12 a certificate under this chapter.

8 13 Sec. 15. Section 231C.10, subsection 1, Code 2005, is  
8 14 amended to read as follows:

8 15 1. The department of inspections and appeals may deny,  
8 16 suspend, or revoke a certificate in any case where the  
8 17 department of inspections and appeals finds that there has  
8 18 been a substantial or repeated failure on the part of the  
8 19 assisted living program to comply with this chapter or the  
8 20 rules, or minimum standards adopted under this chapter, or for  
8 21 any of the following reasons:

~~8 22 a. Cruelty or indifference to assisted living program  
8 23 tenants.~~

8 24 ~~b. a.~~ Appropriation or conversion of the property of an  
8 25 assisted living program tenant without the tenant's written  
8 26 consent or the written consent of the tenant's legal ~~guardian~~  
8 27 representative.

8 28 ~~c. b.~~ Permitting, aiding, or abetting the commission of  
8 29 any illegal act in the assisted living program.

8 30 ~~d. c.~~ Obtaining or attempting to obtain or retain a  
8 31 certificate by fraudulent means, misrepresentation, or by  
8 32 submitting false information.

8 33 ~~e. d.~~ Habitual intoxication or addiction to the use of  
8 34 drugs by the applicant, administrator, executive director,  
8 35 manager, or supervisor of the assisted living program.

9 1 ~~f. e.~~ Securing the devise or bequest of the property of a  
9 2 tenant of an assisted living program by undue influence.

9 3 ~~g. f.~~ Founded dependent adult abuse as defined in section  
9 4 235B.2.

9 5 ~~h. g.~~ In the case of any officer, member of the board of  
9 6 directors, trustee, or designated manager of the program or  
9 7 any stockholder, partner, or individual who has greater than a  
9 8 ~~ten~~ five percent equity interest in the program, who has or  
9 9 has had an ownership interest in an assisted living program,  
9 10 adult day services program, elder group home, home health  
9 11 agency, residential care facility, or licensed nursing  
9 12 facility in any state which has been closed due to removal of  
9 13 program, agency, or facility licensure or certification or  
9 14 involuntary termination from participation in either the  
9 15 medical assistance or Medicare programs, or who has been found  
9 16 to have failed to provide adequate protection or services for

9 17 tenants to prevent abuse or neglect.  
9 18 ~~i.~~ h. In the case of a certificate applicant or an  
9 19 existing certified owner or operator who is an entity other  
9 20 than an individual, the person is in a position of control or  
9 21 is an officer of the entity and engages in any act or omission  
9 22 proscribed by this chapter.  
9 23 ~~j.~~ i. For any other reason as provided by law or  
9 24 administrative rule.

9 25 Sec. 16. Section 231C.14, Code 2005, is amended by adding  
9 26 the following new subsection:

9 27 NEW SUBSECTION. 3. Preventing or interfering with or  
9 28 attempting to impede in any way any duly authorized  
9 29 representative of the department of inspections and appeals in  
9 30 the lawful enforcement of this chapter or of the rules adopted  
9 31 pursuant to this chapter. As used in this subsection, "lawful  
9 32 enforcement" includes but is not limited to:

9 33 a. Contacting or interviewing any tenant of an assisted  
9 34 living program in private at any reasonable hour and without  
9 35 advance notice.

10 1 b. Examining any relevant records of an assisted living  
10 2 program.

10 3 c. Preserving evidence of any violation of this chapter or  
10 4 of the rules adopted pursuant to this chapter.

10 5 Sec. 17. Section 231C.15, Code 2005, is amended to read as  
10 6 follows:

10 7 231C.15 CRIMINAL PENALTIES AND INJUNCTIVE RELIEF.

10 8 ~~1.~~ A person establishing, conducting, managing, or  
10 9 operating any assisted living program without a certificate is  
10 10 guilty of a serious misdemeanor. Each day of continuing  
10 11 violation after conviction or notice from the department of  
10 12 inspections and appeals by certified mail of a violation shall  
10 13 be considered a separate offense or chargeable offense. A  
10 14 person establishing, conducting, managing, or operating an  
10 15 assisted living program without a certificate may be  
10 16 temporarily or permanently restrained by a court of competent  
10 17 jurisdiction from such activity in an action brought by the  
10 18 state.

~~10 19 2. A person who prevents or interferes with or attempts to  
10 20 impede in any way any duly authorized representative of the  
10 21 department of inspections and appeals in the lawful  
10 22 enforcement of this chapter or of the rules adopted pursuant  
10 23 to this chapter is guilty of a simple misdemeanor. As used in  
10 24 this subsection, lawful enforcement includes but is not  
10 25 limited to:~~

~~10 26 a. Contacting or interviewing any tenant of an assisted  
10 27 living program in private at any reasonable hour and without  
10 28 advance notice.~~

~~10 29 b. Examining any relevant records of an assisted living  
10 30 program.~~

~~10 31 c. Preserving evidence of any violation of this chapter or  
10 32 of the rules adopted pursuant to this chapter.~~

10 33 Sec. 18. NEW SECTION. 231C.16A MEDICATION SETUP ==  
10 34 ADMINISTRATION AND STORAGE OF MEDICATIONS.

10 35 1. An assisted living program may provide for medication  
11 1 setup if requested by a tenant or the tenant's legal  
11 2 representative. If medication setup is provided following  
11 3 such request, the program shall be responsible for the  
11 4 specific task requested and the tenant shall retain  
11 5 responsibility for those tasks not requested to be provided.

11 6 2. If medications are administered or stored by an  
11 7 assisted living program, or if the assisted living program  
11 8 provides for medication setup, all of the following shall  
11 9 apply:

11 10 a. If administration of medications is delegated to the  
11 11 program by the tenant or tenant's legal representative, the  
11 12 medications shall be administered by a registered nurse,  
11 13 licensed practical nurse, or advanced registered nurse  
11 14 practitioner licensed or registered in Iowa or by the  
11 15 individual to whom such licensed or registered individuals may  
11 16 properly delegate administration of medications.

11 17 b. Medications, other than those self-administered by the  
11 18 tenant or provided through medication setup, shall be stored  
11 19 in locked storage that is not accessible to persons other than  
11 20 employees responsible for administration or storage of  
11 21 medications.

11 22 c. Medications shall be labeled and maintained in  
11 23 compliance with label instructions and state and federal law.

11 24 d. A person other than a dispensing pharmacist shall not  
11 25 alter the prescription.

11 26 e. Medications shall be stored in their originally  
11 27 received containers.

11 28 f. If medication setup is provided by the program at the  
11 29 request of the tenant or tenant's legal representative, or if  
11 30 medication administration is delegated to the program by the  
11 31 tenant or tenant's legal representative, appropriate staff of  
11 32 the program may transfer the medications in the tenant's  
11 33 presence from the original prescription container to  
11 34 medication dispensing containers, reminder containers, or  
11 35 medication cups.

12 1 g. Program assistance with medication administration as  
12 2 specified in the occupancy agreement shall not require the  
12 3 program to provide assistance with the storage of medications.

12 4 Sec. 19. Section 231C.17, subsections 1 and 3, Code 2005,  
12 5 are amended to read as follows:

12 6 1. A hospital licensed pursuant to chapter 135B, ~~or a~~  
12 7 ~~health care facility licensed pursuant to chapter 135C, or an~~  
12 8 ~~adult day services program certified pursuant to chapter 231D~~  
12 9 ~~may operate an assisted living program, located in a distinct~~  
12 10 ~~part of or separate structure under the control of the~~  
12 11 ~~hospital or health care facility, if the assisted living~~  
12 12 ~~program is certified pursuant to this chapter.~~

12 13 3. A certified assisted living program that complies with  
12 14 the requirements of this chapter shall not be required to be  
12 15 licensed ~~or certified as a health care different type of~~  
12 16 ~~facility pursuant to chapter 135C, unless the facility is~~  
12 17 ~~represented to the public as a licensed health care another~~  
12 18 ~~type of facility.~~

12 19 Sec. 20. Section 231C.18, subsection 2, Code 2005, is  
12 20 amended by adding the following new paragraph:

12 21 NEW PARAGRAPH. e. For accreditation via a national body  
12 22 of accreditation, one hundred twenty-five dollars.

12 23 HF 585

12 24 pf:nh/es/25