

CHAPTER 73**DUTIES OF IOWA COMMISSION ON AGING***S.F. 431*

AN ACT relating to the Iowa commission on the aging by establishing a long-term care ombudsman program and transferring the administration of the care review committees of health care facilities to the Iowa commission on the aging.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION. 249B.22 PURPOSE.** The purpose of this Act is to establish the long-term care ombudsman program operated by the Iowa commission on the aging in accordance with the requirements of the Older Americans Act of 1965, 42 U.S.C. secs. 3026(a)(6)(d), 3027(a)(12) and 3030d(a)(10) amended to the effective date of this Act, and to adopt the supporting federal regulations and guidelines for its implementation. In accordance with chapter 17A, the commission on the aging shall adopt and enforce rules for the implementation of this Act.

Sec. 2. **NEW SECTION. 249B.23 DEFINITIONS.** As used in sections 249B.24 through 249B.26:

1. "Administrative action" means an action or decision made by an owner, employee, or agent of a long-term care facility, or by a governmental agency, which affects the service provided to residents covered in sections 249B.24 through 249B.26.

2. "Long-term care facility" means a long-term care unit of a hospital, a foster group home, a group living arrangement, or a facility licensed under section 135C.1 whether the facility is public or private.

3. "Ombudsman program" means the state long-term care ombudsman program operated by the commission on the aging and administered by the long-term care ombudsman.

4. "Federal Act" means the Older Americans Act of 1965, 42 U.S.C. secs. 3001 et seq., as amended to the effective date of this Act.

Sec. 3. **NEW SECTION. 249B.24 LONG-TERM CARE OMBUDSMAN - DUTIES.** The Iowa commission on the aging, in accordance with section 3027(a)(12) of the federal Act, shall establish the office of long-term care ombudsman within the commission. The long-term care ombudsman shall perform the following duties:

1. Investigate and resolve complaints about administrative actions that may adversely affect the health, safety, welfare, or rights of older persons in long-term care facilities.

2. Monitor the development and implementation of federal, state, and local laws, regulations, and policies that relate to long-term care facilities in Iowa.

3. Provide information to other agencies and to the public about the problems of older persons in long-term care facilities.

4. Train volunteers and assist in the development of citizens' organizations to participate in the long-term care ombudsman program.

5. Carry out other activities consistent with the ombudsman provisions of the federal Act.

6. Report annually to the general assembly on the activities of the ombudsman's office.

The ombudsman shall have access to long-term care facilities, private access to residents, access to residents' personal and medical records, and access to other records maintained by

the facilities or governmental agencies pertaining only to the person on whose behalf a complaint is being investigated.

Sec. 4. NEW SECTION. 249B.25 AUTHORITY AND RESPONSIBILITIES OF THE COMMISSION. To ensure compliance with the federal Act the commission on the aging shall establish the following:

1. Procedures to protect the confidentiality of a resident's records and files.
2. A statewide uniform reporting system.
3. Procedures to enable the long-term care ombudsman to elicit, receive, and process complaints regarding administrative actions which may adversely affect the health, safety, welfare, or rights of older persons in long-term care facilities.

Sec. 5. NEW SECTION. 249B.26 CARE REVIEW COMMITTEE.

1. The care review committee program is under the statewide long-term care ombudsman program within the commission.
2. The responsibilities of the care review committee are in accordance with the rules adopted by the commission pursuant to chapter 17A. When adopting the rules, the commission shall consider the needs of residents of each category of licensed health care facility as defined in chapter 135C.1, subsection 4 and the services each facility may render. The commission shall coordinate the development of any rules with the mental health and mental retardation commission to the extent the rules would apply to a facility primarily serving persons who are mentally ill, mentally retarded, or developmentally disabled. The commission shall coordinate the development of any rules with other state agencies.

Sec. 6. Section 135C.25, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

135C.25 CARE REVIEW COMMITTEE APPOINTMENTS—DUTIES.

1. Each health care facility shall have a care review committee whose members shall be appointed by the executive director of the Iowa commission on the aging or the director's designee. A person shall not be appointed a member of a care review committee for a health care facility unless the person is a resident of the service area where the facility is located. The care review committee for any facility caring primarily for persons who are mentally ill, mentally retarded, or developmentally disabled shall only be appointed after consultation with the director of the division of mental health and mental retardation on the proposed appointments. Recommendations to the executive director or the director's designee for membership on care review committees are encouraged from any agency, organization, or individual. The administrator of the facility shall not be appointed to the care review committee and shall not be present at committee meetings except upon request of the committee.

2. Each care review committee shall periodically review the needs of each individual resident of the facility and shall perform the functions pursuant to sections 135C.38 and 249B.26.

Approved May 2, 1983