

AGING, DEPARTMENT ON[17]

Adopted and Filed

Pursuant to the authority of Iowa Code section 231.14, the Department on Aging amends Chapter 8, “Long-Term Care Resident’s Advocate/Ombudsman,” Iowa Administrative Code.

These amendments provide procedures for volunteer access to facility records and also clarify that a civil penalty of not more than \$1,500 may be imposed for interference with the duties of the state or a local long-term care resident’s advocate/ombudsman.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on November 17, 2010, as **ARC 9227B**. The Department received no public comments on the Notice of Intended Action. These amendments have been changed since publication of the Notice of Intended Action. Item 3 has been added to update the implementation sentence for Chapter 8.

The Commission on Aging adopted these amendments on January 10, 2011.

These amendments are intended to implement 2010 Iowa Acts, Senate File 2263.

These amendments will become effective on March 16, 2011.

The following amendments are adopted.

ITEM 1. Amend rule 17—8.3(231) as follows:

17—8.3(231) Interference.

8.3(1) A local long-term care resident’s advocate/ombudsman or trained volunteer long-term care ombudsman certified under rule 17—8.7(231) who is denied access to a resident or tenant in a long-term care facility, assisted living program, or elder group home, or to medical and personal records while in the course of conducting official duties or whose work is interfered with during the course of an investigation shall report such denial or interference to the office of the state long-term care resident’s advocate who will report the interference to the director of the department on aging.

8.3(2) Access to facility records. Copies of a resident’s medical or personal records maintained by the facility, or other records of a long-term care facility, assisted living program, or elder group home, may be made with the permission of the resident, the resident’s responsible party, or the legal representative of the resident. All medical and personal records shall be made available to a volunteer long-term care ombudsman for review if:

a. The volunteer long-term care ombudsman has written permission from the resident, the legal representative of the resident, or the responsible party; and

b. Access to the records is necessary to investigate a complaint; and

c. The volunteer long-term care ombudsman obtains approval of the resident’s advocate/ombudsman or designee.

ITEM 2. Amend rule 17—8.4(231) as follows:

17—8.4(231) Monetary civil penalties—basis. The director, in consultation with the state long-term care resident’s advocate/ombudsman, may impose a monetary civil penalty of not more than \$1,500 on an officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home who intentionally prevents, interferes with, or attempts to impede the duties of the state or a local long-term care resident’s advocate/ombudsman. If the director imposes a penalty for a violation under this rule, no other state agency shall impose a penalty for the same interference violation.

ITEM 3. Amend **17—Chapter 8**, implementation sentence, as follows:

These rules are intended to implement ~~2010 Iowa Acts, Senate File 2263, section 7~~ Iowa Code section 231.42.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/11.