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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

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A N A C T

RELATING TO HEALTH AND SAFETY - ASSISTED LIVING RESIDENCE LICENSING
ACT

Introduced By: Representative Joseph M. McNamara

Date Introduced: February 25, 2009

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 17.23

4 THE ADULT SUPPORTIVE CARE RESIDENCE ACT

5 **23-17.23-1. Definitions.** – As used in this chapter:

6 (1) "Manager" means any person who has responsibility for day-to-day administration or
7 operation of an adult supportive care home. A manager must be a licensed health care
8 professional designated by the licensee and approved by the department.

9 (2) "Adult supportive care home" means: (i) A publicly or privately operated residence
10 that provides, directly or indirectly, by means of contracts or arrangements, personal assistance to
11 meet the resident's changing needs and preferences, lodging, and meals to two (2), but not more
12 than five (5), adults who are unrelated to the licensee or manager, excluding, however, any
13 privately operated establishment or facility licensed pursuant to chapter 17 of this title, and those
14 facilities licensed by or under the jurisdiction of the department of mental health, retardation, and
15 hospitals, the department of children, youth, and families, or any other state agency; and (ii) Shall
16 be a duly licensed home nursing care provider or nursing facility licensed pursuant to the
17 provisions of chapter 23-17, an assisted living residence provider licensed pursuant to chapter 23-
18 17.4 or a licensed adult day services provider licensed pursuant to chapter 23-1.

1 (3) “Capable of self-preservation” means the physical mobility and judgmental ability of
2 the individual to take appropriate action in emergency situations. Residents not capable of self-
3 preservation are limited to facilities that meet more stringent life safety code requirements as
4 provided under subdivision 23-17.4-6(b)(3).

5 (4) “Director” means the director of the Rhode Island department of health.

6 (5) “Personal assistance” means the provision of one or more of the following services, as
7 required by the resident or as reasonably requested by the resident, on a scheduled or unscheduled
8 basis, including: (i) Assisting the resident with personal needs including activities of daily living,
9 defined as bathing, dressing, grooming, eating, toileting, mobility and transfer; (ii) Assisting the
10 resident with self-administration of medication or administration of medications by appropriately
11 licensed staff; (iii) Providing or assisting the resident in arranging for health and supportive
12 services as may be reasonably required; (iv) Monitoring the activities of the resident while on the
13 premises of the residence to ensure his or her health, safety, and well-being; and (v) Reasonable
14 recreational, social and personal services.

15 (6) “Resident” means an individual not requiring acute medical or skilled nursing care as
16 provided in a health care facility but who, as a result of choice and/or physical or mental
17 limitation, requires personal assistance, lodging and meals and may require the administration of
18 medication. A resident must be capable of self-preservation in emergency situations, unless the
19 facility meets a more stringent life safety code as required under subdivision 23-17.4-6(b)(3).
20 Persons needing medical or skilled nursing care, including daily professional observation and
21 evaluation, as provided in a health care facility, and/or persons who are bed bound or in need of
22 the assistance of more than one person for ambulation are not appropriate to reside in adult
23 supportive care homes. However, an established resident may receive daily skilled nursing care or
24 therapy from a licensed health care provider for a condition that results from a temporary illness
25 or injury for up to forty-five (45) days subject to an extension of additional days as approved by
26 the department, or if the resident is under the care of a licensed hospice agency provided the adult
27 supportive care home assumes responsibility for ensuring that the care is received. For purposes
28 of this statute, “resident” shall also mean the resident’s agent as designated in writing or legal
29 guardian.

30 **23-17.23-2. Licensure requirements.** – (a) No person shall operate an adult supportive
31 care home without first obtaining a license from the Rhode Island department of health.

32 (b) The director is authorized to promulgate regulations for the departmental licensure of
33 adult supportive care homes including, but not limited to, minimum requirements for managers,
34 staffing, staff training, assessments, service plan development, services to include food service

1 and housekeeping/laundry, physical and environment standards for the home, resident rights,
2 resident records, resident capacity for self-preservation, residency agreement/contracts and
3 quality assurance.

4 (c) The department may adopt regulations for special care requirements beyond the
5 personal assistance required in subdivision 23-17.23-1(5) for adult supportive care homes serving
6 persons with dementia and/or behavioral health diagnoses.

7 (d) The director shall identify by rule those employees of adult supportive care homes
8 requiring criminal background reviews prior to employment and the process for conducting such
9 reviews.

10 (e) An adult supportive care home shall provide a qualified on-duty staff person over the
11 age of eighteen (18) on the premises at all times that any supportive care residents are on the
12 premises of the home.

13 **23-17.23-3. Inspections—Corrections of violations—Immediate suspension of**
14 **license—Penalties.—(a) An adult supportive care home license shall remain valid unless**
15 **voluntarily surrendered, suspended, or revoked in accordance with this chapter.**

16 (b) Adult supportive care homes applying for a license shall be inspected at the time of
17 licensure and at least every eighteen (18) months thereafter. The department may make an
18 unannounced inspection of an adult supportive care home at any time to assure that the home and
19 licensee are in compliance with this chapter and the rules adopted under this chapter.

20 (c) If the department finds that the home is not in compliance with this chapter or rules
21 adopted under the authority of this chapter it shall require the home to correct any violations. The
22 department has the authority to:

23 (1) Order the home to admit no additional persons or to transfer residents to alternate
24 settings, as corrective actions to secure regulatory compliance.

25 (2) Immediately suspend a license if it finds that conditions in the home constitute an
26 imminent danger to residents.

27 (d) Every person or corporation who shall willfully and continually violate the provisions
28 of this chapter will be subject to a fine or not less than three hundred dollars (\$300) nor more than
29 three thousand dollars (\$3,000) for each violation of this section.

30 SECTION 2. Section 23-17.4-2 of the General Laws in Chapter 23-17.4 entitled
31 "Assisted Living Residence Licensing Act" is hereby amended to read as follows:

32 **23-17.4-2. Definitions.** – As used in this chapter:

33 (1) "Activities of daily living (ADLs)" means bathing, dressing, eating, toileting,
34 mobility and transfer.

1 (2) "Administrator" means any person who has responsibility for day to day
2 administration or operation of an assisted living residence.

3 (3) "Alzheimer's dementia special care unit or program" means a distinct living
4 environment within an assisted living residence that has been physically adapted to accommodate
5 the particular needs and behaviors of those with dementia. The unit provides increased staffing,
6 therapeutic activities designed specifically for those with dementia and trains its staff on an
7 ongoing basis on the effective management of the physical and behavioral problems of those with
8 dementia. The residents of the unit or program have had a standard medical diagnostic evaluation
9 and have been determined to have a diagnosis of Alzheimer's dementia or another dementia.

10 (4) "Assisted living residence" means a publicly or privately operated residence that
11 provides directly or indirectly by means of contracts or arrangements personal assistance to meet
12 the resident's changing needs and preferences, lodging, and meals to ~~two (2)~~ six (6) or more
13 adults who are unrelated to the licensee or administrator, excluding however, any privately
14 operated establishment or facility licensed pursuant to chapter 17 of this title, and those facilities
15 licensed by or under the jurisdiction of the department of mental health, retardation, and
16 hospitals, the department of children, youth, and families, or any other state agency. The
17 department shall develop levels of licensure for assisted living residences within this definition as
18 provided in section 23-17.4-6. Assisted living residences include sheltered care homes, and board
19 and care residences or any other entity by any other name providing the services listed in this
20 subdivision which meet the definition of assisted living residences.

21 (5) "Capable of self-preservation" means the physical mobility and judgmental ability of
22 the individual to take appropriate action in emergency situations. Residents not capable of self-
23 preservation are limited to facilities that meet more stringent life safety code requirements as
24 provided under section 23-17.4-6(b)(3).

25 (6) "Director" means the director of the Rhode Island department of health.

26 (7) "Licensing agency" means the Rhode Island department of health.

27 (8) "Personal assistance" means the provision of one or more of the following services,
28 as required by the resident or as reasonably requested by the resident, on a scheduled or
29 unscheduled basis, including:

30 (i) Assisting the resident with personal needs including activities of daily living;

31 (ii) Assisting the resident with self-administration of medication or administration of
32 medications by appropriately licensed staff;

33 (iii) Providing or assisting the resident in arranging for health and supportive services as
34 may be reasonably required;

1 (iv) Monitoring the activities of the resident while on the premises of the residence to
2 ensure his or her health, safety, and well-being; and

3 (v) Reasonable recreational, social and personal services.

4 (9) "Resident" means an individual not requiring medical or nursing care as provided in
5 a health care facility but who as a result of choice and/or physical or mental limitation requires
6 personal assistance, lodging and meals and may require the administration of medication. A
7 resident must be capable of self-preservation in emergency situations, unless the facility meets a
8 more stringent life safety code as required under section 23-17.4-6(b)(3). Persons needing
9 medical or skilled nursing care, including daily professional observation and evaluation, as
10 provided in a health care facility, and/or persons who are bedbound or in need of the assistance of
11 more than one person for ambulation, are not appropriate to reside in assisted living residences.
12 However, an established resident may receive daily skilled nursing care or therapy from a
13 licensed health care provider for a condition that results from a temporary illness or injury for up
14 to ~~twenty-one (21)~~ forty-five (45) days subject to an extension of additional days as approved by
15 the department, or if the resident is under the care of a licensed hospice agency provided the
16 assisted living residence assumes responsibility for ensuring that the care is received. For
17 purposes of this statute, "resident" shall also mean the resident's agent as designated in writing or
18 legal guardian.

19 SECTION 3. Section 42-66.7-3 of the General Laws in Chapter 42-66.7 entitled "Long-
20 Term Care Ombudsperson Act of 1995" is hereby amended to read as follows:

21 **42-66.7-3. Definitions.** -- As used in this chapter:

22 (1) An "act" of any facility or government agency includes any failure or refusal to act
23 by any facility or government agency.

24 (2) "Administrator" means any person who is charged with the general administration or
25 supervision of a facility whether or not that person has an ownership interest and whether or not
26 that person's functions and duties are shared with one or more other persons.

27 (3) "Elderly" means any person sixty (60) years of age or older who is a resident of any
28 facility.

29 (4) "Facility" means any facility or institution, home care provider or home nursing care
30 provider, whether public or private, offering health or health related services for the
31 institutionalized elderly, and which is subject to regulation, visitation, inspection, or supervision
32 by any government agency. "Facilities" include, but are not limited to, nursing homes,
33 intermediate care facilities, extended care facilities, convalescent homes, rehabilitation centers,
34 home care agencies, homes for the aged, veterans' homes, boarding homes, and adult supportive

1 [care](#), residential care and assisted living residences.

2 (5) "Government agency" means any department, division, office, bureau, board,
3 commission, authority, non-profit community organization, or any other agency or
4 instrumentality created by any municipality or by the state, or to which the state is a party, which
5 is responsible for the regulation, inspection, visitation, or supervision of facilities or which
6 provides services to residents of facilities.

7 (6) "Ombudsperson" means the person or persons designated by the director. That person
8 or persons shall have expertise and experience in the fields of social work, long-term care, and
9 advocacy, and shall be qualified and experienced in communicating with the elderly.

10 (7) "Resident" means any person age sixty (60) years of age or older who is receiving
11 treatment, care, or housing in any facility in all of its aspects including, but not limited to,
12 admission, retention, confinement, period of residence, transfer, discharge, and in any instances
13 directly related to that status. Residents include patients and clients. Residents shall also include
14 disabled persons under sixty (60) years of age residing in nursing homes, or clients of residential
15 and assisted living facilities and home care providers/home nursing care providers and long-term
16 care units at the Eleanor Slater Hospital, including the Zambarano facility.

17 (8) "Interfere" means willing and continuous conduct which prevents the ombudsperson
18 from performing her or his official duties.

19 (9) "Official duties" means work pursuant to the long-term care ombudsperson program
20 authorized by the federal Older Americans Act or the long-term care ombudsperson program
21 authorized by state law and carried out under the auspices and general direction of the state long-
22 term care ombudsperson.

23 (10) "Director" means the director of the department of elderly affairs.

24 (11) "Person" means any individual, trust, or estate, partnership, limited liability
25 corporation, corporation (including associations, joint stock companies, and insurance
26 companies), state, or political subdivision or instrumentality of a state.

27 (12) "Health oversight agency" means, for the purposes of this chapter, the department of
28 elderly affairs or the person or entity designated as the state's long-term care ombudsperson by
29 the director of the department of elderly affairs, including the employees or agents of such person
30 or entity, when they are acting to fulfill the duties and responsibilities of the state's long-term care
31 ombudsperson program in which health information is necessary to oversee the health system and
32 in accordance with the U.S. Health Insurance Portability and Accountability Act (HIPAA) of
33 1996.

34 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY - ASSISTED LIVING RESIDENCE LICENSING
ACT

- 1 This act would create standards for the regulation of adult supportive care facilities.
- 2 This act would take effect upon passage.

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