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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

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A N A C T

RELATING TO HEALTH AND SAFETY -- RIGHTS OF NURSING HOME PATIENTS

Introduced By: Representatives Donovan, McNamara, Carson, Speakman, Fogarty,
Spears, Boylan, Potter, Cruz, and Morales
Date Introduced: January 24, 2025

Referred To: House Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-17.5-30 of the General Laws in Chapter 23-17.5 entitled "Rights
2 of Nursing Home Patients" is hereby amended to read as follows:

3 **23-17.5-30. Family councils.**

4 (a) For the purposes of this section "family council" means an organized group of the
5 family members, friends or representatives of facility residents who may meet in private without
6 the presence of facility staff.

7 (b) The role of the family council shall be to address issues affecting residents generally at
8 the facility, not to pursue individual grievances. The family council shall not be entitled to obtain
9 information about individual residents or staff members, or any other information deemed
10 confidential under state or federal law. Notwithstanding the foregoing:

11 (1) A facility shall provide the family council with the names, email addresses, and other
12 contact information for each resident's representatives, family members, or other individuals
13 designated by the resident if the person has provided written consent specifying the contact
14 information that may be shared with the family council.

15 (2) The facility shall inform the identified family members, friends, and representatives of
16 their right to have their contact information shared with the family council and their right to consent
17 or withhold consent to have their contact information shared with the family council pursuant to
18 subsection (b)(1) of this section.

19 (c) No licensed nursing facility may prohibit the formation of a family council. When

1 requested by a member of a resident's family or a resident's representative, a family council shall
2 be allowed to meet in a common meeting room of the nursing facility at least once a month during
3 mutually agreed upon hours.

4 ~~(d) Upon the admission of a resident, the nursing facility shall inform the resident and the~~
5 ~~resident's family members, in writing, of their right to form a family council, or if a family council~~
6 ~~already exists, of the date, time and location of scheduled meetings.~~

7 (1) If a facility has a family council, the facility shall inform the resident and the resident's
8 representatives, family members, or other individuals designated by the resident or identified
9 during the admission process of the existence of the family council. The facility shall provide the
10 resident and those family members, friends, and resident representatives with the name and contact
11 information of the family council representative, as designated by the family council, in writing,
12 prior to or within five (5) business days after the resident's admission or the resident's
13 representative, family member, or other individual is designated or identified. When family council
14 meeting information is provided by the family council, the facility shall include notice of family
15 council meetings in routine communications to those family members, friends, and resident
16 representatives. The notice shall include the time, place, and date of meetings, and the name and
17 contact information of the family council representative, as designated by the family council.

18 (2) If a facility does not have a family council, the facility shall provide, upon admission
19 of a new resident, written information to the resident's family members, friends, or resident
20 representatives identified during the admission process of their right to form a family council.

21 (3) The family council shall not allow a family member or friend of a resident to participate
22 in the family council against the objection of the resident.

23 (e) The nursing facility administration shall notify the state long-term care ombudsman of
24 the existence or planned formation of a family council at that facility. With the consent of the
25 designated representative(s) of the family council, the facility shall share the name and contact
26 information of the designated representative(s) of the family council with the long-term care
27 ombudsman program.

28 (f) The family council may exclude members only for good cause, subject to appeal by the
29 excluded party to the state long-term care ombudsman. No member shall be excluded on the basis
30 of race or color, religion, gender, sexual orientation, disability, age or country of ancestral origin.

31 (g) A facility shall provide its family council with adequate space in a prominent posting
32 area for the display of information pertaining to the family council.

33 (h) Staff or visitors may attend family council meetings at the council's invitation.

34 (i) The nursing facility shall provide a designated staff person who, at the request of the

1 council, shall be responsible for providing assistance to the family council and for responding to
2 recommendations and requests made by the family council.

3 (j) ~~The nursing facility shall consider the recommendations of the family council~~
4 ~~concerning issues and policies affecting resident care and life at the nursing facility.~~ If a family
5 council submits written requests, concerns or recommendations, the facility shall consider those
6 requests, concerns or recommendations, and respond, in writing, regarding any action or inaction
7 taken in response within five (5) business days, and shall detail its rationale for that response.

8 (k) A violation of the provisions of this section will constitute a violation of the rights of
9 nursing home residents.

10 SECTION 2. Chapter 23-17.5 of the General Laws entitled "Rights of Nursing Home
11 Patients" is hereby amended by adding thereto the following section:

12 **23-17.5-38. Facility admission waiting lists.**

13 (a) A nursing home which receives payment from the state for rendering care to indigent
14 persons shall:

15 (1) Be prohibited from discriminating against indigent persons who apply for admission to
16 such facility on the basis of source of payment. Except as otherwise provided by law, all applicants
17 for admission to such facility shall be admitted in the order in which such applicants apply for
18 admission. Each nursing home shall:

19 (i) Provide a receipt to each applicant for admission to its facility who requests placement
20 on a waiting list stating the date and time of such request; and

21 (ii) Maintain a dated list of such applications which shall be available at all times to any
22 applicant, their bona fide representative, authorized personnel from the department of health and
23 human services, the long-term care ombudsman, and such other state agencies or other bodies
24 established by state statute whose statutory duties necessitate access to such lists.

25 (2)(i) If a nursing home desires to remove the name of an applicant who is unresponsive to
26 facility telephone calls and letters from its waiting list, no sooner than ninety (90) days after initial
27 placement of the person's name on the waiting list, inquire by letter to such applicant and any one
28 person if designated by such applicant whether the applicant desires continuation of their name on
29 the waiting list. If the applicant does not respond and an additional thirty (30) days pass, the facility
30 may remove such applicant's name from its waiting list;

31 (ii) A nursing home may annually send a waiting list placement continuation letter to all
32 persons on the waiting list for at least ninety (90) days to inquire as to whether such person desires
33 continuation of their name on the waiting list; provided that, such letter shall also be sent to any
34 one person if designated by such applicant. If such person does not respond and at least thirty (30)

1 days pass, the facility may remove the person's name from its waiting list. Indigent persons shall
2 be placed on any waiting list for admission to a facility and shall be admitted to the facility as
3 vacancies become available, in the same manner as self-pay applicants, except as provided in
4 subsections (e) and (f) of this section;

5 (3) Post in a conspicuous place a notice informing applicants for admission that the facility
6 is prohibited by statute from discriminating against indigent applicants for admission on the basis
7 of source of payment. Such notice shall advise applicants for admission of the remedies available
8 under this section and shall list the name, address and telephone number of the state long-term care
9 ombudsman;

10 (4) Be prohibited from requiring that an indigent person pay any sum of money or furnish
11 any other consideration including, but not limited to, the furnishing of an agreement by the relative,
12 conservator or other responsible party of an indigent person which obligates such party to pay for
13 care rendered to an indigent person as a condition for admission of such indigent person; and

14 (5) Record in the patient roster, or in a separate roster maintained for this purpose, the
15 number of patients who are Medicare, Medicaid and private pay patients on each day. Such
16 numbers shall be recorded daily and made available, upon request, to the state long-term care
17 ombudsman.

18 (b) Upon the receipt of a complaint concerning a violation of this section, the department
19 of health shall conduct an investigation into such complaint.

20 (c) The department of health is authorized to decrease the daily reimbursement rate to a
21 nursing home for one year for a violation of this section which occurred during the twelve (12)
22 month period covered by the cost report upon which the per diem rate is calculated. The per diem
23 rate shall be reduced by one-quarter (1/4) of one percent for an initial violation of this section and
24 one percent for each additional violation.

25 (d) Prior to imposing any sanction, the department of health shall notify the nursing home
26 of the alleged violation and the accompanying sanction, and shall permit such facility to request an
27 administrative hearing. A facility shall request such hearing within fifteen (15) days of receipt of
28 the notice of violation from the department of health. The department shall stay the imposition of
29 any sanction pending the outcome of the administrative hearing.

30 (e) A nursing home with a number of self-pay residents equal to or less than thirty percent
31 (30%) of its total number of residents shall not be required to admit an indigent person on a waiting
32 list for admission when a vacancy becomes available during the subsequent six (6) months,
33 provided:

34 (1) No bed may be held open for more than thirty (30) days; and

1 (2) The nursing home notifies the department of health and the state long-term care
2 ombudsman on the date on which such six (6) month period of waiting list exemption began and
3 thereafter on a quarterly basis if the conditions for exemption still apply.

4 (f) A nursing home shall not be required to admit an indigent person on a waiting list for
5 admission when a vacancy becomes available if the vacancy is in a private room.

6 (g) Notwithstanding the provisions of this section, a nursing home shall, without regard to
7 the order of its waiting list, admit an applicant who:

8 (1) Seeks to transfer from a nursing home that is closing; or

9 (2)(i) Seeks to transfer from a nursing home in which the applicant was placed following
10 the closure of the nursing home where such applicant previously resided or, in the case of a nursing
11 home placed in receivership, the anticipated closure of the nursing home where such applicant
12 previously resided; provided that, the transfer occurs not later than sixty (60) days following the
13 date that such applicant was transferred from the nursing home where they previously resided and
14 except when the nursing home that is closing transferred the resident due to an emergency, the
15 applicant submitted an application to the nursing home to which they seek admission at the time of
16 the applicant's transfer from the nursing home where they previously resided;

17 (ii) A nursing home that qualifies for a waiting list exemption pursuant to subsections (e)
18 or (f) of this section shall not be required to admit an indigent person under this subsection except
19 when the resident is being transferred from a nursing home that is closing due to an emergency.

20 (h) No nursing home shall be required to admit an applicant pursuant to the provisions of
21 this section if the nursing home has determined that:

22 (1) The applicant does not have a payor source because the applicant has been denied
23 Medicaid eligibility or the applicant has failed to pay a nursing home that is closing for the three
24 (3) months preceding the date of the application for admittance and has no pending application for
25 Medicaid;

26 (2) The applicant is subject to a Medicaid penalty period; or

27 (3) The applicant does not require nursing home level of care as determined in accordance
28 with applicable state and federal requirements.

29 SECTION 3. 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 -- RIGHTS OF NURSING HOME PATIENTS

1 This act would support the establishment and role of independent family councils in
2 nursing facilities. This act would further prevent discrimination against nursing home residents,
3 where the method of payment is Medicaid, by making the waiting list process transparent, and
4 requiring facilities with more than thirty percent (30%) self-pay residents to admit applicants on a
5 first-come-first-served basis for non-private rooms.

6 This act would take effect upon passage.

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