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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO HEALTH AND SAFETY -- ASSISTED LIVING RESIDENCE LICENSING
ACT

Introduced By: Senators Miller, Nesselbush, Cool Rumsey, Sheehan, and Goldin

Date Introduced: March 06, 2013

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-17.4-2, 23-17.4-6, 23-17.4-15.8 and 23-17.4-16.2 of the
2 General Laws in Chapter 23-17.4 entitled "Assisted Living Residence Licensing Act" are hereby
3 amended to read as follows:

4 **23-17.4-2. Definitions.** -- As used in this chapter:

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

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

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

16 (4) "Assisted living residence" means a publicly or privately operated residence that
17 provides directly or indirectly by means of contracts or arrangements personal assistance and may
18 include the delivery of limited health services, as defined under subdivision 23-17.4-2(12), to

1 meet the resident's changing needs and preferences, lodging, and meals to six (6) or more adults
2 who are unrelated to the licensee or administrator, excluding however, any privately operated
3 establishment or facility licensed pursuant to chapter 17 of this title, and those facilities licensed
4 by or under the jurisdiction of the department of ~~mental health, retardation~~ [behavioral healthcare](#)
5 [developmental disabilities](#), and hospitals, the department of children, youth, and families, or any
6 other state agency. The department shall develop levels of licensure for assisted living residences
7 within this definition as provided in section 23-17.4-6. Assisted living residences include
8 sheltered care homes, and board and care residences or any other entity by any other name
9 providing the services listed in this subdivision which meet the definition of assisted living
10 residences.

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

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

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

17 [\(8\) "Qualified licensed assisted living staff members" means a certified nursing assistant](#)
18 [as provided under subdivision 23-17.9-2\(a\)\(3\), a licensed practical nurse as provided under](#)
19 [subdivision 5-34-3\(9\) and/or a registered nurse as provided under subdivision 5-34-3\(10\).](#)

20 ~~(8)~~[\(9\)](#) "Personal assistance" means the provision of one or more of the following services,
21 as required by the resident or as reasonably requested by the resident, on a scheduled or
22 unscheduled basis, including:

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

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

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

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

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

31 ~~(9)~~[\(10\)](#) "Resident" means an individual not requiring medical or nursing care as provided
32 in a health care facility but who as a result of choice and/or physical or mental limitation requires
33 personal assistance, lodging and meals and may require the administration of medication [and/or](#)
34 [limited health services](#). A resident must be capable of self-preservation in emergency situations,

1 unless the facility meets a more stringent life safety code as required under section 23-17.4-
2 6(b)(3). Persons needing medical or skilled nursing care, including daily professional observation
3 and evaluation, as provided in a health care facility, and/or persons who are bedbound or in need
4 of the assistance of more than one person for ambulation, are not appropriate to reside in assisted
5 living residences. However, an established resident may receive daily skilled nursing care or
6 therapy from a licensed health care provider for a condition that results from a temporary illness
7 or injury for up to forty-five (45) days subject to an extension of additional days as approved by
8 the department, or if the resident is under the care of a [Rhode Island](#) licensed hospice agency,
9 provided the assisted living residence assumes responsibility for ensuring that the [required](#) care is
10 received. Furthermore, a new resident may receive daily therapy services and/or limited skilled
11 nursing care services, as defined through rules and regulations promulgated by the department of
12 health, from a licensed health care provider for a condition that results from a temporary illness or
13 injury for up to forty-five (45) days subject to an extension of additional days as approved by the
14 department, or if the resident is under the care of a licensed hospice agency provided that assisted
15 living residence assumes responsibility for ensuring that the care is received. [Notwithstanding](#)
16 [the aforementioned, residents who are bed bound or in need of assistance of more than one staff](#)
17 [person for ambulation may reside in a residence if they are receiving hospice care in accordance](#)
18 [with the rules and regulations promulgated by the department of health.](#) For the purposes of this
19 chapter, "resident" shall also mean the resident's agent as designated in writing or legal guardian.

20 [\(11\) "Supervision" means the supervision requirements of qualified licensed assisted](#)
21 [living staff delivering limited health services in accordance with this chapter, as defined through](#)
22 [rules and regulations promulgated by the department of health.](#)

23 [\(12\) "Limited health services" means health services, as ordered by the resident's](#)
24 [physician, provided by qualified licensed assisted living staff members with supervision as](#)
25 [required in rules and regulations promulgated by the department of health. Nothing in this](#)
26 [definition shall be construed to limit the right of assisted living residents to access home nursing](#)
27 [care or hospice provider services.](#)

28 **23-17.4-6. Issuance of license -- Posting -- Transfer. --** (a) Issuance of license. - Upon
29 receipt of an application for a license, the licensing agency shall issue a license if the applicant
30 and assisted living residence meet the requirements established under this chapter; the director
31 shall establish levels of licensure as provided in ~~subsections (b) and (c)~~ [subsection \(c\)](#) below and
32 any rules and regulations [that](#) may be established in accordance herewith. A license issued under
33 this chapter shall be the property of the state and loaned to the licensee, and it shall be kept posted
34 in a conspicuous place on the licensed premises. Each license shall be issued only for the

1 premises and persons named in the application, and shall not be transferable or assignable except
2 with the written approval of the licensing agency.

3 (b) Fire code and structural requirements.

4 (1) A residence with state fire code deficiencies may be granted a license which may be
5 renewed subject to the submission of a plan of correction acceptable to the state division of fire
6 safety, and provided the nature of the deficiencies are such that they do not jeopardize the health,
7 safety, and welfare of the residents.

8 (2) A residence with residents who are blind, deaf, and physically disabled shall be
9 subject to the applicable requirements of the American National Standards Institute (ANSI
10 standards)(1961), and any other provisions that may be required by rules and regulations pursuant
11 to this chapter.

12 (3) A residence that elects to comply with a higher life safety code and is so approved by
13 the state division of fire safety and meets the department's requirements for the appropriate level
14 of licensure may admit residents not capable of self preservation.

15 (c) Levels of licensure. - The department shall establish requirements for a basic license
16 that apply to all assisted living residences. In addition, the department shall establish additional
17 licensing levels of assisted living including, but not limited to:

18 (1) "Dementia care" licensure shall be required when one or more residents have a
19 physician's diagnosis of dementia or an assessment, as required by section 23-17.4-15.6,
20 indicating dementia-related functional impairments, and meet any of the following:

- 21 (i) Safety concerns due to evidence of elopement or other dementia behaviors;
- 22 (ii) Inappropriate social behaviors that repeatedly infringe upon the rights of others;
- 23 (iii) Inability to self preserve due to dementia;
- 24 (iv) A physician's recommendation that the resident needs dementia support consistent
25 with this level; or if the residence advertises or represents special dementia services or if the
26 residence segregates residents with dementia.

27 (2) In addition to the requirements for the basic license, licensing requirements for the
28 "dementia care" level shall include the following:

- 29 (i) Staff training and/or requirements specific to dementia care as determined by the
30 department;
- 31 (ii) A registered nurse on staff and available for consultation at all times and at least one
32 staff person with appropriate training and education as determined by regulation, on duty at all
33 times in Alzheimer's dementia special care units;
- 34 (iii) The residence shall provide for a secure environment appropriate for the resident

1 population.

2 (3) "Medication administration" when one or more residents requires medication
3 administration by appropriately qualified staff as determined by the department.

4 (4) "Limited health services" licensure shall be required if the assisted living residence
5 offers to provide limited health services as defined herein. Conditions and requirements for the
6 licensing of limited health services shall be determined in accordance with subdivision 23-17.4-6
7 (b)(6).

8 (5) A resident may continue to receive limited health services in an assisted living
9 residence so long as the resident, the resident's family, the resident's physician, and the operator
10 of the assisted living residence consent to the resident's continued stay in the assisted living
11 residence; and provided, that all parties commit to assuring the resident can safely receive
12 services.

13 (6) In addition to the requirements for the basic license, in accordance with section 23-
14 17.4-4 and all provisions of this chapter, the department shall establish licensing requirements for
15 "limited health services" levels including, but not limited to, the following factors:

- 16 (i) Resident safety guidelines in accordance with the provisions of this chapter;
- 17 (ii) Staff training and/or requirements specific to the delivery of limited health services;
- 18 (iii) Supervision requirements including appropriate training in accordance with section
19 23-17.4-15.8;
- 20 (iv) Best practice standards for delivering limited health services;
- 21 (v) Quality assurance in accordance with chapter 23-17.4-10.1;
- 22 (vi) Resident protection and required disclosures in accordance with section 23-17.4-16.2
23 and all provisions of this chapter; and
- 24 (vii) Protections and assurances for health information exchange, in accordance with this
25 chapter and all applicable state and federal laws and regulations.

26 (7) Nothing in this section or chapter shall require an assisted living residence to obtain a
27 limited health service license.

28 (d) The director shall promulgate all necessary rules and regulations in order to fulfill the
29 purposes of this chapter.

30 (e) If any provision of this chapter or its application to any person or circumstances is
31 held invalid, the invalidity shall not affect other provisions of applications of this chapter which
32 can be given effect without the invalid provision or application, and to this end the provisions of
33 this chapter are declared to be severable.

34 **23-17.4-15.8. Staff.** – (a) The administrator shall be responsible for ensuring sufficient

1 and qualified staff to provide a safe and healthy environment and to provide the services specified
2 on each resident's service plan. The department shall establish requirements for staff
3 qualifications and training for each level of license.

4 (b) The requirements for dementia care units shall include staff training on dementia care
5 issues and practices as follows:

6 (1) All staff of dementia-level licensed residences that have direct contact with residents
7 shall have four (4) hours of initial training on dementia-care issues and practices and two (2)
8 hours of continued education annually thereafter.

9 (2) Training on dementia care issues and practices provided and documented at any
10 licensed assisted living residence or nursing facility or by an entity authorized to provide
11 continuing education credits may be counted toward meeting these requirements. At least one
12 qualified awake and on duty staff person shall be on the premises at all times.

13 (c) The requirements for residences that provide limited health services shall include staff
14 training on limited health services care issues and practice as follows:

15 (1) All staff delivering direct service with residents for limited health services in assisted
16 living residences shall have initial training on delivering limited health service care and practice
17 of continued education as determined through rules and regulations promulgated by the
18 department of health.

19 (2) Training on limited health service issues and practices provided and documented at
20 any assisted living residence or nursing facility or by an entity authorized to provide continuing
21 education credits as determined through rules and regulations promulgated by the department of
22 health.

23 (3) Staff delivering limited health services shall be supervised in accordance with
24 subdivision 23-17.4-2(11) and all provisions of this chapter, with the specialized knowledge,
25 judgment and skills related to the delivery of limited health services twenty-four (24) hours a day
26 seven (7) days a week as determined through rules and regulations promulgated by the
27 department of health.

28 ~~23-17.4-16.2. Special care unit disclosure by residences. --~~ **Special care unit and**
29 **limited health services disclosure by residences. --** (a) Any assisted living residence which
30 offers to provide or provides services to residents with Alzheimer's disease or other dementia by
31 means of an Alzheimer's special care unit and/or limited health services shall be required to
32 disclose the type of services provided, in addition to those services required by the rules and
33 regulations for the licensing of assisted living residences. ~~That disclosure~~ Disclosures shall be
34 made to the licensing agency and to any person seeking placement in an Alzheimer's special care

1 unit ~~of~~ and/or any person receiving limited health services from an assisted living residence. The
2 information disclosed shall explain that additional care is provided in each of the following areas:

3 (1) Philosophy. - The Alzheimer's special care ~~unit's~~ unit and/or delivery of limited
4 health services shall develop a written statement of its overall philosophy and mission which
5 reflects the needs of residents afflicted with dementia and/or needing limited health services.

6 (2) Pre-occupancy, occupancy, and termination of residence. - The process and criteria
7 for occupancy, transfer, or termination of residency from the unit and/or the termination of
8 limited health services.

9 (3) Assessment, service planning, and implementation. - The process used for
10 assessment and establishing the plan of service and its implementation, including the method by
11 which the plan of service evolves and is responsive to changes in condition.

12 (4) Staffing patterns and training ratios. - Staff training and continuing education
13 practices.

14 (5) Physical environment. - The physical environment and design features appropriate to
15 support the functioning of cognitively impaired adult residents.

16 (6) Resident activities. - The frequency and types of resident activities.

17 (7) Family role in providing support and services. - The involvement in families and
18 family support programs.

19 (8) Program costs. - The cost of care and any additional fees.

20 (b) The licensing agency shall develop a standard disclosure form and shall review the
21 information provided on the disclosure form by the residential care and assisted living facility to
22 verify the accuracy of the information reported on it. Any significant changes in the information
23 provided by the residential care and assisted living facility will be reported to the licensing
24 agency at the time the changes are made.

25 SECTION 2. This act shall take effect on April 30, 2014.

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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 amend certain provisions of the general laws relative to the licensing of
- 2 assisted living residences, and would provide for a "limited health services" license.
- 3 This act would take effect on April 30, 2014.

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