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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO HEALTH AND SAFETY -- GENDER DISCRIMINATION

Introduced By: Senator Joshua Miller

Date Introduced: February 27, 2014

Referred To: Senate Judiciary

(Lieutenant Governor)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-17-19.1 of the General Laws in Chapter 23-17 entitled
2 "Licensing of Health Care Facilities" is hereby amended to read as follows:

3 **23-17-19.1. Rights of patients.** -- Every health care facility licensed under this chapter
4 shall observe the following standards and any other standards that may be prescribed in rules and
5 regulations promulgated by the licensing agency with respect to each patient who utilizes the
6 facility:

7 (1) The patient shall be afforded considerate and respectful care.

8 (2) Upon request, the patient shall be furnished with the name of the physician
9 responsible for coordinating his or her care.

10 (3) Upon request, the patient shall be furnished with the name of the physician or other
11 person responsible for conducting any specific test or other medical procedure performed by the
12 health care facility in connection with the patient's treatment.

13 (4) The patient shall have the right to refuse any treatment by the health care facility to
14 the extent permitted by law.

15 (5) The patient's right to privacy shall be respected to the extent consistent with
16 providing adequate medical care to the patient and with the efficient administration of the health
17 care facility. Nothing in this section shall be construed to preclude discreet discussion of a
18 patient's case or examination of appropriate medical personnel.

19 (6) The patient's right to privacy and confidentiality shall extend to all records pertaining

1 to the patient's treatment except as otherwise provided by law.

2 (7) The health care facility shall respond in a reasonable manner to the request of a
3 patient's physician, certified nurse practitioner and/or a physician's assistant for medical services
4 to the patient. The health care facility shall also respond in a reasonable manner to the patient's
5 request for other services customarily rendered by the health care facility to the extent the
6 services do not require the approval of the patient's physician, certified nurse practitioner and/or a
7 physician's assistant or are not inconsistent with the patient's treatment.

8 (8) Before transferring a patient to another facility, the health care facility must first
9 inform the patient of the need for and alternatives to a transfer.

10 (9) Upon request, the patient shall be furnished with the identities of all other health care
11 and educational institutions that the health care facility has authorized to participate in the
12 patient's treatment and the nature of the relationship between the institutions and the health care
13 facility.

14 (10) (a) Except as otherwise provided in this subparagraph, if the health care facility
15 proposes to use the patient in any human subjects research, it shall first thoroughly inform the
16 patient of the proposal and offer the patient the right to refuse to participate in the project.

17 (b) No facility shall be required to inform prospectively the patient of the proposal and
18 the patient's right to refuse to participate when: (i) the facility's human subjects research involves
19 the investigation of potentially lifesaving devices, medications and/or treatments and the patient
20 is unable to grant consent due to a life-threatening situation and consent is not available from the
21 agent pursuant to chapter 23-4.10 of the general laws or the patient's decision maker if an agent
22 has not been designated or an applicable advanced directive has not been executed by the patient;
23 and (ii) the facility's institutional review board approves the human subjects research pursuant to
24 the requirements of 21 CFR Part 50 and/or 45 CFR Part 46 (relating to the informed consent of
25 human subjects). Any health care facility engaging in research pursuant to the requirements of
26 subparagraph (b) herein shall file a copy of the relevant research protocol with the department of
27 health, which filing shall be publicly available.

28 (11) Upon request, the patient shall be allowed to examine and shall be given an
29 explanation of the bill rendered by the health care facility irrespective of the source of payment of
30 the bill.

31 (12) Upon request, the patient shall be permitted to examine any pertinent health care
32 facility rules and regulations that specifically govern the patient's treatment.

33 (13) The patient shall be offered treatment without discrimination as to [sexual](#)
34 [orientation, gender identity or expression](#), race, color, religion, national origin, or source of

1 payment.

2 (14) Patients shall be provided with a summarized medical bill within thirty (30) days of
3 discharge from a health care facility. Upon request, the patient shall be furnished with an itemized
4 copy of his or her bill. When patients are residents of state-operated institutions and facilities, the
5 provisions of this subsection shall not apply.

6 (15) Upon request, the patient shall be allowed the use of a personal television set
7 provided that the television complies with underwriters' laboratory standards and O.S.H.A.
8 standards, and so long as the television set is classified as a portable television.

9 (16) No charge shall be made for furnishing a health record or part of a health record to a
10 patient, his or her attorney or authorized representative if the record or part of the record is
11 necessary for the purpose of supporting an appeal under any provision of the Social Security Act,
12 42 U.S.C. section 301 et seq., and the request is accompanied by documentation of the appeal or a
13 claim under the provisions of the Workers' Compensation Act, chapters 29 -- 38 of title 28. A
14 provider shall furnish a health record requested pursuant to this section within thirty (30) days of
15 the request. Further, for patients of school based health centers, the director is authorized to
16 specify by regulation an alternative list of age appropriate rights commensurate with this section.

17 (17) The patient shall have the right to have his or her pain assessed on a regular basis.

18 (18) Notwithstanding any other provisions of this section, upon request, patients
19 receiving care through hospitals, nursing homes, assisted living residences and home health care
20 providers, shall have the right to receive information concerning hospice care, including the
21 benefits of hospice care, the cost, and how to enroll in hospice care.

22 SECTION 2. Section 23-17.4-16 of the General Laws in Chapter 23-17.4 entitled
23 "Assisted Living Residence Licensing Act" is hereby amended to read as follows:

24 **23-17.4-16. Rights of residents.** -- (a) Every assisted living residence for adults licensed
25 under this chapter shall observe the following standards and any other appropriate standards as
26 may be prescribed in rules and regulations promulgated by the licensing agency with respect to
27 each resident of the residence:

28 (1) Residents are entitled to all rights recognized by state and federal law with respect to
29 discrimination, service decisions (including the right to refuse services), freedom from abuse and
30 neglect, privacy, association, and other areas of fundamental rights including the right to freedom
31 of religious practice. Some of these basic rights include:

32 (i) To be offered services without discrimination as to sex, [sexual orientation, gender](#)
33 [identity or expression](#), race, color, religion, national origin, or source of payment;

34 (ii) To be free from verbal, sexual, physical, emotional, and mental abuse, corporal

1 punishment, and involuntary seclusion;

2 (iii) To be free from physical or chemical restraints for the purpose of discipline or
3 convenience and not required to treat the resident's medical symptoms. No chemical or physical
4 restraints will be used except on order of a physician;

5 (iv) To have their medical information protected by applicable state confidentiality laws;

6 (v) To have a service animal, consistent with the "reasonable accommodations" clause of
7 the Fair Housing Act, 42 U.S.C. section 3601 et seq. (such as a seeing eye dog); and

8 (2) In addition to these basic rights enjoyed by other adults, the residents of assisted
9 living also have the right to:

10 (i) Be treated as individuals and with dignity, and be assured choice and privacy and the
11 opportunity to act autonomously;

12 (ii) Upon request have access to all records pertaining to the resident, including clinical
13 records, within the next business day or immediately in emergency situations;

14 (iii) Arrange for services not available through the setting at their own expense as long as
15 the resident remains in compliance with the resident contract and applicable state law and
16 regulations;

17 (iv) Upon admission and during the resident's stay be fully informed in a language the
18 resident understands of all resident rights and rules governing resident conduct and
19 responsibilities. Each resident shall:

20 (A) Receive a copy of their rights;

21 (B) Acknowledge receipt in writing; and

22 (C) Be informed promptly of any changes;

23 (v) Remain in their room or apartment unless a change in room or apartment is related to
24 resident preference or to transfer conditions stipulated in their contract;

25 (vi) Consistent with the terms of the resident contract, furnish their own rooms and
26 maintain personal clothing and possessions as space permits, consistent with applicable life
27 safety, fire, or similar laws, regulations, and ordinances;

28 (vii) Be encouraged and assisted to exercise rights as a citizen; to voice grievances
29 through a documented grievance mechanism and suggest changes in policies and services to
30 either staff or outside representatives without fear of restraint, interference, coercion,
31 discrimination, or reprisal;

32 (viii) Have visitors of their choice without restrictions so long as those visitors do not
33 pose a health or safety risk to other residents, staff, or visitors, or a risk to property, and comply
34 with reasonable hours and security procedures;

1 (ix) Have personal privacy in their medical treatment, written communications and
2 telephone communications, and, to the fullest extent possible, in accommodation, personal care,
3 visits, and meetings;

4 (x) Have prominently displayed a posting of the facility's grievance procedure, the
5 names, addresses, and telephone numbers of all pertinent resident advocacy groups, the state
6 ombudsperson, and the state licensing agency;

7 (xi) Choose his or her own physician(s) and have ready access to the name, specialty,
8 and way of contacting the physician(s) responsible for the resident's care;

9 (xii) Have the residence record and periodically update the address and telephone
10 number of the resident's legal representative or responsible party;

11 (xiii) Manage his or her financial affairs. The residence may not require residents to
12 deposit their personal funds with the residence. Upon written authorization of a resident and with
13 the agreement of the residence, the residence holds, safeguards, manages, and accounts for
14 personal funds of the resident as follows:

15 (A) Funds in excess of three hundred dollars (\$300) must be in an interest bearing
16 account, separate from any residence operating account that credits all interest on the resident's
17 funds to that account and the residence shall purchase a surety bond on this account;

18 (B) A full and separate accounting of each resident's personal funds maintained must be
19 available through quarterly statements and on request of the resident;

20 (C) Resident funds shall not be commingled with residence funds or with funds of any
21 person other than another resident;

22 (D) Upon the death of a resident, the residence must convey within thirty (30) days the
23 resident's funds deposited with the residence and a full accounting of those funds to the resident's
24 responsible party or the administrator of the resident's estate;

25 (xiv) Have access to representatives of the state ombudsperson and to allow the
26 ombudsperson to examine a resident's records with the permission of the resident and consistent
27 with state law;

28 (xv) Be informed, in writing, prior to or at the time of admission or at the signing of a
29 residential contract or agreement of:

30 (A) The scope of the services available through the residence service program, including
31 health services, and of all related fees and charges, including charges not covered either under
32 federal and/or state programs or by other third party payors or by the residence's basic rate;

33 (B) The residence's policies regarding overdue payment including notice provisions and
34 a schedule for late fee charges;

1 (C) The residence's policy regarding acceptance of state and federal government
2 reimbursement for care in the facility both at time of admission and during the course of
3 residency if the resident depletes his or her own private resources;

4 (D) The residence's criteria for occupancy and termination of residency agreements;

5 (E) The residence's capacity to serve residents with physical and cognitive impairments;

6 (F) Support any health services that the residence includes in its service package or will
7 make appropriate arrangements to provide the services;

8 (xvi) To be encouraged to meet with and participate in activities of social, religious, and
9 community groups at the resident's discretion;

10 (xvii) Upon provision of at least thirty (30) days notice, if a resident chooses to leave a
11 residence, the resident shall be refunded any advanced payment made provided that the resident is
12 current in all payments;

13 (xviii) To have the residence discharge a resident only for the following reasons and
14 within the following guidelines:

15 (A) Except in life threatening emergencies and for nonpayment of fees and costs, the
16 residence gives thirty (30) days' advance written notice of termination of residency agreement
17 with a statement containing the reason, the effective date of termination, and the resident's right to
18 an appeal under state law;

19 (B) If the resident does not meet the requirements for residency criteria stated in the
20 residency agreement or requirements of state or local laws or regulations;

21 (C) If the resident is a danger to himself or herself or the welfare of others and the
22 residence has attempted to make a reasonable accommodation without success to address the
23 resident's behavior in ways that would make termination of residency agreement or change
24 unnecessary, which would be documented in the resident's records;

25 (D) For failure to pay all fees and costs stated in the contract, resulting in bills more than
26 thirty (30) days outstanding. A resident who has been given notice to vacate for nonpayment of
27 rent has the right to retain possession of the premises, up to any time prior to eviction from the
28 premises, by tendering to the provider the entire amount of fees for services, rent, interest, and
29 costs then due. The provider may impose reasonable late fees for overdue payment; provided that
30 the resident has received due notice of those charges in accordance with the residence's policies.
31 Chronic and repeated failure to pay rent is a violation of the lease covenant. However the
32 residence must make reasonable efforts to accommodate temporary financial hardship and
33 provide information on government or private subsidies available that may be available to help
34 with costs; and

1 (E) The residence makes a good faith effort to counsel the resident if the resident shows
2 indications of no longer meeting residence criteria or if service with a termination notice is
3 anticipated;

4 (xix) To have the residence provide for a safe and orderly move out, including assistance
5 with identifying a resource to help locate another setting, regardless of reason for move out;

6 (xx) To have the resident's responsible person and physician notified when there is:

7 (A) An accident involving the resident that results in injury and required physician
8 intervention;

9 (B) A significant change in the resident's physical, mental, or psychosocial status or
10 treatment;

11 (xxi) To be able to share a room or unit with a spouse or other consenting resident of the
12 residence in accordance with terms of the resident contract;

13 (xxii) To live in a safe and clean environment;

14 (xxiii) To have and use his or her own possessions where reasonable and have an
15 accessible lockable space provided for security of small personal valuables;

16 (xxiv) To receive a nourishing, palatable, well balanced diet that meets his or her daily
17 nutritional and special medical dietary needs;

18 (xxv) To attain or maintain the highest practicable physical, mental, and psychosocial
19 well being;

20 (xxvi) To be allowed to maintain an amount of money to cover reasonable monthly
21 personal expenses, the amount of which shall be at least equal to that amount required for
22 individuals on SSI as provided under section 40-6-27(a)(3);

23 (xxvii) To have the residence implement written policies and procedures to ensure that
24 all facility staff are aware of and protect the resident's rights contained in this section; and

25 (xxviii) Upon request, the resident shall have the right to receive information concerning
26 hospice care, including the benefits of hospice care, the cost, and how to enroll in hospice care.

27 (b) For purposes of subdivisions (a)(2)(ii), (iv), (xi), (xiii), (xiv), (xvii), (xviii)(A) and
28 (xxviii), the term "resident" also means the resident's agent as designated in writing or legal
29 guardian.

30 SECTION 3. Section 23-17.5-19 of the General Laws in Chapter 23-17.5 entitled "Rights
31 of Nursing Home Patients" is hereby amended to read as follows:

32 **23-17.5-19. Discrimination.** -- Each patient shall be offered treatment without
33 discrimination as to sex, [sexual orientation, gender identity or expression](#), race, color, religion,
34 national origin, source of payment, disability, or diagnosis of Alzheimer's disease or related

1 dementia.

2 SECTION 4. Chapter 23-17 of the General Laws entitled "Licensing of Health Care
3 Facilities" is hereby amended by adding thereto the following section:

4 **23-17-60. Anti-Discrimination attestation.** -- Every nursing facility, assisted living
5 residence, home nursing care provider, or home care provider seeking a new license or renewal of
6 a license under this chapter, or chapters 17.4 and 17.5 of this title, shall attest to having in place
7 anti-discrimination policies for all persons, regardless of sex, sexual orientation, gender identity
8 or expression, race, color, religion, national origin, or source of payment.

9 SECTION 5. 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 -- GENDER DISCRIMINATION

1 This act would prohibit discrimination by nursing facilities, assisted living residences,
2 home nursing care providers and home care providers on the basis of sex, sexual orientation,
3 gender identity or expression.

4 This act would take effect upon passage.

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