

2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011

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Introduced by Sens. MAZIARZ, DeFRANCISCO, FUSCHILLO, GOLDEN, GRIFFO, LITTLE, SALAND, SEWARD, SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to disclosure of special care offered to persons with Alzheimer's disease or dementia

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The public health law is amended by adding a new article  
2     20-B to read as follows:

3                                     ARTICLE 20-B

4                     ALZHEIMER'S AND DEMENTIA SPECIAL CARE DISCLOSURE

5     SECTION 2010. DEFINITIONS.

6             2011. ALZHEIMER'S AND DEMENTIA SPECIAL CARE DISCLOSURE.

7             2012. ENFORCEMENT; CIVIL PENALTIES.

8     S 2010. DEFINITIONS. AS USED IN THIS ARTICLE: 1. "ALZHEIMER'S AND  
9     DEMENTIA SPECIAL CARE" MEANS CARE OR TREATMENT PROVIDED TO A PERSON  
10    DIAGNOSED WITH ALZHEIMER'S DISEASE, A RELATED DISORDER OR DEMENTIA.

11    2. "FACILITY" SHALL MEAN A RESIDENTIAL HEALTH CARE FACILITY, AN ADULT  
12    DAY HEALTH CARE PROGRAM OR A CONTINUING CARE RETIREMENT COMMUNITY.

13    S 2011. ALZHEIMER'S AND DEMENTIA SPECIAL CARE DISCLOSURE. 1. ANY  
14    FACILITY THAT ADVERTISES OR MARKETS ITSELF AS PROVIDING ALZHEIMER'S AND  
15    DEMENTIA SPECIAL CARE SHALL DISCLOSE THE FORM OF CARE OR TREATMENT  
16    PROVIDED THAT DISTINGUISHES IT AS BEING ESPECIALLY APPLICABLE TO OR  
17    SUITABLE FOR PERSONS DIAGNOSED WITH ALZHEIMER'S DISEASE, RELATED DISOR-  
18    DERS OR DEMENTIA.

19    2. THE DISCLOSURE SHALL BE MADE TO:

20    (A) THE DEPARTMENT;

21    (B) ANY PERSON SEEKING PLACEMENT IN A FACILITY ON BEHALF OF A PERSON  
22    DIAGNOSED WITH ALZHEIMER'S DISEASE, A RELATED DISORDER OR DEMENTIA; AND

23    (C) THE STATE LONG TERM CARE OMBUDSMAN.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 3. THE DISCLOSURE REQUIRED IN SUBDIVISION ONE OF THIS SECTION SHALL BE  
2 IN WRITING AND SHALL INCLUDE AT A MINIMUM:

3 (A) A STATEMENT OF THE FACILITY'S OVERALL PHILOSOPHY AND MISSION AS IT  
4 RELATES TO THE NEEDS OF PERSONS DIAGNOSED WITH ALZHEIMER'S DISEASE,  
5 RELATED DISORDERS OR DEMENTIA;

6 (B) THE PROCESS AND CRITERIA USED TO DETERMINE PLACEMENT IN AND TRANS-  
7 FER OR DISCHARGE FROM ALZHEIMER'S AND DEMENTIA SPECIAL CARE;

8 (C) THE PROCESS USED FOR ASSESSMENT, ESTABLISHMENT AND IMPLEMENTATION  
9 OF A PLAN OF CARE, INCLUDING THE METHODS BY WHICH THE PLAN OF CARE  
10 EVOLVES AND REMAINS RESPONSIVE TO CHANGES IN CONDITION;

11 (D) STAFF-TO-RESIDENT RATIOS, STAFF TRAINING AND CONTINUING EDUCATION  
12 PRACTICES;

13 (E) THE PHYSICAL ENVIRONMENT AND DESIGN FEATURES APPROPRIATE TO  
14 SUPPORT THE FUNCTIONING OF COGNITIVELY IMPAIRED ADULTS;

15 (F) THE TYPES AND FREQUENCIES OF ACTIVITIES PROVIDED BY THE FACILITY;

16 (G) A DESCRIPTION OF FAMILY INVOLVEMENT PROGRAMS AND THE AVAILABILITY  
17 OF FAMILY SUPPORT PROGRAMS;

18 (H) THE COSTS OF CARE AND ANY ADDITIONAL FEES WHICH MAY BE CHARGED;  
19 AND

20 (I) A DESCRIPTION OF SAFETY AND SECURITY MEASURES PROVIDED BY THE  
21 FACILITY.

22 4. THE COMMISSIONER, WITH EQUAL OPPORTUNITY FOR INPUT FROM CONSUMER  
23 AND PROVIDER REPRESENTATIVES, SHALL PROMULGATE RULES IMPLEMENTING THE  
24 PROVISIONS OF THIS SECTION.

25 S 2012. ENFORCEMENT; CIVIL PENALTIES. 1. AN AGENCY SHALL CONSIDER THE  
26 EXTENT OF A FACILITY'S COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE IN  
27 CONSIDERING AN APPLICATION FOR RENEWAL OF A LICENSE, CERTIFICATE OR  
28 APPROVAL.

29 2. ANY FACILITY WHICH VIOLATES THE PROVISIONS OF THIS ARTICLE SHALL BE  
30 SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS. SUCH  
31 PENALTY MAY BE ASSESSED AFTER A HEARING CONDUCTED IN THE MANNER IN WHICH  
32 THE AGENCY ASSESSES OTHER PENALTIES AGAINST LICENSED, CERTIFIED OR  
33 APPROVED FACILITIES.

34 S 2. This act shall take effect on the first of January next succeed-  
35 ing the date on which it shall have become a law, provided that the  
36 department of health is immediately authorized and directed to take such  
37 actions as are necessary to implement this act, including the promulga-  
38 tion of rules in accordance with the state administrative procedure act,  
39 on or before its effective date.