S T A T E O F N E W Y O R K

1724

2011-2012 Regular Sessions

I N A S S E M B L Y

January 11, 2011

Introduced by M. of A. ROSENTHAL, DINOWITZ, GOTTFRIED, MILLMAN, CAHILL -- Multi-Sponsored by -- M. of A. BOYLAND, PAULIN, J. RIVERA, ROBINSON, WEISENBERG -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to notification of rate increases to residents of assisted living residences

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

Section 1. Title 4 of article 46-B of the public health law is amended by adding a new section 4664 to read as follows:

S 4664. ASSISTED LIVING; RATE INCREASES. 1. IF AN ASSISTED LIVING RESIDENCE INCREASES THE RATES OF FEES FOR RESIDENTS OR MAKES INCREASES IN ANY OF ITS RATE STRUCTURES FOR SERVICES, THE OPERATOR SHALL PROVIDE NO LESS THAN FORTY-FIVE DAYS PRIOR NOTICE TO THE RESIDENTS OR THE RESIDENTS' REPRESENTATIVES SETTING FORTH THE AMOUNT OF THE INCREASE, THE REASON FOR THE INCREASE, AND A DESCRIPTION OF THE METHODOLOGY, INCLUDING A GENERAL DESCRIPTION OF THE ADDITIONAL COSTS, EXCEPT FOR AN INCREASE IN THE RATE DUE TO A CHANGE IN THE LEVEL OF CARE OF THE RESIDENT. THIS SUBDIVISION SHALL NOT APPLY TO OPTIONAL SERVICES THAT ARE PROVIDED BY INDIVIDUALS, PROFESSIONALS, OR ORGANIZATIONS UNDER A SEPARATE FEE-FOR-SERVICE ARRANGEMENT WITH THE RESIDENTS.

2. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, IF AN ASSISTED LIVING RESIDENCE INCREASES RATES BY MORE THAN TEN PERCENT, THE OPERATOR SHALL PROVIDE NO LESS THAN NINETY DAYS PRIOR WRITTEN NOTICE TO THE RESIDENTS OR THE RESIDENTS' REPRESENTATIVES SETTING FORTH THE AMOUNT OF THE INCREASE, THE REASON FOR THE INCREASE, AND A DESCRIPTION OF THE METHODOLOGY, INCLUDING A GENERAL DESCRIPTION OF THE ADDITIONAL COSTS, EXCEPT FOR AN INCREASE IN THE RATE DUE TO A CHANGE IN THE LEVEL OF CARE OF THE RESIDENT. EACH ASSISTED LIVING RESIDENCE SHALL ESTABLISH A PROCESS FOR RESIDENTS OF THE ASSISTED LIVING RESIDENCE TO OPPOSE THE RATE INCREASE BASED ON FINANCIAL HARDSHIP, INCLUDING PROVISIONS FOR INFORMATION AND POSSIBLE RESIDENTIAL ALTERNATIVES FOR THOSE RESIDENTS. THE NOTICE

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

LBD01773-01-1

REQUIRED BY THIS SUBDIVISION SHALL INFORM RESIDENTS ABOUT THE APPEALS PROCESS. THIS SUBDIVISION SHALL NOT APPLY TO OPTIONAL SERVICES THAT ARE PROVIDED BY INDIVIDUALS, PROFESSIONALS, OR ORGANIZATIONS UNDER A SEPARATE FEE-FOR-SERVICE ARRANGEMENT WITH RESIDENTS.

3. NO ASSISTED LIVING RESIDENCE SHALL CHARGE NONRECURRING LUMP-SUM ASSESSMENTS. THE NOTIFICATION REQUIREMENTS CONTAINED IN SUBDIVISION ONE OF THIS SECTION SHALL APPLY TO INCREASES SPECIFIED IN THIS SUBDIVISION. FOR PURPOSES OF THIS SUBDIVISION, "NONRECURRING LUMP-SUM ASSESSMENTS" ARE DEFINED AS RATE INCREASES DUE TO UNAVOIDABLE AND UNEXPECTED COSTS THAT FINANCIALLY OBLIGATE THE ASSISTED LIVING RESIDENCE. IN LIEU OF THE LUMP-SUM PAYMENT, ALL INCREASES IN RATES SHALL BE TO THE MONTHLY RATE AMORTIZED OVER A TWELVE MONTH PERIOD. THE PROHIBITION AGAINST A LUMP-SUM ASSESSMENT SHALL NOT APPLY TO CHARGES FOR SPECIFIC GOODS OR SERVICES PROVIDED TO AN INDIVIDUAL RESIDENT.

4. EACH ASSISTED LIVING RESIDENCE SHALL INCLUDE ALL OF THE FOLLOWING IN ITS RESIDENCY AGREEMENT:

(A) A COMPREHENSIVE DESCRIPTION OF ANY ITEMS AND SERVICES PROVIDED UNDER A SINGLE FEE, SUCH AS A MONTHLY FEE FOR ROOM, BOARD, AND OTHER ITEMS AND SERVICES;

(B) A COMPREHENSIVE DESCRIPTION OF, AND THE FEE SCHEDULE FOR, ALL ITEMS AND SERVICES NOT INCLUDED IN A SINGLE FEE. IN ADDITION, THE AGREEMENT SHALL INDICATE THAT THE RESIDENT SHALL RECEIVE A MONTHLY STATEMENT ITEMIZING ALL SEPARATE CHARGES INCURRED BY THE RESIDENT;

(C) A FACILITY MAY ASSESS A SEPARATE CHARGE FOR AN ITEM OR SERVICE ONLY IF THAT SEPARATE CHARGE IS AUTHORIZED BY THE RESIDENCY AGREEMENT. IF ADDITIONAL SERVICES ARE AVAILABLE THROUGH THE FACILITY TO BE PURCHASED BY THE RESIDENT THAT WERE NOT AVAILABLE AT THE TIME THE RESIDENCY AGREEMENT WAS SIGNED, A LIST OF THESE SERVICES AND CHARGES SHALL BE PROVIDED TO THE RESIDENT OR THE RESIDENT'S REPRESENTATIVE. A STATEMENT ACKNOWLEDGING THE ACCEPTANCE OR REFUSAL TO PURCHASE THE ADDITIONAL SERVICES SHALL BE SIGNED AND DATED BY THE RESIDENT OR THE RESIDENT'S REPRESENTATIVE AND ATTACHED TO THE RESIDENCY AGREEMENT;

(D) AN EXPLANATION OF THE USE OF THIRD-PARTY SERVICES WITHIN THE FACILITY THAT ARE NOT RELATED TO THE RESIDENT'S SERVICE PLAN, INCLUDING, BUT NOT LIMITED TO: ANCILLARY, HEALTH, AND MEDICAL SERVICES; HOW THEY MAY BE ARRANGED, ACCESSED, AND MONITORED; ANY RESTRICTIONS ON THIRD-PARTY SERVICES; AND WHO IS FINANCIALLY RESPONSIBLE FOR THE THIRD-PARTY SERVICES;

(E) A COMPREHENSIVE DESCRIPTION OF BILLING AND PAYMENT POLICIES AND PROCEDURES; AND

(F) A STATEMENT INDICATING THAT RATES MAY BE INCREASED AND THE CONDITIONS UNDER WHICH RATES MAY BE INCREASED AND NOTIFICATION PROCEDURES PURSUANT TO SUBDIVISIONS ONE AND TWO OF THIS SECTION.

5. NONPROFIT ASSISTED LIVING RESIDENCES SHALL BE EXEMPT FROM THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect immediately.