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

8861--A

I N A S S E M B L Y

(PREFILED)

January 4, 2012

Introduced by M. of A. GOTTFRIED, GUNTHER, JAFFEE -- Multi-Sponsored by -- M. of A. COLTON, McENENY -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to the adult care facilities training program

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

Section 1. Section 461-p of the social services law, as added by chapter 462 of the laws of 1996, is amended to read as follows:

S 461-p. Adult care facilities DIRECT CARE STAFF training program. 1. The department [may] SHALL, within the amounts as appropriated for such purpose, establish an adult care facility DIRECT CARE STAFF training program [that shall assist in the development of training materials and/or the provision of staff training activities. In developing such training program, the department shall determine the feasibility of providing such training on a statewide basis] TO BE REQUIRED FOR DIRECT CARE STAFF IN ADULT CARE FACILITIES. The department may contract with [organizations representing adult care facilities] APPROPRIATE ENTITIES to provide such training. [Such contracts shall require that funding made available through this program shall be used to enhance the skills of staff of adult care facilities and may include, but not be limited to training activities regarding medication management, safety and security procedures, rights of residents, behavioral management techniques, and any other training initiatives identified by the department.]

2. THE DEPARTMENT SHALL ESTABLISH A WORKGROUP, COMPOSED OF INDIVIDUALS WITH RELEVANT EXPERTISE IN THE FIELD OF ADULT CARE, CONSUMER REPRESENTATIVES, WORKER REPRESENTATIVES, AND PROVIDERS, TO DEVELOP A STANDARD, UNIFORM CURRICULUM TO BE MANDATED IN TRAINING DIRECT CARE STAFF IN ADULT CARE FACILITIES. THE WORKGROUP SHALL IDENTIFY BEST PRACTICES IN DIRECT CARE AND DEVELOP A CURRICULUM FOR DIRECT CARE STAFF BASED ON THESE PRACTICES. THE CURRICULUM SHALL PROMOTE THE VALUES OF RESIDENT AUTONOMY AND DIGNITY.

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

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3. THE CURRICULUM SHALL INCLUDE THE FOLLOWING COMPONENTS:

(A) AT LEAST FORTY TOTAL HOURS OF INSTRUCTION, DIVIDED BETWEEN CLASSROOM AND HANDS-ON LEARNING;

(B) AT LEAST EIGHT HOURS OF TRAINING, INCLUDING AT LEAST FOUR HOURS OF HANDS-ON TRAINING, DEVOTED TO MEDICATION MANAGEMENT AND ADMINISTRATION, WITH EMPHASIS ON HOW TO SAFELY AND LEGALLY ASSIST RESIDENTS WITHOUT VIOLATING RESTRICTIONS ON SCOPE OF PRACTICE; AND

(C) ANY FURTHER INSTRUCTION DEEMED NECESSARY BY THE COMMISSIONER.

NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT CURRICULAR REQUIREMENTS THAT EXCEED THE CURRICULAR REQUIREMENTS DESCRIBED IN PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION.

4. (A) COMPLETING THE TRAINING CURRICULUM AND PASSING A WRITTEN AND PRACTICAL EXAM SHALL BE A REQUIREMENT FOR EMPLOYMENT AS FULL-TIME DIRECT CARE STAFF IN ANY ADULT CARE FACILITY.

(B) TRAINING SHALL COMMENCE AS SOON AS AN INDIVIDUAL IS HIRED FOR A DIRECT CARE POSITION. INDIVIDUALS SHALL BE EXEMPT FROM THIS REQUIREMENT IF THEY HAVE COMPLETED A TRAINING PROGRAM AT ANOTHER ADULT CARE FACILITY WITHIN THE PRIOR THREE YEARS.

(C) THE INDIVIDUAL CONDUCTING THE TRAINING SHALL, AT A MINIMUM, BE CERTIFIED AS A LICENSED PRACTICAL NURSE. THE INDIVIDUAL SHALL POSSESS TRAINING AND EXPERIENCE IN ADULT EDUCATION. IF THE FACILITY DOES NOT HAVE A QUALIFIED INSTRUCTOR ON STAFF, THE FACILITY WILL CONTRACT WITH AN OUTSIDE SOURCE.

(D) STAFF SHALL NOT PERFORM ANY DIRECT CARE SERVICES WITHOUT SUPERVISION UNTIL COMPLETION OF THE RELEVANT SECTION OF THE TRAINING CURRICULUM, EXCEPT THAT STAFF WHO ARE EMPLOYED BY AN ADULT CARE FACILITY IN A DIRECT CARE POSITION AS OF THE DAY THIS SUBDIVISION TAKES EFFECT ARE NOT SUBJECT TO THIS REQUIREMENT UNTIL ONE YEAR AFTER THAT DATE.

S 2. This act shall take effect immediately, except that subdivision 4 of section 461-p of the social services law as added by section one of this act shall take effect one year after it shall have become a law, provided that any rules and regulations, and any other actions necessary to implement the provisions of such subdivision on its effective date are authorized and directed to be completed on or before such date.