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

7485

2013-2014 Regular Sessions

I N A S S E M B L Y

May 22, 2013

Introduced by M. of A. BOYLAND -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to providing for electronic monitoring in nursing homes and assisted living facilities

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

Section 1. Short title. This act shall be known and may be cited as the "electronic monitoring in nursing homes act".

S 2. The public health law is amended by adding a new section 2824 to read as follows:

S 2824. ELECTRONIC MONITORING IN NURSING HOMES. 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

(A) "NURSING HOME" SHALL HAVE THE SAME MEANING AS IN SECTION TWENTY-EIGHT HUNDRED ONE OF THIS ARTICLE.

(B)"NURSING HOME ADMINISTRATOR" SHALL MEAN AN INDIVIDUAL WHO IS CHARGED WITH AND HAS RESPONSIBILITY FOR THE GENERAL ADMINISTRATION OF A NURSING HOME WHETHER OR NOT SUCH INDIVIDUAL HAS AN OWNERSHIP INTEREST IN SUCH HOME AND WHETHER OR NOT HIS FUNCTIONS AND DUTIES ARE SHARED WITH ONE OR MORE OTHER INDIVIDUALS.

(C) "ASSISTED LIVING RESIDENCE" SHALL HAVE THE SAME MEANING AS IN SECTION FORTY-SIX HUNDRED FIFTY-ONE OF THIS CHAPTER.

(D) "ASSISTED LIVING OPERATOR" OR "OPERATOR" SHALL MEANS A PERSON, PERSONS OR AN ENTITY WHICH HAS OBTAINED THE WRITTEN APPROVAL OF THE DEPARTMENT TO OPERATE AN ASSISTED LIVING RESIDENCE IN ACCORDANCE WITH THIS ARTICLE.

2. (A) A NURSING HOME OR ASSISTED LIVING FACILITY SHALL MAKE REASONABLE PHYSICAL ACCOMMODATION FOR ELECTRONIC MONITORING BY PROVIDING:

(I) A REASONABLY SECURE PLACE TO MOUNT THE ELECTRONIC MONITORING DEVICE.

(II) ACCESS TO POWER SOURCES.

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

LBD10699-01-3

(B) A NURSING HOME OR ASSISTED LIVING FACILITY SHALL INFORM A RESIDENT OF A NURSING HOME OR ASSISTED LIVING FACILITY OR THE LEGAL REPRESENTATIVE OF THE RESIDENT OF THE RESIDENT'S RIGHT TO ELECTRONIC MONITORING.

(C) (I) A NURSING HOME OR ASSISTED LIVING FACILITY MAY REQUEST A RESIDENT OF A NURSING HOME OR ASSISTED LIVING FACILITY OR A RESIDENT'S PERSONAL REPRESENTATIVE TO CONDUCT ELECTRONIC MONITORING WITHIN PLAIN VIEW.

(II) A RESIDENT OF A NURSING HOME OR ASSISTED LIVING FACILITY WHO WISHES TO INSTALL AN ELECTRONIC MONITORING DEVICE MAY BE REQUIRED BY THE NURSING HOME ADMINISTRATOR OR ASSISTED LIVING FACILITY ADMINISTRATOR TO MAKE THE REQUEST IN WRITING.

3. SUBJECT TO THE CIVIL PRACTICE LAW AND RULES, A RECORDING CREATED THROUGH THE USE OF ELECTRONIC MONITORING SHALL BE ADMISSIBLE IN EITHER A CIVIL OR CRIMINAL ACTION BROUGHT IN A COURT OF THIS STATE.

4. (A) A PERSON WHO OPERATES A NURSING HOME OR ASSISTED LIVING FACILITY IN VIOLATION OF THIS ACT SHALL BE GUILTY OF A CLASS A MISDEMEANOR AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS OR TO IMPRISONMENT OF NOT MORE THAN ONE YEAR, OR BOTH.

(B) A PERSON WHO WILLFULLY AND WITHOUT THE CONSENT OF A RESIDENT OF A NURSING HOME, PERSONAL CARE HOME OR ASSISTED LIVING FACILITY HAMPERS, OBSTRUCTS, TAMPERS WITH OR DESTROYS AN ELECTRONIC MONITORING DEVICE OR RECORDING SHALL BE GUILTY OF A CLASS A MISDEMEANOR AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS OR TO IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH.

S 3. This act shall take effect on the sixtieth day after it shall have become a law.