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

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I N A S S E M B L Y

April 29, 2014

Introduced by M. of A. MILLMAN, GOTTFRIED, MILLER, JAFFEE, MOSLEY, BROOK-KRASNY, SKOUFIS, ROSENTHAL, JACOBS, COOK, DINOWITZ, CAMARA, SCARBOROUGH, WRIGHT, TITONE, BARRETT, OTIS, PERRY, CLARK, BRAUNSTEIN -- Multi-Sponsored by -- M. of A. BRENNAN, MARKEY -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the public health law, in relation to specifying procedures for the closure of privately funded assisted living residences

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

Section 1. Article 46-B of the public health law is amended by adding a new section 4653-a to read as follows:

S 4653-A. CLOSURE OF PRIVATELY FUNDED ASSISTED LIVING RESIDENCES. 1. FOR PURPOSES OF THIS SECTION, PRIVATELY FUNDED MEANS A RESIDENCE IN WHICH THE RESIDENTS ARE NOT RECIPIENTS OF SUPPLEMENTAL SECURITY INCOME.

2. IN THE EVENT THAT AN OPERATOR OF A PRIVATELY FUNDED ASSISTED LIVING RESIDENCE ELECTS TO CLOSE THE RESIDENCE AND TO SURRENDER AN OPERATING CERTIFICATE AND/OR CERTIFICATION AS AN ENHANCED OR SPECIAL NEEDS ASSISTED LIVING RESIDENCE, THE FOLLOWING PROVISIONS SHALL APPLY:

(A) THE OPERATOR SHALL NOTIFY THE APPROPRIATE REGIONAL OFFICE OF THE DEPARTMENT IN WRITING PRIOR TO THE ANTICIPATED DATE OF CLOSURE OF THE ASSISTED LIVING RESIDENCE AND, IF APPLICABLE, THE ADULT CARE FACILITY, AND/OR THE DECERTIFICATION OF THE RESIDENCE.

(B) SUCH WRITTEN NOTICE SHALL INCLUDE A PROPOSED PLAN FOR CLOSURE AND/OR DECERTIFICATION. THE PLAN SHALL BE SUBJECT TO DEPARTMENT APPROVAL, SHALL INCLUDE TIMETABLES FOR ALL STEPS ENTAILED IN THE CLOSURE PROCESS AND SHALL DESCRIBE THE PROCEDURES AND ACTIONS THE OPERATOR WILL TAKE TO:

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

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(I) NOTIFY RESIDENTS OF THE CLOSURE, AND/OR DECERTIFICATION, INCLUDING PROVISIONS FOR TERMINATION OF ADMISSION AGREEMENTS AND INVOLUNTARY DISCHARGE;

(II) ASSESS THE NEEDS AND PREFERENCES OF INDIVIDUAL RESIDENTS;

(III) ASSIST RESIDENTS IN LOCATING AND TRANSFERRING TO APPROPRIATE ALTERNATIVE SETTINGS; AND

(IV) MAINTAIN COMPLIANCE WITH THESE REGULATIONS UNTIL ALL RESIDENTS HAVE RELOCATED.

3. (A) THE OPERATOR SHALL TAKE NO ACTION TO CLOSE THE RESIDENCE PRIOR TO DEPARTMENT APPROVAL OF THE PLAN FOR CLOSURE AND/OR DECERTIFICATION.

(B) THE OPERATOR SHALL NOT CLOSE THE RESIDENCE UNTIL ALL RESIDENTS OF THE RESIDENCE HAVE TRANSFERRED TO APPROPRIATE ALTERNATIVE SETTINGS.

(C) THE OPERATOR SHALL NOT INCREASE THE AMOUNT OF ANY RENT, FEES OR OTHER SURCHARGES CHARGED TO THE RESIDENTS OF THE ASSISTED LIVING RESIDENCE, THEIR FAMILIES OR THEIR INSURANCE COMPANIES, IF ANY, PRIOR TO DEPARTMENT APPROVAL OF THE PLAN FOR CLOSURE AND/OR DECERTIFICATION. THE OPERATOR SHALL NOT INSTITUTE ANY NEW FEES OR OTHER SURCHARGES CHARGED TO THE RESIDENTS OF THE ASSISTED LIVING RESIDENCE, THEIR FAMILIES OR THEIR INSURANCE COMPANIES, IF ANY, PRIOR TO DEPARTMENT APPROVAL OF THE PLAN FOR CLOSURE AND/OR DECERTIFICATION.

(D) THE OPERATOR SHALL NOT ACCEPT NEW RESIDENTS OR APPLICATIONS FOR RESIDENCY AFTER THE OPERATOR HAS NOTIFIED THE APPROPRIATE REGIONAL OFFICE OF THE DEPARTMENT THAT THE OPERATOR INTENDS TO CLOSE OR DECERTIFY THE ASSISTED LIVING RESIDENCE.

4. AS PART OF THE FINAL APPROVAL OF THE CLOSURE PLAN, THE DEPARTMENT AND OPERATOR SHALL AGREE UPON A TARGET CLOSURE DATE, WHICH SHALL BE AT LEAST ONE HUNDRED TWENTY DAYS FROM THE ACTUAL DATE THE OPERATOR NOTIFIES RESIDENTS OF THE CLOSURE. IN PROVIDING NOTIFICATION OF SUCH TARGET CLOSURE DATE TO RESIDENTS, THE OPERATOR SHALL ALSO NOTIFY RESIDENTS THAT ADDITIONAL TIME WILL BE PROVIDED TO RESIDENTS WHO MAKE GOOD FAITH EFFORTS TO SECURE AN ALTERNATIVE SETTING AND HAVE DEMONSTRATED A REASONABLE BASIS FOR NEEDING MORE THAN ONE HUNDRED TWENTY DAYS TO TRANSFER TO AN APPROPRIATE ALTERNATIVE SETTING, SO LONG AS IT REMAINS SAFE AND APPROPRIATE TO RESIDE IN THE BUILDING AT SUCH TIME.

5. THE OPERATOR SHALL IMPLEMENT THE APPROVED PLAN TO INSURE THAT ARRANGEMENTS FOR CONTINUED CARE WHICH MEET EACH RESIDENT'S SOCIAL, EMOTIONAL AND HEALTH NEEDS ARE EFFECTUATED PRIOR TO CLOSURE AND/OR DECERTIFICATION.

6. FAILURE TO NOTIFY THE DEPARTMENT OF INTENT TO CEASE OPERATIONS, FAILURE TO SUBMIT AN APPROVABLE PLAN TO EXECUTE THE APPROVED PLAN, CLOSURE OR DECERTIFICATION BEFORE ALL RESIDENTS HAVE BEEN APPROPRIATELY RELOCATED, SHALL RESULT IN THE IMPOSITION OF CIVIL PENALTIES.

S 2. This act shall take effect on the first of January, 2015 and shall apply to all closures of privately funded assisted living residences occurring on or after such effective date and to all closures of privately funded assisted living residences pending such effective date.