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

3478

2013-2014 Regular Sessions

I N A S S E M B L Y

January 28, 2013

Introduced by M. of A. ENGLEBRIGHT -- Multi-Sponsored by -- M. of A. GUNTHER -- read once and referred to the Committee on Aging

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:

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

ARTICLE 20-B

ALZHEIMER'S AND DEMENTIA SPECIAL CARE DISCLOSURE

SECTION 2010. DEFINITIONS.
2011. ALZHEIMER'S AND DEMENTIA SPECIAL CARE DISCLOSURE.
2012. ENFORCEMENT; CIVIL PENALTIES.

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

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

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

2. THE DISCLOSURE SHALL BE MADE TO:

(A) THE DEPARTMENT;

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

(C) THE STATE LONG TERM CARE OMBUDSMAN.

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

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

LBD03484-01-3

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

(B) THE PROCESS AND CRITERIA USED TO DETERMINE PLACEMENT IN AND TRANSFER OR DISCHARGE FROM ALZHEIMER'S AND DEMENTIA SPECIAL CARE;

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

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

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

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

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

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

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

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

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

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

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law, provided that the department of health is immediately authorized and directed to take such actions as are necessary to implement this act, including the promulgation of rules in accordance with the state administrative procedure act, on or before its effective date.