

5476--D

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 28, 2013

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Introduced by M. of A. CYMBROWITZ, HEVESI, BRINDISI, BROOK-KRASNY, ROSENTHAL -- Multi-Sponsored by -- M. of A. LUPINACCI -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend section 38 of part A of the chapter 60 of the laws of 2014 amending the public health law, relating to adult care facilities, in relation to the effectiveness thereof; and to amend the public health law and the social services law, in relation to criminal history checks of prospective employees of adult homes, enriched housing programs or residences for adults

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

1     Section 1. Section 38 of part A of chapter 60 of the laws of 2014  
2     amending the public health law relating to adult care facilities is  
3     amended to read as follows:  
4     S 38. This act shall take effect immediately and shall be deemed to  
5     have been in full force and effect on and after April 1, 2014; PROVIDED,  
6     HOWEVER, THAT SECTIONS TWENTY-TWO, TWENTY-THREE, AND TWENTY-FOUR OF THIS  
7     ACT SHALL TAKE EFFECT JANUARY 1, 2015; provided, however, that the  
8     amendments to subdivisions 1 and 2 of section 461-k of the social  
9     services law made by section thirty-one of this act shall not affect the  
10    expiration of such section and shall be deemed to expire therewith; and  
11    provided, further, that the amendments made to paragraph (b) of subdivi-  
12    sion 18-a of section 206 of the public health law made by section

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

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1 sixteen of this act shall not affect the expiration of such paragraph  
2 and shall be deemed to expire therewith.

3 S 2. Subdivision 10 of section 2899-a of the public health law, as  
4 amended by chapter 331 of the laws of 2006, is amended to read as  
5 follows:

6 10. Notwithstanding subdivision eleven of section eight hundred  
7 forty-five-b of the executive law, a certified home health agency,  
8 licensed home care services agency or long term home health care program  
9 certified, licensed or approved under article thirty-six of this chapter  
10 or a home care services agency exempt from certification or licensure  
11 under article thirty-six of this chapter, OR AN ADULT HOME, ENRICHED  
12 HOUSING PROGRAM OR RESIDENCE FOR ADULTS LICENSED UNDER ARTICLE SEVEN OF  
13 THE SOCIAL SERVICES LAW, may temporarily approve a prospective employee  
14 while the results of the criminal history information check and the  
15 determination are pending, upon the condition that the provider conducts  
16 appropriate direct observation and evaluation of the temporary employee,  
17 while he or she is temporarily employed, and the care recipient. The  
18 results of such observations shall be documented in the temporary  
19 employee's personnel file and shall be maintained. For purposes of  
20 providing such appropriate direct observation and evaluation, the  
21 provider shall utilize an individual employed by such provider with a  
22 minimum of one year's experience working in an agency certified,  
23 licensed or approved under article thirty-six of this chapter OR AN  
24 ADULT HOME, ENRICHED HOUSING PROGRAM OR RESIDENCE FOR ADULTS LICENSED  
25 UNDER ARTICLE SEVEN OF THE SOCIAL SERVICES LAW. If the temporary  
26 employee is working under contract with another provider certified,  
27 licensed or approved under article thirty-six of this chapter, such  
28 contract provider's appropriate direct observation and evaluation of the  
29 temporary employee, shall be considered sufficient for the purposes of  
30 complying with this subdivision.

31 S 3. Subdivision 6 of section 2899 of the public health law, as  
32 amended by section 22 of part A of chapter 60 of the laws of 2014, is  
33 amended to read as follows:

34 6. "Provider" shall mean any residential health care facility licensed  
35 under article twenty-eight of this chapter; or any certified home health  
36 agency, licensed home care services agency or long term home health care  
37 program certified under article thirty-six of this chapter; or any  
38 [adult care facility] ADULT HOME, ENRICHED HOUSING PROGRAM OR RESIDENCE  
39 FOR ADULTS licensed under article seven of the social services law.

40 S 4. Section 461-t of the social services law, as added by section 24  
41 of part A of chapter 60 of the laws of 2014, is amended to read as  
42 follows:

43 S 461-t. Review of criminal history information concerning prospective  
44 direct care employees. Every [adult care facility] ADULT HOME, ENRICHED  
45 HOUSING PROGRAM AND RESIDENCE FOR ADULTS shall conduct a criminal histo-  
46 ry record check of prospective direct care employees utilizing the  
47 procedures and standards set forth in article twenty-eight-E of the  
48 public health law.

49 S 5. This act shall take effect immediately; provided, however, that  
50 sections two, three and four of this act shall take effect January 1,  
51 2015.