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 -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to requiring the department of public health to conduct a hearing prior to approving a closure of an assisted living facility

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. HEARING PRIOR TO CLOSURE OF AN ASSISTED LIVING RESIDENCE. 1. BEFORE IT MAY APPROVE ANY PROPOSED PLAN FOR CLOSURE OF AN ASSISTED LIVING RESIDENCE, THE DEPARTMENT, THROUGH THE APPROPRIATE REGIONAL OFFICE OF THE DEPARTMENT, SHALL CONDUCT A HEARING TO ASSESS THE EFFECTIVENESS OF THE PROPOSED CLOSURE PLAN AND THE IMPACT OF THE CLOSURE ON THE RESIDENTS OF THE ASSISTED LIVING RESIDENCE AND ON THE COMMUNITY IN WHICH THE RESIDENCE IS LOCATED.

2. (A) UPON RECEIVING WRITTEN NOTICE FROM AN OPERATOR OF AN ASSISTED LIVING RESIDENCE THAT THE OPERATOR ELECTS TO CLOSE THE RESIDENCE AND TO SURRENDER AN OPERATING CERTIFICATE AND/OR CERTIFICATION AS AN ENHANCED OR SPECIAL NEEDS ASSISTED LIVING RESIDENCE, THE APPROPRIATE REGIONAL OFFICE OF THE DEPARTMENT SHALL CONDUCT THE HEARING, UPON NOTICE TO THE OPERATOR AND THE MUNICIPALITY OR COMMUNITY BOARD, AND SHALL STATE AND FILE IN ITS OFFICE ITS REASONS THEREFOR.

(B) THE HEARING SHALL BE HELD NO LATER THAN THE THIRTIETH DAY AFTER THE DEPARTMENT RECEIVED WRITTEN NOTICE THAT THE OPERATOR ELECTS TO CLOSE THE RESIDENCE AND TO SURRENDER AN OPERATING CERTIFICATE AND/OR CERTIFICATION AS AN ENHANCED OR SPECIAL NEEDS ASSISTED LIVING RESIDENCE.

(C) THE HEARING MAY BE RESCHEDULED, ADJOURNED OR CONTINUED, AND THE APPROPRIATE REGIONAL OFFICE OF THE DEPARTMENT SHALL GIVE NOTICE TO THE OPERATOR AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR CONTINUED HEARING.

(D) HEARINGS CONDUCTED PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION SHALL BE OPEN TO THE PUBLIC.

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

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3. (A) ISSUES TO BE CONSIDERED AT THE HEARING REQUIRED BY THIS SECTION SHALL INCLUDE, BUT NOT BE LIMITED TO, THE SUFFICIENCY OF THE OPERATOR'S PROPOSED PLAN FOR CLOSURE AND/OR DECERTIFICATION AND THE TIMETABLE FOR THE CLOSURE OR DECERTIFICATION AND THE PROCEDURES AND ACTIONS THE OPERATOR WILL TAKE TO:

(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; AND

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

(B) THE APPROPRIATE REGIONAL OFFICE OF THE DEPARTMENT SHALL MAKE PUBLIC ITS FINDINGS NOT MORE THAN SIXTY DAYS AFTER THE CONCLUSION OF THE HEARING BY POSTING A COPY OF ITS FINDING ON THE DEPARTMENT'S WEBSITE AND MAINTAINING AT LEAST THREE PAPER COPIES OF THE FINDINGS IN THE REGIONAL OFFICE. SUCH PAPER COPIES SHALL BE MADE AVAILABLE TO THE PUBLIC FOR REVIEW UPON REQUEST.

(C) NO PLAN FOR THE CLOSURE OF AN ASSISTED LIVING RESIDENCE SHALL BE APPROVED UNTIL THE HEARING FINDINGS HAVE BEEN MADE AVAILABLE TO THE PUBLIC FOR AT LEAST THIRTY DAYS. ANY PLAN FOR THE CLOSURE OF AN ASSISTED LIVING RESIDENCE THAT IS APPROVED AFTER THE THIRTY DAY PERIOD REQUIRED BY THIS PARAGRAPH SHALL PROVIDE AT LEAST NINETY DAYS NOTICE TO THE RESIDENTS OF THE ASSISTED LIVING RESIDENCE OF THE IMPENDING CLOSURE OF THE RESIDENCE.

4. (A) IN ADDITION TO THE HEARING REQUIRED BY THIS SECTION, THE APPROPRIATE REGIONAL OFFICE OF THE DEPARTMENT MAY ALSO CONDUCT A PUBLIC MEETING REGARDING THE PROPOSED CLOSURE OF THE ASSISTED LIVING FACILITY, BEFORE THE DEPARTMENT APPROVES A PLAN FOR CLOSURE OF AN ASSISTED LIVING RESIDENCE, UPON NOTICE TO THE OPERATOR AND THE MUNICIPALITY OR COMMUNITY BOARD.

(B) THE PUBLIC MEETING MAY BE RESCHEDULED, ADJOURNED OR CONTINUED, AND THE APPROPRIATE REGIONAL OFFICE OF THE DEPARTMENT SHALL GIVE NOTICE TO THE OPERATOR AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR CONTINUED PUBLIC MEETING.

5. AS CONTEMPLATED IN THIS SECTION, NOTICE TO THE MUNICIPALITY OR COMMUNITY BOARD SHALL MEAN WRITTEN NOTICE MAILED BY THE DEPARTMENT TO SUCH MUNICIPALITY OR COMMUNITY BOARD AT LEAST FIFTEEN DAYS IN ADVANCE OF ANY HEARING OR PUBLIC MEETING SCHEDULED PURSUANT TO THE PROVISIONS OF THIS SECTION. UPON THE REQUEST OF THE DEPARTMENT, ANY MUNICIPALITY OR COMMUNITY BOARD MAY WAIVE THE FIFTEEN DAY NOTICE REQUIREMENT.

S 2. This act shall take effect immediately.