

9428--B

I N   A S S E M B L Y

April 29, 2014

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Introduced by M. of A. MILLMAN, GOTTFRIED -- 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

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

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

1     Section 1. Article 46-B of the public health law is amended by adding  
2     a new section 4653-a to read as follows:  
3     S 4653-A. CLOSURE OF FOR PROFIT ASSISTED LIVING RESIDENCES. 1. IN THE  
4     EVENT THAT AN OPERATOR OF A FOR PROFIT ASSISTED LIVING RESIDENCE ELECTS  
5     TO CLOSE THE RESIDENCE AND TO SURRENDER AN OPERATING CERTIFICATE AND/OR  
6     CERTIFICATION AS AN ENHANCED OR SPECIAL NEEDS ASSISTED LIVING RESIDENCE,  
7     THE FOLLOWING PROVISIONS SHALL APPLY:  
8     (A) THE OPERATOR SHALL NOTIFY THE APPROPRIATE REGIONAL OFFICE OF THE  
9     DEPARTMENT IN WRITING AT LEAST ONE HUNDRED EIGHTY DAYS PRIOR TO THE  
10    ANTICIPATED DATE OF CLOSURE OF THE FOR PROFIT ASSISTED LIVING RESIDENCE  
11    AND, IF APPLICABLE, THE ADULT CARE FACILITY, AND/OR THE DECERTIFICATION  
12    OF THE RESIDENCE.  
13    (B) SUCH WRITTEN NOTICE SHALL INCLUDE A PROPOSED PLAN FOR CLOSURE  
14    AND/OR DECERTIFICATION. THE PLAN SHALL BE SUBJECT TO DEPARTMENT  
15    APPROVAL, SHALL INCLUDE TIMETABLES FOR ALL STEPS ENTAILED IN THE CLOSURE  
16    PROCESS AND SHALL DESCRIBE THE PROCEDURES AND ACTIONS THE OPERATOR WILL  
17    TAKE TO:  
18    (I) NOTIFY RESIDENTS OF THE CLOSURE, AND/OR DECERTIFICATION, INCLUDING  
19    PROVISIONS FOR TERMINATION OF ADMISSION AGREEMENTS AND INVOLUNTARY  
20    DISCHARGE;  
21    (II) ASSESS THE NEEDS AND PREFERENCES OF INDIVIDUAL RESIDENTS;  
22    (III) ASSIST RESIDENTS IN LOCATING AND TRANSFERRING TO APPROPRIATE  
23    ALTERNATIVE SETTINGS; AND

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

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

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

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

7 (C) THE OPERATOR SHALL NOT INCREASE THE AMOUNT OF ANY RENT, FEES OR  
8 OTHER SURCHARGES CHARGED TO THE RESIDENTS OF THE ASSISTED LIVING RESI-  
9 DENCE, THEIR FAMILIES OR THEIR INSURANCE COMPANIES, IF ANY, PRIOR TO  
10 DEPARTMENT APPROVAL OF THE PLAN FOR CLOSURE AND/OR DECERTIFICATION. THE  
11 OPERATOR SHALL NOT INSTITUTE ANY NEW FEES OR OTHER SURCHARGES CHARGED TO  
12 THE RESIDENTS OF THE ASSISTED LIVING RESIDENCE, THEIR FAMILIES OR THEIR  
13 INSURANCE COMPANIES, IF ANY, PRIOR TO DEPARTMENT APPROVAL OF THE PLAN  
14 FOR CLOSURE AND/OR DECERTIFICATION.

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

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

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

27 S 2. This act shall take effect immediately and shall apply to all  
28 closures of for profit assisted living residences occurring on or after  
29 such effective date and to all closures of for profit assisted living  
30 residences pending such effective date.