

# STATE OF NEW YORK

3050--A

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2019-2020 Regular Sessions

## IN ASSEMBLY

January 28, 2019

Introduced by M. of A. SIMON, ARROYO, BLAKE, BARRETT, BRAUNSTEIN, COLTON, COOK, DINOWITZ, GOTTFRIED, JAFFEE, JOYNER, M. G. MILLER, OTIS, PERRY, STECK, MOSLEY, ABINANTI, L. ROSENTHAL, CARROLL, D'URSO, BARRON, ASHBY, DAVILA, ORTIZ -- Multi-Sponsored by -- M. of A. GRIFFIN -- read once and referred to the Committee on Health -- reported and referred to the Committee on Codes -- 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 and/or decertification of assisted living residences

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Title 2 of article 46-B of the public health law is amended by adding a new section 4653-a to read as follows:

§ 4653-a. Closure of assisted living residences. 1. In the event that an operator of an assisted living residence elects to close 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/or the decertification of such assisted living residence.

(b) Such written notice shall include a proposed plan for closure and/or decertification. The plan shall be subject to the approval of the commissioner, 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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1 (i) notify residents and the residents' representatives of the  
2 closure, and/or decertification, including provisions for termination of  
3 admission agreements and involuntary discharge;

4 (ii) assess the needs and preferences of individual residents;

5 (iii) assist residents in relocating and transferring to appropriate  
6 alternative settings; and

7 (iv) maintain compliance with approved plan until all residents have  
8 relocated.

9 2. (a) The operator shall take no action to close the assisted living  
10 residence prior to approval from the commissioner of the plan for  
11 closure and/or decertification.

12 (b) The operator shall not close the assisted living residence until  
13 all residents thereof have transferred to appropriate alternative  
14 settings.

15 (c) The operator shall not increase the amount of any rent, fees or  
16 other surcharges imposed upon the residents of the assisted living resi-  
17 dence, their residents' representatives, and/or any applicable health  
18 insurance plan, long term care plan or other insurance plan providing  
19 payment to the residence on behalf of the resident prior to the approval  
20 of the plan for closure and/or decertification by the commissioner,  
21 provided however, that the operator may increase the amount of any rent,  
22 fees or other surcharges imposed upon an individual resident correspond-  
23 ing with an increase in the individual's supplemental security income;  
24 the total of such increases for an individual shall not exceed the  
25 amount of the increase in the individual's supplemental security income.

26 (d) The operator shall not accept new residents or applications for  
27 residency after the operator has notified the appropriate regional  
28 office of the department that the operator intends to close and/or  
29 decertify the assisted living residence.

30 3. As part of the final approval of the closure plan, the department,  
31 center for health care quality and surveillance and operator shall agree  
32 upon a target closure date, which shall be at least one hundred twenty  
33 days from the actual date that the operator provides written notifica-  
34 tion to the residents and the residents' representatives of the closure.  
35 In providing notification of such target closure date, the operator  
36 shall also notify residents and the residents' representatives that  
37 additional time will be provided to residents who make good faith  
38 efforts, as determined by the commissioner, to secure an alternative  
39 setting and have demonstrated a reasonable basis for needing more than  
40 one hundred twenty days to transfer to an appropriate alternative  
41 setting, so long as it remains safe and appropriate to reside in the  
42 assisted living residence at such time.

43 4. The operator shall implement the approved plan to ensure that  
44 arrangements for continued care which meet each resident's social,  
45 emotional and health care needs are effectuated prior to closure and/or  
46 decertification.

47 5. Failure to notify the department of intent to cease operations,  
48 failure to submit a plan for closure and/or decertification, failure to  
49 execute the approved plan for closure and/or decertification and closing  
50 an assisted living residence before all residents have been appropriate-  
51 ly relocated, shall result in the imposition of civil penalties in  
52 accordance with section twelve of this chapter.

53 6. The commissioner may promulgate such rules and regulations as he or  
54 she deems necessary to implement the provisions of this section.

55 § 2. This act shall take effect on the first of January next succeed-  
56 ing the date on which it shall have become a law, and shall apply to all

1 closures of assisted living residences occurring on or after such effec-  
2 tive date and to all closures of assisted living residences pending such  
3 effective date; provided, however, that effective immediately, the addi-  
4 tion, amendment and/or repeal of any rule or regulation necessary for  
5 the implementation of this act on its effective date are authorized and  
6 directed to be made and completed on or before such effective date.