

STATE OF NEW YORK

3932

2021-2022 Regular Sessions

IN SENATE

February 1, 2021

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

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:

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

3 § 4653-a. Closure of assisted living residences. 1. In the event
4 that an operator of an assisted living residence elects to close and to
5 surrender an operating certificate and/or certification as an enhanced
6 or special needs assisted living residence, the following provisions
7 shall apply:

8 (a) The operator shall notify the appropriate regional office of the
9 department in writing prior to the anticipated date of closure of the
10 assisted living residence and/or the decertification of such assisted
11 living residence.

12 (b) Such written notice shall include a proposed plan for closure
13 and/or decertification. The plan shall be subject to the approval of the
14 commissioner, shall include timetables for all steps entailed in the
15 closure process and shall describe the procedures and actions the opera-
16 tor will take to:

17 (i) notify residents and the residents' representatives of the
18 closure, and/or decertification, including provisions for termination of
19 admission agreements and involuntary discharge;

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

21 (iii) assist residents in relocating and transferring to appropriate
22 alternative settings; and

23 (iv) maintain compliance with approved plan until all residents have
24 relocated.

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

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

4 (b) The operator shall not close the assisted living residence until
5 all residents thereof have transferred to appropriate alternative
6 settings.

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

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

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

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

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

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

47 § 2. This act shall take effect on the first of January next succeed-
48 ing the date on which it shall have become a law, and shall apply to all
49 closures of assisted living residences occurring on or after such effec-
50 tive date and to all closures of assisted living residences pending such
51 effective date; provided, however, that effective immediately, the addi-
52 tion, amendment and/or repeal of any rule or regulation necessary for
53 the implementation of this act on its effective date are authorized and
54 directed to be made and completed on or before such effective date.