

STATE OF NEW YORK

714

2023-2024 Regular Sessions

IN SENATE

January 6, 2023

Introduced by Sen. CLEARE -- 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 establishing the independent senior housing resident freedom of choice act

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

1 Section 1. Short title. This act shall be known and may be referred to
2 as the "independent senior housing resident freedom of choice act".

3 § 2. Paragraph (j) of subdivision 1 of section 4651 of the public
4 health law, as added by chapter 2 of the laws of 2004, is amended to
5 read as follows:

6 (j) independent senior housing, shelters or residences for adults. For
7 purposes of this article and for purposes of determining certification
8 pursuant to article seven of the social services law, the department
9 shall by regulation, define independent senior housing, provided such
10 definition shall be based on whether the operator does not provide,
11 arrange for, or coordinate personal care services or home care services
12 on behalf of residents; and the [~~facility~~] operator does not provide
13 case management services in a congregate care setting for residents.
14 Nothing in this chapter shall preclude [~~a resident of~~]: (i) any inde-
15 pendent senior housing resident or any number of such residents from
16 personally and directly obtaining [~~private~~] personal care or home care
17 services from [~~a~~] any licensed [~~or certified~~] home care services agency,
18 certified home health agency, long term home health care program,
19 programs of all-inclusive care for the elderly or other managed long
20 term care program;

21 (ii) an agency or program licensed or approved under article thirty-
22 six or section forty-four hundred three-f of this chapter from offering,
23 arranging for or providing services to the residents of such housing as
24 such agency is otherwise authorized to offer, arrange for or provide to

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

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1 any other person or persons residing in their own home or apartment or
2 in the home of any other responsible relative or adult in the community;

3 (iii) any independent senior housing resident or any number of such
4 residents from personally and directly choosing and obtaining services
5 from an appropriately licensed or approved agency or program offering
6 personal care, home care or case management services, or from obtaining,
7 personally and directly, technologies that assist in maintaining inde-
8 pendence; or

9 (iv) an independent senior housing operator from offering room, board,
10 laundry, housekeeping, information and referral, security, transporta-
11 tion or concierge-like services; assisting tenants with housing issues;
12 providing information to tenants about services and activities available
13 in the community; assisting tenants wishing to do so in contacting such
14 services and activities; and contacting appropriate responders in an
15 emergency or other situation involving any tenants that appears to
16 warrant immediate attention, assistance or intervention. No independent
17 senior housing operator or staff of the independent senior housing
18 facility shall take action to limit the options presented to residents
19 for a home care services agency, certified home health agency, long term
20 home health care program, program of all-inclusive care for the elderly,
21 or other managed long term care program except where the resident has
22 provided criteria to limit the options presented. No independent senior
23 housing operator or any staff of the independent senior housing facility
24 shall induce any resident to utilize a home care services agency, certi-
25 fied home health agency, long term home health care program, program of
26 all-inclusive care for the elderly, or other managed long term care
27 program where there is any specific benefit that accrues to the inde-
28 pendent senior housing operator, staff of the independent senior housing
29 facility, or their families for directing residents to any specific
30 provider of services.

31 § 3. This act shall take effect immediately.