

STATE OF NEW YORK

2230

2023-2024 Regular Sessions

IN SENATE

January 19, 2023

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

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. Section 4653-a of the public health law, as added by a
2 chapter of the laws of 2022 amending the public health law relating to
3 specifying procedures for the closure and/or decertification of assisted
4 living residences, as proposed in legislative bills numbers S. 3932 and
5 A. 2211, is amended to read as follows:

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

11 (a) The operator shall notify the appropriate regional office of the
12 department and the office of the state long-term care ombudsman in writ-
13 ing prior to the anticipated date of closure of the assisted living
14 residence and/or the decertification of [~~such~~] the assisted living resi-
15 dence.

16 (b) [~~Such~~] The written notice shall include a proposed plan for
17 closure and/or decertification. The plan shall be subject to the
18 approval of the commissioner, shall include timetables for all steps
19 entailed in the closure process and shall describe the procedures and
20 actions the operator will take to:

21 (i) notify residents and the residents' representatives of the
22 closure, and/or decertification, including provisions for termination of
23 [~~admission~~] residency agreements and involuntary discharge;

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

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

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1 (iii) assist residents in relocating and transferring to appropriate
2 alternative settings; and

3 (iv) maintain compliance with approved plan until all residents have
4 relocated.

5 (c) The plan of closure shall be reviewed by the commissioner within
6 ninety days of submission.

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

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

13 (c) The operator shall not increase the amount of any rent, fees or
14 other surcharges imposed upon the residents of the assisted living resi-
15 dence, their residents' representatives, and/or any applicable health
16 insurance plan, long term care plan or other insurance plan providing
17 payment to the residence on behalf of the resident prior to the approval
18 of the plan for closure and/or decertification by the commissioner[
19 ~~provided however, that the operator may increase the amount of any rent,~~
20 ~~fees or other surcharges imposed upon an individual resident correspond-~~
21 ~~ing with an increase in the individual's supplemental security income,];~~
22 provided that an operator shall not be prohibited from amending a resi-
23 dency agreement to account for changes in supplemental security income
24 however, the total of [~~such increases~~] the changes for an individual
25 shall not exceed the amount of the increase in the individual's supple-
26 mental security income. The operator shall provide each resident, as
27 applicable, written notice of any increase not less than forty-five days
28 prior to the proposed effective date of the fee increase consistent with
29 the notice requirement in section forty-six hundred sixty of this arti-
30 cle.

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

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

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

52 5. Failure to notify the department of intent to cease operations,
53 failure to submit a plan for closure and/or decertification, failure to
54 execute the approved plan for closure and/or decertification and closing
55 an assisted living residence before all residents have been appropriate-

1 ly relocated, shall result in the imposition of civil penalties in
2 accordance with section twelve of this chapter.

3 6. The commissioner may [~~promulgate~~ make] such rules and regulations
4 as he or she deems necessary to implement [~~the provisions of~~] this
5 section.

6 § 2. This act shall take effect on the same date and in the same
7 manner as a chapter of the laws of 2022 amending the public health law
8 relating to specifying procedures for the closure and/or decertification
9 of assisted living residences, as proposed in legislative bills numbers
10 S. 3932 and A. 2211, takes effect.