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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO HEALTH AND SAFETY -- ASSISTED LIVING RESIDENCE LICENSING ACT

Introduced By: Senators DiPalma, Miller, Lauria, and Murray

Date Introduced: March 23, 2023

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-17.4-2 of the General Laws in Chapter 23-17.4 entitled "Assisted
2 Living Residence Licensing Act" is hereby amended to read as follows:

3 **23-17.4-2. Definitions.**

4 As used in this chapter:

5 (1) "Activities of daily living (ADLs)" means bathing, dressing, eating, toileting, mobility
6 and transfer.

7 (2) "Administrator" means any person who has responsibility for day to day administration
8 or operation of an assisted living residence.

9 (3) "Alzheimer's dementia special care unit or program" means a distinct living
10 environment within an assisted living residence that has been physically adapted to accommodate
11 the particular needs and behaviors of those with dementia. The unit provides increased staffing,
12 therapeutic activities designed specifically for those with dementia and trains its staff on an ongoing
13 basis on the effective management of the physical and behavioral problems of those with dementia.
14 The residents of the unit or program have had a standard medical diagnostic evaluation and have
15 been determined to have a diagnosis of Alzheimer's dementia or another dementia.

16 (4) "Assisted living residence" means a publicly or privately operated residence that
17 provides directly or indirectly by means of contracts or arrangements personal assistance and may
18 include the delivery of limited health services, as defined under subsection (12), to meet the

1 resident's changing needs and preferences, lodging, and meals to six (6) or more adults who are
2 unrelated to the licensee or administrator, excluding however, any privately operated establishment
3 or facility licensed pursuant to chapter 17 of this title, and those facilities licensed by or under the
4 jurisdiction of the department of behavioral healthcare, developmental disabilities and hospitals,
5 the department of children, youth and families, or any other state agency. The department shall
6 develop levels of licensure for assisted living residences within this definition as provided in § 23-
7 17.4-6. Assisted living residences include sheltered care homes, and board and care residences or
8 any other entity by any other name providing the services listed in this subdivision which meet the
9 definition of assisted living residences.

10 (5) "Capable of self-preservation" means the physical mobility and judgmental ability of
11 the individual to take appropriate action in emergency situations. Residents not capable of self-
12 preservation are limited to facilities that meet more stringent life safety code requirements as
13 provided under § 23-17.4-6(b)(3).

14 (6) "Director" means the director of the Rhode Island department of health.

15 (7) "Licensing agency" means the Rhode Island department of health.

16 (8) "Qualified licensed assisted living staff members" means a certified nursing assistant
17 as provided under § 23-17.9-2(a)(3), a licensed practical nurse as provided under § 5-34-3(13)
18 and/or a registered nurse as provided under § 5-34-3(14).

19 (9) "Personal assistance" means the provision of one or more of the following services, as
20 required by the resident or as reasonably requested by the resident, on a scheduled or unscheduled
21 basis, including:

22 (i) Assisting the resident with personal needs including activities of daily living;

23 (ii) Assisting the resident with self-administration of medication or administration of
24 medications by appropriately licensed staff;

25 (iii) Providing or assisting the resident in arranging for health and supportive services as
26 may be reasonably required;

27 (iv) Monitoring the activities of the resident while on the premises of the residence to
28 ensure his or her health, safety, and well-being; and

29 (v) Reasonable recreational, social and personal services.

30 (10) "Resident" means an individual not requiring medical or nursing care as provided in
31 a healthcare facility but who as a result of choice and/or physical or mental limitation requires
32 personal assistance, lodging and meals and may require the administration of medication and/or
33 limited health services. A resident must be capable of self-preservation in emergency situations,
34 unless the facility meets a more stringent life safety code as required under § 23-17.4-6(b)(3).

1 ~~Persons~~ Unless provided herein, persons needing medical or skilled nursing care, including daily
2 professional observation and evaluation, as provided in a healthcare facility, and/or persons who
3 are bedbound or in need of the assistance of more than one person for ambulation, are not
4 appropriate ~~to reside in~~ for initial admission to assisted living residences. However, an established
5 resident may receive daily medical and/or skilled nursing care or therapy from a licensed healthcare
6 provider ~~for a condition that results from a temporary illness or injury for up to forty five (45) days~~
7 ~~subject to an extension of additional days as approved by the department~~ as necessary and/or
8 appropriate for the resident's condition, known as assisted living flex care, or if the resident is under
9 the care of a Rhode Island licensed hospice agency provided the assisted living residence assumes
10 responsibility for ensuring that the required care is received. Furthermore, a new resident may
11 receive daily ~~therapy services and/or limited~~ medical and/or skilled nursing care ~~services, or~~
12 ~~therapy as defined through rules and regulations promulgated by the department of health,~~ from a
13 licensed healthcare provider ~~as defined through rules and regulations promulgated by the~~
14 ~~department of health,~~ from a licensed healthcare provider ~~for a condition that results from a~~
15 ~~temporary illness or injury for up to forty five (45) days subject to an extension of additional days~~
16 ~~as approved by the department~~ as necessary and/or appropriate for the resident's condition, or if the
17 resident is under the care of a licensed hospice agency provided that assisted living residence
18 assumes responsibility for ensuring that the care is received. For the purposes of this chapter,
19 “resident” shall also mean the resident’s agent as designated in writing or legal guardian.
20 Notwithstanding the aforementioned, residents who are bed bound or in need of assistance of more
21 than one staff person for ambulation may reside in a residence if they are receiving hospice care in
22 accordance with the rules and regulations promulgated by the department of health. For the
23 purposes of this chapter, “resident” shall also mean the resident’s agent as designated in writing or
24 legal guardian.

25 (11) “Supervision” means the supervision requirements of qualified licensed assisted living
26 staff delivering limited health services in accordance with this chapter, as defined through rules and
27 regulations promulgated by the department of health.

28 (12) “Limited health services” means health services, as ordered by the resident’s
29 physician, provided by ~~qualified licensed assisted living staff members with supervision as required~~
30 ~~in rules and regulations promulgated by the department of health.~~ a licensed health care
31 professional, including, without limitation, stage I and stage II vascular ulcer treatment and
32 prevention; simple wound care, including post-operative suture care/removal and stasis ulcer care;
33 ostomy care, including appliance changes for residents who have established stomas; urinary
34 catheter care; oxygen services, including both oxygen concentrators and portable tanks, monitoring

1 pulse oximetry, assistance with respiratory equipment for residents who can no longer manage
2 equipment on their own, including, without limitation, a bi-level positive airway pressure ventilator
3 ("BIPAP") that helps with breathing, a continuous positive airway pressure machine ("CPAP") that
4 provides constant airflow, nebulizers and inhalers; and physical, occupational, speech and language
5 therapy. Nothing in this definition shall be construed to limit the right of assisted living residents
6 to access home nursing care or hospice provider services.

7 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY -- ASSISTED LIVING RESIDENCE LICENSING
ACT

1 This act would allow assisted living facilities ("ALFs") the ability to provide assisted living
2 flex care to better care for individuals whose health care needs progress over time. This act would
3 allow ALFs to provide more intensive medical and skilled nursing care services to residents in the
4 assisted living setting, as their care needs change over time, rather than requiring their transition to
5 a skilled nursing facility when full-time skilled services are required for the resident. It would also
6 remove the forty-five (45) day limitation on medical or skilled care permitted for a resident of an
7 ALF, whose condition may require longer daily skilled care, because of that condition or illness.

8 This act would take effect upon passage.

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