

2010 -- H 8085

LC02520

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

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

Introduced By: Representatives Melo, Naughton, Ucci, McNamara, and Savage

Date Introduced: May 05, 2010

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-17.4-2 and 23-17.4-6 of the General Laws in Chapter 23-17.4
2 entitled "Assisted Living Residence Licensing Act" are hereby amended to read as follows:

3 **23-17.4-2. Definitions.** -- As used in this chapter:

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

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

8 (3) "Alzheimer's dementia special care unit or program" means a distinct living
9 environment within an assisted living residence that has been physically adapted to accommodate
10 the particular needs and behaviors of those with dementia. The unit provides increased staffing,
11 therapeutic activities designed specifically for those with dementia and trains its staff on an
12 ongoing basis on the effective management of the physical and behavioral problems of those with
13 dementia. The residents of the unit or program have had a standard medical diagnostic evaluation
14 and have been determined to have a diagnosis of Alzheimer's dementia or another disease causing
15 dementia. Residents without a diagnosis of dementia may opt to reside in a dementia special care
16 unit.

17 (4) "Assisted living residence" means a publicly or privately operated residence that
18 provides directly or indirectly by means of contracts or arrangements personal assistance to meet

1 the resident's changing needs and preferences, lodging, and meals to six (6) or more adults who
2 are unrelated to the licensee or administrator, excluding however, any privately operated
3 establishment or facility licensed pursuant to chapter 17 of this title, and those facilities licensed
4 by or under the jurisdiction of the department of mental health, retardation, and hospitals, the
5 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
7 section 23-17.4-6. Assisted living residences include sheltered care homes, and board and care
8 residences or any other entity by any other name providing the services listed in this subdivision
9 which meet the 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 section 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) "Personal assistance" means the provision of one or more of the following services,
17 as required by the resident or as reasonably requested by the resident, on a scheduled or
18 unscheduled basis, including:

- 19 (i) Assisting the resident with personal needs including activities of daily living;
- 20 (ii) Assisting the resident with self-administration of medication or administration of
21 medications by appropriately licensed staff;
- 22 (iii) Providing or assisting the resident in arranging for health and supportive services as
23 may be reasonably required;
- 24 (iv) Monitoring the activities of the resident while on the premises of the residence to
25 ensure his or her health, safety, and well-being; and
- 26 (v) Reasonable recreational, social and personal services.

27 (9) "Resident" means an individual not requiring medical or nursing care as provided in
28 a health care facility but who as a result of choice and/or physical or mental limitation requires
29 personal assistance, lodging and meals and may require the administration of medication. A
30 resident must be capable of self-preservation in emergency situations, unless the facility meets a
31 more stringent life safety code as required under section 23-17.4-6(b)(3). Persons needing
32 medical or skilled nursing care, including daily professional observation and evaluation, as
33 provided in a health care facility, and/or persons who are bedbound or in need of the assistance of
34 more than one person for ambulation, are not appropriate to reside in assisted living residences.

1 However, an established resident may receive daily skilled nursing care or therapy from a
2 licensed health care provider for a condition that results from a temporary illness or injury for up
3 to forty-five (45) days subject to an extension of additional days as approved by the department,
4 or if the resident is under the care of a licensed hospice agency provided the assisted living
5 residence assumes responsibility for ensuring that the care is received. For purposes of this
6 statute, "resident" shall also mean the resident's agent as designated in writing or legal guardian.

7 **23-17.4-6. Issuance of license -- Posting -- Transfer.** -- (a) Issuance of license. - Upon
8 receipt of an application for a license, the licensing agency shall issue a license if the applicant
9 and assisted living residence meet the requirements established under this chapter; the director
10 shall establish levels of licensure as provided in subsections (b) and (c) below and any rules and
11 regulations may be established in accordance herewith. A license issued under this chapter shall
12 be the property of the state and loaned to the licensee, and it shall be kept posted in a conspicuous
13 place on the licensed premises. Each license shall be issued only for the premises and persons
14 named in the application, and shall not be transferable or assignable except with the written
15 approval of the licensing agency.

16 (b) Fire code and structural requirements.

17 (1) A residence with state fire code deficiencies may be granted a license which may be
18 renewed subject to the submission of a plan of correction acceptable to the state division of fire
19 safety, and provided the nature of the deficiencies are such that they do not jeopardize the health,
20 safety, and welfare of the residents.

21 (2) A residence with residents who are blind, deaf, and physically disabled shall be
22 subject to the applicable requirements of the American National Standards Institute (ANSI
23 standards)(1961), and any other provisions that may be required by rules and regulations pursuant
24 to this chapter.

25 (3) A residence that elects to comply with a higher life safety code and is so approved by
26 the state division of fire safety and meets the department's requirements for the appropriate level
27 of licensure may admit residents not capable of self preservation.

28 (c) Levels of licensure. - The department shall establish requirements for a basic license
29 that apply to all assisted living residences. In addition, the department shall establish additional
30 licensing levels of assisted living including, but not limited to:

31 (1) "Dementia care" licensure shall be required [if the residence advertises or represents](#)
32 [special dementia care services](#) when one or more residents have a physician's diagnosis of
33 dementia or an assessment, as required by section 23-17.4-15.6, indicating dementia-related
34 functional impairments, and meet any of the following:

- 1 (i) Safety concerns due to evidence of elopement ~~or other dementia behaviors~~;
- 2 (ii) Inappropriate social behaviors that repeatedly infringe upon the rights of others;
- 3 (iii) Inability to self preserve due to dementia as defined in subdivision 23-17.4-2(5),
- 4 unless the residence meets more stringent life safety code requirements as provided under
- 5 subdivision 23-17.4-6(b)(3); or
- 6 (iv) A physician's recommendation that the resident needs dementia support consistent
- 7 with this level, ~~or if the residence advertises or represents special dementia services or if the~~
- 8 ~~residence segregates residents with dementia.~~

9 (2) In addition to the requirements for the basic license, licensing requirements for the

10 "dementia care" level shall include the following:

11 (i) Staff training and/or requirements specific to dementia care as determined by the

12 department;

13 (ii) A registered nurse on staff and available for consultation at all times and at least one

14 staff person with appropriate training and education as determined by regulation, on duty at all

15 times in Alzheimer's dementia special care units;

16 (iii) The residence shall provide for a secure environment appropriate for the resident

17 population.

18 (3) "Medication administration" when one or more residents requires medication

19 administration by appropriately qualified staff as determined by the department.

20 (4) A resident having a diagnosis of dementia may choose to reside in a non-specialty

21 care unit with informed consent documented by a written agreement. Residents with a diagnosis

22 of dementia that choose to reside in a non-specialty care unit shall be required to undergo a

23 neuro-psychological evaluation to determine that the resident is appropriate for a non-specialty

24 care unit. The neuro-psychological evaluation shall be accompanied by a written agreement

25 between a licensed qualified specialist, the resident's primary care physician, the assisted living

26 residence, and the resident. For the purposes of this section "resident" also means a person who

27 has executed a health care power of attorney, or his or her legal guardian or other responsible

28 party.

29 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 require a dementia care license if a residence advertises or represents
2 special dementia care and would allow a resident to reside in a non-specialty care unit with
3 informed consent, provided that the resident would be required to undergo a neuro-psychological
4 evaluation.

5 This act would take effect upon passage.

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