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## HOUSE BILL NO. 877

Offered January 25, 1994

A BILL to amend and reenact §§ 63.1-172, 63.1-174, 63.1-175, and 63.1-178.1 of the Code of Virginia, relating to adult care residences.

Patrons—Hargrove, Morgan, Parrish and Rhodes

Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 63.1-172, 63.1-174, 63.1-175, and 63.1-178.1 of the Code of Virginia are amended and reenacted, as follows:

**§ 63.1-172. Definitions.**

As used in this article, unless the context requires a different meaning:

"Adult care residence" means any place, establishment, or institution, public or private, operated or maintained for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or *licensed exclusively by* the Department of Mental Health, Mental Retardation and Substance Abuse Services, but including any portion of such facility not so licensed, and (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage, and (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of eighteen and twenty-one, or twenty-two if enrolled in an educational program for the handicapped pursuant to § 22.1-214, when such facility is licensed by the Virginia Department of Social Services as a child-caring institution under Chapter 10 (§ 63.1-195 et seq.) of this title, but including any portion of the facility not so licensed. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults.

"Assisted living" means a level of service provided by an adult care residence for adults who may have physical or mental impairments, may be independently mobile, semimobile or nonambulatory and require at least a moderate level of assistance with activities of daily living.

"Independently mobile" means a resident of an adult care residence who is physically and mentally able to exit the residence without assistance in an emergency and who can ascend or descend stairs if present in any necessary exit path.

"Maintenance or care" means the protection, general supervision and oversight of the physical and mental well-being of the aged, infirm or disabled individual.

"Mental disabilities" means alcoholism, drug addiction, mental illness, or mental retardation as those terms are defined in § 37.1-1.

"Nonambulatory" means a resident of an adult care residence who by reason of physical or mental impairment is unable to exit the residence in an emergency without the assistance of another person.

"Residential living" means a level of service provided by an adult care residence for adults who may have physical or mental impairments but require only minimal assistance with the activities of daily living and are independently mobile. This definition includes independent living facilities that voluntarily become licensed.

"Semimobile" means a resident of an adult care residence who because of physical or mental impairment requires limited assistance, such as the assistance of a wheelchair, walker, cane, prosthetic device, or a single verbal command, to exit the residence in an emergency.

**§ 63.1-174. Regulations.**

A. The State Board shall have the authority to promulgate and enforce regulations to carry out the provisions of this article and to protect the health, safety, welfare and individual rights of residents of adult care residences and to promote their highest level of functioning. *The regulations shall be developed in consultation with the Department of Mental Health, Mental Retardation and Substance Abuse Services.*

B. Regulations shall include standards for staffing; staff qualifications and training; facility design, functional design and equipment; services to be provided to residents; administration of medicine; allowable medical conditions for which care can be provided; and medical procedures to be followed by staff, including provisions for physicians' services, restorative care, and specialized rehabilitative services.

C. Regulations for medical procedures in adult care residences shall be developed in consultation with the State Board of Health and promulgated by the State Board of Social Services, and compliance

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60 with these regulations shall be determined by Department of Health or Department of Social Services  
61 inspectors as provided by an interagency agreement between the Department of Social Services and the  
62 Department of Health.

63 *D. The Board of Mental Health, Mental Retardation and Substance Abuse Services shall promulgate*  
64 *regulations governing those aspects of the operation of an adult care residence that are unique to a*  
65 *residence serving adults with mental disabilities. The regulations shall be developed in consultation with*  
66 *the Department of Social Services.*

67 § 63.1-175. Licenses required; expiration and renewal; maximum number of residents; restrictions on  
68 nomenclature.

69 A. Every person who constitutes, or who operates or maintains, an adult care residence shall obtain  
70 the appropriate license from the Commissioner, which may be renewed. The Commissioner or his  
71 designated agents, upon request, shall consult with, advise, and assist any person interested in securing  
72 and maintaining any such license. *In addition, any adult care residence which serves adults with mental*  
73 *disabilities shall also be licensed by the Commissioner of Mental Health, Mental Retardation and*  
74 *Substance Abuse Services.*

75 B. The licenses shall be issued on forms prescribed by the Commissioner. Any two or more licenses  
76 may be issued for concurrent operation of more than one adult care residence. Each license and renewals  
77 thereof may be issued for periods of up to three successive years, unless sooner revoked or surrendered.

78 C. Each license shall indicate whether the residence is licensed to provide residential living or  
79 residential living and assisted living and shall stipulate the maximum number of persons who may be  
80 cared for in the adult care residence for which it is issued.

81 D. Any facility licensed exclusively as an adult care residence shall not use in its title the words  
82 "convalescent," "health," "hospital," "nursing," "sanatorium," or "sanitarium," nor shall such words be  
83 used to describe the facility in brochures, advertising, or other marketing material. Nothing in this  
84 subsection shall prohibit the facility from describing services available in the facility.

85 § 63.1-178.1. Interagency agreements; cooperation of Department with other departments.

86 A. The Department of Social Services is authorized to enter into interagency agreements with other  
87 state agencies to develop and implement regulations for residential living and assisted living. Any state  
88 agency identified by the Department as appropriate to include in an interagency agreement shall  
89 participate in the development and implementation of the agreement. The Department shall assist and  
90 cooperate with other state departments in fulfilling their respective inspection responsibilities and in  
91 coordinating the regulations involving inspections. The State Board may promulgate regulations allowing  
92 the Department to so assist and cooperate with other state departments.

93 *B. The Department of Social Services and the Department of Mental Health, Mental Retardation and*  
94 *Substance Abuse Services shall develop an interagency agreement governing all aspects of the joint*  
95 *licensure of adult care residences that serve adults with mental disabilities. The agreement shall address*  
96 *the application for and issuance of licenses, admission and discharge of residents, assessment of the*  
97 *needs of residents, inspections and interviews, enforcement and sanctions, appeals, enjoining operation,*  
98 *and any other matters that are necessary to the joint licensure process.*