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SENATE BILL NO. 840

Offered January 19, 1995

A BILL to amend and reenact §§ 63.1-25.1, 63.1-173.3, 63.1-174 and 63.1-174.001 of the Code of Virginia, relating to adult care residences.

Patrons—Wampler; Delegate: Johnson

Referred to the Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.1-25.1, 63.1-173.3, 63.1-174 and 63.1-174.001 of the Code of Virginia are amended and reenacted as follows:

§ 63.1-25.1. Auxiliary grants program; repeal of provisions relating to old age assistance and aid to the permanently and totally disabled; administration of program.

A. The State Board of Social Services is authorized to prepare and implement, effective with repeal of Titles I, X, and XIV of the Social Security Act, a plan for a state and local funded auxiliary grants program to provide assistance to certain individuals ineligible for benefits under Title XVI of the Social Security Act and to certain other individuals for whom benefits provided under Title XVI of the Social Security Act are not sufficient to maintain the minimum standards of need established by the Board. The plan shall be in effect in all political subdivisions in the Commonwealth and shall be administered in conformity with rules and regulations of the Board.

Insofar as any provisions of this title relate to assistance and payments under old age assistance or aid to the permanently and totally disabled, they are repealed, effective January 1, 1974. Nothing herein is to be construed to affect any such section as it relates to aid to families with dependent children, general relief or services to persons eligible for assistance under Public Law 92-603 enacted by the Ninety-second United States Congress.

B. Those individuals who receive an auxiliary grant, as provided for in subsection A of this section, who reside in licensed adult care residences or adult family care homes shall be entitled to a personal needs allowance when computing the amount of the auxiliary grant. The amount of such personal needs allowance shall be at least thirty dollars per month.

C. The Board shall promulgate regulations for the administration of the auxiliary grants program which shall include requirements for the Department of Social Services to use in establishing auxiliary grant rates for licensed adult care residences and adult family care homes. At a minimum these requirements shall address (i) the process for the residences and homes to use in reporting their costs, including allowable costs and resident charges, the time period for reporting costs, forms to be used, financial reviews and audits of reported costs; (ii) the process to be used in calculating the auxiliary grant rates for the residences and homes; and (iii) the services to be provided to the auxiliary grant recipient and paid for by the auxiliary grant and not charged to the recipient's personal needs allowance.

D. In order to receive an auxiliary grant while residing in an adult care residence an individual shall have been evaluated by a case manager using the uniform assessment instrument as provided in § 63.1-173.3 to determine his need for residential care. An individual may be admitted to an adult care residence pending evaluation and assessment as allowed by Board regulations, but in no event shall any public agency incur a financial obligation if the individual is determined ineligible for an auxiliary grant. For purposes of this section, "case manager" means an employee of a human services agency who is qualified and designated to develop and coordinate plans of care. The Board shall promulgate regulations to implement the provisions of this subsection.

§ 63.1-173.3. Uniform assessment instrument.

A uniform assessment instrument setting forth a resident's care needs shall be completed for all residents upon admission and at subsequent intervals as determined by State Board regulation. ~~The For public pay residents, the uniform assessment instrument shall be completed by an independent private physician who is chosen by the resident and who has no financial interest in the adult care residence, directly or indirectly as an owner, officer, employee, or otherwise. If the public pay resident does not designate such an independent private physician, then the uniform assessment instrument shall be completed by the resident's case manager and other appropriate persons shall complete the uniform assessment instrument for public pay residents or, upon request by the private pay resident, for private pay residents.~~ Unless a private pay resident requests the uniform assessment instrument be completed by a case manager, an independent private physician who is chosen by the resident and who has no financial interest in the adult care residence, directly or indirectly as an owner, officer, employee, or otherwise, shall complete the uniform assessment instrument for private pay residents; however, for

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private pay residents, social and financial information which is not relevant because of the resident's payment status shall not be required. Upon receiving the uniform assessment instrument for a resident, the adult care residence administrator shall provide written assurance that the residence has the capacity to meet the care needs of the resident.

§ 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.

B. Regulations shall include ~~standards for staffing~~ *a requirement that the adult care residence provide adequate staff to meet the needs of the residents in such adult care residence*; 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 with these regulations shall be determined by Department of Health or Department of Social Services inspectors as provided by an interagency agreement between the Department of Social Services and the Department of Health.

§ 63.1-174.001. Admissions and discharge.

A. The Board shall promulgate regulations:

1. Governing admissions to adult care residences.

2. Establishing a process to ensure that residents admitted or retained in an adult care residence receive the appropriate services and that, in order to determine whether a resident's needs can continue to be met by the residence and whether continued placement in the residence is in the best interests of the resident, each resident receives periodic independent reassessments and reassessments in the event of significant deterioration of the resident's condition.

3. Governing appropriate discharge planning for residents whose care needs can no longer be met by the residence.

4. Addressing the involuntary discharge of residents.

5. Requiring that residents are informed of their rights pursuant to § 63.1-182.1 at the time of admission.

B. Adult care residences shall not care for individuals with any of the following conditions or care needs:

1. Ventilator dependency.

2. Dermal ulcers III and IV.

3. Intravenous therapy or injections directly into the vein.

4. Airborne infectious disease in a communicable state.

5. Psychotropic medications without appropriate diagnosis and treatment plans.

6. Nasogastric tubes/gastric tubes.

7. Individuals presenting an imminent physical threat or danger to self or others.

8. Individuals requiring continuous nursing care (seven-days-a-week, twenty-four-hours-a-day).

9. Individuals whose physician certifies that placement is no longer appropriate.

10. Individuals who require maximum physical assistance as documented by the uniform assessment instrument.

11. Individuals whose health care needs cannot be met in the specific adult care residence.

12. Such other medical and functional care needs of residents which the Board determines cannot properly be met in an adult care residence.

At the request of a resident, an adult care residence may provide care for residents with any of the foregoing conditions or care needs listed in this subsection by contracting with a health care professional or home care organization as defined in § 32.1-162.7.

C. In promulgating regulations pursuant to subsections A and B above, the Board shall consult with the Departments of Health and Mental Health, Mental Retardation and Substance Abuse Services.