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STATE HOUSE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



ENROLLED

House Bill No. 4460

(By Delegates Marshall, Houston,
Fleischauer and Warner)



Passed March 11, 2000

In Effect Ninety Days from Passage

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H. B. 4460

(BY DELEGATES MARSHALL, HOUSTON,
FLEISCHAUER AND WARNER)

[Passed March 11, 2000; in effect ninety days from passage.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five-r, relating to the "Alzheimer's special care standards act"; legislative findings and declarations; defining terms; requiring written disclosure of care or treatment of alzheimer residents; authorizing the secretary of health and human resources to propose legislative rules designed to set minimum standards of care and treatment of alzheimer patients; and authorizing the secretary to enforce the standards, investigate facilities and issue warnings and other penalties.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article five-r, to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 5R. THE ALZHEIMER'S SPECIAL CARE STANDARDS ACT.

§16-5R-1. Name of act.

1 This act shall be known and may be cited as the “Alzhei-
2 mer’s Special Care Standards Act.”

§16-5R-2. Findings and declarations.

1 The Legislature finds and declares that:

2 (a) Certain nursing homes and related facilities, adult
3 congregate living facilities, adult day care centers, hospices and
4 adult foster homes claim to provide special care units and
5 services for persons who have alzheimer’s disease;

6 (b) It is in the public interest to provide for the protection
7 of consumers by ensuring the accuracy and authenticity of such
8 claims; and

9 (c) The provisions of this article are intended to require the
10 facilities to actually provide the care they claim to offer, require
11 written disclosure of special services provided, require the
12 appropriate state licensing agency to examine the performance
13 of such facilities in providing special services for persons who
14 have alzheimer’s disease, and provide penalties for failure to
15 provide the services claimed as the agency considers appropri-
16 ate.

§16-5R-3. Definition of alzheimer’s special care unit/program.

1 For the purposes of this article, the following definitions
2 apply:

3 (a) “Alzheimer’s disease” means a diagnosis of presenile
4 dementia or senile dementia-Alzheimer type (SDAT), charac-
5 terized by confusion, memory failure, disorientation, restless-
6 ness, agnosia, speech disturbances, inability to carry out
7 purposeful movements and hallucinosis.

8 (b) “Alzheimer’s Special Care Unit or Program,” means
9 any facility that secures, segregates or provides a special

10 program or special unit for residents with a diagnosis of
11 probable alzheimer's disease or a related disorder and that
12 advertises, markets or otherwise promotes the facility as
13 providing specialized alzheimer's or dementia care services.

14 (c) "Department" means the department of health and
15 human resources.

16 (d) "Facility" means any nursing home or facility, residen-
17 tial board and care home, personal care home, assisted living
18 facility, adult congregate living facility, home health agency,
19 adult day care center, hospice or adult foster home situate or
20 operating in this state.

21 (e) "Resident" means an individual living in a facility that
22 offers an alzheimer's special care unit or program.

23 (f) "Secretary" means the secretary of the department of
24 health and human resources.

§16-5R-4. Alzheimer's special care disclosure required.

1 (a) Any facility which offers to provide or provides care for
2 a person with alzheimer's disease through an alzheimer's
3 special care unit or special care program shall disclose in
4 writing the form of care or treatment that distinguishes the unit
5 or program as being especially applicable to or suitable for such
6 persons. The disclosure shall be provided to the department of
7 health and human resources, to any person seeking placement
8 within an alzheimer's special care unit or program, and to any
9 legal guardian or relative acting on behalf of a resident or
10 person seeking placement.

11 (b) The department of health and human resources shall
12 examine all disclosures provided to it as part of the facility's
13 license renewal procedure and verify the accuracy of the
14 disclosures.

15 (c) The disclosure required by this section shall include the
16 following information:

17 (1) A statement of the overall treatment philosophy and
18 mission of the special care unit or program which reflects the
19 needs of residents afflicted with alzheimer's disease or demen-
20 tia;

21 (2) A description of the facility's screening, admission and
22 discharge procedures, assessment, care planning and implemen-
23 tation, staffing patterns and training ratios unique to the
24 program or unit;

25 (3) A description of the physical environment and design
26 features and an explanation of how they are appropriate to
27 support the functioning of cognitively impaired adult residents;

28 (4) A description of activities available to residents, the
29 frequency and types of resident activities, and how they are
30 specialized for residents who suffer from alzheimer's disease;

31 (5) A statement that describes the involvement of families
32 in the care of residents and the availability of family support
33 programs;

34 (6) The costs of care and any additional fees unique to the
35 alzheimer's special care unit or program.

§16-5R-5. Standards for care; rules.

1 (a) The secretary shall propose rules for legislative approval
2 in accordance with the provisions of article three, chapter
3 twenty-nine-a of this code, setting minimum standards for the
4 care and treatment of persons with alzheimer's disease and
5 other dementia in facilities offering alzheimer's special care
6 units or programs.

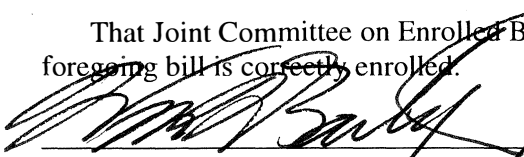
7 (b) The standards established pursuant to this section shall
8 apply to all facilities offering alzheimer's special care units or


9 program and shall be in addition to any other statutory require-
10 ments, rules or standards that are applicable to the facility.

11 (c) The secretary shall enforce the rules and standards for
12 alzheimer's special care units or programs and shall exercise all
13 powers necessary for such enforcement, including investigation
14 and reporting of violation of the rules, issuance of notices or
15 warnings to facilities found in violation of the standards,
16 assessment of civil penalties in accordance with the applicable
17 licensing provisions of the facility, and suspension or revoca-
18 tion of licenses.

19 (d) If a facility advertising, marketing or otherwise promot-
20 ing the facility as providing specialized alzheimer or dementia
21 care services does not meet the standards established by the
22 secretary, the department shall instruct the facility to cease such
23 advertising, marketing or promoting.

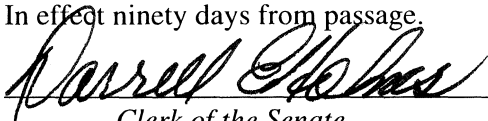
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

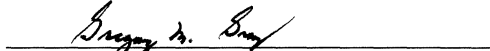

Chairman Senate Committee

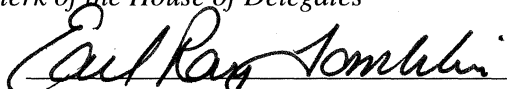

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

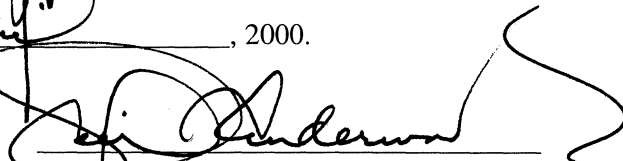

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 4th
day of April, 2000.


Governor

PRESENTED TO THE

GOVERNOR

Date

3/29/00

Time

3:10 pm