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
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.
This act shall be known and may be cited as the “Alzheimer’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 congregate living facilities, adult day care centers, hospices and adult foster homes claim to provide special care units and services for persons who have alzheimer’s disease;

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

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

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

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

2 (a) “Alzheimer’s disease” means a diagnosis of presenile dementia or senile dementia-Alzheimer type (SDAT), characterized by confusion, memory failure, disorientation, restlessness, agnosia, speech disturbances, inability to carry out purposeful movements and hallucinosis.

3 (b) “Alzheimer’s Special Care Unit or Program,” means any facility that secures, segregates or provides a special
program or special unit for residents with a diagnosis of probable alzheimer’s disease or a related disorder and that advertises, markets or otherwise promotes the facility as providing specialized alzheimer’s or dementia care services.

(c) “Department” means the department of health and human resources.

(d) “Facility” means any nursing home or facility, residential board and care home, personal care home, assisted living facility, adult congregate living facility, home health agency, adult day care center, hospice or adult foster home situate or operating in this state.

(e) “Resident” means an individual living in a facility that offers an alzheimer’s special care unit or program.

(f) “Secretary” means the secretary of the department of health and human resources.

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

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

(b) The department of health and human resources shall examine all disclosures provided to it as part of the facility’s license renewal procedure and verify the accuracy of the disclosures.
(c) The disclosure required by this section shall include the following information:

(1) A statement of the overall treatment philosophy and mission of the special care unit or program which reflects the needs of residents afflicted with alzheimer’s disease or dementia;

(2) A description of the facility’s screening, admission and discharge procedures, assessment, care planning and implementation, staffing patterns and training ratios unique to the program or unit;

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

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

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

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

§16-5R-5. Standards for care; rules.

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

(b) The standards established pursuant to this section shall apply to all facilities offering alzheimer’s special care units or
program and shall be in addition to any other statutory requirements, rules or standards that are applicable to the facility.

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

(d) If a facility advertising, marketing or otherwise promoting the facility as providing specialized alzheimer or dementia care services does not meet the standards established by the secretary, the department shall instruct the facility to cease such 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