

LC01736/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2002

A N A C T

RELATING TO ASSISTED LIVING

Introduced By: Representatives Ginaitt, Anguilla, D Cicilline, and Long

Date Introduced: February 05, 2002

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-17.4-2, 23-17.4-3, 23-17.4-4, 23-17.4-5, 23-17.4-6, 23-17.4-10,  
2 23-17.4-11, 23-17.4-15.2, 23-17.4-15.3, 23-17.4-16, 23-17.4-16.1, 23-17.4-16.2, 23-17.4-16.3  
3 and 23-17.4-27 of the General Laws in Chapter 23-17.4 entitled "Assisted Living Residence  
4 Licensing Act" are hereby amended to read as follows:

5 **23-17.4-2. Definitions.** -- As used in this chapter:

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

8 ~~(1)~~ (2) "Administrator" means any person who has responsibility for day to day  
9 administration or operation of an assisted living residence.

10 ~~(2)~~ (3) "Alzheimer's dementia special care unit or program" means a distinct living  
11 environment within an assisted living residence that has been physically adapted to accommodate  
12 the particular needs and behaviors of those with dementia. The unit provides increased staffing,  
13 therapeutic activities designed specifically for those with dementia and trains its staff on an  
14 ongoing basis on the effective management of the physical and behavioral problems of those with  
15 dementia. The residents of the unit or program have had a standard medical diagnostic evaluation  
16 and have been determined to have a diagnosis of Alzheimer's dementia or another dementia.

17 ~~(3)~~ (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  
19 the resident's changing needs and preferences, lodging, and meals to two (2) or more adults who

1 are unrelated to the licensee or administrator, excluding however, any privately operated  
2 establishment or facility licensed pursuant to chapter 17 of this title, and those facilities licensed  
3 by or under the jurisdiction of the department of mental health, retardation, and hospitals, the  
4 department of children, youth, and families, or any other state agency. The department shall  
5 develop levels of licensure for assisted living residences within this definition as provided in  
6 section 23-17.4-6. Assisted living residences include sheltered care homes, and board and care  
7 residences or any other entity by any other name providing the services listed in this subdivision  
8 which meet the definition of assisted living residences.

9 (4) (5) "Capable of self-preservation" means the physical mobility and judgmental ability  
10 of the individual to take appropriate action in emergency situations. Residents not capable of self-  
11 preservation are limited to facilities that meet more stringent life safety code requirements as  
12 provided under section 23-17.4-6(b)(3).

13 (5) (6) "Director" means the director of the Rhode Island department of health.

14 (6) (7) "Licensing agency" means the Rhode Island department of health.

15 (7) (8) "Personal assistance" means the provision of ~~twenty-four (24) hour adult staffing~~  
16 ~~of the home, and~~ of one or more of the following services, as required by the resident or as  
17 reasonably requested by the resident, on a scheduled or unscheduled basis, including:

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

25 (9) "Resident" means an individual ~~who is an adult~~, not requiring medical or nursing care  
26 as provided in a health care facility but ~~may require the administration of medication and~~ who as  
27 a result of choice and/or age, and/or physical or mental limitation requires personal assistance,  
28 lodging and meals and may require the administration of medication. A resident must be capable  
29 of self-preservation in emergency situations, unless the facility meets a more stringent life safety  
30 code as required under section 23-17.4-6(b)(3). Persons needing medical or skilled nursing care,  
31 including daily professional observation and evaluation, as provided in a health care facility,  
32 and/or persons who are bedbound or in need of the assistance of more than one (1) person for  
33 ambulation are not appropriate to reside in assisted living residences. However, an established  
34 resident may receive daily skilled nursing care or therapy from a licensed health care provider for

1 a condition that results from a temporary illness or injury for up to twenty-one (21) days subject  
2 to an extension of additional days as approved by the department, or if the resident is under the  
3 care of a licensed hospice agency provided the assisted living residence assumes responsibility  
4 for ensuring that such care is received. For purposes of this statute, "resident" shall also mean the  
5 resident's agent as designated in writing or legal guardian.

6 **23-17.4-3. Purpose of provisions.** -- The purpose of this chapter is to provide for the  
7 development, establishment, and enforcement of standards:

8 (1) For the care of residents in an assisted living residence; ~~for adults; and~~

9 (2) For the maintenance and operation of assisted living residences ~~for adults,~~ which  
10 will: ~~promote a safe and protective environment for individuals living in those residences.~~

11 (i) Promote the dignity, individuality, independence, privacy, and autonomy of residents;

12 (ii) Provide a safe and home-like environment;

13 (iii) Protect the safety, health and welfare of residents;

14 (3) For the encouragement of quality of life for all residents; and

15 (4) For the encouragement of quality in all aspects of the operations of assisted living  
16 residences.

17 **23-17.4-4. License required for assisted living residence operation.** -- (a) No person,  
18 acting severally or jointly with any other person, shall establish, conduct, or maintain an assisted  
19 living residence in this state without a license under this chapter.

20 (b) No person, acting severally or jointly with any other person, shall admit or retain a  
21 resident in an assisted living residence which residence (1) does not meet the definition and  
22 requirements of this act; or (2) is not able to provide the services needed by a resident as agreed  
23 to in the service plan required under section 23-17.4-15.6.

24 **23-17.4-5. Application for license.** -- An application for a license shall be made to the  
25 licensing agency upon forms provided by it and shall contain any information that the licensing  
26 agency reasonably requires, which may include affirmative evidence of ability to comply with  
27 reasonable standards, rules, and regulations as are lawfully prescribed under this chapter. The  
28 licensing agency shall require criminal background checks on owners and operators of licensed  
29 assisted living residences.

30 **23-17.4-6. Issuance of license -- Posting -- Transfer.** -- (a) Issuance of license. - Upon  
31 receipt of an application for a license, the licensing agency shall issue a license if the applicant  
32 and ~~residential care facility~~ assisted living residence meet the requirements established under this  
33 chapter; the director ~~may~~ shall establish levels of licensure as provided in subsections (b) and (c)  
34 below and any rules and regulations as may be established in accordance ~~with this chapter~~

1 herewith. A license issued under this chapter shall be the property of the state and loaned to the  
2 licensee, and it shall be kept posted in a conspicuous place on the licensed premises. Each license  
3 shall be issued only for the premises and persons named in the application, and shall not be  
4 transferable or assignable except with the written approval of the licensing agency.

5 (b) Fire code and structural requirements.

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

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

14 (3) A ~~facility~~ residence that elects to comply with a higher life safety code and is so  
15 approved by the state division of fire safety and meets the departments requirements for the  
16 appropriate level of licensure may admit residents not capable of self preservation.

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

20 (3) “Medication administration” when one (1) or more resident requires medication  
21 administration by appropriately qualified staff as determined by the department.

22 (a) "Dementia care" licensure shall be required when one (1) or more resident's dementia  
23 symptoms impact their ability to function as demonstrated by any of the following:

24 (i) safety concerns due to elopement risk or other behaviors;

25 (ii) inappropriate social behaviors that adversely impact the rights of others;

26 (iii) inability to self preserve due to dementia;

27 (iv) a physician's recommendation that the resident needs dementia support consistent  
28 with this level; or if the residence advertises or represents special dementia services or if the  
29 residence segregates residents with dementia. In addition to the requirements for the basic  
30 license, licensing requirements for the "dementia care" level shall include the following:

31 (A) staff training and/or requirements specific to dementia care as determined by the  
32 department;

33 (B) a registered nurse on staff and available for consultation at all times;

34 (C) the residence shall provide for a secure environment appropriate for the resident

1 population.

2 (b) "Medication administration" when one (1) or more residents requires medication  
3 administration by appropriately qualified staff as determined by the department.

4 **23-17.4-10. Regulations, inspections, and investigations.** -- (a) The licensing agency  
5 shall after public hearing pursuant to reasonable notice, adopt, amend, promulgate, and enforce  
6 any rules, regulations, and standards with respect to assisted living residences for adults licensed  
7 under this chapter as may be designed to further the accomplishment of the purposes of this  
8 chapter in promoting safe and adequate living environments for individuals in assisted living  
9 residences in the interest of public safety and welfare. These regulations may provide for the  
10 establishment of levels of service provided by the ~~facility.~~ residence.

11 (b) The licensing agency shall make or cause to be made any inspections and  
12 investigations that it deems necessary by duly authorized agents of the director at any time and  
13 frequency determined by the licensing agency.

14 (c) Upon request of the licensing agency, health agencies and professionals may share  
15 resident health status information with the department of health for the purpose of determining  
16 each resident's capability of self preservation.

17 ~~**23-17.4-11. Accessibility to residential care and assisted living facilities and**~~  
18 ~~**residents.**~~ **Accessibility to assisted living residences and residents.** -- Access to an assisted  
19 living residences for adults and its residents by individuals other than relatives and friends of the  
20 residents shall be permitted at reasonable hours by duly authorized agents of state and municipal  
21 agencies other than the licensing agency and the division of fire safety, private or public  
22 institutions, organizations, associations, or any other service agencies whose purpose includes  
23 discharging legally authorized responsibilities or rendering volunteer assistance or service to  
24 residents with respect to personal, social, legal, religious services, or such other as civil and  
25 human rights. Access shall not substantially disrupt the operation of the facility. Anyone entering  
26 the facility shall produce appropriate identification prior to being granted permission to enter the  
27 premises. Entering a resident's room and visitation privileges with residents by these persons shall  
28 be subject to the provisions of section 23-17.4-16 and the rules and regulations promulgated  
29 pursuant to this chapter.

30 ~~**23-17.4-15.2. Qualifications of a certified administrator.**~~ **Administrator**  
31 **requirements.** -- (a) ~~The department of health shall certify a person to be an administrator of an~~  
32 ~~assisted living residence if the person meets the following minimum qualifications:~~

33 ~~(1) Twenty one (21) years of age or older;~~

34 ~~(2) Good moral and responsible character and reputation;~~

1 ~~(3) Literacy in English as defined by regulations promulgated by the department of~~  
2 ~~health;~~

3 ~~(4) Management or administrative ability to carry out the requirements of this chapter;~~  
4 ~~and~~

5 ~~(5) (i) Certification as an assisted living residence administrator or equivalent training;~~

6 ~~(ii) The certification or training, as defined by regulations promulgated by the~~  
7 ~~department of health, shall include training in at least the following areas:~~

8 ~~(A) Resident care plan;~~

9 ~~(B) Characteristics of resident disabilities;~~

10 ~~(C) Resident health issues;~~

11 ~~(D) Community resources;~~

12 ~~(E) Social and recreational activities;~~

13 ~~(F) Nutrition and food service;~~

14 ~~(G) First aid;~~

15 ~~(H) Medication;~~

16 ~~(I) Business administration;~~

17 ~~(J) Maintenance and housekeeping;~~

18 ~~(K) Residents' rights;~~

19 ~~(L) State and federal regulations;~~

20 ~~(M) Staff management and training;~~

21 ~~(N) Mandatory continuing education.~~

22 ~~(b) The department may suspend or revoke the certification of an administrator for~~  
23 ~~cause, including but not limited to failure to maintain compliance with the qualifications stated in~~  
24 ~~this section, repeated or intentional violations of this chapter or regulations, or conviction~~  
25 ~~(including but not limited to a plea of nolo contendere) to charges of resident abuse under the~~  
26 ~~provisions of chapter 17.8 of this title, or a conviction of a felony, or exploitation.~~

27 (a) Each assisted living residence shall have an administrator who is certified by the  
28 department in accordance with regulations established pursuant to section 23-17.4-21.1, in charge  
29 of the maintenance and operation of the residence and the services to the residents. The  
30 administrator is responsible for the safe and proper operation of the residence at all times by  
31 competent and appropriate employee(s).

32 (b) The licensing agency shall perform a criminal background records check on any  
33 person applying or reapplying for certification as an administrator. If disqualifying information is  
34 found, the licensing agency shall make a judgment regarding certification for that person.

1           ~~(b)~~(c) The department may suspend or revoke the certification of an administrator for  
2 cause, including but not limited to failure to maintain compliance with the qualifications stated in  
3 this section, repeated or intentional visitations of this chapter or regulations, or conviction  
4 (including but not limited to a plea of non contendere) to charges of resident abuse under the  
5 provisions of chapter 17-8 of this title, or a conviction of a felony, or exploitation.

6           **23-17.4-15.3. Resident records.** -- Each ~~facility~~ residence shall at a minimum maintain  
7 the following information for each resident:

- 8           (1) The resident's name;
- 9           (2) The resident's last address;
- 10          (3) The name of the person or agency referring the resident to the home;
- 11          (4) The name, specialty (if any), telephone number, and emergency telephone number of  
12 each physician who has treated the resident during the preceding twelve (12) months;
- 13          (5) The date the resident began residing in the home;
- 14          (6) A list of medications taken by the resident including the dosage;
- 15          (7) Written acknowledgements that the resident has received copies of the rights as  
16 provided in section 23-17.4-16;
- 17          (8) A record of personal property and funds that the resident has entrusted to the facility;
- 18          (9) Information about any specific health problems of the resident that may be useful in a  
19 medical emergency;
- 20          (10) The name, address, and telephone number of a person identified by the resident who  
21 should be contacted in the event of an emergency or death of the resident;
- 22          (11) Any other health-related emergency, or pertinent information which the resident  
23 requests the ~~home~~ residence to keep on record; ~~and~~
- 24          (12) Specific records of medication administration as required by the licensing agency-  
25 ;and
- 26          (13) Copies of the resident agreement, initial and periodic assessments and service  
27 plan(s).

28           **23-17.4-16. Rights of residents.** -- (a) Every assisted living residence for adults licensed  
29 under this chapter shall observe the following standards and any other appropriate standards as  
30 may be prescribed in rules and regulations promulgated by the licensing agency with respect to  
31 each resident of the ~~facility~~ residence:

- 32           (1) Residents are entitled to all rights recognized by state and federal law with respect to  
33 discrimination, service decisions (including the right to refuse services), freedom from abuse and  
34 neglect, privacy, association, and other areas of fundamental rights including the right to freedom

1 of religious practice. Some of these basic rights include:

2 (i) To be offered ~~care~~ services without discrimination as to sex, race, color, religion,  
3 national origin, or source of payment;

4 (ii) To be free from verbal, sexual, physical, emotional, and mental abuse, corporal  
5 punishment, and involuntary seclusion;

6 (iii) To be free from physical or chemical restraints for the purpose of discipline or  
7 convenience and not required to treat the resident's medical symptoms. No chemical or physical  
8 restraints will be used except on order of a physician;

9 (iv) To have their medical information protected by applicable state confidentiality laws;

10 (v) To have a service animal, consistent with the "reasonable accommodations" clause of  
11 the Fair Housing Act, 42 U.S.C. section 3601 et seq. (such as a seeing eye dog); and

12 (2) In addition to these basic rights enjoyed by other adults, the residents of assisted  
13 living also have the right to:

14 (i) Be treated as individuals and with dignity, and be assured choice and privacy and the  
15 opportunity to act autonomously;

16 (ii) Upon request have access to all records pertaining to the resident, including clinical  
17 records, within the next business day or immediately in emergency situations;

18 (iii) Arrange for services not available through the setting at their own expense as long as  
19 the resident remains in compliance with the resident contract and applicable state law and  
20 regulations;

21 (iv) Upon admission and during the resident's stay be fully informed in a language the  
22 resident understands of all resident rights and rules governing resident conduct and  
23 responsibilities. Each resident shall:

24 (A) Receive a copy of their rights;

25 (B) Acknowledge receipt in writing; and

26 (C) Be informed promptly of any changes;

27 (v) Remain in their room or apartment unless a change in room or apartment is related to  
28 resident preference or to transfer conditions stipulated in their contract;

29 (vi) Consistent with the terms of the resident contract, furnish their own rooms and  
30 maintain personal clothing and possessions as space permits, consistent with applicable life  
31 safety, fire, or similar laws, regulations, and ordinances;

32 (vii) Be encouraged and assisted to exercise rights as a citizen; to voice grievances  
33 through a documented grievance mechanism and suggest changes in policies and services to  
34 either staff or outside representatives without fear of restraint, interference, coercion,



1 discrimination, or reprisal;

2 (viii) Have visitors of their choice without restrictions so long as those visitors do not  
3 pose a health or safety risk to other residents, staff, or visitors, or a risk to property, and comply  
4 with reasonable hours and security procedures;

5 (ix) Have personal privacy in their medical treatment, written communications and  
6 telephone communications, and, to the fullest extent possible, in accommodation, personal care,  
7 visits, and meetings;

8 (x) Have prominently displayed a posting of the facility's grievance procedure, the  
9 names, addresses, and telephone numbers of all pertinent resident advocacy groups, the state  
10 ombudsperson, and the state licensing agency;

11 (xi) Choose his or her own physician(s) and have ready access to the name, specialty,  
12 and way of contacting the physician(s) responsible for the resident's care;

13 (xii) Have the facility residence record and periodically update the address and telephone  
14 number of the resident's legal representative or responsible party;

15 (xiii) Manage his or her financial affairs. The facility residence may not require residents  
16 to deposit their personal funds with the facility residence. Upon written authorization of a resident  
17 and with the agreement of the facility residence, the facility residence holds, safeguards,  
18 manages, and accounts for personal funds of the resident as follows:

19 (A) Funds in excess of three hundred dollars (\$300) must be in an interest bearing  
20 account, separate from any facility residence operating account that credits all interest on the  
21 resident's funds to that account and the facility residence shall purchase a surety bond on this  
22 account;

23 (B) A full and separate accounting of each resident's personal funds maintained must be  
24 available through quarterly statements and on request of the resident;

25 (C) Resident funds shall not be commingled with facility residence funds or with funds  
26 of any person other than another resident;

27 (D) Upon the death of a resident, the facility residence must convey within thirty (30)  
28 days the resident's funds deposited with the facility residence and a full accounting of those funds  
29 to the resident's responsible party or the administrator of the resident's estate;

30 (xiv) Have access to representatives of the state ombudsperson and to allow the  
31 ombudsperson to examine a resident's records with the permission of the resident and consistent  
32 with state law;

33 (xv) Be informed, in writing, prior to or at the time of admission or at the signing of a  
34 residential contract or agreement of:

1 (A) The scope of the services available through the ~~facilities~~ residence service program,  
2 including health services, and of all related fees and charges, including charges not covered either  
3 under federal and/or state programs or by other third party payors or by the ~~facility's~~ residence's  
4 basic rate;

5 (B) The ~~facility's~~ residence's policies regarding overdue payment including notice  
6 provisions and a schedule for late fee charges;

7 (C) The ~~facility's~~ residence's policy regarding acceptance of state and federal  
8 government reimbursement for care in the facility both at time of admission and during the course  
9 of residency if the resident depletes his or her own private resources;

10 (D) The ~~facility's~~ residence's criteria for ~~admission~~, occupancy and ~~discharge~~ termination  
11 of residency agreements;

12 (E) The ~~facility's~~ residence's capacity to serve residents with physical and cognitive  
13 impairments;

14 (F) Support ~~and~~ any health services that the ~~facility~~ residence includes in its service  
15 package or will make appropriate arrangements to provide the services;

16 (xvi) To be encouraged to meet with and participate in activities of social, religious, and  
17 community groups at the resident's discretion;

18 (xvii) Upon provision of at least thirty (30) days notice, if a resident chooses to leave a  
19 ~~facility~~ residence, the resident shall be refunded any advanced payment made provided that the  
20 resident is current in all payments;

21 (xviii) To have the ~~facility~~ residence discharge a resident only for the following reasons  
22 and within the following guidelines:

23 (A) Except in life threatening emergencies and for nonpayment of fees and costs, the  
24 ~~facility~~ residence gives thirty (30) days' advance written notice of ~~discharge~~ termination of  
25 residency agreement with a statement containing the reason, the effective date of termination, and  
26 the resident's right to an appeal under state law;

27 (B) If the resident does not meet the requirements for residency criteria stated in the  
28 residency agreement or requirements of state or local laws or regulations;

29 (C) If the resident is a danger to himself or herself or the welfare of others and the  
30 ~~facility~~ residence has attempted to make a reasonable accommodation without success to address  
31 the resident's behavior in ways that would make ~~discharge~~ termination of residency agreement or  
32 change unnecessary, which would be documented in the resident's records;

33 (D) For failure to pay all fees and costs stated in the contract, resulting in bills more than  
34 thirty (30) days outstanding. A resident who has been given notice to vacate for nonpayment of

1 rent has the right to retain possession of the premises, up to any time prior to eviction from the  
2 premises, by tendering to the provider the entire amount of fees for services, rent, interest, and  
3 costs then due. The provider may impose reasonable late fees for overdue payment; provided that  
4 the resident has received due notice of those charges in accordance with the ~~facility's~~ residence's  
5 policies. Chronic and repeated failure to pay rent is a violation of the lease covenant. However the  
6 ~~facility~~ residence must make reasonable efforts to accommodate temporary financial hardship and  
7 provide information on government or private subsidies available that may be available to help  
8 with costs; and

9 (E) The ~~facility~~ residence makes a good faith effort to counsel the resident if the resident  
10 shows indications of no longer meeting residence criteria or if service with a termination notice is  
11 anticipated;

12 (ix) To have the ~~facility~~ residence provide for a safe and orderly ~~discharge~~ move out,  
13 including assistance with identifying a resource to help locate another setting, regardless of  
14 reason for move out;

15 (xx) To have the resident's responsible person and physician notified when there is:

16 (A) An accident involving the resident that results in injury and required physician  
17 intervention;

18 (B) A significant change in the resident's physical, mental, or psychosocial status or  
19 treatment;

20 (xxi) To be able to share a room or unit with a spouse or other consenting resident of the  
21 ~~facility~~ residence in accordance with terms of the resident contract;

22 (xxii) To live in a safe and clean environment;

23 (xxiii) To have and use his or her own possessions where reasonable and have an  
24 accessible lockable space provided for security of small personal valuables;

25 (xxiv) To receive a nourishing, palatable, well balanced diet that meets his or her daily  
26 nutritional and special medical dietary needs;

27 (xxv) To attain or maintain the highest practicable physical, mental, and psychosocial  
28 well being;

29 (xxvi) To be allowed to maintain an amount of money to cover reasonable monthly  
30 personal expenses, the amount of which shall be at least equal to that amount required for  
31 individuals on SSI as provided under section 40-6-27(a)(3); and

32 (xxvii) To have the ~~facility~~ residence implement written policies and procedures to  
33 ensure that all facility staff are aware of and protect the resident's rights contained in this section.

34 (b) For purposes of subdivisions (a)(2)(ii), (iv), (xi), (xiii), (xiv), (xvii), and (xviii)(A),

1 the term "resident" also means the resident's agent as designated in writing or legal guardian.

2 **23-17.4-16.1. Posting and providing a copy of rights of residents.** -- Each ~~facility~~  
3 residence shall provide each resident or his or her representative upon admission a copy of the  
4 provisions of section 23-17.4-16, "Rights of Residents", and shall display in a conspicuous place  
5 on the premises a copy of the "Rights of Residents".

6 **23-17.4-16.2. Special care unit disclosure by facilities.** -- **Special care unit disclosure**  
7 **by residences.** -- (a) Any assisted living residence which offers to provide or provides ~~care for~~  
8 ~~patients or~~ services to residents with Alzheimer's disease or other dementia by means of an  
9 Alzheimer's special care unit shall be required to disclose the ~~form of care or treatment~~ type of  
10 services provided, in addition to ~~that care and treatment~~ those services required by the rules and  
11 regulations for the licensing of assisted living residences. That disclosure shall be made to the  
12 licensing agency and to any person seeking placement in an Alzheimer's special care unit of an  
13 assisted living residence. The information disclosed shall explain that additional care is provided  
14 in each of the following areas:

15 (1) Philosophy. - The Alzheimer's special care unit's written statement of its overall  
16 philosophy and mission which reflects the needs of residents afflicted with dementia.

17 (2) ~~Pre-admission, admission, and discharge~~ Pre-occupancy, occupancy, and termination  
18 of residence. - The process and criteria for ~~placement~~ occupancy, transfer, or ~~discharge~~  
19 termination of residency from the unit.

20 (3) Assessment, ~~care~~ service planning, and implementation. - The process used for  
21 assessment and establishing the plan of ~~care~~ service and its implementation, including the method  
22 by which the plan of ~~care~~ service evolves and is responsive to changes in condition.

23 (4) Staffing patterns and training ratios. - Staff training and continuing education  
24 practices.

25 (5) Physical environment. - The physical environment and design features appropriate to  
26 support the functioning of cognitively impaired adult residents.

27 (6) Resident activities. - The frequency and types of resident activities.

28 (7) Family role in ~~care~~ providing support and services. - The involvement in families and  
29 family support programs.

30 (8) Program costs. - The cost of care and any additional fees.

31 (b) The licensing agency shall develop a standard disclosure form and shall review the  
32 information provided on the disclosure form by the residential care and assisted living facility to  
33 verify the accuracy of the information reported on it. Any significant changes in the information  
34 provided by the residential care and assisted living facility will be reported to the licensing

1 agency at the time the changes are made.

2 **23-17.4-16.3. Residency agreement or contract.** – (a) Prior to ~~or as part of the~~ exchange  
3 of any funds and prior to admission procedure, the facility residence shall execute a residency  
4 agreement or contract, signed by both the facility residence and the resident, that defines the  
5 services the facility residence will provide and the financial agreements between the facility  
6 residence and the resident or the residence's representative.

7 (b) The department shall establish regulations specifying the minimum provisions of  
8 residency agreements or contracts and a minimum prior notification time for changes in rates,  
9 fees, service charges or any other payments required by the residence.

10 (c) Any advanced deposit, application fee, or other pre-admission payment shall be  
11 subject to a signed document explaining fully the terms of the payment.

12 (d) In cases of emergency placement, the residency agreement or contract shall be  
13 executed within five (5) working days of admissions.

14 **23-17.4-27. Criminal records review.** -- (a) Any person seeking employment in any  
15 facility assisted living residence licensed under this act and having ~~which is or is required to be~~  
16 licensed or registered with the department of health, if that employment involves routine contact  
17 with a patient or resident or having access to a resident's belonging or funds without the presence  
18 of other employees, shall undergo a criminal background check to be ~~initiated~~ processed prior to  
19 or within one week of employment. All employees hired prior to the enactment of this section  
20 shall be exempted from the requirements of this section.

21 (b) The director of the department of health may by rule identify those positions  
22 requiring criminal background checks. The employee, through the employer, shall apply to the  
23 bureau of criminal identification of the state police or local police department for a statewide  
24 criminal records check. Fingerprinting shall not be required. Upon the discovery of any  
25 disqualifying information as defined in section 23-17.4-30 and in accordance with the rule  
26 promulgated by the director of health, the bureau of criminal identification of the state police or  
27 the local police department will inform the applicant in writing of the nature of the disqualifying  
28 information; and, without disclosing the nature of the disqualifying information, will notify the  
29 employer in writing that disqualifying information has been discovered.

30 (c) An employee against whom disqualifying information has been found may request  
31 that a copy of the criminal background report be sent to the employer. ~~who~~ The administrator  
32 shall make a judgment regarding the continued employment of the employee.

33 (d) In those situations in which no disqualifying information has been found, the bureau  
34 of criminal identification (BCI) of the state police or the local police shall inform the applicant

1 and the employer in writing of this fact.

2 (e) The employer shall maintain on file, subject to inspection by the department of  
3 health, evidence that criminal records checks have been initiated on all employees seeking  
4 employment after October 1, 1991, and the results of the checks. Failure to maintain that evidence  
5 would be grounds to revoke the license or registration of the employer.

6 (f) It shall be the responsibility of the bureau of criminal identification (BCI) of the state  
7 police or the local police department to conduct the criminal records check to the applicant for  
8 employment without charge to either the employee or employer.

9 SECTION 2. Sections 23-17.4-15.5, 23-17.4-21, 23-17.4-22, 23-17.4-23, 23-17.4-24, 23-  
10 17.4-25 and 23-17.4-26 of the General Laws in Chapter 23-17.4 entitled "Assisted Living  
11 Residence Licensing Act" are hereby repealed.

12 ~~**23-17.4-15.5. Initial evaluation and service plan.** --- (a) Prior to admission of a~~  
13 ~~prospective resident, an agent of the facility shall conduct an evaluation to determine the facility's~~  
14 ~~ability to meet the prospective resident's needs and preferences.~~

15 ~~(b) Within a reasonable time after admission to a facility, each resident shall have a~~  
16 ~~written service plan put in place based on an initial evaluation and periodic review of the~~  
17 ~~resident's health, physical, social, functional, activity and cognitive needs and preferences that is~~  
18 ~~developed with the input of the resident and their family and friends, if requested by the resident,~~  
19 ~~and signed by the resident and facility agent. The service plan shall: (1) include the identified~~  
20 ~~need for services and the type, frequency and duration of services or interventions to be provided,~~  
21 ~~arranged for, or coordinated by the facility and any responsibility for service arrangement and~~  
22 ~~management that will be the responsibility of the resident, and (2) be reviewed at least annually~~  
23 ~~or at any time that the resident's needs change substantially and revised as appropriate.~~

24 ~~**23-17.4-21. Permanent advisory commission.** --- There is established a permanent~~  
25 ~~advisory commission on residential and assisted living care. The purpose of the commission shall~~  
26 ~~be the coordination of policy for the state regarding laws, rules, and regulations governing the~~  
27 ~~care of residents in an assisted living residence, and the maintenance and operation of the assisted~~  
28 ~~living residences; to act as a grievance committee to which complaints may be made concerning~~  
29 ~~problems that transcend more than one state agency or department; and to provide a forum where~~  
30 ~~problems may be addressed relating to assisted living residences.~~

31 ~~**23-17.4-22. Membership of commission. [Effective until January 7, 2003.]** --- (a) The~~  
32 ~~permanent advisory commission on assisted living residences shall be composed of nineteen (19)~~  
33 ~~members as follows:~~

34 ~~(1) The director of the department of health or designee;~~

- 1       ~~(2) The director of the department of human services or designee;~~
- 2       ~~(3) The director of the department of mental health, retardation, and hospitals or~~
- 3       ~~designee;~~
- 4       ~~(4) The director of the department of elderly affairs or designee;~~
- 5       ~~(5) The state fire marshal or designee;~~
- 6       ~~(6) The attorney general or designee;~~
- 7       ~~(7) One public member to be appointed by the governor;~~
- 8       ~~(8) An advocate for developmentally disabled persons;~~
- 9       ~~(9) An advocate for mentally ill persons;~~
- 10      ~~(10) An advocate for physically disabled persons;~~
- 11      ~~(11) A representative of the Rhode Island Retired Teachers Association;~~
- 12      ~~(12) A representative of the Rhode Island chapter of the American Association of~~
- 13      ~~Retired Persons;~~
- 14      ~~(13) A state representative, to be appointed by the speaker of the house;~~
- 15      ~~(14) An administrator of a for profit licensed assisted living residence to be~~
- 16      ~~recommended by the Rhode Island Association of Residential Care Facilities;~~
- 17      ~~(15) An administrator of a licensed not for profit assisted living residence to be~~
- 18      ~~recommended by the Rhode Island Association of Facilities for the Aging;~~
- 19      ~~(16) Two (2) residents of licensed assisted living residences;~~
- 20      ~~(17) A state senator; and~~
- 21      ~~(18) An administrator of a multilevel facility that includes both residential care/assisted~~
- 22      ~~living and nursing care, to be appointed by the majority leader of the senate.~~
- 23      ~~(b) The commission shall annually elect one of its members as chair to preside over~~
- 24      ~~meetings of the commission.~~
- 25      ~~(c) The commission shall meet at the call of the speaker of the house of representatives.~~

26       ~~**23-17.4-22. Membership of commission. [Effective January 7, 2003.]**~~ (a) The

27       permanent advisory commission on assisted living residences shall be composed of nineteen (19)

28       members as follows:

- 29      ~~(1) The director of the department of health or designee;~~
- 30      ~~(2) The director of the department of human services or designee;~~
- 31      ~~(3) The director of the department of mental health, retardation, and hospitals or~~
- 32      ~~designee;~~
- 33      ~~(4) The director of the department of elderly affairs or designee;~~
- 34      ~~(5) The state fire marshal or designee;~~

- 1           ~~(6) The attorney general or designee;~~
- 2           ~~(7) One public member to be appointed by the governor;~~
- 3           ~~(8) An advocate for developmentally disabled persons;~~
- 4           ~~(9) An advocate for mentally ill persons;~~
- 5           ~~(10) An advocate for physically disabled persons;~~
- 6           ~~(11) A representative of the Rhode Island Retired Teachers Association;~~
- 7           ~~(12) A representative of the Rhode Island chapter of the American Association of~~  
8 ~~Retired Persons;~~
- 9           ~~(13) A state representative, to be appointed by the speaker of the house;~~
- 10          ~~(14) An administrator of a for profit licensed assisted living residence to be~~  
11 ~~recommended by the Rhode Island Association of Residential Care Facilities;~~
- 12          ~~(15) An administrator of a licensed not for profit assisted living residence to be~~  
13 ~~recommended by the Rhode Island Association of Facilities for the Aging;~~
- 14          ~~(16) Two (2) residents of licensed assisted living residences;~~
- 15          ~~(17) A state senator; and~~
- 16          ~~(18) An administrator of a multilevel facility that includes both residential care/assisted~~  
17 ~~living and nursing care, to be appointed by the president of the senate.~~
- 18          ~~(b) The commission shall annually elect one of its members as chair to preside over~~  
19 ~~meetings of the commission.~~
- 20          ~~(c) The commission shall meet at the call of the speaker of the house of representatives.~~
- 21          ~~**23-17.4-23. Length of term -- Compensation.** -- (a) Each member of the commission~~  
22 ~~appointed according to section 23-17.4-22 shall serve a term of two (2) years or until the time that~~  
23 ~~the member's successor is appointed and qualified.~~
- 24          ~~(b) The commission members shall serve without compensation.~~
- 25          ~~**23-17.4-24. Commission meetings public.** -- The meetings of the permanent advisory~~  
26 ~~commission on sheltered care, of which there shall be not less than three (3) annually, shall be~~  
27 ~~open to the public and the public shall be duly notified of the date, time, and location of each~~  
28 ~~meeting.~~
- 29          ~~**23-17.4-25. Recommendations of commission.** -- The commission on sheltered care~~  
30 ~~shall offer recommendations for the betterment of the sheltered care industry to the appropriate~~  
31 ~~state agencies and the general assembly whenever necessary.~~
- 32          ~~**23-17.4-26. Powers of commission cumulative.** -- The powers and authority of the~~  
33 ~~permanent advisory commission on sheltered care as stated in this chapter are in addition to and~~  
34 ~~not in lieu of the powers and authority of any other state agency, department, or division.~~



1 SECTION 3. Chapter 23-17.4 of the General Laws entitled "Assisted Living Residence  
2 Licensing Act" is hereby amended by adding thereto the following sections:

3 **23-17.4-10.1. Quality assurance.** – Each assisted living residence shall develop,  
4 implement and maintain a documented, ongoing quality assurance program.

5 **23-17.4-10.2. Penalty for violation of section 23-17.4-10.** – Every person or corporation  
6 who shall willfully and continually violate the provisions of this chapter will be subject to a fine  
7 of not less than three hundred dollars (\$300) or more than two thousand dollars (\$2,000) for each  
8 violation of this section.

9 **23-17.4-15.1.1. Administrator requirements.** – (a) Each assisted living residence shall  
10 have an administrator who is certified by the department in accordance with regulations  
11 established pursuant to section 23-17.4-21.1, in charge of the maintenance and operation of the  
12 residence and the services to the residents. The administrator is responsible for the safe and  
13 proper operation of the residence at all times by competent and appropriate employee(s).

14 (b) The licensing agency shall perform a criminal background records check on any  
15 person applying or reapplying for certification as an administrator. If disqualifying information is  
16 found, the licensing agency shall make a judgment regarding certification for that person.

17 **23-17.4-15.6. Assessments.** – (a) Prior to the admission of a resident, or the signing of a  
18 residency agreement with a resident, the administrator shall have a comprehensive assessment of  
19 the resident's health, physical, social, functional, activity, and cognitive needs and preferences  
20 conducted by a registered nurse. This assessment shall be used to determine if the resident's  
21 needs and preferences can be met by the assisted living residence and the conclusions shall be  
22 shared with the resident or the resident's representative. If a reasonable accommodation can  
23 enable a resident to live in an assisted living residence, the nature of that accommodation and a  
24 plan for implementation or reason for denial should be included in an assessment.

25 (b) The assessment shall be reviewed and updated on a periodic basis and each time a  
26 resident's condition changes significantly. In case of an emergency admission, the required  
27 assessment shall take place within five (5) working days.

28 **23-17.4-15.7. Service plans.** – Within a reasonable time after move-in, the administrator  
29 shall be responsible for the development of a written service plan based on the initial assessment.

30 The service plan shall include at least:

- 31 (1) the services and interventions needed;
- 32 (2) description, frequency and duration of the service or intervention; and
- 33 (3) party responsible for arranging the service.

34 The service plan shall be developed by a qualified person and shall be signed by both

1 parties. The service plan shall be reviewed by both parties periodically and each time a resident's  
2 condition changes significantly and all changes shall be acknowledged in writing by both parties.

3 **23-17.4-15.8. Staff.** – The administrator shall be responsible for ensuring sufficient and  
4 qualified staff to provide a safe and healthy environment and to provide the services specified on  
5 each resident's service plan. The department shall establish requirements for staff qualifications  
6 and training for each level of license. At least one (1) qualified staff person shall be on the  
7 premises at all times.

8 **23-17.4-15.9. Activities.** – The department shall establish requirements for recreational  
9 and other activities for each level of license.

10 **23-17.4-16.5. Disclosure.** – (a) Each assisted living residence shall disclose certain  
11 information about the residence to each potential resident, the resident's interested family, and the  
12 resident's agent as early as practical in the decision-making process and at least prior to the  
13 admission decision being made. The disclosed information shall be in print format and shall  
14 include at a minimum:

15 (1) Identification of the residence and its owner and operator;

16 (2) Level of license;

17 (3) Admission and discharge criteria;

18 (4) Services available;

19 (5) Financial terms to include all fees and deposits, including any first month rental  
20 arrangements, and the residence's policy regarding notification to tenants of increases in fees,  
21 rates, services and deposits;

22 (6) Terms of the residency agreement.

23 **23-17.4-21.1. Assisted living administrator certification board.** – (a) Within the  
24 department there is established an assisted living administrator certification board to be appointed  
25 by the director of health with the approval of the governor consisting of seven (7) members as  
26 follows: two (2) members of the board are persons with at least five (5) years experience in  
27 operating an assisted living residence; one (1) member of the board is an active assisted living  
28 administrator who is not an assisted living owner; two (2) members are persons representing  
29 assisted living consumers or family members; and two (2) members are representatives of the  
30 assisted living industry or are assisted living employees.

31 (b) Members shall be appointed to three (3) year terms. No member shall serve for more  
32 than two (2) terms. The director, with the approval of the governor, shall appoint all vacancies, as  
33 they occur for the remainder of a term or until a successor is appointed.

34 (c) The director may remove, after a hearing and with the approval of the governor, any

1 member of the board for neglect of any duty required by law or for any incompetency,  
2 unprofessional or dishonorable conduct. Before beginning a term, a member shall take an oath  
3 prescribed by law for state officers, a record of which shall be filed with the secretary of state.

4 (d) The director shall appoint a chairperson.

5 (e) Four (4) member of the board shall constitute a quorum.

6 (f) The board shall serve without compensation.

7 (g) Meetings of the board shall be called by the director or the director's designee, or a  
8 majority of the board members.

9 (h) The director shall provide for a staff person of the department to serve as an  
10 administrative agent for the board.

11 **23-17.4-21.2. Functions of the department of health. – It is the function of the**  
12 **department of health to:**

13 (1) Develop, impose, and enforce standards which must be met by individuals in order to  
14 receive a certificate as an assisted living administrator. These standards are designed to insure  
15 that assisted living administrators will be individuals who are of good character and are suitable,  
16 and who, by training or experience in the field of institutional administration, are qualified to  
17 serve as assisted living administrators;

18 (2) Establish and carry out procedures designed to insure that individuals certified as  
19 assisted living administrators will, during any period that they serve as assisted living  
20 administrators, comply with the requirements of those standards;

21 (3) Receive, investigate, and take appropriate action with respect to any charge or  
22 complaint filed with the department to the effect that any individual certified as an assisted living  
23 administrator has failed to comply with the requirements of those standards;

24 (4) Conduct a continuing study and investigation of assisted living administrators within  
25 the state, with a view to improving the standards imposed for the certification of those  
26 administrators, and of procedures and methods for enforcing those standards with respect to  
27 certified assisted living administrators.

28 **23-17.4-21.3. Functions of assisted living certification board. – It is the function of the**  
29 **board to:**

30 (1) Conduct examinations as required by the department and to act in an advisory  
31 capacity to the department in all matters pertaining to the certification of assisted living  
32 administrators;

33 (2) Develop and apply appropriate techniques, including examinations and investigations,  
34 for determining whether an individual meets those standards, subject to the approval of the

1 director;

2 (3) Recommend to the department the issuance of licenses and registrations to individuals  
3 determined, after application of those techniques, to meet those standards; and to recommend to  
4 the director the revocation or suspension of licenses or registrations previously issued in any case  
5 where the individual holding that license or registration is determined substantially to have failed  
6 to conform to the requirements of those standards; and

7 (4) Adopt, with the approval of the director of health, rules and regulations governing a  
8 mandatory program of continuing education for assisted living administrators.

9 SECTION 4. This act shall take effect upon passage.

=====  
LC01736/SUB A  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO ASSISTED LIVING

\*\*\*

- 1 This act would make substantive changes to the assisted living residence licensing act.
- 2 This act would take effect upon passage.

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LC01736/SUB A  
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