

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Health Occupations Revision Act of 1985 to create continuing education requirements for nursing home administrators, add a condition under which nursing home administration licensees may be sanctioned, and authorize a board to require sanctioned licensees to participate in continuing education and professional mentoring; to amend the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 to require the Mayor to promulgate rules related to the provision of transportation services at health care facilities, nondiscrimination in services, and rights specific to nursing facility residents, to establish requirements for nursing facilities related to staffing, resident access to information, employee training, the provision of health services on-site, the development of written policies and procedures, resident and family groups, medical assessments, discharge assessments, and transfers to acute care facilities and to add a cross-reference in regard to the grant of a variance, and to allow the Department of Health to appoint a temporary manager or monitor to a facility that has been issued a restricted or provisional license; and to amend the Nursing Home and Community Residence Facility Residents' Protections Act of 1985 to add new requirements related to discharge notification and planning.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health Care Facilities Improvement Amendment Act of 2010".

Sec. 2. The Health Occupations Revision Act of 1985, approved March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1205.01 *et seq.*), is amended as follows:

(a) Section 510(b) (D.C. Official Code § 3-1205.10(b)) is amended as follows:

(1) Paragraph (1)(C) is amended by striking the word "and" at the end.

(2) Paragraph (2) is amended by striking the phrase "section 745." and inserting the phrase "section 745; and" in its place.

(3) A new paragraph (3) is added to read as follows:

"(3) Establish continuing education requirements for nursing home administrators that include instruction on one or more of the following topics:

"(A) Staff management;

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“(B) Continuity in assigning the same nursing staff to the same residents as often as practicable;

“(C) Creating a resident-centered environment;

“(D) Activities of daily living and instrumental activities of daily living;

“(E) Wound care;

“(F) Pain management;

“(G) Prevention and treatment of depression;

“(H) Prevention of pressure ulcers;

“(I) Urinary incontinence management;

“(J) Discharge planning and community transitioning;

“(K) Fall prevention;

“(L) Geriatric social services and individual competency; and

“(M) Behavior management.”.

(b) Section 514 (D.C. Official Code § 3-1205.14) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (44) is amended by striking the word “or” at the end.

(B) Paragraph (45) is amended by striking the period at the end and inserting the phrase “; or” in its place.

(C) A new paragraph (46) is added to read as follows:

“(46) Acts in a manner inconsistent with the health and safety of the residents of the nursing facility of which the licensee is the administrator.”.

(2) Subsection (c)(6) is amended as follows:

(A) Subparagraph (B) is amended by striking the word “and” at the end.

(B) Subparagraph (C) is amended by adding the word “and” at the end.

(C) A new subparagraph (D) is added to read as follows:

“(D) Require participation in continuing education and professional mentoring.”.

Sec. 3. The Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501 *et seq.*), is amended as follows:

(a) Section 5 (D.C. Official Code § 44-504) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (3) is amended as follows:

(i) Strike the phrase “agency, including (where appropriate), but not limited to, standards governing the following:” and insert the phrase “agency, including standards governing:” in its place.

(ii) Strike the phrase “social, and other services;” and insert the phrase “social, emergency and non-emergency transportation, and other services;” in its place.

(B) Paragraph (4) is amended to read as follows:

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“(4) A statement of patients,’ clients,’ and residents’ rights and responsibilities for each type of facility and agency, including the right to non-discrimination in treatment or access to services based on reasons prohibited by the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*)”.

(2) A new subsection (e-1) is added to read as follows:

“(e-1) For nursing facility residents, the statement required by subsection (a)(4) of this section shall include, at a minimum, the right to:

“(1) Be fully informed by the nursing facility of all resident rights and all facility rules governing resident conduct and responsibilities upon admission and annually thereafter;

“(2) Either manage one’s own personal finances, or be given a quarterly report of the resident’s finances if this responsibility has been delegated in writing to the nursing facility;

“(3) Be treated with respect and dignity and assured privacy during treatment and when receiving personal care;

“(4) Not be required to perform services for the nursing facility that are not for therapeutic purposes, as identified in the plan of care for the resident;

“(5) Associate and communicate privately with persons of the resident's choice, unless medically contraindicated;

“(6) Send and receive personal mail, unopened by personnel at the nursing facility;

“(7) Participate in activities of social, religious, and community groups at the discretion of the resident, unless medically contraindicated;

“(8) Keep and use personal clothing and possessions, as space permits, unless to do so would infringe on other residents’ rights or is medically contraindicated;

“(9) Maintain, at the nursing facility, a private locker, chest, or chest drawer that is large enough to accommodate jewelry and small personal property and that can be locked by the resident;

“(10) Be provided with privacy for visits by the resident's spouse or domestic partner, or, if spouses or domestic partners are both residents in the nursing facility, be permitted to share a room;

“(11) Be free from mental or physical abuse;

“(12) Be free from chemical and physical restraints except as authorized pursuant to federal or District law and regulation;

“(13) Be transferred or discharged only for the grounds set forth in section 301 of the Nursing Home and Community Residence Facility Residents’ Protection Act of 1985, effective April 18, 1986 (D.C. Law 6-108; D.C. Official Code § 44-1003.01); and

“(14) Be discharged from the nursing facility after:

“(A) Receiving a consultation from a physician of the medical consequences of discharge; and

“(B) Providing the administrator, physician, or a nurse of the nursing facility written notice of the desire to be discharged; provided, that if the resident is a minor or a

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guardian has been appointed for a resident, the written request for discharge shall be signed by the resident's guardian, unless there is a court order to the contrary.”.

(3) A new subsection (h-1) is added to read as follows:

“(h-1)(1) As part of the standards for nursing facilities required by subsection (a)(3) of this section, the Mayor shall require nursing facilities to:

“(A) Maintain an organizational and staffing structure that promotes assignment of the same caregivers to care for the same residents as often as practicable;

“(B) Except as provided in paragraph (2) of this subsection:

“(i) Beginning January 1, 2011, have either a physician, physician assistant, or an advanced practice registered nurse, excluding the medical director, available on-site for a minimum of 0.2 hours per week for each resident at the facility; and

“(ii) Beginning January 1, 2012, provide a minimum daily average of 4.1 hours of direct nursing care per resident per day, of which at least 0.6 hours shall be provided by an advanced practice registered nurse or registered nurse, which shall be in addition to any coverage required by sub-subparagraph (i) of this subparagraph;

“(C) Provide annual training to all nursing home employees on the appropriate use of emergency transport and 911 services;

“(D) Make each resident's attending physician's contact information readily available to facility staff as well as to each resident and his or her family or legal representative upon request;

“(E) Provide employee training that addresses the special health care needs of the elderly and that addresses the needs of specific populations, including those characterized by:

- (i) Race;
- (ii) Ethnicity;
- (iii) Religious affiliation;
- (iv) Sexual orientation;
- (v) Gender; and
- (vi) Gender identity;

“(F) Ensure that appropriate health care services are available on-site, as determined by the Department of Health, for the purpose of reducing the need to transport residents off-site for routine health services, including:

“(i) Podiatry;

“(ii) Rehabilitative services, such as physical therapy and occupational therapy;

“(iii) Wound care;

“(iv) Mental health;

“(v) Dialysis; and

“(vi) Substance-abuse treatment;

“(G) Develop and maintain written policies and procedures governing the

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management and operation of the facility, which shall be required by the Department of Health as a component of licensure, reviewed by the Department of Health, and made available upon request, including policies and procedures governing:

- “(i) Nursing services;
- “(ii) Physician services;
- “(iii) Emergency care;
- “(iv) Dental services;
- “(v) Ventilator services;
- “(vi) Use of physical and chemical restraints;
- “(vii) Infection control;
- “(viii) Medication management;
- “(ix) Podiatry services;
- “(x) Dialysis services;
- “(xi) Recreational services;
- “(xii) Emergency water supply;
- “(xiii) Laundry and linen management;
- “(xiv) Fire and disaster preparedness; and
- “(xv) Resident emergency and non-emergency transportation.

“(H) Based on a resident’s right to participate in resident and family groups (Requirements For Long Term Care Facilities, 42 C.F.R. § 483.15(c)), make available to any resident or family group:

- “(i) Promotional and advertising assistance so that residents and residents’ family members are aware of their right to convene groups;
- “(ii) Adequate meeting space and logistical assistance;
- “(iii) Information regarding policies and procedures for nursing home care, resident rights and responsibilities, and laws and rules that apply to the facility and its residents;
- “(iv) Staff for the operation of each meeting, upon request; and
- “(v) Written feedback and responses to recommendations and grievances;

“(I) Ensure that a resident is seen by a physician within 72 hours of admission and has recorded in his or her medical record:

- “(i) An evaluation of the resident’s primary diagnoses;
- “(ii) The resident’s:
 - “(I) Height;
 - “(II) Weight;
 - “(III) Mental health status; and
 - “(IV) Personal care needs;
- “(iii) Whether it is medically contraindicated for the resident to participate in:

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- “(I) Physical;
- “(II) Recreational; or
- “(III) Rehabilitative activities; and
- “(iv) An evaluation of any existing:
 - “(I) Medical care plan;
 - “(II) Treatment orders; and
 - “(III) Medications;

“(J) Obtain a medical order from the resident’s attending physician, the facility’s medical director, an on-staff physician, or advanced practice registered nurse if a resident requires medical treatment prior to calling 911; provided, that a prior medical order shall not be required if it is determined that there is a situation that requires an immediate transfer to a hospital; provided further, that if a nursing facility does not obtain a required medical order prior to calling 911, the facility shall document in the resident’s medical record why obtaining a medical order was not practicable; and

“(K) Conduct a discharge assessment within 14 days of admission, and biannually thereafter, that includes:

“(i) A time frame for discharging the resident to return home or to another facility; and

“(ii) If the resident is likely to be discharged within 6 months of the discharge assessment, a discharge plan.

“(2) The Department of Health shall have the authority to adjust the staffing requirements and formulas set forth in paragraph (1)(B)(i) and (ii) of this subsection based on the individual needs of a nursing facility; provided, that the staffing requirements set forth in paragraph (1)(B)(ii) of this subsection shall never be less than 3.5 hours of direct nursing care per resident per day.”.

(b) Section 6(e) (D.C. Official Code § 44-505(e)) is amended by striking the phrase “section 5(a)(3)” and inserting the phrase “section 5(a)(3) and (h-1)” in its place.

(c) Section 7 (D.C. Official Code § 44-506) is amended by adding a new subsection (e) to read as follows:

“(e) If a facility is issued a restricted or provisional license, the Department of Health may, if appropriate, appoint a temporary manager or monitor in accordance with a mutually agreed upon timetable or until the facility becomes compliant with § 44-504(a)(3) and (h-1).”.

Sec. 4. The Nursing Home and Community Residence Facility Residents’ Protections Act of 1985, effective April 18, 1986 (D.C. Law 6-108; D.C. Official Code § 44-1001.01 *et seq.*), is amended as follows:

(a) Section 202 (D.C. Official Code § 44-1002.02) is amended as follows:

(1) Paragraph (5) is amended by striking the word “or” at the end.

(2) Paragraph (6) is amended by striking the period and inserting the phrase “; or” in its place.

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(3) A new paragraph (7) is added to read as follows:

“(7) The facility has been issued a restricted or provisional license by the Department of Health.”.

(b) Section 301(a)(3) (D.C. Official Code § 44-1003.01(a)(3)) is amended by striking the phrase “maintenance,” and inserting the phrase “maintenance, after reasonable and appropriate notice,” in its place.

(c) Section 302 (D.C. Official Code § 44-1003.02) is amended as follows:

(1) Subsection (d) is amended as follows:

(A) Paragraph (5) is amended by striking the word “and” at the end.

(B) Paragraph (6) is amended by striking the period at the end and inserting the phrase “; and” in its place.

(C) A new to paragraph (7) is added to read as follows:

“(7) The location to which the resident will be transferred.”.

(2) A new subsection (d-1) is added to read as follows:

“(d-1) Upon oral and written notification of discharge, the nursing facility shall provide to the resident and his or her representative:

“(1) A current assessment of the resident’s care needs and the kind of service the resident will need upon discharge;

“(2) Information about the resident’s right to receive counseling that explains the resident’s options of community-based care and care in the home, including the right to request that the facility arrange a visit to at least one alternative community-based care facility; and

“(3) A discharge plan that:

“(A) Links the resident with community resources, including the DC Aging and Disability Resource Center;

“(B) Explains the resident’s options of community-based care and care in the home, including the right to request that the facility arrange a visit to at least one alternative community-based care facility; and

“(C) Sets forth an arrangement for the resident and an immediate family member or legal representative, if any, to visit at least one alternative community-based care facility, at the resident’s request.”.

Sec. 5. Fiscal impact statement.

The Council adopts the February 1, 2010 fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the

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Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D. C. Official Code § 1-2067.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia