



*Keeping You Connected...Expanding Your Potential...
In Senior Care and Services*

TO: The Honorable Delores Kelley, Chair
Members, Senate Finance Committee
The Honorable Pam Beidle

FROM: Danna L. Kauffman
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DATE: February 11, 2021

RE: **OPPOSE** – *Senate Bill 204 – Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer’s Disease Unit Regulations*

On behalf of the LifeSpan Network, the largest and most diverse senior care provider association in Maryland, we **respectfully oppose** Senate Bill 204. Senate Bill 204 requires the State to adopt regulations regarding Memory Care and Alzheimer’s Disease Units. The bill specifies that the regulations must provide staff training requirements; staffing pattern requirements (including staff ratios); training and hours for individuals who oversee social activities; procedures that are beyond those procedures historically provided for in an assisted living program (including nighttime bed checks to prevent dangerous events among residents); and admission and discharge criteria.

The regulations governing assisted living programs underwent a major revision in March 2004 and December 2008. Each revision underwent a comprehensive review by the Office of Health Care Quality (OHCQ), which included gathering input from both provider and consumer organizations. During the December 2008 revision, COMAR 10.07.14.30 was adopted and governs Alzheimer’s Special Care Unit (see attached). Many of the areas included in Senate Bill 204 are included in the current regulations. However, because Maryland has adopted a “one-size fits all regulatory structure” it was determined in the December 2008 revision to require assisted living programs to submit detailed information on the operations of the Alzheimer’s Special Care Unit rather than require specific ratios, etc. This information is approved for operation by OHCQ and it can “restrict admission or close the operation of a special care unit if the Department determines that the facility has not demonstrated compliance with this regulation, or the health or safety of residents is at risk.”

In 2013/2014, OHCQ began discussions on a third revision to the assisted living program regulations. As part of this process, OHCQ again began meetings with stakeholders and released several drafts for comment. However, in 2016/2017, OHCQ suspended the review to finalize the nursing home regulations, which were also undergoing a comprehensive review, with the understanding that the assisted living program revisions would be completed following

promulgation of the nursing home regulations. In June 2019, the nursing home regulations were finalized. LifeSpan is very supportive of completing the assisted living program revisions and strongly believes that the process typically adopted by OHCQ (garnering input by stakeholders and holding meetings) is the appropriate forum for these discussions rather than mandating certain requirements in statute. The assisted living program regulations are comprehensive and must be examined within the totality of the regulations rather than simply one aspect.

With regard to Senate Bill 204, LifeSpan is concerned regarding the vagueness of the language. It is unclear what is meant by “procedures that are beyond those procedures historically provided for in an assisted living program” and we are equally concerned that the requirement for hours and training for those that provide activities could be financially detrimental and affect those that are currently employed in this role. Again, we believe that these items are better suited for discussions during revision meetings. Lastly, it is important to point out that the definition of “limited nursing services” does not align with the Nurse Practice Act. The only health care practitioner who can perform assessments is specified on the Resident Assessment Tool, including a physician or registered nurse.

Again, Lifespan is very supportive of continuing discussions on the revisions to the assisted living program regulations, which includes a review of the current regulations governing Alzheimer’s Special Care Units, with the goal of completing them in a reasonable manner. We would request an unfavorable vote on Senate Bill 204 to allow this process to continue. Thank you.

10.07.14.30

.30 Alzheimer's Special Care Unit.

A. Written Description. At the time of initial licensure, an assisted living program with an Alzheimer's special care unit shall submit to the Department a written description of the special care unit using a disclosure form adopted by the Department. The description shall explain how:

(1) The form of care and treatment provided by the Alzheimer's unit is specifically designed for the specialized care of individuals diagnosed with Alzheimer's disease or a related dementia; and

(2) The care in the special care unit differs from the care and treatment provided in the nonspecial care unit.

B. At the time of license renewal, an assisted living program with an Alzheimer's special care unit shall submit to the Department a written description of any changes that have been made to the special care unit and how those changes differ from the description of the unit that is on file with the Department.

C. An assisted living program with an Alzheimer's special care unit shall disclose the written description of the special care unit to:

(1) Any person on request; and

(2) The family or resident's representative before admission of the resident to the Alzheimer's special care unit or program.

D. The description of the Alzheimer's special care unit shall include:

(1) A statement of philosophy or mission;

(2) How the services of the special care unit are different from services provided in the rest of the assisted living program;

(3) Staff training and staff job titles, including the number of hours of dementia-specific training provided annually for all staff by job classification and a summary of training content;

(4) Admission procedures, including screening criteria;

(5) Assessment and service planning protocol, including criteria to be used that would trigger a reassessment of the resident's status before the customary 6-month review;

(6) Staffing patterns, including the ratio of direct care staff to resident for a 24-hour cycle, and a description of how the staffing pattern differs from that of the rest of the program;

(7) A description of the physical environment and any unique design features appropriate to support the functioning of cognitively impaired individuals;

(8) A description of activities, including frequency and type, how the activities meet the needs of residents with dementia, and how the activities differ from activities for residents in other parts of the program;

(9) The program's fee or fee structure for services provided by the Alzheimer's special care unit or program as part of the disclosure form that is required in Regulation .10 of this chapter;

(10) Discharge criteria and procedures;

(11) Any services, training, or other procedures that are over and above those that are provided in the existing assisted living program; and

(12) Any other information that the Department may require.

E. The Department shall restrict admission or close the operation of a special care unit if the Department determines that the facility has not demonstrated compliance with this regulation or the health or safety of residents is at risk.