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HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 424

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO STAFFING IN NURSING FACILITIES, INTERMEDIATE CARE FACILITIES FOR PERSONS WITH INTELLECTUAL DISABILITIES, ASSISTED LIVING FACILITIES, AND DEMENTIA CARE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 11, Title 16 of the Delaware Code by making deletions as shown by strike through and
2 insertions as show by underline as follows and redesignate accordingly:

3 § 1161. Definitions.

4 () “Dementia care” means a special care for individuals with Alzheimer’s disease or other dementia . Nursing
5 facilities or assisted living facilities providing this specialized care must have a clear mission and programming that is
6 structured to meet the needs of these residents.

7 ~~§ 1166 Medicaid reimbursement.~~

8 ~~(a) The Medicaid reimbursement program shall be adjusted to reflect costs associated with the increased staffing~~
9 ~~levels described herein. Reimbursement rates for nursing wages will be adjusted to the seventy-fifth percentile under the~~
10 ~~current wage determination methodology for primary care under the state Medicaid program.~~

11 ~~(b) The Department shall ensure that 100% of Medicaid funds paid for primary care are expended by the~~
12 ~~residential health facility for primary care purposes. If, during any annual cost reporting period, a facility expends less than~~
13 ~~100% of the primary care reimbursement it receives from Medicaid for primary care, the sum under-spent must be repaid to~~
14 ~~the Medicaid program. The repayment will be made through a cost settlement process when the provider files its annual~~
15 ~~cost report. The Department will revise its regulations and Medicaid cost report forms to require a cost settlement for the~~
16 ~~primary care reimbursement classification.~~

17 ~~(c) Medicaid reimbursement of providers shall be consistent with the provisions of this chapter regardless of the~~
18 ~~payment methodology employed by Medicaid or its contractors, including managed care.~~

19 § 1166. Dementia care.

(a) All residential health facilities providing dementia care shall have a sufficient number of dedicated nursing staff to meet the individual needs of each resident, including additional staff as necessary, and such staffing may not fall below the following ratios:

(1) For dementia care within a nursing facility or immediate care facility for persons with intellectual disabilities, the ratio shall be as identified in § 1162(b) of this title.

(2) For all other facilities providing dementia care, the ratio is as follows:

a. On day shift, 1 nursing staff for every 8 residents.

b. On evening shift, 1 nursing staff for every 10 residents.

c. On night shift, 1 nursing staff for every 15 residents.

(b) All staff providing dementia care must complete initial dementia-specific care training prior to providing dementia care and continue to receive ongoing, evidence-based, dementia-specific care training while they are working with residents receiving dementia care.

(c) All staff working with residents receiving dementia care must complete 12 hours of initial dementia-specific care training prior to assignment to providing dementia care. Training must include:

(1) Communicating with persons diagnosed as having Alzheimer's disease or other forms of dementia; and

(2) The psychological, social, and physical needs of those persons; and

(3) Safety measures which need to be taken with those persons.

(d) Staff working with residents receiving dementia care must continue to receive ongoing, evidence-based, dementia-specific care training at a minimum annually while they are working with residents receiving dementia care.

(e) Facilities that provide dementia care shall have dedicated activity staff in numbers adequate to meet the individualized activity needs of the residents. Activity services shall be offered 7 days a week at least 9 hours per day while residents are awake and able to participate.

(1) The facility must involve the resident in an ongoing program of activities that is designed to appeal to each resident's needs.

(2) The facility may include a combination of large and small group activities, one-on-one activities, and self-directed activities.

(f) Unsatisfactory resident outcomes may lead to the imposition of protocols for staffing adequacy.

(g) Evidence of a failure to meet the individual nursing staff needs of residents shall be grounds for enforcement action under this chapter.

49 (h) The terms “dementia” or “memory care” or any other language or symbols which imply or indicate to the
50 public that a nursing facility or an assisted living facility is qualified to provide treatment specifically tailored to dementia
51 diagnoses, shall not be used as the part of a name or advertising unless the facility is in compliance with this section and all
52 associated regulations.

53 (i) The Department may promulgate and adopt rules and regulations to fully and effectively implement the
54 provisions of this subchapter.

SYNOPSIS

The Delaware Code currently has no provisions for dementia care. This bill defines dementia care and sets forth staffing requirements for all facilities that provide dementia care, including setting minimum staffing ratios. The bill requires that staff who provide dementia care must complete dementia-specific-care training and identifies what the training must include. This bill also requires that facilities have dedicated activity staff and that activity services be offered seven days a week at least 9 hours per day while residents are awake and able to participate. This bill prohibits the use of “dementia” or “memory care” in advertising unless a facility is in compliance with the Delaware Code and associated regulations. Finally, this bill provides that the Department may promulgate and adopts rules and regulations to implement the section and the subchapter.