**A** **BILL**

TO AMEND THE 1976 CODE, BY ADDING ARTICLE 29 TO CHAPTER 7, TITLE 44, TO ENACT THE “COMMUNITY RESIDENTIAL CARE FACILITY STAR RATING SYSTEM”; TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO DEVELOP THE RATING SYSTEM; TO PROVIDE CERTAIN DEFINITIONS; TO PROVIDE REQUIREMENTS FOR THE RATING SYSTEM, INCLUDING A BASIS FOR DETERMINING A FACILITY’S RATING; TO AMEND SECTION 44‑7‑150, RELATING TO CERTAIN DUTIES OF THE DEPARTMENT, TO ADD DEVELOPMENT AND IMPLEMENTATION OF THE COMMUNITY RESIDENTIAL CARE FACILITY STAR RATING SYSTEM; TO AMEND SECTION 44‑7‑310, RELATING TO THE PROHIBITION OF PUBLIC DISCLOSURE OF CERTAIN INFORMATION RECEIVED BY THE DEPARTMENT THROUGH INSPECTION OR OTHERWISE, TO PROVIDE AN EXCEPTION ALLOWING LIMITED DISCLOSURE OF THIS INFORMATION WHEN RELATED TO A COMMUNITY RESIDENTIAL CARE FACILITY; TO AMEND SECTION 44‑7‑315, RELATING TO DISCLOSURE OF INFORMATION REGARDING A FACILITY OR HOME LICENSED BY THE DEPARTMENT, TO PROVIDE AN EXCEPTION FOR A COMMUNITY RESIDENTIAL CARE FACILITY TO ACCOMPLISH THE RATING SYSTEM; AND TO AMEND SECTION 44‑7‑370, RELATING TO THE RESIDENTIAL CARE COMMITTEE, TO REQUIRE THE COMMITTEE TO EXPAND ITS DUTIES TO INCLUDE ADVISING THE DEPARTMENT WITH RESPECT TO THE COMMUNITY RESIDENTIAL CARE FACILITY STAR RATING SYSTEM.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 7, Title 44 of the 1976 Code is amended by adding:

“Article 29

Community Residential Care Facility Star Rating System

Section 44‑7‑3610. The Department of Health and Environmental Control shall develop and implement a system known as the ‘Community Residential Care Facility Star Rating System’ to uniformly evaluate and rate community residential care facilities in this State. The purpose of the system is to provide the public information regarding the quality of care provided in a community residential care facility.

Section 44‑7‑3620. As used in this section:

(1) ‘Community residential care facility’ or ‘facility’ means a facility that provides room, board, and a degree of personal assistance for two or more persons eighteen years old or older.

(2) ‘Rated certificate’ means a certificate issued to a community residential care facility after December 31, 2011, based on the factors and calculation in Section 44‑7‑3640.

Section 44‑7‑3630. (A) The department shall issue a rated certificate to a facility within forty‑five days of the department’s completion of a new rating calculation pursuant to Section 44‑7‑3640.

(B) If ownership of a facility changes, the rated certificate in effect at the time of the change of ownership must remain in effect until the next regular inspection or until a new certificate is issued pursuant to Section 44‑7‑3640(B) as a consequence of the facility’s receipt of a demerit or merit point.

(C) This certificate must include the department’s Internet web site address, where the department shall include specific information regarding the basis for the facility rating in a manner available to the public.

(D) A community residential care facility shall:

(1) display the rated certificate issued by the department under this section in a manner and location visible to the public;

(2) make available to the public on the facility’s Internet website and in printed form on the facility’s premises specific information regarding the basis of the facility rating, including a worksheet used by the department to calculate the facility’s rating and quality improvement programs undertaken by the facility pursuant to Section 1800 of Regulation 61‑84, South Carolina Code of Regulations; and

(3) make available the printed format on its premises to a member of the public for inspection on demand within one hour of the request.

(E) A facility may contest its rated certificate by requesting a contested hearing pursuant to relevant procedures in this title. A party only may appeal a decision of the department to the Administrative Law Court, Court of Appeals, and Supreme Court pursuant to the Administrative Procedures Act and Appellate Court rules for administrative appeals.

Section 44‑7‑3640. (A) The department shall base its rating of the facility on:

(1) routine inspections and substantiated complaint investigations of the facility;

(2) Class I or uncorrected Class II and Class III violations identified during an inspection or investigation and pursuant to Section 302 of Regulation 61‑84, South Carolina Code of Regulations, and related to the following areas, if applicable based on the number of patients housed in the facility as governed by regulation:

(a) staff training;

(b) reporting;

(c) resident records;

(d) admission and retention;

(e) resident care and services;

(f) resident rights and assurances;

(g) resident physical examination and tuberculosis screening;

(h) medication management;

(i) meal service;

(j) emergency procedures and disaster preparedness;

(k) fire prevention;

(l) maintenance;

(m) infection control and environment;

(n) quality improvement programs;

(o) design and construction;

(p) general construction requirements;

(q) hazardous elements of construction;

(r) fire protection equipment and systems;

(s) exits;

(t) water supply and hygiene;

(u) electrical;

(v) heating, ventilation, and air conditioning;

(w) physical plant; and

(x) other factors the department considers important;

(3) the calculation formula provided in subsection (C) of this section and the rating system provided in subsection (D) of this section.

(B) The initial rating a facility receives must remain in effect until the next inspection. If an activity occurs that results in the assignment of additional merit or demerit points, the department shall issue a new certificate pursuant to this section.

(C) A an evaluation of a facility must be calculated based on a 100 point scale. Beginning with the initial rating and repeating with subsequent annual inspections, the facility must be assigned 100 points from which demerit points must be subtracted and to which merit points must be added.

(1) Merit points:

(a) If a facility corrects a citation for a Class I violation, the facility must receive 2.5 merit points for each corrected deficiency and an additional 2.5 merit points following the next annual inspection if that inspection does not identify an additional Class I violation.

(b) If a facility corrects a citation for a Class II violation, the facility must receive 2.0 merit points for each corrected deficiency and an additional 2.0 merit points following the next annual inspection if that inspection does not identify an additional Class II violation.

(c) If a facility that receives a Class III citation had a rating of at least one star, the facility may request the department conduct a follow‑up review of the deficiency within sixty days of the inspection. The department shall conduct a follow‑up review within sixty days of the request. As determined by the follow‑up review, the facility must receive 1.5 merit points for each corrected deficiency.

(2) Demerit points:

(a) For each citation of a Class I violation, the facility must receive a demerit of 10 points. The facility shall receive demerit points once for a citation in which the findings are identical to those findings used for another citation.

(b) For each citation of a Class II violation, the facility must receive a demerit of 3.5 points. If the Class II violation remains uncorrected as the result of a follow‑up inspection, the facility shall receive an additional demerit of 3.5 points.

(c) If the facility’s admissions are suspended by the department, the facility shall receive a demerit of 10 points.

(d) If the facility receives a notice of revocation of its license, the facility shall receive a demerit of 30 points.

(D) The department must assign a rating of zero to four stars depending on the score a facility receives under subsection (C), as follows:

(1) four stars for a facility whose score is 100 points or greater on two consecutive annual inspections;

(2) three stars for a facility whose score is 90 to 99.9 points or for a facility whose score is 100 points or greater on one annual inspection;

(3) two stars for a facility whose score is 80 to 89.9 points;

(4) one star for a facility whose score is 70‑79.9 points; and

(5) zero stars for a facility whose score is 69.9 points or less.”

SECTION 2. Section 44‑7‑150 of the 1976 Code is amended to read:

“(A) In carrying out the purposes of this article, the department shall:

(1) require reports and make inspections and investigations as considered necessary;

(2) to the extent that is necessary to effectuate the purposes of this article, enter into agreements with other departments, commissions, agencies, and institutions, public or private;

(3) adopt in accordance with Article I of the Administrative Procedures Act substantive and procedural regulations considered necessary by the department and approved by the board to carry out the department’s licensure and Certificate of Need duties under this article, including regulations to deal with competing applications;

(4) accept on behalf of the State and deposit with the State Treasurer, ~~any~~ a grant, gift, or contribution made to assist in meeting the cost of carrying out the purpose of this article and expend it for that purpose;

(5) develop and implement a system for rating a community residential care facility; and

~~(5)~~(6) ~~The~~ the department may charge and collect fees to cover the cost of operating the Certificate of Need program, including application fees, filing fees, issuance fees, and nonapplicability/exemption determination fees. The department shall develop regulations which set fees as authorized by this article. The level of these fees must be determined after careful consideration of the direct and indirect costs incurred by the department in performing its various functions and services in the Certificate of Need program. All fees and procedures for collecting fees must be adopted pursuant to procedures set forth in the Administrative Procedures Act. Any fee collected pursuant to this section in excess of seven hundred fifty thousand dollars must be retained by the department and designated for the administrative costs of the Certificate of Need program. The first seven hundred fifty thousand dollars collected pursuant to this section must be deposited into the general fund of the State. Until fees are promulgated through regulation, all fees established as of January 1, 2009, remain in effect.

(B) The department may adopt a filing fee for Certificate of Need applications. The fee must be approved by the board. ~~Any~~ A fee collected pursuant to this section must be deposited into the general fund of the State. The fee must be collected prior to review of the application. A fee may not be increased beyond the cost of administration of the Certificate of Need Program.”

SECTION 3. Section 44‑7‑310 of the 1976 Code is amended to read:

“Section 44‑7‑310. Information received by the Office of Health Licensing of the department through inspection or otherwise, which does not appear on the face of the license, may not be disclosed publicly in a manner as to identify individuals or facilities except:

(1) in a proceeding involving the licensure or certification of need of the facility or licensing proceedings against an employee of the facility or as ordered by a court of competent jurisdiction; and

(2) as needed for the Community Residential Care Facility Star Rating System provided in Article 29, Chapter 7, Title 44.”

SECTION 4. Section 44‑7‑315 of the 1976 Code is amended to read:

“Section 44‑7‑315. (A) Information received by the Division of Health Licensing of the department, through inspection or otherwise, in regard to a facility or activity licensed by the department pursuant to this article or subject to inspection by the department including a nursing home, a community residential care facility, or an intermediate care facility for the mentally retarded must be disclosed publicly upon written request to the department in addition to the requirements for a community residential care facility under Section 44‑7‑3630. The request must be specific as to the facility or activity, dates, documents, and particular information requested. The department may not disclose the identity of individuals present in a facility licensed by the department pursuant to this article or subject to inspection by the department including a nursing home, a community residential care facility, or an intermediate care facility for the mentally retarded. When a report of deficiencies or violations regarding a facility licensed by the department pursuant to this article or subject to inspection by the department including a nursing home, a community residential care facility, or an intermediate care facility for the mentally retarded is present in the department’s files when a request for information is received, the department shall inform the applicant that it has stipulated corrective action and the time it determines for completion of the action. The department also shall inform the applicant that information on the resolution of the corrective action order is expected to be available upon written request within fifteen calendar days or less of the termination of time it determines for completion of the action. However, if information on the resolution is present in the files, it must be furnished to the applicant. When an inquiry relates to a community residential care facility, the department shall inform the applicant of the facility’s star rating and, within twenty‑four hours of the application, provide the applicant with a copy of the facility’s rated certificate and worksheet used to calculate the facility’s rating.

(B) Subsection (A) does not apply to information considered confidential pursuant to Section 40‑71‑20 and Section 44‑30‑60.”

SECTION 5. Section 44‑7‑370(A) of the 1976 Code is amended to read:

“(A) The South Carolina Department of Health and Environmental Control shall establish a Residential Care Committee to advise the department regarding licensing, ~~and~~ inspection, and star rated certificate of community residential care facilities.

(1) The committee consists of the Long Term Care Ombudsman, three operators of homes with ten beds or less, four operators of homes with eleven beds or more, and three members to represent the department appointed by the commissioner for terms of four years.

(2) The terms must be staggered and no member may serve more than two consecutive terms. Any person may submit names to the commissioner for consideration. The advisory committee shall meet at least once annually with representatives of the department to evaluate current licensing regulations and inspection practices. Members shall serve without compensation.”

SECTION 6. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 7. This act takes effect upon approval by the Governor.

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