**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 72 TO TITLE 44 SO AS TO ESTABLISH, AND REQUIRE LICENSURE OF, FAMILY CARE FACILITIES, WHICH PROVIDE HOUSING, FOOD, AND PERSONAL SERVICE ASSISTANCE TO NONRELATED ADULTS WHO ARE ELDERLY OR PHYSICALLY DISABLED, TO AUTHORIZE THE PROVISION OF CARE UNDER CERTAIN CIRCUMSTANCES TO PERSONS WHO ARE ELIGIBLE FOR NURSING HOME LEVEL OF CARE, TO REQUIRE AN INDIVIDUAL CARE PLAN FOR EACH RESIDENT, TO PROVIDE STAFFING REQUIREMENTS, TO AUTHORIZE OVERSIGHT OF A FACILITY BY A PROVIDER ENTITY IN LIEU OF A LICENSED ADMINISTRATOR, AND TO REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO SEEK MEDICARE AND MEDICAID WAIVERS NECESSARY FOR THIS FUNDING TO BE USED FOR PROVIDING CARE AND SERVICES TO RESIDENTS IN THESE FACILITIES.

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

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

“CHAPTER 72

Family Care Facilities

Section 44‑72 ‑10. For purposes of this article:

(1) ‘Department’ means the South Carolina Department of Health and Environmental Control.

(2) ‘Family Care Facility’ means a dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for five or fewer adults who are elderly or physically disabled. A family care facility does not include boarding houses, institutions, hotels, or other similar living situations that supply only room and board without the provision of any element of personal services. Residents of a family care facility may not be related to the owner or administrator by blood or marriage.

(3) ‘Individual care plan’ means a description of the needs of the resident, including, but not limited to, the activities of daily living for which the resident requires assistance, requirements and arrangements for visits by or to a physician or other authorized health provider, assistance with advanced care directives or a healthcare power of attorney, as applicable, recreational and social activities which are suitable, desirable, and important to the well being of the resident, dietary needs, special equipment needs, communications needs, emergency exiting, including equipment and assistance needed, medical assessment, and medical and physical health needs, including, but not limited to, disabilities, treatments, procedures, and therapies.

An individual care plan must include goal‑related objectives based on the needs of the resident as identified during initial and semiannual assessments.

(4) ‘Personal services’ includes, but is not limited to, individual assistance with supervision of self‑administered medication, assistance with ambulation and transfer and activities of daily living, such as eating, bathing, grooming, dressing, and toileting. Personal services also include monitoring of residents to ensure the resident’s general health, safety, and well being.

(5) ‘Provider entity’ means an agency or organization responsible for the operation of one or more family care facilities. A provider entity shall ensure that a family care facility meets all requirements necessary to maintain residents in a safe, caring environment and complies with all licensing standards.

Section 44‑72‑20. Notwithstanding the provisions of Section 801.C.3 of Regulation 61‑84, Standards for Licensing Community Residential Care Facilities, patients eligible for nursing home level of care may be provided care in a family care facility if the patient does not display aggressive, violent, or socially inappropriate behavioral symptoms, if a physician licensed to practice medicine in this State has determined that placement in a family care facility is appropriate, and if the patient does not require:

(1) daily skilled monitoring or observation, or both, due to an unstable or complex medical condition;

(2) medications that require frequent dosage adjustment, regulation, and monitoring;

(3) intravenous medications or fluids, regular intra‑muscular and subcutaneous injections, excluding routine self injections of insulin;

(4) care of a urinary catheter that cannot be managed independently by the resident;

(5) treatment of stage 2, 3, or 4 decubitus or other widespread skin disorder;

(6) nasogastric tube feeding or having to be fed by a syringe or straw;

(7) gastrostomy tube feedings that cannot be managed independently by the resident;

(8) suctioning of nose and or mouth, or both;

(9) tracheotomy or sterile care of the tracheotomy that cannot be managed independently by the resident;

(10) care and assistance in all activities of daily living for more than fourteen days.

A resident may not reside in a family care facility if the resident is to receive oxygen for the first time, which requires adjustment and evaluation of the oxygen concentration.

Section 44‑72‑30. (A)(1) A family care facility must be licensed by the department and meet requirements established for five residents or fewer under Regulation 61‑84. At a minimum each resident must have an individual care plan, all necessities for daily living, and other services as established by the department.

(2) The department may grant waivers for standards included in Regulation 61‑84 based on the physical and mental condition of residents. Residents dependent upon a wheelchair for mobility shall have a clearly accessible exit route in case of emergencies. A fully accessible bathroom equipped for handicapped residents must be provided.

(B) A family care facility shall have appropriately trained staff on site twenty four hours a day to render care to residents. At a minimum, staff must:

(1) be capable of rendering care and services to residents in an understanding and sympathetic manner;

(2) have sufficient education to be able to perform their duties and to speak, read, and write English;

(3) demonstrate a working knowledge of regulations;

(4) complete a SLED criminal records review;

(5) meet minimal training requirements;

(6) be in good health as established by a physical examination by a licensed physician.

(C) The facility and staff shall meet all requirements concerning operations and training as established by the department in sections 503, 504, and 505 of Regulation 61‑84.

(D) Supervision of the facility must be provided by an employee with training and education and who is knowledgeable of the applicable regulations in order to meet the needs of the residents.

Section 44‑72‑40. Notwithstanding the requirement in Regulation 61‑84 Section 502 (ll)(A), a family care facility is not required to employ a licensed administrator if a provider entity provides oversight of the facility. The provider entity shall demonstrate to the department expertise in the management of similar facilities in South Carolina or another state and demonstrate the capacity to provide the necessary training, staffing, and quality assurance needed to operate these facilities. The department is the sole authority in determining if the provider entity demonstrates sufficient expertise and competency.

Section 44‑72‑50. Each facility is subject to initial and annual license fees which the department shall retain for the purpose of enforcing the provisions of this chapter.”

SECTION 2. The Department of Health and Human Services shall submit and negotiate any home and community based waiver amendment or other appropriate requests to the Centers for Medicare and Medicaid Services that will allow the use of Federal Medicaid funding to provide services and care to residents in family care facilities, as provided for and in accordance with Chapter 72, Title 44 of the 1976 Code, as added by Section 1 of this act. The Department of Health and Human Services shall submit an initial request for a waiver no later than sixty days following the effective date of this act.

SECTION 3. This act takes effect upon approval by the Governor.

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