
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1442 Session of
2019

INTRODUCED BY MENTZER, GREINER, PICKETT, FEE, HICKERNELL, PYLE,
ZIMMERMAN, B. MILLER, READSHAW, STEPHENS, NELSON AND HARKINS,
MAY 13, 2019

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
MAY 13, 2019

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," in departmental powers and
4 duties as to licensing, providing for waiver of physical site
5 requirements and further providing for regulations and for
6 rules and regulations for personal care home and assisted
7 living residences.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The act of June 13, 1967 (P.L.31, No.21), known
11 as the Human Services Code, is amended by adding a section to
12 read:

13 Section 1010. Prelicensure Waiver of Physical Site
14 Requirements.--(a) Each waiver submitted by an entity
15 interested in assisted living residence licensure shall be
16 considered on a case-by-case basis based on the specific merits.
17 In evaluating a physical site waiver request, the department
18 shall consider the following:

19 (1) The commensurate benefit to the consumers if the waiver

1 is approved.

2 (2) Whether the entity will meet the needs of the residents
3 as their acuity and care needs increase.

4 (3) Consumer choice as it relates to the waiver request.

5 (4) Appropriate policies and procedures the entity has or
6 will put in place to ensure an equivalent level of health,
7 safety and well-being for the protection of the residents.

8 (5) Up to three years of compliance history of the entity
9 making the waiver request, if available.

10 (b) A physical site waiver shall remain valid until such
11 time as the assisted living residence completes a structural
12 renovation project impacting the existing waiver. If the
13 assisted living residence undergoes a change of ownership, the
14 existing physical site waiver shall remain valid and be
15 transferred to the new owner. If the new owner completes a
16 structural renovation project impacting the existing waiver, the
17 waiver shall be deemed invalid.

18 (c) Physical site waiver requests include, but are not
19 limited to, requests relating to:

20 (1) Living unit square footage.

21 (2) Living units that share a bathroom.

22 (3) Other physical site components.

23 (d) A copy of the approved waiver request and the
24 department's written decision shall be posted in a conspicuous
25 and public place within the residence.

26 Section 2. Section 1021(a)(2) of the act is amended and the
27 subsection is amended by adding a paragraph to read:

28 Section 1021. Regulations.--(a) * * *

29 (2) Regulations for assisted living residences shall:

30 (i) Meet or exceed standards established in 55 Pa. Code §

1 2600 (relating to personal care homes). Residents' rights in
2 those or subsequent regulations shall not be subject to waiver.

3 (ii) Require an assisted living residence to provide a
4 resident with the resident's own living unit. Two residents may
5 voluntarily agree to share one unit, provided that the agreement
6 is in writing and contained in each of the residency agreements
7 of those residents. A licensee shall not require residents to
8 share a unit.

9 (iii) Provide that supplemental health care services shall
10 be packaged, contracted and priced separately from the resident
11 agreement.

12 (iv) Require that each living unit contain a private
13 bathroom, living and bedroom space, kitchen capacity, which may
14 mean electrical outlets to have small appliances such as a
15 microwave and refrigerator, closets and adequate space for
16 storage and a door with a lock, except where a lock or
17 appliances in a unit under special care designation would pose a
18 risk or be unsafe. A living unit shall not be required to have a
19 bathtub or shower in the bathroom, but an assisted living
20 residence shall maintain adequate bathing facilities to
21 accommodate all residents residing in the residence with at
22 least one bathtub or shower for every ten residents. Bathing
23 facilities shall allow for resident privacy and independence.

24 (v) Establish minimum square footage requirements for
25 individual living units [which excludes bathrooms and closet
26 space]. Exceptions to the size of the living unit may be made at
27 the discretion of the department.

28 (vi) Establish a special care designation for assisted
29 living residences and units that require specialized staff
30 training, service planning, activity programming and security

1 measures for residents receiving cognitive support services.

2 (vii) Create standards for informed consent agreements that
3 promote aging in place which include written acknowledgment of
4 the risks that residents assume while directing their own care
5 and which release the facility from liability for adverse
6 outcomes resulting from actions consistent with the terms of the
7 informed consent agreement. Such informed consent agreements
8 shall only be entered into upon the mutual agreement of the
9 resident and the assisted living residence.

10 (viii) Create standards for transfer and discharge that
11 require the assisted living residence to make a reasonable
12 accommodation for aging in place and that may include services
13 from outside providers.

14 (3) Within sixty days of the effective date of this
15 paragraph, the department shall take all necessary actions,
16 including the submission of required documents to the Centers
17 for Medicare and Medicaid Services, to include assisted living
18 services and supplemental health care services as covered
19 medical assistance services in the Community HealthChoices
20 Program and to allow licensed assisted living residences to be
21 certified as a medical assistance provider for these services.

22 * * *

23 Section 3. Section 1057.3(a)(12), (e) and (g) of the act are
24 amended to read:

25 Section 1057.3. Rules and Regulations for Personal Care Home
26 and Assisted Living Residences.--(a) The rules and regulations
27 for the licensing of personal care homes and assisted living
28 residences promulgated by the department shall require that:

29 * * *

30 (12) Each assisted living residence demonstrate the ability

1 to provide supplemental health care services in a manner duly
2 protective of the health, safety and well-being of its residents
3 utilizing employes or other qualified individuals certified
4 pursuant to subsection (f), independent contractors or
5 contractual arrangements with other health care facilities or
6 practitioners licensed, registered or certified to the extent
7 required by law to provide such service. To the extent
8 prominently disclosed in a written admission agreement, an
9 assisted living residence may require residents to use providers
10 of supplemental health care services designated by the assisted
11 living residence.

12 * * *

13 (e) An assisted living residence may not admit, retain or
14 serve a consumer with any of the following conditions or health
15 care needs unless an exception, upon the written request of the
16 assisted living residence, is granted by the department:

17 (1) Ventilator dependency.

18 (2) Stage III and IV decubiti and vascular ulcers that are
19 not in a healing stage.

20 (3) Continuous intravenous fluids.

21 (4) Reportable infectious diseases, such as tuberculosis, in
22 a communicable state that require isolation of the consumer or
23 require special precautions by a caretaker to prevent
24 transmission of the disease unless the Department of Health
25 directs that isolation be established within the assisted living
26 residence.

27 [(5) Nasogastric tubes.]

28 [(6)] (5) Physical restraints.

29 [(7)] (6) Continuous skilled nursing care twenty-four hours
30 a day.

1 * * *

2 (g) An assisted living residence may admit, retain or serve
3 a consumer for whom a determination is made by the department,
4 upon the written request of the assisted living residence, that
5 the consumer's specific health care needs can be met by a
6 provider of assisted living services or within an assisted
7 living residence, in conformity with standards set by the
8 department through regulation, including a consumer requiring:

9 (1) gastric tubes, except that a determination shall not be
10 required if the consumer is capable of self-care of the gastric
11 tube or a licensed health care professional or other qualified
12 individual certified pursuant to subsection (f) cares for the
13 gastric tube;

14 (2) tracheostomy, except that a determination shall not be
15 required if the consumer is independently capable of self-care
16 of the tracheostomy;

17 (3) skilled nursing care twenty-four hours a day, except
18 that a determination shall not be required if the skilled
19 nursing care is provided on a temporary or intermittent basis;

20 [(4) a sliding scale insulin administration, except that a
21 determination shall not be required if the consumer is capable
22 of self-administration or a licensed health care professional or
23 other qualified individual administers the insulin;

24 (5) intermittent intravenous therapy, except that a
25 determination shall not be required if a licensed health care
26 professional manages the therapy;

27 (6) insertions, sterile irrigation and replacement of a
28 catheter, except that a determination shall not be required for
29 routine maintenance of a urinary catheter if the consumer is
30 capable of self-administration or a licensed health care

1 professional administers the catheter;

2 (7) oxygen, except a determination shall not be required if
3 the consumer is capable of self-administration or a licensed
4 health care professional or other qualified individual
5 administers the oxygen;

6 (8) inhalation therapy, except that a determination shall
7 not be required if the consumer is capable of self-
8 administration or a licensed health care professional or other
9 qualified individual administers the therapy;]

10 [(9)] (4) other types of supplemental health care services
11 that an assisted living residence administrator, acting in
12 consultation with supplemental health care providers, determines
13 can be provided in a safe and effective manner by the assisted
14 living residence; or

15 [(10)] (5) other types of care that can be provided in a
16 safe and effective manner in an assisted living residence as
17 determined by regulations adopted by the department.

18 * * *

19 Section 4. This act shall take effect immediately.