

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1930 Session of  
1999

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OCTOBER 6, 1999

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 12, 2000

## AN ACT

1 ~~Requiring the Department of Public Welfare to develop and~~ <—  
2 ~~implement a State plan for regulating and licensing assisted~~  
3 ~~living residences and for coordination with other State and~~  
4 ~~local agencies having statutory duties relating to assisted~~  
5 ~~living residences and providers of assisted living services;~~  
6 ~~providing for the Intra Governmental Council on Long Term~~  
7 ~~Care, for appeals and for relocation; and prescribing~~  
8 ~~penalties.~~

9 ~~The General Assembly finds and declares as follows:~~

10 ~~(1) Assisted living is a rapidly growing long term care~~  
11 ~~alternative across the nation.~~

12 ~~(2) Assisted living is a combination of housing and~~  
13 ~~services as needed. It is extremely popular with the general~~  
14 ~~public because it allows people to age in place, maintain~~  
15 ~~their independence and exercise decision making and personal~~  
16 ~~choice.~~

17 ~~(3) Consumers continue to say that the three things they~~

~~want most are to stay independent and live at home as long as possible; respect and dignity for the individual; and a choice of options for long term care and services.~~

~~(4) In Pennsylvania, assisted living is a private market phenomenon. There is no uniform assisted living definition; no required public oversight of entities which hold themselves out as providing assisted living, although many are licensed as personal care homes; no uniform way of assuring assisted living quality; and limited access to assisted living except for persons with higher incomes.~~

~~(5) It is in the best interest of all Pennsylvanians that a system of licensure and regulation be established for assisted living residences and providers of assisted living services in order to ensure accountability and a balance of availability between institutional and home and community based long term care for older persons and persons with disabilities.~~

PROVIDING FOR THE LICENSURE AND REGULATION OF ADULT LIVING  
RESIDENCES; CONFERRING POWERS AND DUTIES ON THE DEPARTMENT OF  
PUBLIC WELFARE; AND PROVIDING FOR PENALTIES.

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21 The General Assembly of the Commonwealth of Pennsylvania  
22 hereby enacts as follows:

23 ~~Section 1. Short title.~~

<—

24 ~~This act shall be known and may be cited as the Assisted~~  
25 ~~Living Licensing Act.~~

26 ~~Section 2. Definitions.~~

27 ~~The following words and phrases when used in this act shall~~  
28 ~~have the meanings given to them in this section unless the~~  
29 ~~context clearly indicates otherwise:~~

30 ~~"Adult." A person who is 18 years of age or older.~~

1       ~~"Aging in place." The process of providing increased or~~  
2 ~~adjusted services to a consumer to compensate for the physical~~  
3 ~~or mental decline that occurs with the aging process in order to~~  
4 ~~maximize individual dignity and independence and permit the~~  
5 ~~person to remain in a familiar, residential environment for as~~  
6 ~~long as possible. Such services may be provided through facility~~  
7 ~~staff, a third party, volunteers, friends or family.~~

8       ~~"Area agency on aging." The single local agency designated~~  
9 ~~by the Department of Aging within each planning and service area~~  
10 ~~to administer the delivery of a comprehensive and coordinated~~  
11 ~~plan of social and other services and activities.~~

12       ~~"Assisted living." Those services as determined and self-~~  
13 ~~directed by a consumer or by legal representatives that permit~~  
14 ~~and assist the consumer to live in the community. The term may~~  
15 ~~also include such housing assistance or residency in an assisted~~  
16 ~~living residence that permits consumers to safely be supported~~  
17 ~~in residences in which their independence, dignity and ability~~  
18 ~~to make choices are maintained, to the extent of their~~  
19 ~~capabilities.~~

20       ~~"Assisted living residence." A residential setting that:~~

21           ~~(1) Offers, provides or coordinates a combination of~~  
22 ~~personal care services, activities, 24 hour supervision and~~  
23 ~~assisted living services, whether scheduled or unscheduled,~~  
24 ~~and health related services for consumers.~~

25           ~~(2) Has a service program and physical environment~~  
26 ~~designed to minimize the need for consumers to move within or~~  
27 ~~from the setting to accommodate changing needs and~~  
28 ~~preferences.~~

29           ~~(3) Has an organized mission, service programs and a~~  
30 ~~physical environment designed to maximize consumer's dignity,~~

1 ~~autonomy, privacy and independence and encourages family and~~  
2 ~~community involvement.~~

3 ~~(4) Costs for housing and services independent of one~~  
4 ~~another and that provides consumers with the ability to~~  
5 ~~choose their service provider and the services to be~~  
6 ~~provided.~~

7 ~~(5) Has a goal of fostering aging in place and promoting~~  
8 ~~consumer self direction and active participation in decision~~  
9 ~~making while emphasizing an individual's privacy and dignity.~~

10 ~~"Assisted living services." A combination of supportive~~  
11 ~~services, personal care services, personalized assistance~~  
12 ~~services, assistive technology and health related services~~  
13 ~~designed to respond to the individual needs of those who need~~  
14 ~~assistance with activities of daily living and instrumental~~  
15 ~~activities of daily living. The term includes publicly funded~~  
16 ~~home based services and community based services available~~  
17 ~~through the medical assistance program and the Federal Medicaid~~  
18 ~~waiver program and State funded options for home based services~~  
19 ~~and community based services funded through the Department of~~  
20 ~~Aging.~~

21 ~~"Assistive technology." Those devices and services, whether~~  
22 ~~medically necessary or not, that are used to increase, maintain~~  
23 ~~or improve the functional capabilities of persons with~~  
24 ~~disabilities which may or may not be needed to permit the person~~  
25 ~~to live independently. The term shall include, but not be~~  
26 ~~limited to, reachers, adapted telephones, reading aids and other~~  
27 ~~nonmedical devices.~~

28 ~~"Comprehensive assessment." A thorough review of a~~  
29 ~~consumer's status in a number of functional areas, including a~~  
30 ~~brief personal history. The term includes physical health,~~

~~emotional health, cognitive functioning, physical functioning,  
ability to carry out activities of daily living, informal  
supports, environmental factors and finances.~~

~~"Comprehensive service plan." A plan developed to meet a  
consumer's individual needs in a number of functional areas, as  
a result of the comprehensive assessment. Comprehensive service  
planning is done by an interdisciplinary team that includes the  
consumer, the consumer's legal representative and the consumer's  
family member.~~

~~"Consumer." A person who is 18 years of age or older and who  
receives assisted living services, is in need of assisted living  
services or lives in an assisted living residence.~~

~~"Department." The Department of Public Welfare of the  
Commonwealth.~~

~~"Direct service staff." A person who directly assists  
consumers with activities of daily living, provides services or  
is otherwise responsible for the health, safety and welfare of  
the consumers.~~

~~"Immobile person." An individual who is unable to move from  
one location to another or has difficulty in understanding and  
carrying out instructions without the continued full assistance  
of other persons or is incapable of independently operating a  
device such as a wheelchair, prosthesis, walker or cane to exit  
a building.~~

~~"Long term care ombudsman." An agent of the Department of  
Aging who investigates and seeks to resolve complaints made by  
or on behalf of older individuals or adults with disabilities  
who are consumers of assisted living services, pursuant to  
section 2203-A of the act of April 9, 1929 (P.L.177, No.175),  
known as The Administrative Code of 1929, which complaints may~~

~~relate to action, inaction or decisions of providers of assisted living services or residences or of public agencies or of social service agencies, or their representatives, and which may adversely affect the health, safety, welfare, interests, preferences or rights of consumers.~~

~~"Options." The Long Term Care Pre Admission Assessment Program and the community services for nursing facility eligibility program administered by the Department of Aging and operated by the area agencies on aging.~~

~~"Personal care home." A premise in which food, shelter and personal assistance or supervision are provided for a period exceeding 24 hours for four or more consumers who are not relatives of the operator, who do not require the services in or of a licensed long term care facility, but who do require assistance or supervision in such matters as dressing, bathing, diet, financial management, evacuation of a residence in the event of an emergency or medication prescribed for self-administration.~~

~~Section 3. State plan for regulating and licensing assisted living residences and providers of assisted living services.~~

~~(a) Development. In accordance with the statutory authority and responsibility vested in the department to regulate and license personal care homes pursuant to Articles IX and X of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, the department shall develop and implement a State plan for regulating and licensing assisted living residences and for coordination with other State and local agencies having statutory responsibilities relating to assisted living residences and providers of assisted living services.~~

~~(b) Considerations for development. In developing rules and regulations for the State plan, the department shall:~~

~~(1) Develop standards for licensing as an assisted living residence any premises in which food, shelter and personal assistance or supervision are provided for a period exceeding 24 hours for four or more consumers who are not relatives of the operator and have contracted for such services.~~

~~(2) Require personal care homes currently licensed by the department to come into compliance with department rules and regulations and to obtain a license as an assisted living residence within three years from the effective date of this act.~~

~~(3) Within 90 days of the effective date of this act, adopt rules relating to the conduct of owners and employees of assisted living residences relative to the endorsement or delivery of public or private welfare, pension or insurance checks by a consumer of an assisted living residence.~~

~~(4) Not regulate or require the registration of boarding homes which merely provide room, board and laundry services to persons who do not need assisted living services.~~

~~(c) Publication of preliminary State plan. Within three months of the effective date of this act, the department shall submit to the Aging and Youth Committee of the Senate and the Aging and Youth Committee of the House of Representatives for comment and review, and publish in the Pennsylvania Bulletin in accordance with the provisions of the act of July 31, 1968 (P.L. 769, No. 240), referred to as the Commonwealth Documents Law, relating to the publication of regulations, a preliminary State plan for regulating and licensing assisted living~~



1 residences.

2 ~~(d) Contents of preliminary State plan. The preliminary~~  
3 ~~plan shall include, but is not limited to, the following:~~

4 ~~(1) Coordination of the department's statutory~~  
5 ~~responsibilities with those of other State and local agencies~~  
6 ~~having statutory responsibilities relating to assisted living~~  
7 ~~residences and providers of assisted living services, with~~  
8 ~~particular attention given to the Department of Aging, the~~  
9 ~~Department of Health and the Department of Labor and~~  
10 ~~Industry.~~

11 ~~(2) Recommendations for changes in existing State law~~  
12 ~~and proposed legislation to:~~

13 ~~(i) Resolve inconsistencies that hinder the~~  
14 ~~department's implementation of the State plan.~~

15 ~~(ii) Promote the cost efficiency and effectiveness~~  
16 ~~of visitations and inspections.~~

17 ~~(iii) Delegate to other State and local agencies~~  
18 ~~responsibility for visitations, inspections, referral,~~  
19 ~~placement and protection of consumers residing in~~  
20 ~~assisted living residences or receiving assisted living~~  
21 ~~services from a provider of assisted living services.~~

22 ~~(iv) Evaluate the State's fire and panic laws as~~  
23 ~~applied to assisted living residences.~~

24 ~~(v) Establish fees for licensure of assisted living~~  
25 ~~residences.~~

26 ~~(vi) Create a uniform standard policy for the~~  
27 ~~discharge of a consumer from an assisted living~~  
28 ~~residence, which policy shall include, at a minimum,~~  
29 ~~advance notice provisions for the consumer.~~

30 ~~(3) Recommendations for implementation of fire and~~

1 ~~safety and consumer care standards relating to assisted~~  
2 ~~living residences by cities of the first class, second class~~  
3 ~~and second class A.~~

4 ~~(4) A programmatic and fiscal impact statement regarding~~  
5 ~~the effect of the State plan on existing residential programs~~  
6 ~~for the disabled, including, but not limited to, skilled~~  
7 ~~nursing homes, intermediate care facilities, domiciliary care~~  
8 ~~homes, adult foster care homes, community living arrangements~~  
9 ~~for the mentally retarded and group homes for the mentally~~  
10 ~~ill and the effect of the plan on recipients of supplemental~~  
11 ~~security income.~~

12 ~~(5) A cost analysis of the entire State plan and of all~~  
13 ~~regulations that will be proposed pursuant to the State plan.~~

14 ~~(6) The number of personnel at the State, regional and~~  
15 ~~county level required to inspect assisted living residences~~  
16 ~~and monitor and enforce final rules and regulations adopted~~  
17 ~~by the department.~~

18 ~~(7) A process for relocating consumers of assisted~~  
19 ~~living residences whose health and safety are in imminent~~  
20 ~~danger.~~

21 ~~(c) Regulations by other departments. No later than one~~  
22 ~~year from the effective date of this act:~~

23 ~~(1) The Department of Labor and Industry shall~~  
24 ~~promulgate rules and regulations applicable to assisted~~  
25 ~~living residences on a Statewide basis consistent with size~~  
26 ~~distinctions set forth in the act of November 10, 1999~~  
27 ~~(P.L.491, No.45), known as the Pennsylvania Construction Code~~  
28 ~~Act, pertaining to construction and means of egress. The~~  
29 ~~regulations shall apply to all assisted living residences not~~  
30 ~~currently licensed by the Department of Public Welfare as a~~

1 ~~personal care home. Assisted living residences currently~~  
2 ~~holding a personal care home license in good standing from~~  
3 ~~the Department of Public Welfare shall have three years from~~  
4 ~~the effective date of this act to comply with Department of~~  
5 ~~Labor and Industry rules and regulations applicable to~~  
6 ~~assisted living residences.~~

7 ~~(2) The Department of Health shall promulgate rules and~~  
8 ~~regulations to establish a system of licensure applicable to~~  
9 ~~all assisted living service providers who are not already~~  
10 ~~licensed by that department.~~

11 ~~(3) The Department of Aging shall promulgate rules and~~  
12 ~~regulations to extend regulations promulgated under the act~~  
13 ~~of November 6, 1987 (P.L.381, No.79), known as the Older~~  
14 ~~Adult Protective Services Act, to assisted living residences~~  
15 ~~and assisted living service providers and the consumers~~  
16 ~~thereof.~~

17 ~~(f) Phase in of plan. If the department deems that it is in~~  
18 ~~the best interest of the Commonwealth to implement the State~~  
19 ~~plan on a phase in basis, the department shall submit a detailed~~  
20 ~~schedule of the phase in plan to the Aging and Youth Committee~~  
21 ~~of the Senate and the Aging and Youth Committee of the House of~~  
22 ~~Representatives, which shall be a part of the preliminary State~~  
23 ~~plan.~~

24 ~~(g) Final State plan. Within six months of the effective~~  
25 ~~date of this act, the department shall adopt a final State plan~~  
26 ~~which shall be submitted and published in the same manner as the~~  
27 ~~preliminary State plan.~~

28 ~~(h) Contents of final State plan. The final State plan~~  
29 ~~shall include the information required in the preliminary State~~  
30 ~~plan and, in addition, the cost to operators of assisted living~~

~~residences for compliance with the regulations and to providers of assisted living services for compliance with regulations, in accordance with this section.~~

~~(i) Publication of changes to State plan.—~~

~~(1) Except as provided in paragraph (2), at no time may the department change, alter, amend or modify the final State plan without first publishing such change in the Pennsylvania Bulletin in accordance with the Commonwealth Documents Law relating to publication of regulations and without first submitting the proposed change to the Aging and Youth Committee of the Senate and the Aging and Youth Committee of the House of Representatives for comment and review.~~

~~(2) In an emergency, the department may change, alter, amend or modify the State plan without publishing the change or submitting the change to the Aging and Youth Committee of the Senate and the Aging and Youth Committee of the House of Representatives, provided that within 30 days of adopting the change, the department shall submit and publish the change as a notice in the Pennsylvania Bulletin.~~

~~(j) Inapplicable to religious organizations.—The State plan shall not apply to any assisted living residence operated by a religious organization for the care of clergymen or other persons in a religious profession.~~

~~(k) Other regulations.—Any regulations by the department relating to the funding of residential care for the mentally ill or mentally retarded adults and any regulations of the Department of Aging relating to domiciliary care shall be consistent with regulations established in accordance with this section. Supplementary requirements otherwise authorized by law may be added.~~

~~(l) Annual inspections. After initial licensure, assisted living residences shall, at a minimum, be inspected annually on an unannounced basis. The department shall establish criteria for additional inspections as deemed necessary.~~

~~(m) Existing regulations. Regulations specifically related to personal care homes adopted prior to the effective date of this section shall continue to be applied to an owner or administrator of a personal care home until the owner or administrator obtains licensure as an assisted living residence pursuant to this act.~~

~~Section 4. Intra Governmental Council on Long Term Care.~~

~~(a) Additional members. In addition to the members appointed to the Intra Governmental Council on Long Term Care, in accordance with section 212 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, the Governor shall appoint two representatives of the assisted living industry, one of whom shall be an owner or administrator of a licensed assisted living residence and one of whom shall be a licensed provider of assisted living services.~~

~~(b) Recommendations to be considered. In developing rules and regulations for licensure of assisted living residences, the department shall work in cooperation with the Department of Aging and shall take into consideration recommendations of the Intra Governmental Council on Long Term Care.~~

~~Section 5. Assisted living residence administrator.~~

~~(a) Appointment. Ninety days after the effective date of this act, all assisted living residences shall identify and appoint an assisted living residence administrator or administrators who meet, at a minimum, the qualifications provided in this section.~~

~~(b) Qualifications. An assisted living residence administrator shall:~~

~~(1) be at least 21 years of age and be of good moral character; and~~

~~(2) have knowledge, education and training, as it pertains to assisted living residences, in all of the following:~~

~~(i) fire prevention and emergency planning;~~

~~(ii) first aid, medications, medical terminology and personal hygiene;~~

~~(iii) Federal, State and local laws and regulations;~~

~~(iv) nutrition, food handling and sanitation;~~

~~(v) recreation;~~

~~(vi) matters relating to dementia, including normal aging, cognitive, psychological and functional abilities of older persons;~~

~~(vii) mental health issues;~~

~~(viii) assisted living philosophy;~~

~~(ix) use and benefits of assistive technology;~~

~~(x) team building and stress reduction for assisting living residence staff;~~

~~(xi) working with family members;~~

~~(xii) awareness, identification, prevention and reporting of abuse and neglect;~~

~~(xiii) mission and purpose of services to individuals with cognitive impairments;~~

~~(xiv) communication skills and management of behavioral challenges;~~

~~(xv) community resources and social services;~~

~~(xvi) staff supervision, budgeting, financial~~

~~recordkeeping and training; or~~

~~(3) be a licensed nursing home administrator or personal care home administrator who has completed a course of instruction in the administration of an assisted living residence, including instruction in all areas enumerated under paragraph (2).~~

~~(c) Staff orientation and training.~~

~~(1) The department shall promulgate regulations, not later than 60 days after the effective date of this act, requiring orientation and training for all direct care staff in an assisted living residence, including all areas enumerated under subsection (b).~~

~~(2) Except those items specifically oriented to supervisory staff.~~

~~(3) Not later than 90 days after the effective date of this act, the department shall, by regulation, develop such standards for knowledge, education or training to meet the requirements of this section.~~

~~(4) If not otherwise available, the department shall schedule and offer at cost training and educational programs for a person to meet the knowledge, educational and training requirements established by this act.~~

#### ~~Section 6. Appeals and masters.~~

~~(a) No supersedeas. An appeal from the decision of the department relating to the licensure or revocation of an assisted living residence shall not act as a supersedeas, but, upon cause shown and where circumstances require it, the reviewing authority shall have the power to grant a supersedeas.~~

~~(b) Appointment of master by court. If, without good cause, one or more Class I or Class II violations as defined in section~~

~~9 remain uncorrected or when the assisted living residence has demonstrated a pattern of episodes of noncompliance alternating with compliance over a period of at least two years such as would convince a reasonable person that any correction of violations would be unlikely to be maintained, the department may petition the court to appoint a master designated as qualified by the department to assume operation of the assisted living residence at the assisted living residences expense for a specified period of time or until all violations are corrected and all applicable laws and regulations are complied with.~~

~~Section 7. Relocation.~~

~~(a) Conditions. Except as provided in subsection (c), this department, in conjunction with appropriate local authorities, shall relocate consumers from an assisted living residence if any of the following conditions exist:~~

~~(1) The assisted living residence is operating without a license.~~

~~(2) The licensee is voluntarily closing an assisted living residence and relocation is necessary for the health and welfare of the consumers.~~

~~(b) Assistance. The department shall offer relocation assistance to consumers relocated under this section. Except in an emergency, the consumer shall be involved in planning his transfer to another placement and shall have the right to choose among the available alternative placements. The department may make temporary placement until final placement can be arranged. Consumers shall be provided with an opportunity to visit alternative placement before relocation or following temporary emergency relocation. Consumers shall choose their final placement and shall be given assistance in transferring to such~~



1 place.

2 ~~(c) When prohibited. Consumers shall not be relocated~~  
3 ~~pursuant to this section if the department determines, in~~  
4 ~~writing, that such relocation is not in the best interest of the~~  
5 ~~consumer.~~

6 ~~Section 8. Rules and regulations for assisted living~~  
7 ~~residences.~~

8 ~~(a) Mandatory provisions. The rules and regulations for the~~  
9 ~~licensing of assisted living residences promulgated by the~~  
10 ~~department not later than one year after the effective date of~~  
11 ~~this act shall provide that:~~

12 ~~(1) Prior to admission to an assisted living residence~~  
13 ~~or the provision of assisted living services, an initial~~  
14 ~~standardized screening instrument shall determine the~~  
15 ~~appropriateness of the admission or the provision of services~~  
16 ~~and shall be completed for all consumers. This standardized~~  
17 ~~screening instrument shall be developed by the Department of~~  
18 ~~Public Welfare, in cooperation with the Department of Aging,~~  
19 ~~the Department of Health and the Intra Governmental Council~~  
20 ~~on Long Term Care. In no way shall the utilization of this~~  
21 ~~standardized screening instrument be in lieu of an options~~  
22 ~~assessment for any individual who may need publicly funded~~  
23 ~~services.~~

24 ~~(2) In addition to the screening, a medical evaluation~~  
25 ~~shall be completed and signed by a physician upon admission~~  
26 ~~to an assisted living residence, using a form approved by the~~  
27 ~~Commonwealth. Thereafter, each consumer shall receive a~~  
28 ~~screening and an annual evaluation or an evaluation upon a~~  
29 ~~significant change in condition of the consumer.~~

30 ~~(3) Following completion of a comprehensive assessment,~~

1     ~~an appropriately trained person at the assisted living~~  
2     ~~residence shall work in cooperation with an interdisciplinary~~  
3     ~~team that includes the consumer, the consumer's legal~~  
4     ~~representative or the consumer's family member to develop a~~  
5     ~~written comprehensive service plan consistent with the~~  
6     ~~consumer's unique physical and psychosocial needs with~~  
7     ~~recognition of the consumer's capabilities and preferences.~~

8             ~~(4) Assisted living residences shall not admit a~~  
9     ~~consumer before a determination has been made that the needs~~  
10    ~~of the consumer can be met based upon:~~

11                 ~~(i) The completed screening instrument.~~

12                 ~~(ii) The medical evaluation report.~~

13                 ~~(iii) An interview between the assisted living~~  
14    ~~residence and the consumer.~~

15             ~~(5) Assisted living residences shall foster aging and~~  
16    ~~place and promote consumer self direction and active~~  
17    ~~participation in decision making while emphasizing an~~  
18    ~~individuals privacy and dignity.~~

19             ~~(6) Assisted living residences shall permit consumers to~~  
20    ~~live independently in the residential environment of their~~  
21    ~~choice with privacy and dignity.~~

22             ~~(7) Assisted living residences shall promote integration~~  
23    ~~of consumers into the community and participation in the~~  
24    ~~mainstream of activities.~~

25             ~~(8) Assisted living residences shall maximize consumer~~  
26    ~~choice to promote and support the consumer's changing needs~~  
27    ~~and preferences.~~

28             ~~(9) Assisted living services shall be consumer oriented~~  
29    ~~and meet professional standards of quality.~~

30             ~~(10) An assisted living administrator shall refer a~~

1 ~~consumer whose needs cannot be met by an assisted living~~  
2 ~~residence for a standardized screening.~~

3 ~~(11) A comprehensive service plan shall be on file for~~  
4 ~~each consumer and shall be strictly adhered to in the~~  
5 ~~provision of care and services provided to the consumer.~~

6 ~~(12) Each consumer, or the consumer's legal~~  
7 ~~representative, shall receive an information packet at the~~  
8 ~~time of application which shall include the following items,~~  
9 ~~to be presented in a form easily understood and read by the~~  
10 ~~consumer:~~

11 ~~(i) A copy of the assisted living residences~~  
12 ~~policies.~~

13 ~~(ii) Advance directive information, including~~  
14 ~~information on the right to have or not have an advance~~  
15 ~~directive.~~

16 ~~(iii) Information regarding licensure status.~~

17 ~~(iv) Telephone numbers of the local long term care~~  
18 ~~ombudsman program and the local area agency on aging.~~

19 ~~(v) A copy of the assisted living consumer contract~~  
20 ~~used by the assisted living residence and all rates~~  
21 ~~charged.~~

22 ~~(vi) A copy of the internal complaint resolution~~  
23 ~~mechanism used by the facility.~~

24 ~~(vii) A disclosure stating the rights of consumers~~  
25 ~~under this act.~~

26 ~~(viii) Information regarding the discharge policy of~~  
27 ~~the assisted living residence.~~

28 ~~(13) Each consumer shall be provided by the~~  
29 ~~administrator with notice of any Class I or Class II~~  
30 ~~violations uncorrected after five days.~~

~~(14) All consumers shall receive a standard written admission contract which shall include the actual rent and other charges for services provided by the assisted living residence. The contract shall also include a disclosure statement which shall include the following:~~

~~(i) that the consumer shall have 24 hours from the time of presentation to sign the contract; or~~

~~(ii) that if the contract is signed upon presentation, the consumer shall have 72 hours to rescind the contract.~~

~~(15) A consumer shall have the right to leave and return to the assisted living residence, receive visitors, have access to a telephone and mail and participate in religious activities.~~

~~(16) Assisted living residence owners, administrators or employees shall be prohibited from being assigned power of attorney or guardianship for any consumer.~~

~~(b) Immobile persons. The department shall not prohibit immobile persons who do not require the services of a licensed long term care facility, but who require assisted living residence services, from residing in an assisted living residence, provided that the design, construction, staffing or operation of the assisted living residence allows for safe emergency evacuation.~~

#### ~~Section 9. Classification of violations.~~

~~The department shall classify each violation of its regulations on assisted living residences into one of the following categories:~~

~~(1) Class I. A violation which indicates a substantial probability that death or serious mental or physical harm to~~

~~a consumer may result.~~

~~(2) Class II. A violation which has a substantial adverse effect upon the health, safety or well being of a consumer.~~

~~(3) Class III. A minor violation which has an adverse effect upon the health, safety or well being of a consumer.~~

~~Section 10. Penalties.~~

~~(a) Assessment. The department shall assess a penalty for each violation of this act or regulations of the department. Penalties shall be assessed on a daily basis from the date on which the citation was issued until the date such violation is corrected except in the case of a Class II violations. In the case of a Class II violation, assessment of a penalty shall be suspended for a period of five days from the date of citation provided that, except for good cause, the provider has corrected the violation. If the violation has not been corrected within the five day period, the fine shall be retroactive to the date of citation.~~

~~(b) Amounts.—~~

~~(1) The department shall assess a minimum penalty of \$20 per consumer per day for each Class I violation.~~

~~(2) The department shall assess a minimum penalty of \$5 per consumer per day, up to a maximum of \$15 per consumer per day, for each Class II violation.~~

~~(3) There shall be no monetary penalty for Class III violations unless the provider fails to correct the Class III violation within 15 days. Failure to correct the violation within 15 days may result in an assessment of up to \$3 per consumer per day for each Class III violation, retroactive to the date of citation.~~

1           ~~(4) An assisted living residence found to be operating~~  
2           ~~without a license shall be assessed a penalty of \$500. If,~~  
3           ~~after 14 days, a provider of an assisted living residence~~  
4           ~~cited for operating without a license fails to file an~~  
5           ~~application for a license, the department shall assess an~~  
6           ~~additional \$20 for each consumer for each day in which the~~  
7           ~~assisted living residence fails to make such application.~~

8           ~~(c) Duty to pay.~~

9           ~~(1) A provider charged with a violation of this act~~  
10           ~~shall have 30 days to pay the assessed penalty in full, or,~~  
11           ~~if the provider wishes to contest either the amount of the~~  
12           ~~penalty or the fact of the violation, the party shall forward~~  
13           ~~the assessed penalty, not to exceed \$500, to the department~~  
14           ~~for placement in an escrow account with the State Treasurer.~~

15           ~~(2) If, through administrative hearing or judicial~~  
16           ~~review of the proposed penalty, it is determined that no~~  
17           ~~violation occurred or that the amount of the penalty should~~  
18           ~~be reduced, the secretary shall within 30 days remit the~~  
19           ~~appropriate amount to the provider with any interest~~  
20           ~~accumulated by the escrow deposit.~~

21           ~~(3) Failure to forward the payment to the department~~  
22           ~~within 30 days shall result in a waiver of rights to contest~~  
23           ~~the fact of the violation or the amount of the penalty.~~

24           ~~(4) The amount assessed after administrative hearing or~~  
25           ~~a waiver of the administrative hearing shall be payable to~~  
26           ~~the Commonwealth and shall be collectible in any manner~~  
27           ~~provided by law for the collection of debts. If any provider~~  
28           ~~liable to pay such penalty neglects or refuses to pay the~~  
29           ~~same after demand, such failure to pay shall constitute a~~  
30           ~~judgment in favor of the Commonwealth in the amount of the~~

1 ~~penalty, together with the interest and any costs that may~~  
2 ~~accrue.~~

3 ~~(d) Deposit of penalties. Money collected by the department~~  
4 ~~under this section shall be placed in a special restricted~~  
5 ~~receipt account and shall be first used to defray the expenses~~  
6 ~~incurred by consumers relocated under this act. Any moneys~~  
7 ~~remaining in this account shall annually be remitted to the~~  
8 ~~department for enforcing the provisions of this act. Fines~~  
9 ~~collected pursuant to this act shall not be subject to the~~  
10 ~~provisions of 42 Pa.C.S. § 3733 (relating to deposits into~~  
11 ~~account).~~

12 ~~(e) Regulations. The department shall promulgate~~  
13 ~~regulations necessary for the implementation of this section in~~  
14 ~~order to ensure uniformity and consistency in the application of~~  
15 ~~penalties.~~

16 ~~Section 11. Revocation or nonrenewal of license.~~

17 ~~(a) General rule.—~~

18 ~~(1) The department shall temporarily revoke the license~~  
19 ~~of an assisted living residence if, without good cause, one~~  
20 ~~or more Class I violations remain uncorrected 24 hours after~~  
21 ~~the assisted living residence has been cited for such~~  
22 ~~violation or if, without good cause, one or more Class II~~  
23 ~~violations remain uncorrected 15 days after being cited for~~  
24 ~~violation.~~

25 ~~(2) Upon the revocation of a license pursuant to this~~  
26 ~~subsection, all consumers shall be relocated.~~

27 ~~(3) The revocation may terminate upon the departments~~  
28 ~~determination that its violation is corrected.~~

29 ~~(4) If, after three months, the department does not~~  
30 ~~issue a new license for an assisted living residence license~~

1       ~~revoked pursuant to this section:~~

2               ~~(i) Such revocation or nonrenewal pursuant to this~~  
3       ~~section shall be for a minimum period of five years.~~

4               ~~(ii) No provider of an assisted living residence who~~  
5       ~~has had a license revoked or not renewed pursuant to this~~  
6       ~~section shall be allowed to operate or staff or hold an~~  
7       ~~interest in an assisted living residence that applies for~~  
8       ~~a license for a period of five years after such~~  
9       ~~revocation or nonrenewal.~~

10       ~~(b) Conditions for. The department shall revoke or refuse~~  
11       ~~to renew the license of an assisted living residence if, during~~  
12       ~~any two year period, the assisted living residence, without good~~  
13       ~~cause, on two or more separate occasions has been found to have~~  
14       ~~violated a regulation of the department which has been~~  
15       ~~categorized as Class I.~~

16       ~~(c) Nature of power. The power of the department to revoke~~  
17       ~~or refuse to renew or issue a license pursuant to this section~~  
18       ~~is in addition to the powers and duties of the department~~  
19       ~~pursuant to section 1026 of the act of June 13, 1967 (P.L.31,~~  
20       ~~No.21), known as the Public Welfare Code.~~

21       ~~Section 12. Annual report.~~

22       ~~The Department of Public Welfare shall, after consulting with~~  
23       ~~the Department of Aging and the Department of Health, provide an~~  
24       ~~annual report to the Aging and Youth Committee of the Senate,~~  
25       ~~the Aging and Youth Committee of the House of Representatives~~  
26       ~~and to the Intra Governmental Council on Long Term Care which~~  
27       ~~shall, at a minimum, include the following information:~~

28               ~~(1) The total number of assisted living residences and~~  
29       ~~assisted living service providers in the Commonwealth as well~~  
30       ~~as the numbers of residences and providers newly licensed~~



~~within the previous year.~~

~~(2) Complaints received by the licensing departments, the ombudsman program or to the protective services units in each area agency on aging and the outcome of any investigations.~~

~~(3) Commonwealth costs associated with the licensing, inspection and payment of assisted living services.~~

~~(4) The availability of assisted living residences and assisted living services to consumers and any barriers experienced by consumers in accessing assisted living residences and assisted living services.~~

~~(5) General profile information regarding the types of consumers accessing assisted living residences and assisted living services.~~

~~(6) The costs experienced by consumers in assisted living residences and by consumers using assisted living services. Upon the department's completion of such a cost analysis, the cost information shall also be included as an update in the department's State plan pursuant to section 3.~~

~~(7) Recommendations for additional legislative or regulatory action to improve the quality, affordability or accessibility of assisted living in this Commonwealth.~~

~~Section 13. Repeal.~~

~~All acts and parts of acts are repealed insofar as they are inconsistent with this act.~~

~~Section 14. Effective date.~~

~~This act shall take effect in one year.~~

~~SECTION 1. SHORT TITLE.~~

~~THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE ADULT LIVING RESIDENCE LICENSE ACT.~~

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1 SECTION 2. DEFINITIONS.

2 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL  
3 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
4 CONTEXT CLEARLY INDICATES OTHERWISE:

5 "ACTIVITIES OF DAILY LIVING." ACTIVITIES INCLUDING EATING,  
6 BATHING, DRESSING, TOILETING, TRANSFERRING IN AND OUT OF BED OR  
7 A CHAIR AND PERSONAL HYGIENE.

8 "ADULT." A PERSON WHO IS 18 YEARS OF AGE OR OLDER.

9 "ADULT LIVING RESIDENCE." A RESIDENTIAL PREMISES THAT  
10 PROVIDES HOUSING, FOOD, ASSISTANCE WITH ACTIVITIES OF DAILY  
11 LIVING AND SCHEDULED OR UNSCHEDULED SUPERVISION AVAILABLE ON A  
12 24-HOUR BASIS, THROUGH CONTRACT FOR MORE THAN THREE ADULTS WHO  
13 ARE UNRELATED TO THE OPERATOR OF THE RESIDENTIAL PREMISES AND  
14 WHO DO NOT REQUIRE CARE IN A LICENSED LONG-TERM CARE NURSING  
15 FACILITY AS THAT TERM IS DEFINED IN THE ACT OF JULY 19, 1979  
16 (P.L.130, NO.48), KNOWN AS THE HEALTH CARE FACILITIES ACT,  
17 REGARDLESS OF WHETHER THE OPERATOR PROVIDES OR ALLOWS  
18 SUPPLEMENTAL SERVICES SUCH AS ADDITIONAL ASSISTANCE WITH  
19 ACTIVITIES OF DAILY LIVING AND INTERMITTENT HEALTH CARE SERVICES  
20 PROVIDED BY CERTIFIED, REGISTERED OR LICENSED HEALTH CARE  
21 PROFESSIONALS. THE TERM SHALL INCLUDE A PERSONAL CARE HOME THAT  
22 HAS A CATEGORY I LICENSE AND AN ASSISTED LIVING RESIDENCE THAT  
23 HAS A CATEGORY II LICENSE. THE TERM SHALL NOT INCLUDE  
24 INTERMEDIATE CARE FACILITIES EXCLUSIVELY FOR THE MENTALLY  
25 RETARDED, COMMONLY REFERRED TO AS ICF/MR.

26 "ADULT LIVING RESIDENCY CONTRACT." A WRITTEN AGREEMENT, IN  
27 THE FORM OF A CONTRACT OR CONTRACTS BETWEEN A PROVIDER AND A  
28 CONSUMER NEEDING ADULT LIVING RESIDENCE SERVICES, REGARDING THE  
29 PROVISION AND TERMS OF THOSE SERVICES.

30 "AGING IN PLACE." THE PROCESS OF PROVIDING INCREASED OR

1 ADJUSTED SUPPORTIVE SERVICES TO A CONSUMER TO COMPENSATE FOR THE  
2 PHYSICAL OR MENTAL DECLINE THAT OCCURS WITH THE AGING PROCESS  
3 OVER TIME IN ORDER TO MAXIMIZE INDIVIDUAL DIGNITY AND  
4 INDEPENDENCE AND TO PERMIT THE PERSON TO REMAIN IN A FAMILIAR,  
5 LIVING ENVIRONMENT OF THE PERSON'S CHOICE FOR AS LONG AS  
6 POSSIBLE, WHERE SUCH SUPPORTIVE SERVICES ARE PROVIDED BY A  
7 LICENSED FACILITY OR A THIRD PARTY, IN A HOME OR COMMUNITY OR  
8 THROUGH VOLUNTEERS, FRIENDS OR FAMILY.

9 "AREA AGENCY ON AGING." THE SINGLE LOCAL AGENCY DESIGNATED  
10 BY THE DEPARTMENT OF AGING WITHIN EACH PLANNING AND SERVICE AREA  
11 TO ADMINISTER THE DELIVERY OF A COMPREHENSIVE AND COORDINATED  
12 PLAN OF SOCIAL AND OTHER SERVICES AND ACTIVITIES.

13 "ASSISTED LIVING." ACTIVITIES AS DETERMINED AND SELF-  
14 DIRECTED BY A CONSUMER OR BY A LEGAL REPRESENTATIVE THAT PERMIT  
15 AND ASSIST THE CONSUMER TO LIVE IN A COMMUNITY, INCLUDING SUCH  
16 HOUSING ASSISTANCE OR RESIDENCY IN AN ASSISTED LIVING RESIDENCE  
17 THAT PERMITS THE CONSUMER TO SAFELY BE SUPPORTED IN A RESIDENCE  
18 IN WHICH THE CONSUMER'S INDEPENDENCE, DIGNITY AND ABILITY TO  
19 MAKE CHOICES ARE MAINTAINED, TO THE EXTENT OF THE CONSUMER'S  
20 CAPABILITIES.

21 "ASSISTED LIVING RESIDENCE." A RESIDENTIAL SETTING THAT:

22 (1) OFFERS, PROVIDES OR COORDINATES A COMBINATION OF  
23 PERSONAL CARE SERVICES, RECREATION AND SOCIAL ACTIVITIES, 24-  
24 HOUR SUPERVISION AND ASSISTED LIVING SERVICES, WHETHER  
25 SCHEDULED OR UNSCHEDULED AND THAT COORDINATES OTHER HEALTH-  
26 RELATED SERVICES FOR CONSUMERS.

27 (2) HAS A SUPPORTIVE SERVICE PROGRAM AND PHYSICAL  
28 ENVIRONMENT DESIGNED TO ACCOMMODATE CHANGING NEEDS AND  
29 PREFERENCES.

30 (3) HAS AN ORGANIZED MISSION, SERVICE PROGRAMS AND A

1 PHYSICAL ENVIRONMENT DESIGNED TO MAXIMIZE CONSUMER DIGNITY,  
2 AUTONOMY, PRIVACY AND INDEPENDENCE AND ENCOURAGES FAMILY AND  
3 COMMUNITY INVOLVEMENT.

4 (4) PROVIDES THAT COSTS FOR HOUSING AND SERVICES ARE  
5 INDEPENDENT OF ONE ANOTHER AND THAT PROVIDES CONSUMERS WITH  
6 THE ABILITY TO CHOOSE THEIR SERVICE PROVIDER AND THE SERVICES  
7 TO BE PROVIDED.

8 (5) HAS A GOAL OF FOSTERING AGING IN PLACE AND PROMOTING  
9 CONSUMER SELF-DIRECTION AND ACTIVE PARTICIPATION IN DECISION  
10 MAKING WHILE EMPHASIZING CONSUMER PRIVACY AND DIGNITY.

11 "ASSISTED LIVING SERVICES." A COMBINATION OF SUPPORTIVE  
12 SERVICES, PERSONAL CARE SERVICES, PERSONALIZED ASSISTANCE  
13 SERVICES, ASSISTIVE TECHNOLOGY AND HEALTH-RELATED SERVICES  
14 DESIGNED TO RESPOND TO THE INDIVIDUAL NEEDS OF CONSUMERS WHO  
15 NEED ASSISTANCE WITH ACTIVITIES OF DAILY LIVING AND INSTRUMENTAL  
16 ACTIVITIES OF DAILY LIVING. THE TERMS INCLUDES PUBLICLY FUNDED  
17 HOME-BASED AND COMMUNITY-BASED SERVICES AVAILABLE THROUGH THE  
18 MEDICAL ASSISTANCE PROGRAM AND THE FEDERAL MEDICAID WAIVER  
19 PROGRAM AND STATE-FUNDED OPTIONS FOR HOME-BASED AND COMMUNITY-  
20 BASED SERVICES FUNDED THROUGH THE DEPARTMENT OF AGING AND THE  
21 DEPARTMENT OF PUBLIC WELFARE.

22 "ASSISTIVE TECHNOLOGY." DEVICES AND SERVICES, WHETHER  
23 MEDICALLY NECESSARY OR NOT, THAT ARE USED TO INCREASE, MAINTAIN  
24 OR IMPROVE THE FUNCTIONAL CAPABILITIES OF PERSONS WITH  
25 DISABILITIES WHICH MAY OR MAY NOT BE NEEDED TO PERMIT THE  
26 PERSONS TO LIVE INDEPENDENTLY. THE TERM SHALL INCLUDE, BUT NOT  
27 BE LIMITED TO, REACHERS, ADAPTED TELEPHONES, READING AIDS AND  
28 OTHER NONMEDICAL DEVICES.

29 "BOARD." THE BOARD OF HEARINGS AND APPEALS WITHIN THE  
30 DEPARTMENT OF PUBLIC WELFARE OF THE COMMONWEALTH.

1 "CATEGORY I LICENSE." AN ADULT LIVING RESIDENCE LICENSE  
2 ISSUED UNDER THIS ACT TO A PERSONAL CARE HOME.

3 "CATEGORY II LICENSE." AN ADULT LIVING RESIDENCE LICENSE  
4 ISSUED UNDER THIS ACT TO AN ASSISTED LIVING RESIDENCE.

5 "COMPREHENSIVE ASSESSMENT." A THOROUGH REVIEW AND ANALYSIS  
6 OF A CONSUMER'S FUNCTIONAL STATUS. THE TERM INCLUDES A PERSONAL  
7 HISTORY, ASSESSMENT OF PHYSICAL AND EMOTIONAL HEALTH, ABILITY TO  
8 CARRY OUT ACTIVITIES OF DAILY LIVING, INFORMAL SUPPORTS,  
9 ENVIRONMENTAL FACTORS AND COGNITIVE FUNCTIONING, INCLUDING  
10 IMMOBILITY ASSESSMENT.

11 "COMPREHENSIVE SERVICE PLAN." A PLAN DEVELOPED TO MEET A  
12 CONSUMER'S INDIVIDUAL NEEDS, AS DETERMINED BY A COMPREHENSIVE  
13 ASSESSMENT, AND THAT IS DEVELOPED BY AN INTERDISCIPLINARY TEAM  
14 THAT INCLUDES THE CONSUMER, THE CONSUMER'S LEGAL REPRESENTATIVE  
15 AND THE CONSUMER'S FAMILY MEMBER.

16 "CONSUMER." A PERSON WHO RECEIVES SERVICES IN AN ADULT  
17 LIVING RESIDENCE, IS IN NEED OF ASSISTED LIVING SERVICES OR  
18 PERSONAL CARE SERVICES OR LIVES IN EITHER AN ADULT LIVING  
19 RESIDENCE WITH A CATEGORY I LICENSE OR A CATEGORY II LICENSE.

20 "DEPARTMENT." THE DEPARTMENT OF PUBLIC WELFARE OF THE  
21 COMMONWEALTH.

22 "DIRECT SERVICE STAFF." A PERSON WHO PROVIDES SERVICES IN AN  
23 ADULT LIVING RESIDENCE.

24 "IMMOBILE PERSON." AN INDIVIDUAL WHO IS UNABLE TO MOVE FROM  
25 ONE LOCATION TO ANOTHER OR HAS DIFFICULTY IN UNDERSTANDING AND  
26 CARRYING OUT INSTRUCTIONS WITHOUT THE CONTINUED FULL ASSISTANCE  
27 OF ANOTHER PERSON OR IS INCAPABLE OF INDEPENDENTLY OPERATING A  
28 DEVICE SUCH AS A WHEELCHAIR, PROSTHESIS, WALKER OR CANE TO EXIT  
29 TO A POINT OF SAFETY.

30 "LICENSE." A CATEGORY I LICENSE OR A CATEGORY II LICENSE.

1 "LONG-TERM CARE OMBUDSMAN." AN AGENT OF THE DEPARTMENT OF  
2 AGING WHO, PURSUANT TO SECTION 2203-A OF THE ACT OF APRIL 9,  
3 1929 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF  
4 1929, INVESTIGATES AND SEEKS TO RESOLVE COMPLAINTS MADE BY OR ON  
5 BEHALF OF OLDER INDIVIDUALS OR ADULTS WITH DISABILITIES WHO ARE  
6 CONSUMERS OF ADULT LIVING RESIDENCES, WHICH COMPLAINTS MAY  
7 RELATE TO ACTION, INACTION OR DECISIONS OF PROVIDERS OF ASSISTED  
8 LIVING SERVICES OR RESIDENCES OR OF PERSONAL CARE HOMES OR OF  
9 PUBLIC AGENCIES OR OF SOCIAL SERVICE AGENCIES OR THEIR  
10 REPRESENTATIVES AND WHICH COMPLAINTS MAY ADVERSELY AFFECT THE  
11 HEALTH, SAFETY, WELFARE, INTERESTS, PREFERENCES OR RIGHTS OF  
12 CONSUMERS.

13 "OPTIONS." THE LONG-TERM CARE PRE-ADMISSION ASSESSMENT  
14 PROGRAM AND THE COMMUNITY SERVICES FOR NURSING FACILITY  
15 ELIGIBILITY PROGRAM ADMINISTERED BY THE DEPARTMENT OF AGING AND  
16 OPERATED BY THE LOCAL AREA AGENCIES ON AGING.

17 "PERSONAL CARE HOME." A PREMISES IN WHICH FOOD, SHELTER AND  
18 PERSONAL ASSISTANCE OR SUPERVISION ARE PROVIDED FOR A PERIOD  
19 EXCEEDING 24 HOURS FOR FOUR OR MORE CONSUMERS WHO ARE NOT  
20 RELATIVES OF THE OPERATOR OF THE PREMISES, WHO DO NOT REQUIRE  
21 THE SERVICES IN OR OF A LICENSED LONG-TERM CARE FACILITY, BUT  
22 WHO REQUIRE ASSISTANCE OR SUPERVISION IN SUCH MATTERS AS  
23 DRESSING, BATHING, DIET, FINANCIAL MANAGEMENT, EVACUATION OF A  
24 RESIDENCE IN THE EVENT OF AN EMERGENCY OR MEDICATION PRESCRIBED  
25 FOR SELF-ADMINISTRATION.

26 "PERSONAL CARE SERVICES." ASSISTANCE OR SUPERVISION IN  
27 DRESSING, BATHING, DIET, FINANCIAL MANAGEMENT OR EVACUATION OF A  
28 CONSUMER IN A PERSONAL CARE HOME, IN THE EVENT OF AN EMERGENCY,  
29 OR MEDICATION PRESCRIBED FOR SELF-ADMINISTRATION.

30 SECTION 3. (RESERVED)

1 SECTION 4. POWERS AND DUTIES OF COMMONWEALTH DEPARTMENTS.

2 WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS ACT, THE  
3 FOLLOWING COMMONWEALTH DEPARTMENTS SHALL WORK IN CONSULTATION  
4 AND IN COOPERATION WITH EACH OTHER TO DEVELOP A PROGRAM OF  
5 LICENSURE AND REGULATION TO GOVERN ADULT LIVING RESIDENCES IN  
6 THIS COMMONWEALTH:

7 (1) THE DEPARTMENT OF PUBLIC WELFARE SHALL SERVE AS THE  
8 LEAD AGENCY IN THE DEVELOPMENT AND IMPLEMENTATION OF A  
9 PROGRAM FOR LICENSING AND REGULATING ADULT LIVING RESIDENCES,  
10 TO INCLUDE A CATEGORY I LICENSE AND A CATEGORY II LICENSE.  
11 THE DEPARTMENT SHALL COORDINATE WITH OTHER STATE AND LOCAL  
12 AGENCIES HAVING STATUTORY RESPONSIBILITIES RELATING TO ADULT  
13 LIVING RESIDENCES AND PROVIDERS OF ASSISTED LIVING SERVICES.

14 (2) THE DEPARTMENT OF AGING SHALL FORMULATE  
15 RECOMMENDATIONS FOR CHANGES IN EXISTING STATE LAW AND  
16 REGULATIONS TO EXTEND PROVISIONS OF THE ACT OF NOVEMBER 6,  
17 1987 (P.L.381, NO.79), KNOWN AS THE OLDER ADULTS PROTECTIVE  
18 SERVICES ACT, TO ADULT LIVING RESIDENCES AND THE CONSUMERS  
19 THEREOF.

20 (3) THE DEPARTMENT OF HEALTH SHALL FORMULATE  
21 RECOMMENDATIONS FOR CHANGES IN EXISTING STATE LAW AND  
22 REGULATIONS TO ESTABLISH A SYSTEM OF LICENSURE APPLICABLE TO  
23 PROVIDERS OF ASSISTED LIVING SERVICES WHO ARE NOT ALREADY  
24 LICENSED BY THAT DEPARTMENT. SUCH SYSTEM MAY INCLUDE  
25 ASSESSMENT OF A LICENSURE FEE.

26 (4) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL  
27 PROMULGATE RULES AND REGULATIONS APPLICABLE TO ASSISTED  
28 LIVING RESIDENCES IN ACCORDANCE WITH THE ACT OF NOVEMBER 10,  
29 1999 (P.L.491, NO.45), KNOWN AS THE PENNSYLVANIA CONSTRUCTION  
30 CODE ACT, AND IN ACCORDANCE WITH THIS SECTION. THE

1 REGULATIONS SHALL APPLY TO ALL ASSISTED LIVING RESIDENCES NOT  
2 CURRENTLY LICENSED BY THE DEPARTMENT OF PUBLIC WELFARE AS A  
3 PERSONAL CARE HOME AND TO ALL PERSONAL CARE HOMES MAKING AN  
4 APPLICATION TO THE DEPARTMENT FOR A CATEGORY II LICENSE. A  
5 PERSONAL CARE HOME MAKING AN APPLICATION FOR A CATEGORY II  
6 LICENSE SHALL HAVE THREE YEARS FROM THE EFFECTIVE DATE OF  
7 THIS ACT TO COMPLY WITH THE DEPARTMENT OF LABOR AND INDUSTRY  
8 RULES AND REGULATIONS UNDER THIS ACT.

9 SECTION 5. RULES AND REGULATIONS.

10 THE DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS FOR  
11 ADULT LIVING RESIDENCES THAT:

12 (1) PROVIDE THAT ANY REGULATIONS SPECIFICALLY RELATED TO  
13 PERSONAL CARE HOMES, ADOPTED PRIOR TO THE EFFECTIVE DATE OF  
14 THIS ACT, SET FORTH IN 55 PA. CODE CH. 2620 (RELATING TO  
15 PERSONAL CARE HOME LICENSING), AND PROMULGATED IN ACCORDANCE  
16 WITH THE ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE  
17 PUBLIC WELFARE CODE, SHALL CONTINUE TO BE APPLIED TO AN OWNER  
18 OR ADMINISTRATOR OF A PERSONAL CARE HOME UNDER A CATEGORY I  
19 LICENSE. THE DEPARTMENT SHALL ENSURE CONSISTENCY BETWEEN SUCH  
20 CURRENTLY EXISTING REGULATIONS GOVERNING PERSONAL CARE HOMES  
21 AND ANY REGULATIONS PROMULGATED IN ACCORDANCE WITH THIS ACT.

22 (2) DEVELOP STANDARDS FOR A CATEGORY II LICENSE FOR ANY  
23 PREMISES IN WHICH FOOD, SHELTER AND PERSONAL ASSISTANCE OR  
24 SUPERVISION ARE PROVIDED FOR A PERIOD EXCEEDING 24 HOURS FOR  
25 FOUR OR MORE CONSUMERS WHO ARE NOT RELATIVES OF THE OPERATOR  
26 AND HAVE CONTRACTED FOR SUCH SERVICES.

27 (3) REQUIRE PERSONAL CARE HOMES LICENSED BY THE  
28 DEPARTMENT PRIOR TO THE EFFECTIVE DATE OF THIS ACT AND THAT  
29 INTEND TO OBTAIN A CATEGORY II LICENSE TO COME INTO  
30 COMPLIANCE WITH DEPARTMENT RULES AND REGULATIONS AND TO



1 OBTAIN A CATEGORY II LICENSE AS AN ASSISTED LIVING RESIDENCE  
2 NO LATER THAN THREE YEARS AFTER THE EFFECTIVE DATE OF THIS  
3 ACT.

4 (4) WITHIN 90 DAYS OF THE EFFECTIVE DATE OF THIS ACT,  
5 ADOPT RULES RELATING TO THE CONDUCT OF OWNERS AND EMPLOYEES  
6 OF ASSISTED LIVING RESIDENCES RELATIVE TO THE ENDORSEMENT OR  
7 DELIVERY OF PUBLIC OR PRIVATE WELFARE, PENSION OR INSURANCE  
8 CHECKS BY A CONSUMER OR AN ASSISTED LIVING RESIDENCE.

9 (5) EXEMPT FROM REGULATION UNDER THIS ACT BOARDING HOMES  
10 WHICH MERELY PROVIDE ROOM, BOARD AND LAUNDRY SERVICES TO  
11 PERSONS WHO DO NOT NEED ADULT LIVING RESIDENCE SERVICES.

12 (6) PROMOTE THE COST EFFICIENCY AND EFFECTIVENESS OF  
13 VISITATIONS AND INSPECTIONS.

14 (7) DELEGATE TO OTHER STATE AND LOCAL AGENCIES  
15 RESPONSIBILITY FOR VISITATIONS, INSPECTIONS, REFERRAL,  
16 PLACEMENT AND PROTECTION OF CONSUMERS RESIDING IN ADULT  
17 LIVING RESIDENCES OR RECEIVING ASSISTED LIVING SERVICES FROM  
18 A PROVIDER OF ASSISTED LIVING SERVICES.

19 (8) EVALUATE THE STATE'S FIRE AND PANIC LAWS AS APPLIED  
20 TO ADULT LIVING RESIDENCES.

21 (9) CREATE A UNIFORM STANDARD POLICY FOR THE DISCHARGE  
22 OF A CONSUMER FROM AN ADULT LIVING RESIDENCE, INCLUDING, AT A  
23 MINIMUM, ADVANCE NOTICE PROVISIONS FOR THE CONSUMER.

24 (10) CREATE A LISTING OF MEDICAL CONDITIONS OR CARE  
25 NEEDS THAT SHALL PRECLUDE ADULT LIVING RESIDENCES FROM  
26 ADMITTING OR RETAINING CONSUMERS.

27 (11) PROVIDE FOR THE IMPLEMENTATION OF FIRE AND SAFETY  
28 AND CONSUMER CARE STANDARDS RELATING TO ADULT LIVING  
29 RESIDENCES BY CITIES OF THE FIRST CLASS, SECOND CLASS AND  
30 SECOND CLASS A.

1           (12) ESTABLISH A PROCESS FOR RELOCATING CONSUMERS OF  
2 ADULT LIVING RESIDENCES.

3           (13) ENSURE THAT ANY REGULATIONS ESTABLISHED IN  
4 ACCORDANCE WITH THIS SECTION SHALL BE CONSISTENT WITH  
5 REGULATIONS OF THE DEPARTMENT RELATING TO THE FUNDING OF  
6 RESIDENTIAL CARE FOR THE MENTALLY ILL OR MENTALLY RETARDED  
7 ADULTS AND ANY REGULATIONS OF THE DEPARTMENT OF AGING  
8 RELATING TO DOMICILIARY CARE.

9           (14) DEVELOP STANDARDS AND QUALIFICATIONS FOR ASSISTED  
10 LIVING RESIDENCE ADMINISTRATORS.

11           (15) DEVELOP STANDARDS FOR ORIENTATION AND TRAINING FOR  
12 ALL DIRECT SERVICE STAFF IN AN ASSISTED LIVING RESIDENCE.

13           (16) PROVIDE FOR THE POSTING IN ADULT LIVING RESIDENCES  
14 OF INFORMATION REGARDING THE LONG-TERM CARE OMBUDSMAN  
15 PROGRAM, INCLUDING THE PROCESS WHEREBY THE SERVICES OF THE  
16 LOCAL OMBUDSMAN CARE BE READILY ACCESSED INCLUDING THE  
17 TELEPHONE NUMBER, AND NAME OF THE CONTACT PERSON. SUCH  
18 INFORMATION SHALL BE POSTED IN A CONSPICUOUS LOCATION THAT IS  
19 READILY ACCESSIBLE AND SHALL BE PRESENTED IN A FORM EASILY  
20 UNDERSTOOD AND READ BY CONSUMERS.

21           (17) DEVELOP STANDARDS, FOR ADMISSION TO ADULT LIVING  
22 RESIDENCES AND FOR PROVISION OF ASSISTED LIVING SERVICES,  
23 INCLUDING:

24               (I) COMPLETION OF A COMPREHENSIVE ASSESSMENT PROCESS  
25 AND DEVELOPMENT OF A COMPREHENSIVE SERVICE PLAN FOR EACH  
26 CONSUMER.

27               (II) REQUIREMENTS FOR INFORMATION WHICH MUST BE  
28 PROVIDED TO CONSUMERS OF ADULT LIVING RESIDENCES AND  
29 ASSISTED LIVING SERVICES.

30               (III) REQUIREMENTS FOR ADULT LIVING RESIDENCY

1 CONTRACTS, INCLUDING DEVELOPMENT OF A STANDARDIZED ADULT  
2 LIVING RESIDENCY CONTRACT.

3 SECTION 6. (RESERVED)

4 SECTION 7. LICENSE REQUIRED.

5 NO PERSON SHALL ESTABLISH, MAINTAIN, OPERATE OR HOLD ITSELF  
6 OUT AS AUTHORIZED TO ESTABLISH, MAINTAIN OR OPERATE:

7 (1) A PERSONAL CARE HOME WITHOUT FIRST HAVING OBTAINED A  
8 CATEGORY I LICENSE ISSUED BY THE DEPARTMENT.

9 (2) AN ASSISTED LIVING RESIDENCE WITHOUT FIRST HAVING  
10 OBTAINED A CATEGORY II LICENSE ISSUED BY THE DEPARTMENT.

11 SECTION 8. APPLICATION FOR LICENSE.

12 (A) SUBMISSION TO DEPARTMENT.--ANY PERSON DESIRING TO SECURE  
13 A CATEGORY I LICENSE OR CATEGORY II LICENSE SHALL SUBMIT AN  
14 APPLICATION ON A FORM PRESCRIBED BY THE DEPARTMENT AND SHALL  
15 SUBMIT ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

16 (B) FEES.--THE FOLLOWING FEE SHALL ACCOMPANY AN APPLICATION  
17 FOR A LICENSE OR FOR RENEWAL OF A LICENSE UNTIL MODIFIED BY THE  
18 DEPARTMENT BY REGULATION:

19 (1) RESIDENCES WITH LESS THAN 20 BEDS - \$50.

20 (2) RESIDENCES WITH 20-50 BEDS - \$100.

21 (3) RESIDENCES WITH 51-100 BEDS - \$250.

22 (4) RESIDENCES WITH MORE THAN 100 BEDS - \$500.

23 SECTION 9. ISSUANCE OF LICENSES.

24 A LICENSE ISSUED BY THE DEPARTMENT UNDER THIS ACT SHALL:

25 (1) BE ISSUED FOR A PERIOD NOT TO EXCEED ONE YEAR.

26 (2) BE ISSUED ONLY TO THE APPLICANT.

27 (3) BE ISSUED ONLY WHEN THE APPLICANT HAS ACHIEVED FULL  
28 COMPLIANCE WITH THE RULES AND REGULATIONS OF THE COMMONWEALTH  
29 DEPARTMENTS PROVIDED FOR UNDER SECTIONS 4 AND 5.

30 (4) NOT BE TRANSFERABLE.

(5) BE POSTED AT ALL TIME IN A CONSPICUOUS AND READILY  
ACCESSIBLE PLACE ON THE PREMISES OF THE ADULT LIVING  
RESIDENCE.

SECTION 10. (RESERVED)

SECTION 11. (RESERVED)

SECTION 12. RIGHT TO ENTER AND INSPECT.

(A) GENERAL RULE.--THE DEPARTMENT SHALL HAVE THE RIGHT TO  
ENTER AND INSPECT ANY ADULT LIVING RESIDENCE THAT IS LICENSED OR  
REQUIRED TO BE LICENSED UNDER THIS ACT, WITH OR WITHOUT PRIOR  
NOTICE. THE DEPARTMENT SHALL HAVE THE RIGHT TO FREE AND FULL  
ACCESS TO INSPECT AND EXAMINE THE ASSISTED LIVING RESIDENCE AND  
ITS GROUNDS AND THE RECORDS OF THE RESIDENCE AND THE LICENSEE.  
THE DEPARTMENT SHALL ALSO HAVE IMMEDIATE AND FULL OPPORTUNITY TO  
PRIVATELY INTERVIEW ANY MEMBER OF THE DIRECT SERVICE STAFF. THE  
DEPARTMENT SHALL CONTACT THE LONG-TERM CARE OMBUDSMAN AND SHALL  
UTILIZE ANY CONSUMER-RELATED INFORMATION AVAILABLE TO BE  
PROVIDED BY THAT OFFICE WHEN CONDUCTING INSPECTIONS UNDER THIS  
SECTION.

(B) ADMINISTRATIVE SEARCH WARRANTS.--NOTWITHSTANDING THE  
INSPECTION AND ACCESS POWERS OF THE DEPARTMENT UNDER SUBSECTION  
(A), UPON SHOWING PROBABLE CAUSE THAT THERE IS A VIOLATION OF  
THIS ACT OR REGULATIONS UNDER THIS ACT, A COURT OF COMPETENT  
JURISDICTION OR A DISTRICT JUSTICE WHERE THE RESIDENCE IS  
LOCATED SHALL ISSUE AN ADMINISTRATIVE SEARCH WARRANT TO THE  
DEPARTMENT. THE WARRANT SHALL IDENTIFY THE ADDRESS OF THE ADULT  
LIVING RESIDENCE TO BE SEARCHED, THE HOURS DURING WHICH THE  
SEARCH WILL OCCUR AND ANY DOCUMENTS OR OBJECTS TO BE SEIZED.

SECTION 13. (RESERVED)

SECTION 14. (RESERVED)

SECTION 15. (RESERVED)

1 SECTION 16. IMMOBILE PERSONS.

2 THE DEPARTMENT SHALL NOT PROHIBIT IMMOBILE PERSONS WHO DO NOT  
3 REQUIRE THE SERVICES OF A LICENSED LONG-TERM CARE FACILITY, BUT  
4 WHO REQUIRE ASSISTED LIVING RESIDENCE SERVICES, FROM RESIDING IN  
5 AN ADULT LIVING RESIDENCE WITH A CATEGORY II LICENSE, PROVIDED  
6 THAT THE DESIGN, CONSTRUCTION, STAFFING OR OPERATION OF THE  
7 ASSISTED LIVING RESIDENCE ALLOWS FOR SAFE EMERGENCY EVACUATION.

8 SECTION 17. VIOLATIONS.

9 (A) NOTICE OF VIOLATIONS.--

10 (1) IF THE DEPARTMENT, WHETHER UPON INSPECTION,  
11 INVESTIGATION OR COMPLAINT, FINDS A VIOLATION OF THIS ACT OR  
12 REGULATIONS PROMULGATED UNDER THIS ACT, IT SHALL GIVE WRITTEN  
13 NOTICE TO THE LICENSEE SPECIFYING THE VIOLATION OR VIOLATIONS  
14 FOUND. THE NOTICE SHALL REQUIRE THE LICENSEE TO TAKE ACTION  
15 OR TO SUBMIT A PLAN OF CORRECTION TO BRING THE ADULT LIVING  
16 RESIDENCE INTO COMPLIANCE WITH APPLICABLE LAW OR REGULATION  
17 WITHIN A SPECIFIED TIME.

18 (2) THE LICENSEE SHALL, WITHIN 15 DAYS OF RECEIPT OF THE  
19 WRITTEN NOTICE OR SOONER IF DIRECTED TO DO SO BY THE  
20 DEPARTMENT, SUBMIT A PLAN OF CORRECTION.

21 (3) THE DEPARTMENT MAY REVOKE A LICENSE BEFORE PROVIDING  
22 NOTICE OR BEFORE A PLAN OF CORRECTION IS SUBMITTED WHENEVER A  
23 VIOLATION POSES A SIGNIFICANT THREAT TO THE HEALTH OR SAFETY  
24 OF THE CONSUMERS IN AN ADULT LIVING RESIDENCE.

25 (B) ADMINISTRATIVE FINES.--IF THE DEPARTMENT DETERMINES THAT  
26 AN ADULT LIVING RESIDENCE HAS FAILED TO COMPLY WITH THE  
27 PROVISIONS OF THIS ACT OR THE REGULATIONS PROMULGATED UNDER THIS  
28 ACT, IT MAY ASSESS AN ADMINISTRATIVE FINE OF NOT MORE THAN  
29 \$1,000 PER DAY PER VIOLATION. IN SETTING THE FINE, THE  
30 DEPARTMENT SHALL CONSIDER THE SEVERITY OF THE VIOLATION AND

1 WHETHER THERE IS A PATTERN OF VIOLATIONS.

2 (C) CRIMINAL PENALTIES.--A LICENSEE THAT INTENTIONALLY  
3 COMMITS A VIOLATION OR CONTINUES TO OPERATE AN ADULT LIVING  
4 RESIDENCE WITHOUT A LICENSE BY THE DEPARTMENT COMMITS A  
5 MISDEMEANOR OF THE SECOND DEGREE AND SHALL, UPON CONVICTION, BE  
6 SENTENCED TO PAY A FINE OF \$5,000 OR TO IMPRISONMENT FOR NOT  
7 MORE THAN TWO YEARS, OR BOTH.

8 SECTION 18. REASONS FOR DENIAL, NONRENEWAL OR REVOCATION OF A  
9 LICENSE.

10 THE DEPARTMENT MAY DENY, REFUSE OR RENEW OR REVOKE A LICENSE  
11 FOR ALL OR ANY PORTION OF AN ADULT LIVING RESIDENCE OR MAY  
12 SUSPEND OR RESTRICT ADMISSIONS TO THE RESIDENCE FOR ANY OF THE  
13 FOLLOWING REASONS:

14 (1) FAILURE OF A LICENSEE TO SUBMIT AN ACCEPTABLE PLAN  
15 OF CORRECTION WITH A REASONABLE TIMETABLE TO CORRECT  
16 VIOLATIONS.

17 (2) THE EXISTENCE OF A PATTERN OF VIOLATIONS.

18 (3) FAILURE TO COMPLY WITH A PLAN OF CORRECTION OR TO  
19 REPORT VIOLATIONS IN ACCORDANCE WITH A TIMETABLE SUBMITTED BY  
20 THE APPLICANT AND AGREED UPON BY THE DEPARTMENT.

21 (4) FRAUD OR DECEIT IN OBTAINING OR ATTEMPTING TO OBTAIN  
22 A LICENSE.

23 (5) LENDING, BORROWING OR USING THE LICENSE OF ANOTHER  
24 OR IN ANY WAY KNOWINGLY AIDING OR ABETTING THE IMPROPER  
25 GRANTING OF A LICENSE.

26 (6) INCOMPETENCE, NEGLIGENCE OR MISCONDUCT IN OPERATING  
27 THE ADULT LIVING RESIDENCE.

28 (7) MISTREATMENT OR ABUSE OF A CONSUMER OF THE ADULT  
29 LIVING RESIDENCE.

30 (8) VIOLATION OF THE PROVISIONS OF THIS ACT OR THE

REGULATIONS PROMULGATED UNDER THIS ACT.

(9) VIOLATION OF OTHER APPLICABLE FEDERAL OR STATE LAWS.

SECTION 19. LICENSURE APPEALS.

(A) NATURE OF PROCEEDING.--A LICENSEE AGGRIEVED BY A DECISION OF THE DEPARTMENT UNDER THIS ACT SHALL HAVE THE RIGHT TO AN APPEAL. THE APPEAL SHALL BE CONDUCTED IN ACCORDANCE WITH 2 PA.C.S. CH. 5 SUBCH. A (RELATING TO PRACTICE AND PROCEDURE OF COMMONWEALTH AGENCIES) TO THE BOARD.

(B) TIME FOR HEARING.--

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2), A HEARING SHALL BE HELD BY THE BOARD WITHIN 90 DAYS OF RECEIPT OF THE NOTICE OF REQUEST FOR A HEARING.

(2) IF THE BOARD DETERMINES THAT CONTINUED OPERATION, PENDING ADMINISTRATIVE REVIEW, POSES AN IMMEDIATE THREAT TO THE CONSUMERS IN THE ASSISTED LIVING RESIDENCE OR IF THE DEPARTMENT HAS IMPLEMENTED AN EMERGENCY ACTION PURSUANT TO SECTION 21(C) AND A TIMELY REQUEST FOR A HEARING HAS BEEN MADE, A HEARING SHALL BE HELD WITHIN 15 DAYS AFTER THE RECEIPT OF THE RESPONSE OR REQUEST FOR A HEARING.

(3) HEARING DATES SPECIFIED IN THIS SUBSECTION MAY BE EXTENDED BY THE BOARD FOR GOOD CAUSE IF AGREED TO BY ALL PARTIES.

(C) DECISIONS.--A DECISION SHALL BE ISSUED WITHIN 60 DAYS AFTER THE FINAL DAY OF THE HEARING. IN THE CASE OF AN EXPEDITED HEARING UNDER SUBSECTION (B)(2), A DECISION SHALL BE ISSUED WITHIN FIVE DAYS AFTER THE FINAL DATE OF THE HEARING.

(D) SUBPOENAS.--THE PRESIDING OFFICER MAY ISSUE A SUBPOENA AT THE REQUEST OF EITHER PARTY.

(E) DISCOVERY.--DISCOVERY SHALL BE LIMITED TO REASONABLE REQUESTS FOR PRODUCTION OF DOCUMENTS AND IDENTIFICATION OF

1 WITNESSES. ALL OTHER DISCOVERY SHALL BE BY MUTUAL AGREEMENT OF  
2 THE PARTIES.

3 SECTION 20. EFFECT OF DEPARTMENTAL ORDERS.

4 ORDERS OF THE DEPARTMENT FROM WHICH NO APPEAL IS TAKEN TO THE  
5 BOARD AND ORDERS OF THE BOARD FROM WHICH NO TIMELY APPEAL IS  
6 TAKEN TO THE COURT SHALL BE FINAL ORDERS AND MAY BE ENFORCED BY  
7 A COURT OF COMPETENT JURISDICTION.

8 SECTION 21. ACTIONS AGAINST VIOLATIONS OF LAW AND REGULATIONS.

9 (A) VIOLATIONS.--WHENEVER ANY PERSON, REGARDLESS OF WHETHER  
10 SUCH PERSON IS A LICENSEE, HAS VIOLATED ANY OF THE PROVISIONS OF  
11 THIS ACT OR THE REGULATIONS ISSUED PURSUANT THERETO, THE  
12 DEPARTMENT MAY MAINTAIN AN ACTION IN THE NAME OF THE  
13 COMMONWEALTH FOR AN INJUNCTION OR OTHER PROCESS RESTRAINING OR  
14 PROHIBITING SUCH PERSON FROM ENGAGING IN SUCH ACTIVITY.

15 (B) RESIDENCE CLOSURE FOR THREAT TO HEALTH OR SAFETY.--  
16 WHENEVER THE DEPARTMENT DETERMINES THAT A VIOLATION POSES AN  
17 IMMEDIATE AND SERIOUS THREAT TO THE HEALTH OR SAFETY OF THE  
18 CONSUMERS OF AN ADULT LIVING RESIDENCE, THE DEPARTMENT MAY  
19 DIRECT THE CLOSURE OF THE ASSISTED LIVING RESIDENCE AND THE  
20 TRANSFER OF THE CONSUMERS TO OTHER ADULT LIVING RESIDENCES WITH  
21 A CATEGORY II LICENSE OR OTHER APPROPRIATE LOCATIONS. THE  
22 DEPARTMENT MAY PETITION THE COMMONWEALTH COURT OR THE COURT OF  
23 COMMON PLEAS OF THE COUNTY IN WHICH THE ADULT LIVING RESIDENCE  
24 IS LOCATED TO APPOINT THE DEPARTMENT TEMPORARY MANAGEMENT OF THE  
25 ADULT LIVING RESIDENCE. IF GRANTED, THE DEPARTMENT SHALL ASSUME  
26 OPERATION OF THE ADULT LIVING RESIDENCE AT THE LICENSEE'S  
27 EXPENSE UNTIL THERE IS AN ORDERLY CLOSURE OF THE ADULT LIVING  
28 RESIDENCE.

29 (C) UNLICENSED ADULT LIVING RESIDENCES.--

30 (1) WHENEVER A LICENSE IS REQUIRED BY THIS ACT, THE



1 DEPARTMENT MAY MAINTAIN AN ACTION IN A COURT OF COMPETENT  
2 JURISDICTION IN THE NAME OF THE COMMONWEALTH FOR AN  
3 INJUNCTION OR OTHER PROCESS RESTRAINING OR PROHIBITING ANY  
4 PERSON FROM ESTABLISHING, MAINTAINING OR OPERATING AN ADULT  
5 LIVING RESIDENCE THAT DOES NOT POSSESS A CATEGORY I LICENSE  
6 OR CATEGORY II LICENSE.

7 (2) IF A PERSON WHO IS REFUSED A LICENSE OR THE RENEWAL  
8 OF A LICENSE TO OPERATE OR CONDUCT AN ADULT LIVING RESIDENCE,  
9 OR WHOSE LICENSE TO OPERATE OR CONDUCT AN ADULT LIVING  
10 RESIDENCE IS REVOKED, FAILS TO APPEAL, OR SHOULD SUCH APPEAL  
11 BE DECIDED FINALLY FAVORABLE TO THE DEPARTMENT, THEN THE  
12 COURT SHALL ISSUE A PERMANENT INJUNCTION UPON PROOF THAT THE  
13 PERSON IS OPERATING OR CONDUCTING AN ADULT LIVING RESIDENCE  
14 WITHOUT A LICENSE AS REQUIRED BY THIS ACT.

15 SECTION 22. INJUNCTION OR RESTRAINING ORDER WHEN APPEAL IS  
16 PENDING.

17 WHENEVER THE DEPARTMENT REFUSES TO RENEW OR REVOKES A LICENSE  
18 OR ORDERS A PERSON TO REFRAIN FROM VIOLATING THIS ACT OR THE  
19 REGULATIONS PROMULGATED UNDER THIS ACT AND THE PERSON, DEEMING  
20 HIMSELF AGGRIEVED BY THE REFUSAL, REVOCATION OR ORDER, APPEALS  
21 FROM THE ACTION OF THE DEPARTMENT TO THE BOARD OR FROM THE ORDER  
22 OF THE BOARD TO THE COURT, THE COURT MAY DURING PENDANCY OF THE  
23 APPEAL:

24 (1) ISSUE A RESTRAINING ORDER OR INJUNCTION UPON A  
25 SHOWING THAT THE CONTINUED OPERATION OF THE ADULT LIVING  
26 RESIDENCE ADVERSELY AFFECTS THE HEALTH, SAFETY OR CARE OF THE  
27 CONSUMERS OF THE ADULT LIVING RESIDENCE; OR

28 (2) AUTHORIZE CONTINUED OPERATION OF THE RESIDENCE OR  
29 MAKE SUCH OTHER ORDER, PENDING FINAL DISPOSITION OF THE CASE,  
30 AS JUSTICE AND EQUITY REQUIRE.

1 SECTION 23. (RESERVED)

2 SECTION 24. (RESERVED)

3 SECTION 25. (RESERVED)

4 SECTION 26. SEVERABILITY.

5 IF ANY PROVISION OF THIS ACT OR THE APPLICATION THEREOF TO  
6 ANY PERSON OR CIRCUMSTANCES IS HELD INVALID, SUCH INVALIDITY  
7 SHALL NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THE ACT  
8 WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR  
9 APPLICATION, AND TO THIS END THE PROVISIONS OF THIS ACT ARE  
10 DECLARED TO BE SEVERABLE.

11 SECTION 27. REPEAL.

12 ALL ACTS AND PARTS OF ACTS ARE REPEALED INsofar AS THEY ARE  
13 INCONSISTENT WITH THIS ACT.

14 SECTION 28. EFFECTIVE DATE.

15 THIS ACT SHALL TAKE EFFECT IN ONE YEAR.