

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1628 Session of
2001

INTRODUCED BY SCHULER, DAILEY, PISTELLA, ZIMMERMAN, SATHER,
BISHOP, ARMSTRONG, SAMUELSON, WATSON, C. WILLIAMS, B. SMITH,
GRUCELA, PALLONE AND YUDICHAK, MAY 21, 2001

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
MAY 21, 2001

AN ACT

1 Providing for admission and retention of consumers in adult
2 living residences, for appeals to the Bureau of Hearings and
3 Appeals and for the powers and duties of the Department of
4 Public Welfare.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Adult Living
9 Residence Admission and Retention Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Adult living residence." A residential premises that
15 provides housing, food, assistance with activities of daily
16 living and scheduled or unscheduled supervision available on a
17 24-hour basis, through contract for more than three adults who
18 are unrelated to the operator of the residential premises and

1 who do not require care in a licensed long-term care nursing
2 facility as that term is defined in the act of July 19, 1979
3 (P.L.130, No.48), known as the Health Care Facilities Act,
4 regardless of whether the operator provides or allows
5 supplemental services such as additional assistance with
6 activities of daily living and intermittent health care services
7 provided by certified, registered or licensed health care
8 professionals. The term includes any such residential premises
9 that is licensed by the department as a personal care home or an
10 assisted living residence. The term does not include an
11 intermediate care facility that provides services exclusively
12 for the mentally retarded and that may be commonly referred to
13 as ICF/MR.

14 "Bureau." The Bureau of Hearings and Appeals in the
15 Department of Public Welfare.

16 "Department." The Department of Public Welfare of the
17 Commonwealth.

18 Section 3. Conditions precluding admission and retention in
19 adult living residences.

20 Adult living residences may not admit or retain consumers
21 with any of the following conditions or care needs:

22 (1) Ventilator dependency.

23 (2) Decubiti and vascular ulcers III and IV.

24 (3) Intravenous fluids or injections directly into the
25 vein, except for intermittent intravenous therapy managed by
26 a health care professional licensed in this Commonwealth.

27 Intermittent intravenous therapy may be provided by an adult
28 living residence to a consumer for a maximum of two weeks'
29 duration, on a daily or periodic basis by a licensed health
30 care professional under a physician's treatment plan.

1 (4) Airborne infectious disease in a communicable state
2 that requires isolation of the consumer or requires special
3 precautions by the caretaker to prevent transmission of the
4 disease, including, but not limited to, tuberculosis and
5 excluding the common cold and other infections.

6 (5) Psychotropic medications without appropriate
7 diagnosis and treatment plan.

8 (6) Nasogastric tubes.

9 (7) Gastric tubes, except when the consumer is
10 independently capable of self-feeding and self-care of the
11 tube.

12 (8) Consumers presenting an imminent physical threat or
13 danger to self or others.

14 (9) Consumers whose physician certifies that placement
15 is no longer appropriate.

16 (10) Consumers requiring more than intermittent nursing
17 care.

18 (11) Consumers requiring insertions, sterile irrigation
19 and replacement of catheter except for routine maintenance of
20 urinary catheter unless the catheter care is self-
21 administered or administered by a licensed health care
22 professional.

23 (12) Consumers requiring sliding scale insulin
24 administration unless self-performed or administered by a
25 licensed health care professional.

26 (13) Consumers whose health care needs cannot be met in
27 the specific adult living residence as determined by the
28 adult living residence.

29 Section 4. Appeals.

30 Consumers who are not admitted to or retained by an adult

1 living residence due to conditions or care needs other than
2 those as set forth under section 3 shall have available to them
3 an appeal procedure to be conducted through the bureau. In the
4 event that a consumer is successful in an appeal, and a
5 determination to not admit or retain such consumer in an adult
6 living residence is overturned, the consumer shall have the
7 right to be admitted to or retained by that adult living
8 residence no later than 30 days following the final decision by
9 the bureau.

10 Section 5. Enforcement.

11 If the department determines that an adult living residence
12 has failed to comply with the provisions of this act or the
13 regulations promulgated under this act, it may assess an
14 administrative fine of not more than \$500 per day per violation.

15 Section 6. Regulations.

16 (a) General rule.--Except as provided in subsection (b), the
17 department shall promulgate regulations to implement the
18 provisions of this act within six months of the effective date
19 of this act.

20 (b) Appeal procedure.--The department shall promulgate
21 regulations to implement the appeal procedure required by
22 section 4 within three months of the effective date of this act.

23 Section 7. Effective date.

24 This act shall take effect in one year.