

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 375 Session of
2007

INTRODUCED BY WATSON, HENNESSEY, GINGRICH, BASTIAN, BEYER,
BISHOP, CALTAGIRONE, FREEMAN, GALLOWAY, GEIST, GEORGE,
GILLESPIE, HESS, McILHATTAN, NAILOR, O'NEILL, PETRI, RAPP,
REICHLEY, RUBLEY, STEIL, J. TAYLOR, WANSACZ, WILLIAMS,
YOUNGBLOOD AND PICKETT, FEBRUARY 13, 2007

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES,
FEBRUARY 13, 2007

AN ACT

1 Providing for the licensure and regulation of assisted living
2 residences; conferring powers and duties on the Department of
3 Public Welfare; adding members to the Intra-Governmental
4 Council on Long-Term Care; and providing for penalties.

5 The General Assembly finds and declares as follows:

6 (1) Assisted living residences are a significant long-
7 term care alternative nationwide.

8 (2) Assisted living residences are a combination of
9 housing and supportive services, as needed. They are widely
10 accepted by the general public because they allow people to
11 age in place, maintain their independence and exercise
12 decision making and personal choice.

13 (3) Consumers continue to say that the three things they
14 want most are:

15 (i) to stay independent and live at home and in
16 their community as long as possible;

17 (ii) respect and dignity for the individual; and

1 Section 504. Standards for admission.
2 Section 505. Right to enter and inspect.
3 Section 506. Relocation of consumers in assisted living
4 residences.
5 Section 507. Assisted living residence administrators.
6 Section 508. Staff orientation and training in assisted
7 living residences.
8 Section 509. Staffing levels and training.
9 Section 510. Persons with special needs.
10 Chapter 7. Enforcement Provisions
11 Section 701. Enforcement.
12 Section 702. Revocation or nonrenewal of license.
13 Section 703. Licensure appeals.
14 Section 704. Effect of departmental orders.
15 Section 705. Actions against violations of law and regulations.
16 Section 706. Injunction or restraining order when appeal is
17 pending.
18 Chapter 9. Miscellaneous Provisions
19 Section 901. Annual report.
20 Section 902. Legislative Budget and Finance Committee study
21 and Joint Legislative Task Force.
22 Section 903. Committee regulation review.
23 Section 904. Severability.
24 Section 905. Repeal.
25 Section 906. Effective date.

26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

28 CHAPTER 1
29 PRELIMINARY PROVISIONS

30 Section 101. Short title.

1 This act shall be known and may be cited as the Assisted
2 Living Residence License Act.

3 Section 102. Definitions.

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

7 "Activities of daily living" or "ADLs." Activities including
8 eating, drinking, ambulating, transferring in and out of bed or
9 a chair, toileting, bladder and bowel management, personal
10 hygiene, securing health care, managing health care, self-
11 administering medication and proper turning and positioning in a
12 bed or chair.

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

14 "Aging in place." The process of providing increased or
15 adjusted supportive services to a consumer to compensate for the
16 physical or mental decline that occurs with the aging process
17 over time in order to maximize individual dignity and
18 independence and to permit the consumer to remain in a familiar
19 living environment of the consumer's choice for as long as the
20 consumer's needs can be met, where such supportive services are
21 provided by a licensed facility or a third party, in a home or
22 community or through volunteers, friends or family.

23 "Area agency on aging" or "AAA." The single local agency
24 designated by the Department of Aging within each planning and
25 service area to administer the delivery of a comprehensive and
26 coordinated plan of social and other services and activities.

27 "Assisted living." Activities as determined and self-
28 directed by a consumer or by a legal representative that permit
29 and assist the consumer to live in a community, including such
30 housing assistance or residency in an assisted living residence

1 that permits the consumer to safely be supported in a residence
2 in which the consumer's independence, dignity and ability to
3 make choices are maintained, to the extent of the consumer's
4 capabilities.

5 "Assisted living residence" or "residence." A residential
6 setting that:

7 (1) Meets or exceeds the minimum standards for a
8 personal care home, as defined under 55 Pa. Code Ch. 2600
9 (relating to personal care home licensing).

10 (2) Offers, provides or coordinates a combination of
11 personal care services, recreation and social activities, 24-
12 hour supervision and assisted living services, whether
13 scheduled or unscheduled, and that coordinates other health-
14 related services for consumers.

15 (3) Has a supportive service program and physical
16 environment designed to minimize the need for consumers to
17 move within or from the setting in order to accommodate
18 changing needs and preferences.

19 (4) Has an organized mission, service programs, and a
20 physical environment designed to maximize consumer dignity,
21 autonomy, privacy and independence and encourages family and
22 community involvement.

23 (5) Provides that costs for housing and services may be
24 independent of one another.

25 (6) Provides consumers with the ability to choose the
26 services to be provided, their service provider and the
27 services to the extent that the residential setting does not
28 offer particular services to consumers.

29 (7) Has a goal of fostering aging in place and promoting
30 consumer self-direction and active participation in decision

1 making while emphasizing consumer privacy and dignity.

2 (8) Will disclose services offered, provided or
3 coordinated and the costs thereof.

4 This term does not include:

5 (1) a residential living unit maintained by a continuing
6 care provider who is certified by the Insurance Department;

7 (2) a residential unit in a subsidized housing
8 apartment, unless required to be licensed under the
9 Department of Housing and Urban Development Assisted Living
10 Conversion Program; or

11 (3) a boarding home which merely provides room, board
12 and laundry services to persons who do not need personal care
13 services.

14 "Assisted living residence services." A combination of
15 supportive services, personal care services, personalized
16 assistance services, assistive technology and health-related
17 services designed to respond to the individual needs of
18 consumers who need assistance with activities of daily living
19 and instrumental activities of daily living. The term may
20 include publicly funded home-based and community-based services
21 available through the medical assistance program and the Federal
22 Medicaid Waiver Program and State-funded options for home-based
23 and community-based services authorized through the Department
24 of Aging and the Department of Public Welfare.

25 "Assisted living residence services agreement." The contract
26 or contracts between a residence and a consumer needing assisted
27 living residence services regarding the provision and terms of
28 the assisted living residence services. The term includes a
29 contract between an assisted living residence and an entity
30 contracting for services for consumers using public funding.

1 "Assistive technology." Devices and services, whether
2 medically necessary or not, that are used to increase, maintain
3 or improve the functional capabilities of persons with
4 disabilities which may or may not be needed to permit the
5 persons with disabilities to live independently. The term shall
6 include, but not be limited to, reachers, adapted telephones,
7 reading aids and other nonmedical devices.

8 "Bureau." The Bureau of Hearings and Appeals within the
9 Department of Public Welfare.

10 "Cognitive support services." Services provided as part of a
11 comprehensive plan of care to individuals who have memory
12 impairments and other cognitive problems which significantly
13 interfere with their ability to carry out activities of daily
14 living without assistance and who require that supervision,
15 monitoring and programming be available to them 24 hours a day,
16 seven days a week, in order for them to reside safely in the
17 setting of their choice. The term includes assessment, health
18 support services and a full range of dementia-capable activity
19 programming and crisis management.

20 "Comprehensive assessment." A thorough review and analysis
21 of a consumer's functional status. The term includes a personal
22 history, assessment of physical and emotional health, ability to
23 carry out activities of daily living, informal supports,
24 environmental factors and cognitive functioning, including
25 immobility assessment.

26 "Comprehensive service plan." A plan that is developed to
27 meet a consumer's individual needs, as determined by a
28 comprehensive assessment, and that is developed by an
29 interdisciplinary team that includes the administrator, the
30 consumer, the consumer's legal representative and the consumer's

1 designated person, if applicable.

2 "Consumer." A person who receives services in an assisted
3 living residence.

4 "Department." The Department of Public Welfare of the
5 Commonwealth.

6 "Designated person." An individual who may be chosen by a
7 consumer and documented in the consumer's record to be notified
8 in case of an emergency, termination of services, assisted
9 living residence closure or other situations as indicated by the
10 consumer or as required by this act. The individual may be the
11 consumer's legal representative or an advocate.

12 "Direct service staff." An individual who works for an
13 assisted living residence for compensation either on payroll or
14 under contract, is 18 years of age or older and directly
15 provides assisted living residence services to consumers.

16 "Immobile person." An individual who:

17 (1) is unable to move from one location to another;

18 (2) has difficulty in understanding and carrying out
19 instructions without the continued full assistance of another
20 person; or

21 (3) is incapable of independently operating a device
22 such as a wheelchair, prosthesis, walker or cane to exit to a
23 point of safety.

24 "Instrumental activities of daily living" or IADLs." The
25 term includes, but is not limited to, doing laundry, shopping,
26 securing and using transportation, managing finances, using a
27 telephone, meal preparation, making and keeping appointments,
28 caring for personal possessions, writing correspondence,
29 engaging in social and leisure activities, using a prosthetic
30 device and housekeeping.

1 "License." An assisted living residence license.

2 "Long-term care ombudsman." A representative of the Office
3 of the State Long-Term Care Ombudsman in the Department of Aging
4 who, pursuant to section 2203-A of the act of April 9, 1929
5 (P.L.177, No.175), known as The Administrative Code of 1929,
6 investigates and seeks to resolve complaints made by or on
7 behalf of individuals who both are 60 years of age or older and
8 consumers of assisted living residences, which complaints may
9 relate to action, inaction or decisions of providers of assisted
10 living residence services or of public agencies or of social
11 service agencies or their representatives and which complaints
12 may adversely affect the health, safety, welfare, interests,
13 preferences or rights of consumers.

14 "Options." The Long-Term Care Pre-Admission Assessment
15 Program and the Community Services for Nursing Facility
16 Eligibility Program administered by the Department of Aging and
17 operated by the local area agencies on aging.

18 "Personal care home." A premises in which food, shelter and
19 personal assistance or supervision are provided for a period
20 exceeding 24 hours for four or more adults who are not relatives
21 of the operator and who do not require the services in or of a
22 licensed long-term care facility, but who do require assistance
23 or supervision in activities of daily living or instrumental
24 activities of daily living. The term includes a premises that
25 has held or presently holds itself out as a personal care home
26 and provides food and shelter to four or more adults who need
27 personal care services, but who do not receive the services.

28 "Personal care services." Assistance or supervision in
29 activities of daily living (ADL) or instrumental activities of
30 daily living (IADL), or both.

1 "Secretary." The Secretary of Public Welfare of the
2 Commonwealth.

3 CHAPTER 3

4 ADMINISTRATION

5 Section 301. Intra-Governmental Council on Long-Term Care.

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

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

19 Section 302. Powers and duties of Commonwealth departments and
20 agencies.

21 (a) General rule.--Within one year of the effective date of
22 this section, the following Commonwealth departments shall work
23 in consultation and in cooperation with each other to develop a
24 program of licensure and regulation to govern assisted living
25 residences in this Commonwealth:

26 (1) The department shall serve as the lead agency in the
27 development and implementation of a program for licensing and
28 regulating assisted living residences. The department shall
29 coordinate with other State and local agencies having
30 statutory responsibilities relating to assisted living

1 residences.

2 (2) The Department of Aging shall formulate and provide
3 to the Aging and Youth Committee of the Senate and the Aging
4 and Older Adult Services Committee of the House of
5 Representatives recommendations for changes in existing State
6 law and regulations to extend provisions of the act of
7 November 6, 1987 (P.L.381, No.79), known as the Older Adults
8 Protective Services Act, to assisted living residences and
9 the consumers thereof.

10 (3) The Department of Labor and Industry shall
11 promulgate rules and regulations applicable to assisted
12 living residences in accordance with the act of November 10,
13 1999 (P.L.491, No.45), known as the Pennsylvania Construction
14 Code Act, and in accordance with this section. The
15 regulations shall apply to all assisted living residences not
16 currently licensed by the department as a personal care home
17 and to all personal care homes making an application to the
18 department for an assisted living residence license.

19 (b) Construction.--Nothing in this section shall be
20 construed to preclude the role of any additional Commonwealth
21 departments or agencies in the licensing and regulation of
22 assisted living residences, as designated by the Governor.

23 Section 303. Rules and regulations.

24 (a) Initial rules.--Within 90 days of the effective date of
25 this section, the department shall:

26 (1) Adopt rules relating to the conduct of owners and
27 employees of assisted living residences relative to the
28 endorsement or delivery of public or private welfare, pension
29 or insurance checks by a consumer of an assisted living
30 residence.

1 (2) In consultation with the Department of Aging and the
2 Intra-Governmental Council on Long-Term Care, adopt rules
3 for:

4 (i) Classification of violations.

5 (ii) Enforcement measures for violations, including
6 closure of assisted living residences, with extensive
7 patterns of serious violations or those which are found
8 to have severe violations which constitute a risk to
9 safety of current or potential consumers.

10 (iii) Closure of assisted living residences that
11 have failed to obtain a license and have consumers
12 receiving services covered under this act.

13 (iv) Responding to the needs of consumers with
14 cognitive impairments.

15 (v) Protecting consumers' rights.

16 The rules shall be in effect until the adoption of final
17 regulations that cover the same subject matter.

18 (b) Standards.--The department shall promulgate regulations,
19 no later than one year after the effective date of this section,
20 in order to develop standards to be met by assisted living
21 residences to qualify for a license. The regulations shall:

22 (1) Not apply to boarding homes that merely provide
23 room, board and laundry services to persons who do not need
24 assisted living residence services.

25 (2) Promote the cost efficiency and effectiveness of
26 visitations and inspections.

27 (3) Delegate to other State and local agencies, as
28 appropriate, responsibility for visitations, inspections,
29 referrals, placement and protection of consumers residing in
30 assisted living residences.

1 (4) Evaluate the State's fire and panic laws as applied
2 to assisted living residences.

3 (5) Establish a uniform standard policy for the
4 discharge of a consumer from an assisted living residence,
5 including, at a minimum, advance notice provisions for the
6 consumer and the consumer's appeal rights through the bureau.

7 (6) Provide for the implementation of fire and safety
8 and consumer care standards relating to assisted living
9 residences by cities of the first class, second class and
10 second class A.

11 (7) Ensure that any regulations established in
12 accordance with this section shall be consistent with
13 regulations of the department relating to the funding of
14 residential care for the mentally ill or mentally retarded
15 adults and any regulations of the Department of Aging
16 relating to domiciliary care.

17 (8) Develop standards and qualifications for
18 administrators of assisted living residences.

19 (9) Develop standards for orientation and training for
20 all direct service staff in an assisted living residence.

21 (10) Provide for the posting in assisted living
22 residences of information regarding the Long-Term Care
23 Ombudsman Program, including the process in which the
24 services of the local ombudsman can be readily accessed,
25 including the telephone number and name of the contact
26 person. Such information shall be posted in a conspicuous
27 location that is readily accessible and shall be presented in
28 a form easily understood and read by consumers.

29 (11) Develop standards for admission to assisted living
30 residences and for provision of assisted living residence

services to consumers, including:

(i) Completion of a comprehensive assessment process and development of a comprehensive service plan for each consumer.

(ii) Requirements for information that must be provided prior to admission to consumers of assisted living residences.

(iii) Requirements for assisted living residence services agreements, including development of a standardized assisted living residence services agreement.

CHAPTER 5

LICENSURE PROVISIONS

Section 501. License required.

No person shall establish, maintain, operate or hold itself out as authorized to establish, maintain or operate an assisted living residence without first having obtained an assisted living residence license issued by the department.

Section 502. Application for license.

(a) Submission to department.--In order to obtain a license, an application shall be submitted on a form prescribed by the department, along with any other information required by the department.

(b) Fees.--The following fee shall accompany an application for an assisted living residence license or for renewal of a license until modified by the department by regulation:

(1) Residences with fewer than 20 beds, \$50.

(2) Residences with 20 to 50 beds, \$100.

(3) Residences with 51 to 100 beds, \$250.

(4) Residences with more than 100 beds, \$500.

1 Section 503. Issuance of license.

2 An assisted living residence license issued by the department
3 under this act shall:

4 (1) Be issued for a period not to exceed one year.

5 (2) Be issued only to the applicant.

6 (3) Be issued only when the applicant has achieved
7 compliance with the rules and regulations of the Commonwealth
8 departments provided for under sections 302 and 303.

9 (4) Not be transferable unless the department approves
10 the transfer of license. The department may deny transfers to
11 friends, relatives or business associates if it appears that
12 the purpose of the transfer is to avoid licensure action or
13 if it appears that the previous owner will continue to have
14 involvement in the residence or business.

15 (5) Be posted at all times in a conspicuous and readily
16 accessible place on the premises of the assisted living
17 residence.

18 Section 504. Standards for admission.

19 The rules and regulations for the licensing of assisted
20 living residences shall provide that:

21 (1) Prior to admission to an assisted living residence,
22 an initial standardized screening instrument shall determine
23 the appropriateness of the admission and shall be completed
24 for all consumers. This standardized screening instrument
25 shall be developed by the department, in cooperation with the
26 Department of Aging and the Intra-Governmental Council on
27 Long-Term Care. In no way shall the utilization of this
28 standardized instrument be in lieu of an options assessment
29 for any consumer who may need publicly funded services.

30 (2) In addition to the screening, each consumer shall

1 have a medical evaluation performed by a physician,
2 physician's assistant or certified registered nurse
3 practitioner documented on a form specified by the department
4 and kept on file at the residence, within 60 days prior to
5 admission or within 30 days after admission. The medical
6 evaluation shall:

7 (i) Include, at a minimum, a general physical
8 examination, a medical diagnosis, medical information
9 pertinent to diagnosis and treatment in case of an
10 emergency, special health or dietary needs of the
11 consumer, allergies, immunization history and other items
12 as determined by the department.

13 (ii) Be performed at least annually.

14 (iii) Be performed if the medical condition of the
15 consumer changes prior to the annual medical evaluation.

16 (3) Following completion of a comprehensive assessment,
17 an individual designated by the assisted living residence
18 administrator shall work in cooperation with an
19 interdisciplinary team that includes the consumer and the
20 consumer's designated person to develop a written
21 comprehensive service plan consistent with the consumer's
22 unique physical and psychosocial needs with recognition of
23 the consumer's capabilities and preferences.

24 (4) Assisted living residences may not admit a consumer
25 before a determination has been made that the needs of the
26 consumer can be met based upon:

27 (i) The completed screening instrument.

28 (ii) The medical evaluation report.

29 (iii) An interview between the assisted living
30 residence and the consumer, and if applicable, the

1 consumer's designated person, or both.

2 (5) Assisted living residences shall:

3 (i) Foster aging in place and promote consumer self-
4 direction and active participation in decision making
5 while emphasizing a consumer's privacy and dignity, based
6 on the consumer's cognitive capability.

7 (ii) Permit consumers to live independently in the
8 residential environment of their choice with privacy and
9 dignity.

10 (iii) Promote integration of consumers into the
11 community and participation in the mainstream of
12 activities.

13 (iv) Maximize consumer choice to promote and support
14 the consumer's changing needs and preferences.

15 (v) Be consumer oriented and meet professional
16 standards of quality.

17 (6) An assisted living resident administrator shall
18 refer a consumer whose needs cannot be met by an assisted
19 living residence for a standardized screening.

20 (7) A comprehensive service plan shall be kept on file
21 for each consumer and shall be strictly adhered to in the
22 provision of care and services provided to the consumer.

23 (8) Each consumer or the consumer's designated person
24 shall receive an information packet at the time of
25 application that includes the following items, presented in a
26 form easily understood and read by the consumer:

27 (i) A copy of the assisted living residence's
28 policies.

29 (ii) Advance directive information, including
30 information on the right to have or not have an advance

1 directive.

2 (iii) Information regarding licensure status.

3 (iv) Telephone numbers of the local long-term care
4 ombudsman program and the local area agency on aging.

5 (v) A copy of the assisted living residence services
6 agreement used by the assisted living residence and all
7 rates charged.

8 (vi) A copy of the internal complaint resolution
9 mechanism used by the assisted living residence.

10 (vii) A disclosure stating the rights of consumers
11 under this act.

12 (viii) Information regarding the discharge policy of
13 the assisted living residence, including the consumer's
14 right to appeal a decision, as well as information on the
15 appeal procedure and the reason for the discharge.

16 (9) All consumers shall receive a standard written
17 assisted living residence services agreement which shall
18 include the actual rent and other charges for services
19 provided by the assisted living residence. The agreement
20 shall also include a disclosure statement that includes the
21 following:

22 (i) The consumer has 24 hours from the time of
23 presentation to sign the agreement.

24 (ii) If the agreement is signed upon presentation,
25 the consumer has 72 hours to rescind the agreement.

26 (10) A consumer shall have the right to leave and return
27 to the assisted living residence in accordance with residence
28 procedures, receive visitors, have access to a telephone and
29 mail and participate in religious activities.

30 (11) Assisted living residence owners, administrators

1 and direct service staff shall be prohibited from being
2 assigned power of attorney or guardianship for consumers.

3 Section 505. Right to enter and inspect.

4 (a) General rule.--The department shall receive complaints
5 24 hours a day and may enter and inspect any assisted living
6 residence that is licensed or required to be licensed by this
7 act, with or without prior notice. The department shall have
8 free and full access to inspect and examine the assisted living
9 residence and its grounds and the records of the residence and
10 the licensee. The department shall also have immediate and full
11 opportunity to privately interview any member of the direct
12 service staff. The department shall contact the long-term care
13 ombudsman and shall utilize any consumer-related information
14 available to be provided by that office when conducting
15 inspections under this section.

16 (b) Initial licensure inspection.--Before an assisted living
17 residence is licensed and permitted to open, operate or admit
18 consumers and before assisted living residence services are
19 provided to consumers, it shall be inspected by the department
20 for compliance with the requirements set forth in this act and
21 the resulting regulations.

22 (c) Annual unannounced inspections required.--The department
23 shall annually conduct at least one onsite, unannounced
24 inspection of each assisted living residence.

25 (d) Special unannounced inspections.--

26 (1) Within 24 hours of receipt of a complaint from any
27 person alleging an immediate serious risk to the health and
28 safety of a consumer in an assisted living residence, the
29 department shall conduct an onsite unannounced inspection of
30 the assisted living residence.

1 (2) The inspection pursuant to this subsection may be
2 conducted after receipt of a complaint alleging severe injury
3 or death of a consumer in the assisted living residence,
4 reports of abuse or conditions or practices that create an
5 immediate and serious risk to a consumer.

6 (e) Time period for unannounced inspections.--Except for
7 complaints under subsection (d), the department shall determine
8 the acceptable time period in which an unannounced inspection
9 shall be conducted.

10 (f) Annual report.--The department shall submit, on an
11 annual basis, a report to the Aging and Youth Committee of the
12 Senate and the Aging and Older Adult Services Committee of the
13 House of Representatives regarding the findings of the
14 inspections required by this section.

15 (g) Administrative search warrants.--Notwithstanding the
16 inspection and access powers of the department under subsection
17 (a), on a finding of probable cause that there is a violation of
18 this act or regulations under this act, a court of competent
19 jurisdiction or a magisterial district judge where the residence
20 is located shall issue an administrative search warrant to the
21 department. The warrant shall identify the address of the
22 assisted living residence to be searched, the hours during which
23 the search may occur and any documents or objects to be seized.

24 Section 506. Relocation of consumers in assisted living
25 residences.

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

30 (1) The assisted living residence is operating without a

1 license.

2 (2) The licensee is voluntarily closing the assisted
3 living residence and relocation is necessary for the health
4 and safety of the consumers.

5 (3) The licensee is being involuntarily closed or has
6 engaged in conduct that endangers the health and safety of
7 consumers.

8 (b) Assistance.--

9 (1) The department shall offer relocation assistance to
10 consumers relocated under this section. Except in an
11 emergency, consumers shall be involved in planning their
12 transfer to another placement and shall have the right to
13 choose among the available alternative placements.

14 (2) The department may make temporary placement until
15 final placement can be arranged.

16 (3) Consumers shall be provided with an opportunity to
17 visit alternative placement before relocation or following
18 temporary emergency relocation. Consumers shall choose their
19 final placement and shall be given assistance in transferring
20 to such place.

21 (c) When prohibited.--Consumers may not be relocated
22 pursuant to this section if the department determines in writing
23 that such relocation is not in the best interest of the
24 consumer.

25 Section 507. Assisted living residence administrators.

26 (a) Appointment.--No later than 90 days after the effective
27 date of this section, all assisted living residences shall
28 identify and appoint an assisted living residence administrator
29 or administrators who meet, within one year of the effective
30 date of the regulations promulgated under section 303, at a

1 minimum, the qualifications provided in this section. Education
2 and training requirements for assisted living residence
3 administrators shall meet or exceed requirements for personal
4 care home administrators, pursuant to 55 Pa. Code, Ch. 2600
5 (relating to personal care home licensing).

6 (b) Qualification.--An assisted living residence
7 administrator shall satisfy the provisions in one of the
8 following paragraphs:

9 (1) (i) Be 21 years of age or older and be of good
10 moral character.

11 (ii) Have a high school diploma or a GED
12 equivalency.

13 (iii) Have knowledge, education and training, as it
14 pertains to assisted living residences, in all of the
15 following:

16 (A) Fire prevention and emergency planning.

17 (B) First aid and cardiopulmonary resuscitation
18 certification, medications, medical terminology and
19 personal hygiene.

20 (C) Federal, State and local laws and
21 regulations.

22 (D) Nutrition, food handling and sanitation.

23 (E) Recreation.

24 (F) Matters relating to dementia, including
25 normal aging and cognitive, psychological and
26 function abilities of older persons.

27 (G) Mental health issues.

28 (H) Assisted living philosophy.

29 (I) Use and benefits of assistive technology.

30 (J) Team building and stress reduction for

1 assisted living residence staff.

2 (K) Working with family members.

3 (L) Awareness, identification, prevention and
4 reporting of abuse and neglect.

5 (M) Mission and purpose of services to
6 individuals with cognitive impairments.

7 (N) Communication skills and management of
8 behavioral challenges.

9 (O) Community resources and social services.

10 (P) Staff supervision, budgeting, financial
11 recordkeeping and training.

12 (2) Be a licensed nursing home administrator or
13 certified personal care home administrator who has completed
14 a course of instruction in the administration of an assisted
15 living residence, including instruction in all areas
16 enumerated under paragraph (1)(iii).

17 (c) Training.--An assisted living residence administrator
18 shall complete a department-approved training course of 100
19 hours and must pass a test which has been approved by the
20 department and administered by an entity approved by the
21 department at the end of training to demonstrate proficiency in
22 the application of skills and knowledge.

23 (d) Continuing education.--An assisted living residence
24 administrator shall complete 24 hours of annual continuing
25 education that has been approved by the department and is
26 applicable to the practice of assisted living administrators.

27 Section 508. Staff orientation and training in assisted living
28 residences.

29 (a) General rule.--The department shall promulgate
30 regulations, no later than 90 days after the effective date of

1 this section, to develop standards for orientation and training
2 for all direct service staff in assisted living residences. Such
3 orientation and training shall include the following areas:

- 4 (1) Fire prevention and emergency planning.
- 5 (2) First aid and CPR certification, medications,
6 medical terminology and personal hygiene.
- 7 (3) Federal, State and local laws and regulations.
- 8 (4) Nutrition, food handling and sanitation.
- 9 (5) Recreation.
- 10 (6) Matters relating to dementia, including normal aging
11 and cognitive, psychological and functional abilities of
12 older persons.
- 13 (7) Mental health issues.
- 14 (8) Assisted living philosophy.
- 15 (9) Use and benefits of assistive technology.
- 16 (10) Team building and stress reduction for assisted
17 living residence staff.
- 18 (11) Working with family members.
- 19 (12) Awareness, identification, prevention and reporting
20 of abuse and neglect.
- 21 (13) Mission and purpose of services to individuals with
22 cognitive impairments.
- 23 (14) Communication skills and management of behavioral
24 challenges.

25 (15) Community resources and social services.

26 (b) Department-administered training.--If not otherwise
27 available, the department shall schedule and offer, at cost,
28 training and educational programs for a person to meet the
29 knowledge, educational and training requirements established
30 under this act.

1 Section 509. Staffing levels and training.

2 (a) General rule.--The department shall establish staffing
3 levels for assisted living residences depending upon the
4 facility population, mobility of residents and cognitive
5 impairments to insure:

6 (1) Direct service staff to meet the unplanned and
7 unscheduled needs of consumers.

8 (2) Direct service staff to meet consumers' planned and
9 scheduled needs as required in their comprehensive service
10 plans.

11 (3) Additional staff or contracted services to meet
12 laundry, food service, housekeeping, transportation and
13 maintenance needs of the assisted living residence.

14 (b) Training.--All direct service staff shall complete a
15 department-approved education and training program and obtain a
16 certificate of completion. Direct service staff shall complete
17 training and demonstrate proficiency in a manner approved by the
18 department in each training component prior to independent work
19 in that area. Education and training requirements for assisted
20 living direct service staff shall meet or exceed the
21 requirements for direct service staff in a personal care home.

22 Section 510. Persons with special needs.

23 (a) Immobile persons.--Immobile persons who do not require
24 the services of a licensed long-term care facility, but who
25 require assisted living residence services, shall be permitted
26 to reside in an assisted living residence, provided that the
27 design, construction, staffing or operation of the assisted
28 living residence allows for safe emergency evacuation.

29 (b) Alzheimer's disease, dementia and cognitive
30 impairment.--For consumers with Alzheimer's disease or dementia

1 or where the assisted living residence holds itself out to the
2 public as providing services or housing for persons with
3 cognitive impairments, assisted living residences shall disclose
4 to consumers and provide:

5 (1) The residence's written statement of its philosophy
6 and mission which reflects the needs of individuals with
7 cognitive impairments.

8 (2) A description of the residence's physical
9 environment and design features to support the functioning of
10 adults with cognitive impairments.

11 (3) A description of the frequency and types of
12 individual and group activities designed specifically to meet
13 the needs of consumers with cognitive impairments.

14 (4) A description of security measures provided by the
15 residence.

16 (5) A description of training provided to staff
17 regarding provision of care to consumers with cognitive
18 impairments.

19 (6) A description of availability of family support
20 programs and family involvement.

21 (7) The process used for assessment and establishment of
22 a plan of services for the consumer, including methods by
23 which the plan of services will remain responsive to changes
24 in the consumer's condition.

25 (c) Cognitive support services.--

26 (1) An assisted living residence shall provide to a
27 cognitively impaired consumer cognitive support services,
28 including dementia-specific activity programming.

29 (2) Within 30 days of admission of a cognitively
30 impaired consumer, the assisted living residence shall

1 register the consumer with the Commonwealth's Safe Return
2 Program for individuals with cognitive impairments and
3 tendencies to wander.

4 CHAPTER 7

5 ENFORCEMENT PROVISIONS

6 Section 701. Enforcement.

7 (a) Classification of violations.--The department shall
8 classify each violation of this act into one of three categories
9 as described in paragraphs (1), (2) and (3). A violation may be
10 classified, depending on the severity, duration and the adverse
11 effect on the health and safety of consumers, as follows:

12 (1) Class I. Class I violations have a substantial
13 probability of resulting in death or serious mental or
14 physical harm to a consumer.

15 (2) Class II. Class II violations have a substantial
16 adverse effect on the health, safety or well-being of a
17 consumer.

18 (3) Class III. Class III violations are minor violations
19 that have an adverse effect on the health, safety or well-
20 being of a consumer.

21 The department's guidelines for determining the classification
22 of violations shall be available from the department's personal
23 care home regional office.

24 (b) Penalties.--The department shall assess a penalty for
25 each violation of this act as follows:

26 (1) Penalties shall be assessed on a daily basis from
27 the date on which the citation was issued until the date the
28 violation is corrected, except in the case of Class II and
29 Class III violations.

30 (2) In the case of a Class II violation, assessment of

1 the penalty shall be suspended for five days from the date of
2 citation to permit sufficient time for the residence to
3 correct the violation. If the assisted living residence fails
4 to provide proof of correction of the violation to the
5 department within the five-day period, the fine will be
6 retroactive to the date of the citation. The department may
7 extend the time period for good cause.

8 (3) The department shall assess a penalty of \$20 per
9 consumer per day for each Class I violation. Each Class I
10 violation shall be corrected within 24 hours.

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

14 (5) There shall be no monetary penalty for Class III
15 violations unless the assisted living residence fails to
16 correct the violation within 15 days. Failure to correct a
17 Class III violation within the 15-day period may result in a
18 penalty assessment of up to \$3 per consumer per day for each
19 Class III violation retroactive to the date of the citation.

20 (6) If an assisted living residence is found to be
21 operating without a license, a penalty of \$500 shall be
22 assessed. After 14 days, if a residence cited for operating
23 without a license fails to file an application for a license,
24 the department shall assess an additional \$20 for each
25 consumer for each day during which the assisted living
26 residence fails to apply.

27 (7) An assisted living residence charged with a
28 violation of this act or 55 Pa. Code Ch. 20 (relating to
29 licensure or approval of facilities and agencies) shall pay
30 the assessed penalty in full within 30 days.

1 (c) Appeals of penalty.--

2 (1) If an assisted living residence that is fined
3 intends to appeal the amount of the penalty or the fact of
4 the violation, the assisted living residence shall forward
5 the assessed penalty, not to exceed \$500, to the secretary
6 for placement in an escrow account with the State Treasurer.
7 A letter appealing the penalty shall be submitted with the
8 assessed penalty. This process constitutes an appeal.

9 (2) If, through an administrative hearing or judicial
10 review of the proposed penalty, it is determined that no
11 violation occurred or that the amount of the penalty shall be
12 reduced, the secretary shall, within 30 days, remit the
13 appropriate amount to the legal entity together with interest
14 accumulated on these funds in the escrow deposit.

15 (3) Failure to forward payment of the assessed penalty
16 to the secretary within 30 days shall result in a waiver of
17 the right to contest the fact of the violation or the amount
18 of the penalty.

19 (4) After an administrative hearing decision that is
20 adverse to the legal entity or a waiver of the administrative
21 hearing, the assessed penalty amount shall be made payable to
22 the Commonwealth of Pennsylvania. It shall be collectible in
23 a manner provided by law for the collection of debts by the
24 Commonwealth.

25 (5) If an assisted living residence liable to pay the
26 penalty neglects or refuses to pay the penalty on demand, the
27 failure to pay shall constitute a judgment in favor of the
28 Commonwealth in the amount of the penalty, together with the
29 interest and costs that may accrue on these funds.

30 (d) Use of fines.--

(1) Money collected by the department under this section shall be placed in a special restricted account.

(2) Money collected shall be used first to defray the expenses incurred by consumers relocated under this act.

(3) The department shall use money remaining in this account to assist with paying for enforcement of this act. Fines collected shall not be subject to 42 Pa.C.S. § 3733 (relating to deposits into account).

(e) Review of classifications.--

(1) The department shall review the determinations of Class I, Class II and Class III violations made by the department's personal care home regional offices.

(2) Semiannually, the department shall review the standard guidelines for the classification of violations and evaluate the use of these guidelines. The purpose of this review shall be to ensure the uniformity and consistency of the classification process.

Section 702. Revocation or nonrenewal of license.

(a) Class I violations.--The department shall temporarily revoke the license of an assisted living residence if, without good cause, one or more Class I violations remain uncorrected 24 hours after the residence has been cited for the violation.

(b) Class II violations.--The department shall temporarily revoke the license of an assisted living residence if, without good cause, one or more Class II violations remain uncorrected 15 days after the citation.

(c) Relocation of consumers.--On the revocation of a license in the instances described in subsections (a) and (b) or if the assisted living residence continues to operate without applying for a license, consumers shall be relocated.

1 (d) Corrective action.--The revocation of a license may
2 terminate on the department's determination that its violation
3 is corrected.

4 (e) Revocation of prior license.--

5 (1) If, after three months, the department does not
6 issue a new license for an assisted living residence, the
7 prior license shall be revoked under section 1087 of the act
8 of June 13, 1967 (P.L.31, No.21), known as the Public Welfare
9 Code.

10 (f) Effect of revocation or nonrenewal.--

11 (1) Revocation or nonrenewal under this section shall be
12 for a minimum of five years.

13 (2) An assisted living residence that has had a license
14 revoked or not renewed under this section shall not be
15 allowed to operate, staff or hold an interest in an assisted
16 living residence that applies for a license for five years
17 after the revocation or nonrenewal.

18 (g) Repeated Class I violations.--If an assisted living
19 residence has been found to have Class I violations on two or
20 more separate occasions during a two-year period without
21 justification, the department shall revoke or refuse to renew
22 the license of the assisted living residence.

23 (h) Cumulative powers and duties.--The power of the
24 department to revoke or refuse to renew or issue a license under
25 this section is in addition to the powers and duties of the
26 department under section 1026 of the Public Welfare Code.
27 Section 703. Licensure appeals.

28 (a) Nature of proceeding.--A licensee aggrieved by a
29 decision of the department under this act shall have the right
30 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 bureau.

(b) Time for hearing.--

(1) Except as provided in paragraph (2), a hearing shall be held by the bureau within 90 days of receipt of the notice of request for a hearing.

(2) If the bureau 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 this act 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 section may be extended by the bureau 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 this section, 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 witnesses. All other discovery shall be by mutual agreement of the parties.

Section 704. Effect of departmental orders.

An order of the department from which no appeal is taken to the bureau or from which no timely appeal is taken to the court shall be a final order and may be enforced by a court of

1 competent jurisdiction.

2 Section 705. Actions against violations of law and regulations.

3 (a) General rule.--Whenever any person, regardless of
4 whether the person is a licensee, has violated any of the
5 provisions of this act or the regulations issued pursuant
6 thereto, the department may maintain an action in the name of
7 the Commonwealth for an injunction or other process restraining
8 or prohibiting the person from engaging in the activity.

9 (b) Residence closure for threat to health or safety.--

10 (1) Whenever the department determines that a violation
11 poses an immediate and serious threat to the health or safety
12 of the consumers of an assisted living residence, the
13 department may direct the closure of the residence and the
14 transfer of the consumers to other licensed assisted living
15 residences or other locations that are determined to
16 appropriately meet the care needs of the displaced consumers.

17 (2) The department may petition the Commonwealth Court
18 or the court of common pleas of the county in which the
19 assisted living residence is located to appoint the
20 department temporary management of the assisted living
21 residence.

22 (3) If granted, the department shall assume operation of
23 the assisted living residence at the licensee's expense until
24 there is an orderly closure of the assisted living residence.

25 (c) Unlicensed assisted living residences.--

26 (1) Whenever a license is required under this act, the
27 department may maintain an action in a court of competent
28 jurisdiction in the name of the Commonwealth for an
29 injunction or other process restraining or prohibiting any
30 person from establishing, maintaining or operating an

1 assisted living residence that does not possess an assisted
2 living residence license.

3 (2) If a person who is refused a license or the renewal
4 of a license to operate or conduct an assisted living
5 residence, or whose license to operate or conduct an assisted
6 living residence is revoked, fails to appeal, or should such
7 appeal be decided finally favorable to the department, then
8 the court shall issue a permanent injunction on proof that
9 the person is operating or conducting an assisted living
10 residence without a license as required by this act.

11 Section 706. Injunction or restraining order when appeal is
12 pending.

13 Whenever the department refuses to renew or revokes a license
14 or orders a person to refrain from violating this act or the
15 regulations promulgated under this act and the person who is
16 aggrieved by the refusal, revocation or order appeals from the
17 action of the department to the bureau or from the order of the
18 bureau to the court, the court may during pendency of the
19 appeal:

20 (1) issue a restraining order or injunction upon a
21 showing that the continued operation of the assisted living
22 residence adversely affects the health, safety or care of the
23 consumers of the assisted living residence; or

24 (2) authorize continued operation of the assisted living
25 residence or make such other order, pending final disposition
26 of the case, as justice and equity require.

27 CHAPTER 9

28 MISCELLANEOUS PROVISIONS

29 Section 901. Annual report.

30 (a) Contents.--The department shall, after consultation with

1 the Department of Aging, provide an annual report to the Intra-
2 Governmental Council on Long-Term Care. The annual report shall
3 include, at a minimum, the following:

4 (1) The total number of assisted living residences in
5 this Commonwealth as well as the number of residences newly
6 licensed within the previous year.

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

11 (3) Commonwealth costs associated with the licensing and
12 inspection of assisted living residences and any payments to
13 the consumers.

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

17 (5) General profile information regarding the types of
18 consumers accessing assisted living residence services.

19 (6) The costs experienced by consumers in assisted
20 living residences.

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

25 (b) Review process.--

26 (1) The Intra-Governmental Council on Long-Term Care
27 shall review the report and prepare written comments thereof
28 within 30 days. The comments shall include recommendations
29 regarding legislation or regulations and reporting methods.

30 (2) After the 30-day review and comment period, the

council shall forward the department's report and their written comments to the Governor, the Aging and Youth Committee of the Senate and the Aging and Older Adult Services Committee of the House of Representatives.

Section 902. Legislative Budget and Finance Committee study and Joint Legislative Task Force.

(a) Study on Federal and State programs.--Within nine months after the effective date of this section, the Legislative Budget and Finance Committee shall report to the General Assembly on existing Federal and other states' initiatives and programs that provide financial assistance for assisted living. This study shall include information on other Federal or state assisted living programs that are effectively administered and can be considered a model.

(b) Funding proposal.--Within six months after receipt of the report, a joint legislative task force consisting of selected members of the Aging and Youth Committee of the Senate and the Aging and Older Adult Services Committee of the House of Representatives shall review the report and any recommendations contained therein and shall report back to the full committees with a proposal for a funding mechanism for assisted living in this Commonwealth. The chairman of the Aging and Youth Committee of the Senate and the chairman of the Aging and Older Adult Services Committee of the House of Representatives shall select three members from the majority party and three from the minority party and the Secretary of Aging shall serve as the chairperson of the task force.

Section 903. Committee regulation review.

In accordance with the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, all regulations

1 promulgated pursuant to this act shall be referred to the Aging
2 and Youth Committee of the Senate and the Aging and Older Adult
3 Services Committee of the House of Representatives.

4 Section 904. Severability.

5 If any provision of this act or the application thereof to
6 any person or circumstance 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 905. Repeal.

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

14 Section 906. Effective date.

15 This act shall take effect as follows:

16 (1) Section 501 shall take effect in two years.

17 (2) The remainder of this act shall take effect in one
18 year.