

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1152 Session of
2009

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AND PASHINSKI, MARCH 31, 2009

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 17, 2009

AN ACT

1 Establishing the Department of Aging and Long-Term Living and
2 providing for its powers and duties; and making related
3 repeals.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Department of
8 Aging and Long-Term Living Act.

9 Section 2. Objectives.

10 The objectives of this act shall be all of the following:

11 (1) To establish a cabinet-level State agency that
12 combines the Department of Aging and selected functions of
13 the Department of Public Welfare.

14 (2) To establish an agency whose jurisdiction, powers
15 and duties concern and are directed to advancing the well-

1 being and full participation of older adults through the
2 creation and growth of programs and activities that support
3 health and wellness of older adults, assist older adults in
4 maintaining lives of independence and dignity, and encourage
5 the involvement of older adults in the community.

6 (3) To establish an agency whose jurisdiction, powers
7 and duties concern and are directed to advancing the well-
8 being and full participation of people with disabilities
9 through the provision of long-term living services in a
10 manner that assists them in attaining and maintaining lives
11 of independence and dignity and promotes involvement and
12 integration in the community.

13 (4) To effect the maximum feasible coordination of and
14 eliminate duplication in the Commonwealth's administration of
15 certain Federal and State programs for people with
16 disabilities and older adults.

17 (5) To promote the development of a long-term living
18 system that includes consumer choice and self-direction,
19 recognizes cultural differences and language barriers and is
20 responsive to the needs and preferences of people with
21 disabilities and older adults at each stage of their adult
22 life, including changes that may require additional care and
23 services.

24 (6) To promote the efficient and economical
25 administration and delivery of long-term living services to
26 people with disabilities and older adults in ways that assure
27 that long-term living services are provided in a manner
28 consistent with applicable Federal and State law, including
29 Title XIX of the Social Security Act (49 Stat. 620, 42 U.S.C.
30 § 1396 et seq.).

1 Section 3. Definitions.

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

5 "Adult." A person residing in this Commonwealth who is at
6 least 18 years of age.

7 "Adult daily living center." An older adult daily living
8 center as defined in the act of July 11, 1990 (P.L.499, No.118),
9 known as the Older Adult Daily Living Centers Licensing Act.

10 "Area agency." The single local area agency on aging
11 designated by the Department of Aging and Long-Term Living
12 within each planning and service area to administer the delivery
13 of a comprehensive and coordinated plan of social and other
14 services and activities.

15 "Area plan." The plan submitted to the Department of Aging
16 and Long-Term Living by an area agency describing the methods by
17 which it will ensure a coordinated and comprehensive plan of
18 social and other services and activities in the planning and
19 service area.

20 "Assessment." A determination based on a comprehensive
21 review of an individual's social, physical and psychological
22 status and needs, using the instruments and procedures
23 established by the department for this purpose.

24 "Assisted living residence." An assisted living residence as
25 defined in section 1001 of the act of June 13, 1967 (P.L.31,
26 No.21), known as the Public Welfare Code.

27 "Centers for independent living." A center for independent
28 living as defined in the Rehabilitation Act of 1973 (Public Law
29 93-112, 29 U.S.C. § 701 et seq.).

30 "Community senior center." A center where older adults

1 congregate for services and activities that support their
2 independence, enhance their quality of life and encourage their
3 involvement in the community.

4 "Council." The Council on Aging and Long-Term Living.

5 "Department." The Department of Aging and Long-Term Living
6 of the Commonwealth.

7 "Domiciliary care." A living arrangement in the community
8 which provides a safe, supportive, homelike residential setting
9 for no more than three adults who are unrelated to the
10 domiciliary care provider and who cannot live independently in
11 the community.

12 "Long-term living services." Those services designed to
13 provide diagnostic, therapeutic, rehabilitative, preventive,
14 wellness, supportive or maintenance services for individuals who
15 have chronic or episodic functional impairments provided in
16 settings including, but not limited to, the individual's home,
17 an adult daily living center, domiciliary care, a personal care
18 home, an assisted living residence or a nursing facility. The
19 term does not include services authorized under the act of
20 October 20, 1966 (Sp.Sess. 3, P.L.96, No.6), known as the Mental
21 Health and Mental Retardation Act of 1966, or similar services
22 funded under Title XIX of the Social Security Act (49 Stat. 620,
23 42 U.S.C. § 1396 et seq.).

24 "Nursing facility." A long-term care nursing facility
25 licensed by the Department of Health pursuant to the act of July
26 19, 1979 (P.L.130, No.48), known as the Health Care Facilities
27 Act.

28 "Older adults," "older persons," "aging," or "elderly." Any
29 persons residing within this Commonwealth who are at least 60
30 years of age.

1 "Older Americans Act of 1965." The Older Americans Act of
2 1965 (Public Law 89-73, 42 U.S.C. § 3001 et seq.).

3 "People with disabilities." Individuals 18 to 59 years of
4 age residing within this Commonwealth who have been determined
5 to be eligible to receive, or who are receiving, attendant care
6 services under the act of December 10, 1986 (P.L.1477, No.150),
7 known as the Attendant Care Services Act, or services under a
8 home and community-based services waiver or other long-term
9 living services program administered by the Department of Aging
10 and Long-Term Living.

11 "Personal care home." A personal care home licensed under
12 Article X of the act of June 13, 1967 (P.L.31, No.21), known as
13 the Public Welfare Code.

14 "Planning and service area." The geographic unit within this
15 Commonwealth, as authorized by the Older Americans Act of 1965
16 (Public Law 89-73, 42 U.S.C. § 3001 et seq.), for allocation of
17 funds for the delivery of social services to older adults.

18 "Secretary." The Secretary of Aging and Long-Term Living.

19 "Sole State agency." As used with reference to the Older
20 Americans Act of 1965 (Public Law 89-73, 42 U.S.C. § 3001 et
21 seq.), the Department of Aging and Long-Term Living.

22 "Support organization." A private organization that supports
23 people with disabilities and older adults through advocacy or
24 the provision of services.

25 "Unit of general purpose local government." As used with
26 reference to the designation of area agencies on aging, a county
27 or other unit which carries general government authority for an
28 area designated as a planning and service area under this act or
29 a combination of those units.

30 Section 4. Department of Aging and Long-Term Living.

1 (a) Establishment.--The Department of Aging and Long-Term
2 Living is established.

3 (b) Powers and duties.--The department shall have the power
4 and duty to do all of the following:

5 (1) Administer programs that provide long-term living
6 services to people with disabilities and older adults.

7 (2) Assist with planning and provide consultation to
8 State agencies with respect to services, programs and
9 activities which they may furnish to people with disabilities
10 and older adults.

11 (3) Develop and periodically update in consultation with
12 the council, service providers, centers for independent
13 living, support organizations and the area agencies, a
14 comprehensive plan for coordinating major Commonwealth
15 services, programs and activities that are directed toward
16 people with disabilities and older adults who require long-
17 term living services.

18 (4) Administer the Pharmaceutical Assistance Contract
19 for the Elderly program as authorized by the act of August
20 26, 1971 (P.L.351, No.91), known as the State Lottery Law.

21 (5) Administer the act of November 6, 1987 (P.L.381,
22 No.79), known as the Older Adults Protective Services Act.

23 (6) Prepare for the Governor an annual budget for the
24 council as may be reasonably required to address the needs of
25 the council.

26 (7) Make recommendations for legislative action to the
27 Governor and the General Assembly.

28 (8) Publish a description of the organization and
29 function of the department so that all interested agencies
30 and individuals may be better able to solicit assistance from

1 the department.

2 (9) Administer and supervise a domiciliary care program
3 for adults.

4 (9.1) License and regulate personal care homes and
5 assisted living residences under all powers previously
6 granted to the Department of Public Welfare as provided in
7 Articles II and X of the act of June 13, 1967 (P.L.31,
8 No.21), known as the Public Welfare Code.

9 (10) Administer and supervise an attendant care program
10 for people with disabilities under the act of December 10,
11 1986 (P.L.1477, No.150), known as the Attendant Care Services
12 Act, and any related home and community-based services waiver
13 for older adults and people with disabilities.

14 (11) Conduct, in cooperation with appropriate State and
15 local public and private agencies, studies and evaluations
16 pertaining to the quality of life, health and social needs,
17 civil rights and status of people with disabilities and older
18 adults and report the findings and recommendations to the
19 General Assembly.

20 (12) In cooperation with the area agencies, Federal,
21 State and local agencies that support people with
22 disabilities and older adults, service providers, centers for
23 independent living and support organizations, work toward the
24 development of a continuum of home and community-based
25 service, transportation and housing options for older adults
26 and for people with disabilities designed to maintain them in
27 the community and avoid or delay institutional care when
28 clinically appropriate. The department shall ensure that
29 consumers are made aware of the availability of nursing
30 facility services or other residential settings when

1 identified as a clinically appropriate option. System
2 development activities shall include coordinating the
3 Commonwealth's plans for the provision, expansion and
4 effective administration of all of the following:

5 (i) In-home services that recognize consumer choice,
6 including personal assistance and supportive services,
7 which shall include consumer-directed services.

8 (ii) Housing options such as service-enriched
9 housing options, personal care homes and assisted living
10 residences and nursing facility services, when clinically
11 appropriate.

12 (iii) Special services to caregivers who support
13 people with disabilities and older adults, recognizing
14 the important role that families play in helping older
15 adults and people with disabilities to live
16 independently.

17 (iv) Adult daily living center services, respite
18 services and other community-based services to support
19 caregivers.

20 (v) The promotion of informal community supports.

21 (vi) Comprehensive and ongoing assessment programs.

22 (vii) Counseling programs to assist individuals in
23 determining appropriate long-term living services.

24 (viii) Special advocacy efforts to promote greater
25 awareness of, and more effective response to, Alzheimer's
26 disease and other related dementia.

27 (ix) Activities and services at community senior
28 centers.

29 (x) Wellness and preventive health programs.

30 (13) In cooperation with the Department of Public

1 Welfare, and consistent with the authority of the Department
2 of Public Welfare as the single State agency responsible for
3 the Medical Assistance Program funded under Title XIX of the
4 Social Security Act (49 Stat. 620, 42 U.S.C. § 1396 et seq.),
5 do all of the following:

6 (i) Develop and administer a system of assessment
7 for individuals seeking or requiring long-term living
8 services under the medical assistance program using an
9 instrument that provides comparable data elements and at
10 comparable intervals as specified by the State for
11 nursing facilities participating in the medical
12 assistance program.

13 (ii) Develop and administer home and community-based
14 long-term living service programs for people with
15 disabilities and older adults who are assessed as being
16 clinically eligible for nursing facility care, including
17 residents of assisted living residences, or for the care
18 provided by an intermediate care facility for persons
19 with other related conditions.

20 (iii) Administer those provisions of the act of June
21 13, 1967 (P.L.31, No.21), known as the Public Welfare
22 Code, which relate to long-term living services for
23 people with disabilities and older adults.

24 (14) Review all proposed Commonwealth program plans and
25 policies, and administrative regulations that are published
26 in the Pennsylvania Bulletin for their impact on people with
27 disabilities and older adults. If the secretary determines
28 that they have an impact on such persons, the secretary may
29 comment in accordance with the provisions of the act of July
30 31, 1968 (P.L.769, No.240), referred to as the Commonwealth

1 Documents Law.

2 (15) Promulgate rules and regulations necessary to
3 perform the duties required of the department under this act.

4 (16) Review the activities of regulatory agencies of the
5 Commonwealth which affect the full and fair utilization of
6 State and community resources for programs and benefits for
7 people with disabilities and older adults and initiate
8 programs which will help assure such utilization.

9 (17) Conduct, in cooperation with the Department of
10 Health and the Department of Public Welfare, periodic studies
11 and evaluations pertaining to the quality of care and related
12 services for consumers of long-term living services and
13 report the findings to the General Assembly.

14 (18) Conduct, in cooperation with the Department of
15 Health, an ongoing Statewide prescription drug education
16 program designed to inform older adults of the dangers of
17 prescription drug abuse and misuse.

18 (19) Collaborate with the Department of Community and
19 Economic Development and the Pennsylvania Housing Finance
20 Agency in the location, design, management of and services
21 for accessible and affordable housing built for people with
22 disabilities and older adults and upon request, provide
23 technical assistance to local housing authorities, nonprofit
24 housing and community groups, redevelopment authorities and
25 other groups with a special emphasis on programs related to
26 utility costs, rehabilitation and maintenance of the homes of
27 those persons.

28 (20) Review and comment on all rules, regulations,
29 eligibility or payment standards issued by the Department of
30 Public Welfare, the Department of Health, the Department of

1 Environmental Protection or the Department of Labor and
2 Industry relating to the licensure and regulation of nursing
3 facilities and hospitals; medical assistance, supplemental
4 security income; home support, homecare, hospice and home
5 health care.

6 (21) Review and comment on rules, regulations,
7 eligibility standards or contract provisions issued by the
8 Department of Revenue and the Department of Transportation
9 relating to activities financed in whole or in part by the
10 Pennsylvania Lottery.

11 (22) Review and comment on rules, regulations,
12 eligibility standards or contract provisions issued by the
13 Department of Transportation relating to specialized
14 transportation needs of people with disabilities and older
15 adults in rural and urban areas.

16 (23) In coordination with the area agencies, centers for
17 independent living, support organizations, service providers
18 and the council, develop and conduct research, demonstration
19 programs and training programs to advance the interests and
20 identify the care and service needs of people with
21 disabilities and older adults.

22 (24) Serve as an advocate for older adults at all levels
23 of government and provide consultation and assistance to the
24 area agencies, service providers, communities and civic
25 groups developing local services for older adults.

26 (25) Advance the interests of people with disabilities
27 at all levels of government and provide consultation to
28 service providers, support organizations and other groups
29 developing services and supports for people with
30 disabilities.

1 (26) Maintain a clearinghouse of information related to
2 the interests of people with disabilities and older adults
3 and provide technical assistance and consultation to all
4 agencies, both public and private with respect to programs
5 and services for those persons.

6 (27) Promote, utilizing wherever possible the area
7 agencies, centers for independent living, support
8 organizations and service providers, community education
9 regarding the problems of people with disabilities and older
10 adults through institutes, publications and use of
11 communications media.

12 (28) Under the Older Americans Act of 1965, to:

13 (i) Evaluate the need for services for older adults
14 within this Commonwealth and determine the extent to
15 which public and private programs meet such a need with
16 special emphasis on the needs and participation of the
17 minority elderly.

18 (ii) Provide for services to older adults that
19 promote lives of independence, dignity, integration and
20 involvement through area agencies and other appropriate
21 agencies, organizations and institutions authorized in
22 accordance with the Older Americans Act of 1965, related
23 Federal acts and applicable State law and to stimulate
24 services and opportunities for older adults which are not
25 otherwise available.

26 (iii) Function as the sole State agency to receive
27 and disburse Federal funds under the Older Americans Act
28 of 1965 and State funds made available for providing
29 services to older adults.

30 (iv) Develop and administer the State plan for the

aging required by Federal law.

(v) Promote and support programs, studies and policies, in cooperation with other government agencies, which will enhance the opportunity for continued work, education and training for older adults.

(vi) Promote, through the use of area agencies and direct grants, contracts and technical assistance, the development of community senior centers, service organizations, clubs, associations and organizations dedicated to the rights and needs of older adults when these are not in conflict with State or area plans for the aging.

(vii) Establish and administer a State Long-Term Care Ombudsman Program, including providing resources to area agencies or other contractors to investigate and resolve complaints related to the health, safety or rights of older adults who are consumers of long-term living services and prepare and submit to the General Assembly an annual report containing data and findings regarding the types of problems experienced and complaints investigated.

(29) Provide guidance as requested by the Department of Transportation relating to the Department of Transportation's administration of transportation services as authorized by Chapter 9 of the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law. The secretary shall confer with the Department of Transportation in order to ensure that the regulations promulgated by the department do not conflict with those promulgated by the Department of Transportation.

(c) Preference.--In filling vacancies authorized to the

department, the secretary shall assure that preference is given to people with disabilities and older adults.

Section 5. Council on Aging and Long-Term Living.

(a) Creation.--

(1) There is created in the Office of the Governor the Council on Aging and Long-Term Living, which shall consist of 36 persons, be comprised of two subcouncils, the Subcouncil on Aging and the Subcouncil on Long-Term Living, and include the chairpersons of the regional councils on aging and long-term living, as described under subsection (f) (7).

(2) There shall be a chair of the Subcouncil on Aging and a chair of the Subcouncil on Long-Term Living. These chairs shall serve as cochairs of the council.

(3) The Subcouncil on Aging shall consist of 18 persons, inclusive of the Subcouncil chair, comprised as follows:

(i) at least five members who are older adults, with at least one older adult who receives services through the department;

(ii) no more than five members who are employed by, have a financial interest in or are associated with an entity that provides services to older adults or an organization that represents such providers;

(iii) no more than five individuals who are associated with an organization that advocates for older adults; and

(iv) other individuals selected by the secretary who may include academic and other professionals with expertise in the field of aging or caregivers for older adults.

(4) The Subcouncil on Long-Term Living shall consist of

1 18 persons, inclusive of the Subcouncil chair, comprised as
2 follows:

3 (i) at least five people with disabilities who are
4 not employed by or have a financial interest in an
5 organization that provides services to people with
6 disabilities;

7 (ii) no more than five members who are employed by
8 or associated with an organization that provides services
9 to people with disabilities or represents such providers;

10 (iii) no more than five individuals who are
11 associated with an organization that advocates for people
12 with disabilities; and

13 (iv) other individuals selected by the secretary who
14 may include academic and other professionals with
15 expertise relating to disabilities or caregivers for
16 people with disabilities.

17 (5) Nineteen members of the council shall constitute a
18 quorum.

19 (6) Absence of a member at three consecutive meetings
20 shall result in the member forfeiting the seat, unless the
21 member requests in writing and receives approval from the
22 appropriate cochair for the absence.

23 (b) Nomination and terms.--The members of the council shall
24 be nominated by the Governor, including those individuals
25 selected by the secretary, subject to the consent of a majority
26 of the members elected to the Senate, and shall represent, as
27 far as possible, the geographical and cultural diversity of this
28 Commonwealth. The members shall serve staggered three-year terms
29 and shall serve until their successors are appointed and
30 qualified. Members shall be eligible for reappointment, except

1 no member shall serve more than two full consecutive terms.

2 (c) Organization.--The council shall provide for its
3 organization and procedure including the selection of the
4 cochairs and other officers as deemed necessary.

5 (d) Compensation.--The members of the council shall receive
6 no compensation for their services on the council but shall be
7 reimbursed by the department, in accordance with regulations,
8 for any ordinary and necessary expenses incurred in the
9 performance of their duties.

10 (e) Meetings.--The council shall meet at least four times
11 per year to review and comment upon all reports of the
12 department to the Governor and the General Assembly and conduct
13 other council business. The cochairs may schedule meetings of
14 the subcouncils in addition to or in conjunction with the
15 council meetings. Meetings shall be advertised and conducted
16 pursuant to 65 Pa.C.S. Ch. 7 (relating to open meetings).

17 (f) Powers and duties.--The council shall have the following
18 powers and duties:

19 (1) To review and comment on rules and regulations
20 promulgated by the department.

21 (2) To prepare and submit to the Governor, the General
22 Assembly and the secretary, public reports evaluating the
23 level and quality of services and programs provided to people
24 with disabilities and older adults by Commonwealth agencies
25 together with recommendations for improved, expanded or
26 additional programs and services for people with disabilities
27 and older adults, including recommendations for community
28 integration and improving cultural sensitivity within these
29 programs and services.

30 (3) To carry out public hearings on matters affecting

1 the rights and interests of people with disabilities and
2 older adults, including matters involving cases of neglect,
3 abuse and discrimination against people with disabilities and
4 older adults in the administration of the laws of the
5 Commonwealth and its political subdivisions.

6 (4) To carry out studies about major issues affecting
7 people with disabilities and older adults and to report to
8 the Governor, the General Assembly, the secretary and the
9 public its findings and recommendations in regard to
10 appropriate action and a long-term strategy for addressing
11 these issues.

12 (5) To assist the department in the preparation of the
13 State plan on aging.

14 (6) To consult with the secretary regarding the
15 operations of the department.

16 (7) To establish no more than five regional councils on
17 aging and long-term living consisting of 15 citizen members,
18 with the composition, members' terms of offices, organization
19 and duties and responsibilities determined by the council.
20 The council shall ensure that the regional councils are
21 representative of the constituencies cited in subsection (a)
22 (3) and (4).

23 (8) To employ, with funds as are annually appropriated
24 by the General Assembly, sufficient staff and services to
25 carry out these duties and powers as well as the duties and
26 powers of the regional councils.

27 Section 6. Area agencies.

28 (a) Planning and service area.--Planning and service areas
29 in existence on the effective date of this section may only be
30 changed by order of the secretary under provisions set forth by

1 the department for combining or dividing geographical areas to
2 bring about more effective and efficient planning and service
3 delivery.

4 (b) Designated area agencies.--

5 (1) For each planning and service area there shall be an
6 area agency designated by the department in accordance with
7 the Older Americans Act of 1965, to serve as a focal point in
8 the community for the coordination of services for older
9 adults and for the issues and concerns of aging.

10 (2) An area agency designated under paragraph (1) shall
11 be one of the following:

12 (i) An established office of aging.

13 (ii) An office or agency of the unit of general
14 purpose local government which is designated for the
15 purpose under paragraph (1) by the chief elected
16 officials of the unit of general purpose local
17 government.

18 (iii) An office or agency designated by the chief
19 elected officials of a combination of units of general
20 purpose local government to act on behalf of that
21 combination for the purpose under paragraph (1).

22 (iv) A public or nonprofit private agency in a
23 planning and service area which is under the supervision
24 or direction, for the purpose under paragraph (1), of the
25 designated State agency and which can engage in the
26 planning or provision of a broad range of social services
27 within the planning and service area and must provide
28 assurance, found adequate by the department, that it will
29 have the ability to develop and administer an area plan.

30 (3) The secretary may redesignate or designate new area

1 agencies based on established regulations. The regulations
2 shall include criteria of efficiencies, appropriateness and
3 equity and shall provide for public hearings on redesignation
4 conducted in the affected planning and service areas. Any
5 determinations of redesignation shall be executed not less
6 than 100 days prior to the beginning of the fiscal year of
7 the local authority. A designation or redesignation may
8 occur:

9 (i) if changes are made in established planning and
10 service area boundaries;

11 (ii) if a currently designated area agency is unable
12 or unwilling to continue as the area agency;

13 (iii) if removal of an area agency designation is
14 requested by the local authority with cause shown; or

15 (iv) if the department determines that a currently
16 designated area agency is incapable of carrying out its
17 approved area plan.

18 (4) The removal of an area agency designation and the
19 designation of a new area agency shall be carried out under
20 regulations promulgated by the department and consistent with
21 the Older Americans Act of 1965.

22 (5) For the purpose of this subsection, the term "local
23 authority" shall mean county commissioners or county council.

24 (c) Powers and duties.--

25 (1) The area agency shall have the authority to act as
26 an advocate at all levels of government and within the
27 community at large for the interests of older adults within
28 the planning and service area. It shall develop a
29 comprehensive area plan to coordinate services for older
30 adults within its planning and service area. The area plan

1 shall make provision for all of the following:

2 (i) Information and referral, advocacy programs.

3 (ii) Service coordination or case management of
4 services, including protective services and long-term
5 living services.

6 (iii) Transportation services.

7 (iv) Legal counseling and representation.

8 (v) In-home services that recognize consumer choice,
9 including personal assistance and supportive services,
10 which shall include consumer-directed services.

11 (vi) Assistance to secure adequate housing and
12 health services.

13 (vii) Other services required by Federal law and
14 services and activities designated by the department or
15 identified as critical needs by the area agency and the
16 area agency advisory board. The State plan on aging and
17 grants and contracts provided by the department shall
18 reasonably accommodate locally designated priorities and
19 critical needs.

20 (viii) The establishment of an affiliated network of
21 community senior centers.

22 (ix) Congregate and home-delivered meals.

23 (x) Information and programs about wellness and
24 prevention, including management of chronic disease.

25 (2) The area agency shall be responsible for working
26 toward the development, in cooperation with State and local
27 organizations and agencies, of a continuum of community-based
28 service and housing options for older adults designed to
29 maintain them in the community and avoid or delay
30 institutional care when clinically appropriate. The area

1 agency shall ensure that consumers are made aware of the
2 availability of nursing facility services and other
3 residential settings when identified as a clinically
4 appropriate option. System development activities shall
5 include coordinating area plans for the provision, expansion
6 and effective administration of:

7 (i) In-home services that recognize consumer choice,
8 including personal assistance and supportive services,
9 which shall include consumer-directed services.

10 (ii) Housing options such as service-enriched
11 housing, personal care homes and assisted living
12 residences and nursing facility services, when clinically
13 appropriate.

14 (iii) Special supports to caregivers who care for
15 older adults.

16 (iv) Adult daily living services, respite services
17 and other community-based services to support caregivers.

18 (v) The promotion of informal community supports.

19 (vi) Comprehensive and ongoing assessment programs.

20 (vii) Counseling programs to assist individuals in
21 determining appropriate long-term living services.

22 (viii) Special services to protect the health,
23 safety and welfare of older adults who lack the capacity
24 to protect themselves.

25 (ix) Special advocacy efforts to promote greater
26 awareness of Alzheimer's disease and other related
27 dementia. To the extent that the needs of other adults
28 affected by Alzheimer's disease and other related
29 dementia involve and overlap the needs of older adults
30 addressed under this subparagraph, the area agency shall

1 serve as an advocate for affected adults of any age.

2 (3) The area agency shall give priority of services to
3 older adults with the greatest social need and greatest
4 economic need.

5 (4) In filling employment vacancies, the area agency
6 shall assure that preference is given to older adults.

7 (5) Consistent with the Older Americans Act of 1965 and
8 provisions set forth by the department, the area agency may
9 grant to or contract with any public or private agency for
10 the provision of social services. The area agency is
11 authorized to use, with their consent, the services,
12 equipment, personnel and facilities of Federal and State
13 agencies, with or without reimbursement and on a similar
14 basis, to cooperate with other public and private agencies,
15 and instrumentalities in the use of services, equipment and
16 facilities.

17 (d) Advisory councils.--In each planning and service area,
18 an advisory council of at least 15 members shall be appointed to
19 advise the area agency with regard to the needs of older adults
20 residing in the planning and service area and the area agency's
21 responses to those needs. The composition and responsibility of
22 the area agency advisory council shall be consistent with the
23 provisions of the Older Americans Act of 1965 and the
24 regulations of the department. The regulations shall require
25 that each advisory council be composed of a majority of older
26 adults. Advisory councils shall be given the maximum possible
27 opportunity to influence local programs and policies and
28 advocacy roles within area agency programs and local
29 communities. Area agencies shall provide advisory councils with
30 the funds necessary to carry out their functions.

1 (e) Reports and plans.--

2 (1) Under provisions set forth by the department, the
3 area agency shall submit to the department a comprehensive
4 area plan which clearly explains the area agency's objectives
5 for providing services to the older adults of the planning
6 and service area. The plan may be submitted as part of a
7 coordinated county human service plan if the format is
8 approved by the department.

9 (2) Area plans shall be subject to approval by the
10 department based on the area agency's demonstration of
11 compliance with the Older Americans Act of 1965 and other
12 applicable law, provision of services in a manner that
13 advances the goal of consistency among the planning and
14 service areas of the Commonwealth and other relevant factors
15 to be determined by the secretary.

16 (3) Each area agency, under provisions set forth by the
17 department, shall submit an annual report which describes and
18 evaluates its programs and services after the close of each
19 year of funding by the department.

20 (f) Allocation of resources.--

21 (1) The area agency shall receive a basic allocation of
22 resources, consisting of Federal and State funds weighted by
23 the proportion of poor older adults who reside in the
24 planning and service area in relation to the total number of
25 poor older adults who reside in this Commonwealth utilizing
26 poverty threshold income standards as determined by the
27 United States Office of Management and Budget, except that
28 each area agency shall be held harmless to the amount of
29 State funds received in the preceding program year.

30 (2) The department may allocate additional resources to

1 area agencies based upon the total number of older adults who
2 reside within the planning and service area, the availability
3 of transportation services, the rural-urban distribution of
4 older adults, rural program cost differentials, the need for
5 social and medical services, the amount of funds devoted by
6 county commissioners for older adults and other special
7 circumstances as determined by the secretary.

8 (3) Funds appropriated to carry out the purposes of this
9 act shall be distributed to the area agencies as grants or
10 cost reimbursement for services to older adults, if there is
11 an acceptable plan in accordance with subsection (e).

12 (g) Evaluation.--The department shall continually review and
13 evaluate the activities of area agencies and the impact and
14 effectiveness of all programs under this act, which may include
15 an onsite evaluation. A written report of the findings of the
16 evaluation shall be submitted to the area agency subject to the
17 evaluation and within 30 days shall be available to the public.
18 In all evaluations, the department shall obtain the views of
19 program beneficiaries concerning strengths and weaknesses of the
20 program. Other departments and agencies of the Commonwealth
21 shall make available to the department information necessary for
22 the evaluations. The department shall annually submit to the
23 Governor and the General Assembly a report on its activities
24 including statistical data reflecting services and activities
25 provided to older adults AND PEOPLE WITH DISABILITIES during the
26 preceding fiscal year. ←

27 Section 7. Demonstration programs.

28 In recognition of the need for expanded knowledge and
29 experience concerning the status of people with disabilities and
30 older adults in this Commonwealth, the secretary may provide for

1 research and demonstration programs for the following purposes:

2 (1) Studying current living conditions and needs with
3 special emphasis on persons with low income, medical and
4 functional disabilities, advanced age and isolated living
5 situations.

6 (2) Studying existing methods and alternatives for
7 providing services, programs and opportunities.

8 (3) Identifying those factors of particular detriment or
9 benefit to the welfare of people with disabilities and older
10 adults.

11 (4) Developing new approaches and alternatives for
12 living arrangements, social services, institutional care,
13 health services, legal representation and the coordination of
14 community services.

15 (5) Studying intergenerational mentoring programs that
16 exemplify the value and benefits of the knowledge and
17 experience of older adults.

18 Section 8. Reorganization.

19 (a) Employees.--

20 (1) All Department of Public Welfare personnel employed
21 by the Office of Long-Term Living and the allocations,
22 appropriations, equipment, files, records, contracts,
23 agreements, obligations and other materials which are used or
24 expended by the Department of Public Welfare exclusively in
25 connection with the powers, duties or functions exercised by
26 the Office of Long-Term Living are transferred to the
27 department with the same force and effect as if the
28 appropriations had been made to and the items had been the
29 property of the Department of Aging and Long-Term Living and
30 as if the contracts, agreements and obligations had been

1 incurred or entered into by the department.

2 (2) All Department of Public Welfare personnel involved
3 with the licensure and regulation of personal care homes and
4 the allocations, appropriations, equipment, files, records,
5 contracts, agreements, obligations and other materials which
6 are used or expended by the Department of Public Welfare
7 exclusively in connection with the licensure and regulation
8 of personal care homes are transferred to the department upon
9 the effective date of this subsection, pursuant to subsection
10 20(a).

11 (b) Contracts and obligations.--The reorganization of the
12 Department of Aging as the department shall not affect the
13 status of any contract, agreement or obligation entered into by
14 the Department of Aging.

15 (c) Civil service.--All positions in the department shall be
16 deemed to be included in the list of positions under section
17 3(d) of the act of August 5, 1941 (P.L.752, No.286), known as
18 the Civil Service Act, and the provisions and benefits of the
19 act shall be applicable to the employees of and positions in the
20 department.

21 (d) Personnel.--All personnel transferred to the department
22 from the Department of Public Welfare under this act shall
23 retain any civil service or other employment status assigned to
24 the personnel in those departments and agencies prior to the
25 effective date of this section.

26 (e) References.--A reference in a statute or regulation to
27 the Department of Aging shall mean a reference to the
28 department. A reference in a statute or regulation to the
29 Secretary of Aging shall mean a reference to the secretary.

30 (f) Secretary of Aging.--The Secretary of Aging shall become

1 the secretary on the effective date of this section. Programs
2 and activities authorized under this act shall not commence
3 before that date, except that the secretary and adequate staff,
4 to be supported from the affected authorizations, shall
5 immediately commence transitional and budgetary activities.

6 Section 9. Lottery fund.

7 The department shall not expend moneys available through the
8 State Lottery Fund for the administration and provision of
9 programs being transferred by this act from the Department of
10 Public Welfare to provide services for people with disabilities
11 who are under 60 years of age.

12 Section 19. Repeals.

13 Repeals are as follows:

14 (1) The General Assembly declares that the repeals under
15 paragraphs (2) and (3) are necessary to effectuate the
16 purposes of this act.

17 (2) The provisions of the act of June 13, 1967 (P.L.31,
18 No.21), known as the Public Welfare Code, are repealed to the
19 extent that they are inconsistent with this act.

20 (3) Article XXII-A of the act of April 9, 1929 (P.L.177,
21 No.175), known as The Administrative Code of 1929, is
22 repealed.

23 (4) All other acts and parts of acts are repealed
24 insofar as they are inconsistent with this act.

25 Section 20. Effective date.

26 This act shall take effect as follows:

27 (1) Sections 4(b)(9.1) and 8(a)(2) shall take effect
28 when final regulations regarding assisted living residences
29 pursuant to the act of July 25, 2007 (P.L.402, No.56),
30 entitled "'an act to consolidate, editorially revise, and

1 codify the public welfare laws of the Commonwealth,' further
2 providing for State plan for regulating and licensing
3 personal care homes, for Intra-Governmental Council on Long-
4 Term Care and for rules and regulations for personal care
5 homes and assisted living residences," are published by the
6 Department of Public Welfare in the Pennsylvania Bulletin.

7 (2) The remainder of this act shall take effect July 1,
8 2009, or immediately, whichever is later.