

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 649 Session of 2021

INTRODUCED BY RAPP, ZIMMERMAN, COX, CAUSER, HILL-EVANS, THOMAS, KULIK, RYAN, STAMBAUGH, GLEIM, TOOHL, PICKETT, NEILSON, FREEMAN, LONGIETTI AND GAYDOS, FEBRUARY 24, 2021

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 17, 2021

AN ACT

1 Providing for access to ~~long-term~~ CONGREGATE care facilities for <--
2 essential caregivers, for additional safety requirements for
3 residents of ~~long-term~~ CONGREGATE care facilities, for <--
4 suspension of access for essential caregivers and for
5 personal protective equipment for essential caregivers.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Access to
10 ~~Long-Term~~ CONGREGATE Care Facilities Act. <--

11 Section 2. Definitions.

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

15 "CONGREGATE CARE FACILITY." A FACILITY LICENSED BY THE <--
16 DEPARTMENT OR THE DEPARTMENT OF HUMAN SERVICES, INCLUDING, BUT
17 NOT LIMITED TO, A LONG-TERM CARE NURSING FACILITY, A SKILLED
18 NURSING FACILITY, AN ASSISTED LIVING FACILITY, A PERSONAL CARE

1 HOME, AN INDEPENDENT LONG-TERM CARE FACILITY OR AN INTERMEDIATE  
2 CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES.

3 "Declaration of disaster emergency." A disaster emergency  
4 declared by the Governor under 35 Pa.C.S. § 7301(c) (relating to  
5 general authority of Governor).

6 "Department." The Department of Health of the Commonwealth.

7 "Essential caregiver." An individual, whether a family  
8 member or friend of a resident of a ~~long-term~~ CONGREGATE care <--  
9 facility, who is designated by the resident or appointed by an  
10 individual with decision-making authority for the resident to  
11 provide physical or emotional support to the resident during a  
12 declaration of disaster emergency.

13 ~~"Long term care facility." A facility licensed by the <--~~  
14 ~~department or the Department of Human Services, including, but~~  
15 ~~not limited to, a long term care nursing facility, a skilled~~  
16 ~~nursing facility, an assisted living facility, a personal care~~  
17 ~~home, an older adult daily living center, an independent long~~  
18 ~~term care facility or an intermediate care facility for~~  
19 ~~individuals with intellectual disabilities.~~

20 Section 3. Access to ~~long-term~~ CONGREGATE care facilities for <--  
21 essential caregivers.

22 The department, in consultation with the Department of Human  
23 Services, shall establish protocols to allow a resident of a  
24 ~~long-term~~ CONGREGATE care facility or an individual with <--  
25 decision-making authority for the resident to designate an  
26 individual as the resident's essential caregiver during a  
27 declaration of disaster emergency. A RESIDENT OF A CONGREGATE <--  
28 CARE FACILITY OR AN INDIVIDUAL WITH DECISION-MAKING AUTHORITY  
29 FOR THE RESIDENT SHALL DESIGNATE AN ESSENTIAL CAREGIVER DURING  
30 THE INTAKE OF THE RESIDENT INTO THE CONGREGATE CARE FACILITY. An

1 essential caregiver shall meet the necessary qualifications to  
2 enter the ~~long-term~~ CONGREGATE care facility to provide in- <--  
3 person physical or emotional support to a resident of a ~~long-~~ <--  
4 ~~term~~ CONGREGATE care facility in accordance with the protocols <--  
5 established under this section. The protocols shall include all  
6 of the following:

7 (1) Safety measures for an essential caregiver,  
8 including, but not limited to, restrictions on travel,  
9 enhanced testing for communicable diseases and the necessary  
10 safety equipment required to protect the health and safety of  
11 the residents of the ~~long-term~~ CONGREGATE care facility. <--

12 (2) Procedures to replace an essential caregiver due to  
13 necessary circumstances, including illness or death of the  
14 essential caregiver.

15 (3) A duration, not to exceed 30 days AFTER A <--  
16 DECLARATION OF DISASTER EMERGENCY, when a ~~long-term~~ <--  
17 CONGREGATE care facility may enter a lock-down phase for the <--  
18 purpose of establishing safety measures for residents of the  
19 ~~long-term~~ CONGREGATE care facility and essential caregivers. <--  
20 IF A CONGREGATE CARE FACILITY REQUIRES AN EXTENSION OF THE <--  
21 LOCK-DOWN PHASE UNDER THIS PARAGRAPH, THE CONGREGATE CARE  
22 FACILITY SHALL REQUIRE STAFF OF THE CONGREGATE CARE FACILITY  
23 TO REMAIN IN THE CONGREGATE CARE FACILITY DURING THE EXTENDED  
24 PERIOD TO PREVENT THE POTENTIAL SPREAD OF A COMMUNICABLE  
25 DISEASE TO THE CONGREGATE CARE FACILITY.

26 Section 4. Additional safety requirements for residents of  
27 ~~long-term~~ CONGREGATE care facilities. <--

28 (A) ADDITIONAL SAFETY REQUIREMENTS.--A ~~long-term~~ CONGREGATE <--  
29 care facility may establish REASONABLE, additional safety <--  
30 requirements to protect the residents of the ~~long-term~~ <--

1 CONGREGATE care facility if the requirements meet all of the <--  
2 following criteria:

3 (1) The requirements are directly linked to a  
4 declaration of disaster emergency.

5 (2) The requirements are not so burdensome and onerous  
6 as to substantially prevent an essential caregiver from being  
7 able to physically or emotionally support a resident of the  
8 ~~long-term~~ CONGREGATE care facility in person. <--

9 (B) COSTS.--AN ESSENTIAL CAREGIVER SHALL PAY THE COSTS OF <--  
10 THE REASONABLE, ADDITIONAL SAFETY MEASURES ESTABLISHED UNDER  
11 SUBSECTION (A). A CONGREGATE CARE FACILITY MAY NOT PAY THE COSTS  
12 OF THE REASONABLE, ADDITIONAL SAFETY MEASURES ESTABLISHED UNDER  
13 SUBSECTION (A).

14 Section 5. Suspension of access for essential caregivers.

15 A ~~long-term~~ CONGREGATE care facility may suspend access to <--  
16 the ~~long-term~~ CONGREGATE care facility for an essential <--  
17 caregiver who violates the protocols established under section  
18 3, and the ~~long-term~~ CONGREGATE care facility shall allow the <--  
19 resident, or an individual with decision-making authority for  
20 the resident, to immediately designate a replacement essential  
21 caregiver.

22 Section 6. Personal protective equipment for essential  
23 caregivers.

24 A ~~long-term~~ CONGREGATE care facility may require an essential <--  
25 caregiver to provide personal protective equipment for himself  
26 or herself or assume the cost of the personal protective  
27 equipment provided by the facility to allow the essential  
28 caregiver to provide in-person physical or emotional support.

29 Section 7. Applicability.

30 This act shall apply for the period commencing 15 days after

1 a declaration of disaster emergency and 60 days after the  
2 termination or expiration of the declaration of disaster  
3 emergency by executive order, proclamation or operation of law.

4 Section 8. Construction.

5 Nothing in this act shall be construed to supersede Federal  
6 authority OR GUIDANCE regarding ~~long-term~~ CONGREGATE care <--  
7 facilities or to prevent the department or Department of Human  
8 Services from taking necessary actions to render the  
9 Commonwealth eligible for Federal funds or reimbursement  
10 services provided in ~~long-term~~ CONGREGATE care facilities. <--

11 Section 9. Effective date.

12 This act shall take effect in 60 days.