

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 49

Session of
2001

INTRODUCED BY SCHULER, PISTELLA, YOUNGBLOOD, THOMAS, GODSHALL,
ZIMMERMAN, GEORGE, SHANER, NAILOR, ARMSTRONG, GEIST, BARD,
HERMAN, M. BAKER, FLICK, FRANKEL, MAITLAND, MUNDY, SATHER,
T. STEVENSON, STURLA, E. Z. TAYLOR, PICKETT AND McCALL,
JANUARY 23, 2001

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
MAY 22, 2001

AN ACT

1 Providing for the licensure and regulation of adult 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; PROVIDING FOR AN INCREASE TO STATE
5 SUPPLEMENTAL ASSISTANCE FOR PERSONS IN PERSONAL CARE HOMES;
6 and providing for penalties.

7 The General Assembly finds and declares as follows:

8 (1) Assisted living residences and services are a
9 rapidly growing long-term care alternative across the nation.

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

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

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

1 Section 10. Standards for admission.

2 Section 11. (Reserved)

3 Section 12. Right to enter and inspect.

4 ~~Section 13. (Reserved)~~ <—

5 SECTION 13. RELOCATION OF CONSUMERS IN ASSISTED LIVING <—

6 RESIDENCES.

7 Section 14. Assisted living residence administrators.

8 ~~Section 15. (Reserved)~~ <—

9 ~~Section 16. Immobile persons.~~

10 SECTION 15. STAFF ORIENTATION AND TRAINING IN ASSISTED LIVING <—

11 RESIDENCES.

12 SECTION 15.1. STAFFING LEVELS AND TRAINING.

13 SECTION 16. PERSONS WITH SPECIAL NEEDS.

14 Section 17. Violations.

15 Section 18. Reasons for denial, nonrenewal or revocation of a

16 license.

17 Section 19. Licensure appeals.

18 Section 20. Effect of departmental orders.

19 Section 21. Actions against violations of law and regulations.

20 Section 22. Injunction or restraining order when appeal is

21 pending.

22 ~~Section 23. (Reserved)~~ <—

23 ~~Section 24. (Reserved)~~

24 SECTION 23. ANNUAL REPORT. <—

25 SECTION 24. LEGISLATIVE BUDGET AND FINANCE COMMITTEE STUDY.

26 Section 25. Committee regulation review.

27 ~~Section 26. Severability.~~ <—

28 ~~Section 27. Repeal.~~

29 ~~Section 28. Effective date.~~

30 SECTION 26. INCREASE TO STATE SUPPLEMENTAL ASSISTANCE FOR <—

1 PERSONS IN PERSONAL CARE HOMES.

2 SECTION 27. SEVERABILITY.

3 SECTION 28. REPEAL.

4 SECTION 29. EFFECTIVE DATE.

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

7 Section 1. Short title.

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

10 Section 2. Definitions.

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

14 "Activities of daily living." Activities including eating,
15 bathing, dressing, toileting, transferring in and out of bed or
16 a chair and personal hygiene.

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

18 "Adult living residence." A residential premises that
19 provides housing, food, assistance with activities of daily
20 living and scheduled or unscheduled supervision available on a
21 24-hour basis, through contract for more than three adults who
22 are unrelated to the operator of the residential premises and
23 who do not require care in a licensed long-term care nursing
24 facility as that term is defined in the act of July 19, 1979
25 (P.L.130, No.48), known as the Health Care Facilities Act,
26 regardless of whether the operator provides or allows
27 supplemental services such as additional assistance with
28 activities of daily living and intermittent health care services
29 provided by certified, registered or licensed health care
30 professionals. The term shall include a personal care home that

1 has a Category I license and an assisted living residence that
2 has a Category II license. The term shall not include
3 intermediate care facilities exclusively for the mentally
4 retarded, commonly referred to as ICF/MR.

5 "Adult living residency contract." A written agreement, in
6 the form of a contract or contracts between a provider and a
7 consumer needing adult living residence services, regarding the
8 provision and terms of those services.

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

18 "Area agency on aging." The single local agency designated
19 by the Department of Aging within each planning and service area
20 to administer the delivery of a comprehensive and coordinated
21 plan of social and other services and activities.

22 "Assisted living." Activities as determined and self-
23 directed by a consumer or by a legal representative that permit
24 and assist the consumer to live in a community, including such
25 housing assistance or residency in an assisted living residence
26 that permits the consumer to safely be supported in a residence
27 in which the consumer's independence, dignity and ability to
28 make choices are maintained, to the extent of the consumer's
29 capabilities.

30 "Assisted living residence." A residential setting that:

1 (1) Offers, provides or coordinates a combination of
2 personal care services, recreation and social activities, 24-
3 hour supervision and assisted living services, whether
4 scheduled or unscheduled and that coordinates other health-
5 related services for consumers.

6 (2) Has a supportive service program and physical
7 environment designed to accommodate changing needs and
8 preferences.

9 (3) Has an organized mission, service programs and a
10 physical environment designed to maximize consumer dignity,
11 autonomy, privacy and independence and encourages family and
12 community involvement.

13 (4) Provides that costs for housing and services are
14 independent of one another and that provides consumers with
15 the ability to choose their service provider and the services
16 to be provided.

17 (5) Has a goal of fostering aging in place and promoting
18 consumer self-direction and active participation in decision
19 making while emphasizing consumer privacy and dignity.

20 THIS TERM DOES NOT INCLUDE A RESIDENTIAL LIVING UNIT MAINTAINED <—
21 BY A CONTINUING CARE PROVIDER WHO IS CERTIFIED BY THE INSURANCE
22 DEPARTMENT, A RESIDENTIAL UNIT IN A SUBSIDIZED HOUSING
23 APARTMENT, UNLESS REQUIRED TO BE LICENSED UNDER THE DEPARTMENT
24 OF HOUSING AND URBAN DEVELOPMENT ASSISTED LIVING CONVERSION
25 PROGRAM, OR A BOARDING HOME WHICH MERELY PROVIDES ROOM, BOARD
26 AND LAUNDRY SERVICES TO PERSONS WHO DO NOT NEED PERSONAL CARE
27 SERVICES.

28 "Assisted living services." A combination of supportive
29 services, personal care services, personalized assistance
30 services, assistive technology and health-related services

1 designed to respond to the individual needs of consumers who
2 need assistance with activities of daily living and instrumental
3 activities of daily living. The terms includes publicly funded
4 home-based and community-based services available through the
5 medical assistance program and the Federal Medicaid Waiver
6 Program and State-funded options for home-based and community-
7 based services funded through the Department of Aging and the
8 Department of Public Welfare.

9 "ASSISTED LIVING SERVICES AGREEMENT." THE CONTRACT OR <—
10 CONTRACTS BETWEEN A PROVIDER AND A CONSUMER NEEDING ASSISTED
11 LIVING SERVICES REGARDING THE PROVISION AND TERMS OF THE
12 ASSISTED LIVING SERVICES. THIS TERM INCLUDES CONTRACTS BETWEEN
13 ASSISTED LIVING SERVICE PROVIDERS AND ENTITIES CONTRACTING FOR
14 SERVICES FOR CONSUMERS USING PUBLIC FUNDING.

15 "Assistive technology." Devices and services, whether
16 medically necessary or not, that are used to increase, maintain
17 or improve the functional capabilities of persons with
18 disabilities which may or may not be needed to permit the
19 persons to live independently. The term shall include, but not
20 be limited to, reachers, adapted telephones, reading aids and
21 other nonmedical devices.

22 "Board." The Board of Hearings and Appeals within the
23 Department of Public Welfare of the Commonwealth.

24 "Category I license." An adult living residence license
25 issued under this act to a personal care home.

26 "Category II license." An adult living residence license
27 issued under this act to an assisted living residence.

28 "COGNITIVE SUPPORT SERVICES." SERVICES PROVIDED AS PART OF A <—
29 COMPREHENSIVE PLAN OF CARE TO INDIVIDUALS WHO HAVE MEMORY
30 IMPAIRMENTS AND OTHER COGNITIVE PROBLEMS WHICH SIGNIFICANTLY

1 INTERFERE WITH THEIR ABILITY TO CARRY OUT ACTIVITIES OF DAILY
2 LIVING WITHOUT ASSISTANCE AND WHO REQUIRE THAT SUPERVISION,
3 MONITORING AND PROGRAMMING BE AVAILABLE TO THEM 24 HOURS A DAY,
4 SEVEN DAYS A WEEK, IN ORDER FOR THEM TO RESIDE SAFELY IN THE
5 SETTING OF THEIR CHOICE. THE TERM INCLUDES ASSESSMENT, HEALTH
6 SUPPORT SERVICES AND A FULL RANGE OF DEMENTIA-CAPABLE ACTIVITY
7 PROGRAMMING AND CRISIS MANAGEMENT.

8 "COMPLIANCE." A FACILITY OR ASSISTED LIVING SERVICES
9 PROVIDER THAT IS FOUND IN COMPLIANCE WITH THE REQUIREMENTS OF
10 THIS ACT AND ITS REGULATIONS EXCEPT FOR ISOLATED CLASS III
11 VIOLATIONS, FOR WHICH THE ASSISTED LIVING RESIDENCE
12 ADMINISTRATOR HAS PROVIDED WRITTEN CERTIFICATION OF CORRECTION
13 OF THE ISOLATED CLASS III VIOLATIONS WITHIN 30 DAYS OF THE DATE
14 OF THE INSPECTION AND IT HAS MET ALL OTHER REQUIREMENTS OF THIS
15 ACT AND ITS REGULATIONS.

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

22 "Comprehensive service plan." A plan developed to meet a
23 consumer's individual needs, as determined by a comprehensive
24 assessment, and that is developed by an interdisciplinary team
25 that includes the consumer, the consumer's legal representative
26 and the consumer's family member.

27 "Consumer." A person who receives services in an adult
28 living residence, is in need of assisted living services or
29 personal care services ~~or~~ AND WHO lives in either an adult
30 living residence with a Category I license or a Category II

<—

1 license.

2 "Department." The Department of Public Welfare of the
3 Commonwealth.

4 "Direct service staff." A person who provides services in an
5 adult living residence, IS 18 YEARS OF AGE OR OLDER AND MEETS
6 THE REQUIREMENTS OF THIS ACT. <—

7 "Immobile person." An individual who is unable to move from
8 one location to another or has difficulty in understanding and
9 carrying out instructions without the continued full assistance
10 of another person or is incapable of independently operating a
11 device such as a wheelchair, prosthesis, walker or cane to exit
12 to a point of safety.

13 "INSTRUMENTAL ACTIVITIES OF DAILY LIVING." THE TERM <—
14 INCLUDES, BUT IS NOT LIMITED TO, MEAL PREPARATION, USING THE
15 TELEPHONE, HANDLING FINANCES, BANKING AND SHOPPING, LIGHT
16 HOUSEKEEPING, HEAVY HOUSEKEEPING AND GETTING TO APPOINTMENTS.

17 "ISOLATED CLASS III VIOLATIONS." A FINDING BY THE DEPARTMENT
18 OF PUBLIC WELFARE AT THE ANNUAL INSPECTION OF LESS THAN THREE
19 CLASS III VIOLATIONS THAT HAD NOT BEEN PREVIOUSLY CITED AT THE
20 LAST INSPECTION AND THAT RELATED TO THE SERVICES PROVIDED TO AN
21 INDIVIDUAL OR DID NOT PRESENT A THREAT TO THE HEALTH AND WELL-
22 BEING OF CONSUMERS.

23 "License." A Category I license or a Category II license.

24 "Long-term care ombudsman." An agent of the Department of
25 Aging who, pursuant to section 2203-A of the act of April 9,
26 1929 (P.L.177, No.175), known as The Administrative Code of
27 1929, investigates and seeks to resolve complaints made by or on
28 behalf of older individuals or adults with disabilities who are
29 consumers of adult living residences, which complaints may
30 relate to action, inaction or decisions of providers of assisted

1 living services or residences or of personal care homes or of
2 public agencies or of social service agencies or their
3 representatives and which complaints may adversely affect the
4 health, safety, welfare, interests, preferences or rights of
5 consumers.

6 "Options." The Long-Term Care Pre-Admission Assessment
7 Program and the Community Services for Nursing Facility
8 Eligibility Program administered by the Department of Aging and
9 operated by the local area agencies on aging.

10 "PATTERN OF VIOLATIONS." A FINDING BY THE DEPARTMENT OF
11 PUBLIC WELFARE AT THE ANNUAL INSPECTION OF VIOLATIONS THAT HAD
12 BEEN CITED AT ONE OR BOTH OF THE LAST TWO ANNUAL INSPECTIONS.

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

22 "Personal care services." Assistance or supervision in
23 dressing, bathing, diet, financial management or evacuation of a
24 consumer in a personal care home, in the event of an emergency,
25 or medication prescribed for self-administration.

26 ~~Section 3. (Reserved)~~

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27 SECTION 3. INTRA-GOVERNMENTAL COUNCIL ON LONG-TERM CARE.

<—

28 (A) ADDITIONAL MEMBERS.--IN ADDITION TO THE MEMBERS
29 APPOINTED TO THE INTRA-GOVERNMENTAL COUNCIL ON LONG-TERM CARE IN
30 ACCORDANCE WITH SECTION 212 OF THE ACT OF JUNE 13, 1967 (P.L.31,

1 NO.21), KNOWN AS THE PUBLIC WELFARE CODE, THE GOVERNOR SHALL
2 APPOINT FOUR REPRESENTATIVES OF THE ASSISTED LIVING COMMUNITY,
3 ONE OF WHOM SHALL BE AN OWNER OR ADMINISTRATOR OF A LICENSED
4 ASSISTED LIVING RESIDENCE AND ONE OF WHOM SHALL BE A CONSUMER OF
5 A LICENSED ASSISTED LIVING RESIDENCE, ONE OF WHOM SHALL BE A
6 LICENSED PROVIDER OF ASSISTED LIVING SERVICES AND ONE OF WHOM
7 SHALL BE A CONSUMER OF ASSISTED LIVING SERVICES FROM A LICENSED
8 PROVIDER OF ASSISTED LIVING SERVICES.

9 (B) RECOMMENDATIONS TO BE CONSIDERED.--IN DEVELOPING RULES
10 AND REGULATIONS FOR LICENSURE OF ASSISTED LIVING RESIDENCES, THE
11 DEPARTMENT OF PUBLIC WELFARE SHALL WORK IN COOPERATION WITH THE
12 DEPARTMENT OF AGING AND SHALL TAKE INTO CONSIDERATION
13 RECOMMENDATIONS OF THE INTRA-GOVERNMENTAL COUNCIL ON LONG-TERM
14 CARE.

15 Section 4. Powers and duties of Commonwealth departments.

16 (A) GENERAL RULE.--Within one year of the effective date of <—
17 this act, the following Commonwealth departments shall work in
18 consultation and in cooperation with each other to develop a
19 program of licensure and regulation to govern adult living
20 residences in this Commonwealth:

21 (1) The Department of Public Welfare shall serve as the
22 lead agency in the development and implementation of a
23 program for licensing and regulating adult living residences,
24 to include a Category I license and a Category II license.
25 The department shall coordinate with other State and local
26 agencies having statutory responsibilities relating to adult
27 living residences and providers of assisted living services.

28 ~~(2) The Department of Aging shall formulate~~ <—
29 ~~recommendations for changes in existing State law and~~
30 ~~regulations to extend provisions of the act of November 6,~~

1 ~~1987 (P.L.381, No.79), known as the Older Adults Protective~~
2 ~~Services Act, to adult living residences and the consumers~~
3 ~~thereof.~~

4 ~~(3) The Department of Health shall formulate~~
5 ~~recommendations for changes in existing State law and~~
6 ~~regulations to establish a system of licensure applicable to~~
7 ~~providers of assisted living services who are not already~~
8 ~~licensed by that department. Such system may include~~
9 ~~assessment of a licensure fee.~~

10 (2) THE DEPARTMENT OF AGING SHALL FORMULATE AND PROVIDE <—
11 TO THE AGING AND YOUTH COMMITTEE OF THE SENATE AND THE AGING
12 AND OLDER ADULT SERVICES COMMITTEE OF THE HOUSE OF
13 REPRESENTATIVES, WITHIN ONE YEAR OF THE EFFECTIVE DATE OF
14 THIS ACT, RECOMMENDATIONS FOR CHANGES IN EXISTING STATE LAW
15 AND REGULATIONS TO EXTEND PROVISIONS OF THE ACT OF NOVEMBER
16 6, 1987 (P.L.381, NO.79), KNOWN AS THE OLDER ADULTS
17 PROTECTIVE SERVICES ACT, TO ADULT LIVING RESIDENCES AND THE
18 CONSUMERS THEREOF.

19 (3) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS ACT,
20 THE DEPARTMENT OF HEALTH SHALL PROMULGATE RULES AND
21 REGULATIONS TO LICENSE PROVIDERS OF ASSISTED LIVING SERVICES
22 WHO ARE NOT ALREADY LICENSED BY THAT DEPARTMENT. SUCH
23 LICENSURE SYSTEM SHALL INCLUDE THE FOLLOWING COMPONENTS:

24 (I) (A) WITHIN NINE MONTHS OF THE EFFECTIVE DATE OF
25 THIS ACT, THE DEPARTMENT OF HEALTH SHALL LICENSE
26 ASSISTED LIVING SERVICES PROVIDERS.

27 (B) DIRECT CARE STAFF EMPLOYED BY ASSISTED
28 LIVING SERVICES PROVIDERS OR PROVIDING DIRECT CARE
29 SERVICES TO CONSUMERS IN THEIR HOMES SHALL MEET ALL
30 TRAINING AND TESTING REQUIREMENTS IN THIS ACT

1 RELATING TO ASSISTED LIVING RESIDENCES THAT ARE NOT
2 SPECIFIC TO ASSISTED LIVING RESIDENCE CARE. PRIOR TO
3 START OF TRAINING AND TESTING, THE APPLICANT SHALL
4 PASS A CRIMINAL HISTORY BACKGROUND CHECK CONDUCTED BY
5 THE TRAINING AND TESTING AGENCY. DIRECT CARE STAFF
6 SHALL PRESENT TO ASSISTED LIVING SERVICES RECIPIENTS
7 DOCUMENTATION FROM THE DEPARTMENT OF HEALTH THAT THEY
8 HAVE PASSED A CRIMINAL HISTORY CHECK AND HAVE
9 COMPLETED THE REQUIRED TRAINING.

10 (C) ENTITIES THAT DO NOT PROVIDE PERSONAL CARE
11 SERVICES, BUT THAT SOLELY PROVIDE ASSISTANCE WITH
12 INSTRUMENTAL ACTIVITIES OF DAILY LIVING SHALL BE
13 EXEMPT FROM THE REQUIREMENTS OF THIS ACT.

14 (II) (A) ASSISTED LIVING SERVICES PROVIDERS SHALL
15 MEET THE FOLLOWING PROVISIONS OF THIS ACT, EXCEPT TO
16 THE EXTENT THAT THE DEPARTMENT OF HEALTH DEEMS THE
17 PROVISIONS APPLICABLE ONLY TO RESIDENTS OF ASSISTED
18 LIVING RESIDENCES.

19 (B) DIRECT CARE STAFF SHALL PROVIDE ASSISTED
20 LIVING SERVICES CONSUMERS WITH 30 DAYS' ADVANCE
21 WRITTEN NOTICE, WHERE POSSIBLE, OF INTERRUPTION OR
22 TERMINATION OF SERVICE DELIVERY, EXCEPT WHERE THE
23 SAFETY OF THE DIRECT CARE STAFF IS AT RISK. DIRECT
24 CARE STAFF SHALL BE INCLUDED UNDER THE REPORTING
25 REQUIREMENTS OF REVIEW UNDER THE OLDER ADULTS
26 PROTECTIVE SERVICES ACT. DIRECT CARE STAFF FOUND TO
27 BE IN VIOLATION OF THE ADVANCE NOTICE PROVISION OF
28 THIS SECTION MAY BE SANCTIONED BY THE DEPARTMENT OF
29 HEALTH AND HAVE THEIR DOCUMENTATION OF TRAINING
30 NECESSARY FOR EMPLOYMENT WITHDRAWN.

(III) THE DEPARTMENT OF HEALTH SHALL CONDUCT ANNUAL
UNANNOUNCED INSPECTIONS OF ASSISTED LIVING SERVICES
PROVIDERS AND SHALL INCLUDE VISITS TO A RANDOM SAMPLE OF
CONSUMERS AS PART OF THE INSPECTION PROCESS.

(4) ~~The~~ WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS
ACT, THE Department of Labor and Industry shall promulgate
rules and regulations applicable to assisted living
residences in accordance with the act of November 10, 1999
(P.L.491, No.45), known as the Pennsylvania Construction Code
Act, and in accordance with this section. The regulations
shall apply to all assisted living residences not currently
licensed by the Department of Public Welfare as a personal
care home and to all personal care homes making an
application to the department for a Category II license. A
personal care home making an application for a Category II
license shall have three years from the effective date of
this act to comply with the Department of Labor and Industry
rules and regulations under this act.

(B) CONSUMER RIGHTS.--ALL CONSUMER RIGHTS SPECIFIED IN THIS
ACT SHALL APPLY TO CONSUMERS OF ASSISTED LIVING SERVICES
PROVIDERS, UNLESS THE RIGHT IS SPECIFIC TO RESIDENCY.

Section 5. Rules and regulations.

The department shall promulgate rules and regulations for
adult living residences that:

(1) Provide that any regulations specifically related to
personal care homes, adopted prior to the effective date of
this act, set forth in 55 Pa. Code Ch. 2620 (relating to
personal care home licensing), and promulgated in accordance
with the act of June 13, 1967 (P.L.31, No.21), known as the
Public Welfare Code, shall continue to be applied to an owner

1 or administrator of a personal care home under a Category I
2 license. The department shall ensure consistency between such
3 currently existing regulations governing personal care homes
4 and any regulations promulgated in accordance with this act.

5 (2) Develop standards for a Category II license for ~~any~~ <—
6 ~~premises in which food, shelter and personal assistance or~~
7 ~~supervision are provided for a period exceeding 24 hours for~~
8 ~~four or more consumers who are not relatives of the operator~~
9 ~~and have contracted for such services.~~ ASSISTED LIVING <—
10 RESIDENCES.

11 (3) Require personal care homes licensed by the
12 department prior to the effective date of this act and that
13 intend to obtain a Category II license to come into
14 compliance with department rules and regulations and to
15 obtain a Category II license as an assisted living residence
16 no later than three years after the effective date of this
17 act.

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

23 (5) WITHIN 90 DAYS OF THE EFFECTIVE DATE OF THIS ACT, <—
24 AND IN CONSULTATION WITH THE DEPARTMENT OF AGING, THE
25 DEPARTMENT OF HEALTH, THE INTRA-GOVERNMENTAL COUNCIL ON LONG-
26 TERM CARE AND THE PERSONAL CARE HOME ADVISORY COMMITTEE,
27 ADOPT RULES FOR: CLASSIFICATION OF VIOLATIONS; ENFORCEMENT
28 MEASURES FOR VIOLATIONS, INCLUDING CLOSURE OF ADULT LIVING
29 RESIDENCES WITH EXTENSIVE PATTERNS OF SERIOUS VIOLATIONS OR
30 THOSE WHICH ARE FOUND TO HAVE SEVERE VIOLATIONS WHICH

1 CONSTITUTE A RISK TO SAFETY OF CURRENT OR POTENTIAL
2 RESIDENTS; CLOSURE OF ADULT LIVING RESIDENCES THAT HAVE
3 FAILED TO OBTAIN A LICENSE AND THAT HAVE RESIDENTS RECEIVING
4 SERVICES COVERED BY THIS ACT; RESPONDING TO THE NEEDS OF
5 RESIDENTS WITH COGNITIVE IMPAIRMENTS; AND PROTECTING
6 RESIDENTS' RIGHTS. SUCH RULES SHALL BE IN EFFECT UNTIL THE
7 ADOPTION OF FINAL REGULATIONS THAT COVER THE SAME SUBJECT
8 MATTER.

9 ~~(5)~~ (6) Exempt from regulation under this act boarding <—
10 homes which merely provide room, board and laundry services
11 to persons who do not need adult living residence services.

12 ~~(6)~~ (7) Promote the cost efficiency and effectiveness of <—
13 visitations and inspections.

14 ~~(7)~~ (8) Delegate to other State and local agencies <—
15 responsibility for visitations, inspections, referral,
16 placement and protection of consumers residing in adult
17 living residences or receiving assisted living services from
18 a provider of assisted living services.

19 ~~(8)~~ (9) Evaluate the State's fire and panic laws as <—
20 applied to adult living residences.

21 ~~(9)~~ (10) Create a uniform standard policy for the <—
22 discharge of a consumer from an adult living residence,
23 including, at a minimum, advance notice provisions for the
24 consumer.

25 ~~(10)~~ (11) Create a listing of medical conditions or care <—
26 needs that shall preclude adult living residences from
27 admitting or retaining consumers.

28 ~~(11)~~ (12) Provide for the implementation of fire and <—
29 safety and consumer care standards relating to adult living
30 residences by cities of the first class, second class and

second class A.

~~(12) Establish a process for relocating consumers of
adult living residences.~~ <—

(13) (I) ESTABLISH A PROCESS FOR PROMPTLY RELOCATING <—
CONSUMERS OF ADULT LIVING RESIDENCES BY THE DEPARTMENT IF
THE ASSISTED LIVING RESIDENCE IS OPERATING WITHOUT A
LICENSE, IS VOLUNTARILY CLOSING AND RESIDENTS ARE BEING
DISPLACED, IS BEING INVOLUNTARILY CLOSED, OR HAS ENGAGED
IN CONDUCT THAT ENDANGERS THE HEALTH AND SAFETY OF ITS
RESIDENTS, WHICH SHALL INCLUDE PROVIDING CONSUMERS WITH
REFERRALS, OPTIONS ASSESSMENT AND MOVING ASSISTANCE.

(II) EXCEPT IN AN EMERGENCY, THE CONSUMER SHALL BE
INVOLVED IN PLANNING HIS TRANSFER TO ANOTHER PLACEMENT
AND SHALL HAVE THE RIGHT TO CHOOSE AMONG THE AVAILABLE
ALTERNATIVE PLACEMENTS. THE DEPARTMENT MAY MAKE TEMPORARY
PLACEMENT UNTIL FINAL PLACEMENT CAN BE ARRANGED.
CONSUMERS SHALL BE PROVIDED WITH AN OPPORTUNITY TO VISIT
ALTERNATIVE PLACEMENT BEFORE RELOCATION OR FOLLOWING
TEMPORARY EMERGENCY RELOCATION. CONSUMERS SHALL CHOOSE
THEIR FINAL PLACEMENT AND SHALL BE GIVEN ASSISTANCE IN
TRANSFERRING TO SUCH PLACE.

(III) CONSUMERS SHALL NOT BE RELOCATED PURSUANT TO
THIS SECTION IF THE DEPARTMENT DETERMINES IN WRITING, AND
CONSISTENT WITH CONSUMER PREFERENCE, THAT SUCH RELOCATION
IS NOT IN THE BEST INTEREST OF THE CONSUMER.

~~(13)~~ (14) Ensure that any regulations established in <—
accordance with this section shall be consistent with
regulations of the department relating to the funding of
residential care for the mentally ill or mentally retarded
adults and any regulations of the Department of Aging

1 relating to domiciliary care.

2 ~~(14)~~ (15) Develop standards and qualifications for
3 assisted living residence administrators.

4 ~~(15)~~ (16) Develop standards for orientation and training
5 for all direct service staff in an assisted living residence.

6 ~~(16)~~ (17) Provide for the posting in adult living
7 residences of information regarding the Long-Term Care
8 Ombudsman Program, including the process whereby the services
9 of the local ombudsman care be readily accessed including the
10 telephone number, and name of the contact person. Such
11 information shall be posted in a conspicuous location that is
12 readily accessible and shall be presented in a form easily
13 understood and read by consumers.

14 ~~(17)~~ (18) Develop standards, for admission to adult
15 living residences and for provision of assisted living
16 services, including:

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

20 (ii) Requirements for information which must be
21 provided to consumers of adult living residences and
22 assisted living services.

23 (iii) Requirements for adult living residency
24 contracts, including development of a standardized adult
25 living residency contract.

26 Section 6. Criminal history and reporting of suspected abuse.

27 The requirements of Chapters 5 and 7 of the act of November
28 6, 1987 (P.L.381, No.79), known as the Older Adults Protective
29 Services Act, shall apply to adult living residences.

30 Section 7. License required.

1 No person shall establish, maintain, operate or hold itself
2 out as authorized to establish, maintain or operate:

3 (1) A personal care home without first having obtained a
4 Category I license issued by the department.

5 (2) An assisted living residence without first having
6 obtained a Category II license issued by the department.

7 Section 8. Application for license.

8 (a) Submission to department.--Any ~~person~~ PROVIDER desiring <—
9 to secure a Category I license or Category II license shall
10 submit an application on a form prescribed by the department and
11 shall submit any other information required by the department.

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

15 (1) Residences with less than 20 beds - \$50.

16 (2) Residences with 20-50 beds - \$100.

17 (3) Residences with 51-100 beds - \$250.

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

19 Section 9. Issuance of licenses.

20 A license issued by the department under this act shall:

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

22 (2) Be issued only to the applicant.

23 (3) Be issued only when the applicant has achieved ~~full~~ <—
24 compliance with the rules and regulations of the Commonwealth
25 departments provided for under sections 4 and 5.

26 (4) Not be transferable UNLESS THE DEPARTMENT APPROVES <—
27 THE TRANSFER OF LICENSE. THE DEPARTMENT MAY DENY TRANSFERS TO
28 FRIENDS, RELATIVES OR BUSINESS ASSOCIATES, IF IT APPEARS THAT
29 THE PURPOSE OF THE TRANSFER IS TO AVOID LICENSURE ACTION OR
30 IF IT APPEARS THAT THE PREVIOUS OWNER WILL CONTINUE TO HAVE

1 INVOLVEMENT IN THE FACILITY OR BUSINESS.

2 (5) Be posted at all time in a conspicuous and readily
3 accessible place on the premises of the adult living
4 residence.

5 (6) THERE SHALL BE FOUR CLASSES OF LICENSURE: <—

6 (I) EXCEPTIONAL QUALITY LICENSURE SHALL BE AWARDED
7 TO ASSISTED LIVING RESIDENCES AND ASSISTED LIVING
8 SERVICES PROVIDERS BASED ON A FINDING BY A PANEL
9 ESTABLISHED BY THE DEPARTMENT THAT THE PROVIDER IS IN
10 COMPLIANCE WITH LICENSURE REQUIREMENTS AND SHOULD BE
11 RECOGNIZED FOR ITS USE OF BEST PRACTICES AND HIGH
12 CONSUMER SATISFACTION, AND POSITIVE OUTCOMES. ASSISTED
13 LIVING RESIDENCES WITH THIS LICENSURE CLASSIFICATION MAY
14 ADVERTISE AND THE DEPARTMENT SHALL POST NAMES OF THOSE
15 ASSISTED LIVING RESIDENCES WITH THIS LICENSURE
16 CLASSIFICATION ON ITS WORLD WIDE WEB SITE.

17 (II) COMPLIANCE LICENSURE SHALL BE PROVIDED TO
18 ASSISTED LIVING RESIDENCES WITH EITHER NO VIOLATIONS OR
19 ISOLATED CLASS III VIOLATIONS WHICH THE ADMINISTRATOR HAS
20 CERTIFIED IN WRITING TO THE DEPARTMENT HAVE BEEN
21 CORRECTED WITHIN 30 DAYS OF THE DATE OF THE ANNUAL
22 LICENSURE INSPECTION.

23 (III) PROVISIONAL LICENSURE SHALL BE GIVEN TO
24 ASSISTED LIVING RESIDENCES OR ASSISTED LIVING SERVICES
25 PROVIDERS WITH A PATTERN OF CLASS III VIOLATIONS OR
26 ISOLATED CLASS II VIOLATIONS FOR A PERIOD OF SIX MONTHS.
27 SUBSTANTIAL IMPROVEMENT MUST BE DEMONSTRATED FOR ASSISTED
28 LIVING RESIDENCES TO RECEIVE A SECOND SIX-MONTH
29 PROVISIONAL LICENSE. THOSE ASSISTED LIVING RESIDENCES OR
30 ASSISTED LIVING SERVICES PROVIDERS WHICH DO NOT MEET THE

1 STANDARDS FOR A COMPLIANCE LICENSE AT THE NEXT SCHEDULED
2 INSPECTION SHALL HAVE THEIR LICENSES REVOKED BY THE
3 DEPARTMENT.

4 (IV) PROVISIONAL LICENSURE WITH BAN ON ADMISSIONS
5 SHALL BE GIVEN FOR A SIX-MONTH PERIOD TO ASSISTED LIVING
6 RESIDENCES OR ASSISTED LIVING SERVICES PROVIDERS WITH A
7 PATTERN OF CLASS II, ISOLATED CLASS I OR A PATTERN OF
8 CLASS I VIOLATIONS.

9 Section 10. Standards for admission.

10 The rules and regulations for the licensing of adult living
11 residences promulgated by the department not later than one year
12 after the effective date of this act shall provide that:

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

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

29 (3) Following completion of a comprehensive assessment,
30 an appropriately trained person at the residence shall work

1 in cooperation with an interdisciplinary team that includes
2 the consumer, the consumer's legal representative or the
3 consumer's family member to develop a written comprehensive
4 service plan consistent with the consumer's unique physical
5 and psychosocial needs with recognition of the consumer's
6 capabilities and preferences.

7 (4) Adult living residences may not admit a consumer
8 before a determination has been made that the needs of the
9 consumer can be met based upon:

10 (i) The completed screening instrument.

11 (ii) The medical evaluation report.

12 (iii) An interview between the adult living
13 residence and the consumer.

14 (5) Assisted living residences with a Category II
15 license shall:

16 (i) Foster aging in place and promote consumer self-
17 direction and active participation in decision making
18 while emphasizing a consumer's privacy and dignity.

19 (ii) Permit consumers to live independently in the
20 residential environment of their choice with privacy and
21 dignity.

22 (iii) Promote integration of consumers into the
23 community and participation in the mainstream of
24 activities.

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

27 (v) Be consumer oriented and meet professional
28 standards of quality.

29 (6) An assisted living residence administrator shall
30 refer a consumer whose needs cannot be met by an assisted

1 living residence for a standardized screening.

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

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

10 (i) A copy of the adult living residence's policies.

11 (ii) Advance directive information, including
12 information on the right to have or not have an advance
13 directive.

14 (iii) Information regarding licensure status.

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

17 (v) A copy of the adult living residency contract
18 used by the adult living residence and all rates charged.

19 (vi) A copy of the internal complaint resolution
20 mechanism used by the adult living residence.

21 (vii) A disclosure stating the rights of consumers
22 under this act.

23 (viii) Information regarding the discharge policy of
24 the adult living residence.

25 (9) All consumers shall receive a standard written adult
26 living residency contract which shall include the actual rent
27 and other charges for services provided by the adult living
28 residence. The contract shall also include a disclosure
29 statement which shall include the following:

30 (i) That the consumer shall have 24 hours from the

1 time of presentation to sign the contract.

2 (ii) That if the contract is signed upon
3 presentation, the consumer shall have 72 hours to rescind
4 the contract.

5 (10) A consumer shall have the right to leave and return
6 to the adult living residence, receive visitors, have access
7 to a telephone and mail and participate in religious
8 activities.

9 (11) Adult living residence owners, administrators and
10 direct service staff shall be prohibited from being assigned
11 power of attorney or guardianship for consumers.

12 Section 11. (Reserved)

13 Section 12. Right to enter and inspect.

14 (a) General rule.--The department shall have the right to
15 enter and inspect any adult living residence that is licensed or
16 required to be licensed under this act, with or without prior
17 notice. The department shall have the right to free and full
18 access to inspect and examine the assisted living residence and
19 its grounds and the records of the residence and the licensee.
20 The department shall also have immediate and full opportunity to
21 privately interview any member of the direct service staff. The
22 department shall contact the Long-Term Care Ombudsman and shall
23 utilize any consumer-related information available to be
24 provided by that office when conducting inspections under this
25 section.

26 (B) INITIAL LICENSURE INSPECTION.--BEFORE A FACILITY IS
27 LICENSED AND PERMITTED TO OPEN, OPERATE OR ADMIT RESIDENTS AND
28 BEFORE ASSISTED LIVING SERVICES ARE PROVIDED TO CONSUMERS, IT
29 SHALL BE INSPECTED BY THE DEPARTMENT AND BE FOUND IN COMPLIANCE
30 WITH THE REQUIREMENTS SET FORTH IN THIS ACT AND THE RESULTING

<—

1 REGULATIONS.

2 ~~(b)~~ (C) Annual unannounced inspections required.--The <—
3 department shall annually conduct at least one onsite,
4 unannounced inspection of each adult living residence.

5 ~~(e)~~ (D) Special unannounced inspections.--Within 24 hours, <—
6 upon receipt of a complaint from any person alleging an
7 immediate serious risk to the health or safety of a consumer in
8 an adult living residence, the department shall conduct an
9 onsite unannounced inspection of the adult living residence.
10 Complaints prompting an inspection pursuant to this subsection
11 may include severe injury or death of a consumer in the adult
12 living residence, reports of abuse or conditions or practices
13 that create an immediate and serious risk to a consumer.

14 ~~(d)~~ (E) Time period for unannounced inspections.--Except for <—
15 complaints under subsection ~~(e)~~ (D), the department shall <—
16 determine the acceptable time period in which complaints shall
17 be investigated based upon the seriousness of the complaint.

18 (F) SURVEYS.--THE DEPARTMENT SHALL DEVELOP: <—

19 (1) A PROCESS FOR IMPLEMENTING AN ABBREVIATED SURVEY AND
20 INSPECTION PROCESS FOR GOOD PERFORMERS AND AN INTENSIFIED
21 SURVEY AND INSPECTION PROCESS FOR POOR PERFORMERS.

22 (2) A PROCESS FOR INCORPORATING OUTCOMES AND CONSUMER
23 SATISFACTION INTO THE SURVEY PROCESS.

24 (3) A PROCESS FOR DETERMINING AND COMMUNICATING PROVIDER
25 SATISFACTION WITH THE SURVEY AND INSPECTION PROCESS.

26 (4) A PROCESS THAT REQUIRES ADMINISTRATOR CERTIFICATION
27 OF THE TRUTH OF THE STATEMENTS MADE ON ALL PLANS OF
28 CORRECTION AND REPORTS OF CORRECTIVE STEPS TAKEN WITH THE
29 ADMINISTRATOR AT RISK OF FINE AND LOSS OF ABILITY TO BE AN
30 ADMINISTRATOR FOR FALSE STATEMENTS.

(5) AN APPEAL PROCESS THAT IS EXPEDITIOUS WITH NO APPEAL OR REQUEST FOR RECONSIDERATION OUTSTANDING FOR MORE THAN 60 DAYS AND THAT PRECLUDES THE GRANTING OF A SUPERSEDEAS UNLESS THE PROVIDER DEMONSTRATES A SUBSTANTIAL LIKELIHOOD OF PREVAILING ON THE MERITS.

(6) THE DEPARTMENT SHALL DEVELOP A UNIFORM SURVEY TOOL TO BE USED BY INSPECTORS.

~~(e)~~ (G) Annual report.--The department shall submit on an annual basis a report to the Aging and Youth Committee of the Senate and the Aging and Older Adult Services Committee of the House of Representatives regarding the findings of the inspections required by this section.

~~(f)~~ (H) Administrative search warrants.--Notwithstanding the inspection and access powers of the department under subsection (a), upon showing probable cause that there is a violation of this act or regulations under this act, a court of competent jurisdiction or a district justice where the residence is located shall issue an administrative search warrant to the department. The warrant shall identify the address of the adult living residence to be searched, the hours during which the search will occur and any documents or objects to be seized.

~~Section 13. (Reserved)~~

SECTION 13. RELOCATION OF CONSUMERS IN ASSISTED LIVING RESIDENCES.

(A) CONDITIONS.--EXCEPT AS PROVIDED IN SUBSECTION (C), THE DEPARTMENT, IN CONJUNCTION WITH APPROPRIATE LOCAL AUTHORITIES, SHALL RELOCATE CONSUMERS FROM AN ASSISTED LIVING RESIDENCE IF ANY OF THE FOLLOWING CONDITIONS EXIST:

(1) THE ASSISTED LIVING RESIDENCE IS OPERATING WITHOUT A LICENSE.

1 (2) THE LICENSEE IS VOLUNTARILY CLOSING THE ASSISTED
2 LIVING RESIDENCE AND RELOCATION IS NECESSARY FOR THE HEALTH
3 AND SAFETY OF THE CONSUMERS.

4 (B) ASSISTANCE.--THE DEPARTMENT SHALL OFFER RELOCATION
5 ASSISTANCE TO CONSUMERS RELOCATED UNDER THIS SECTION. EXCEPT IN
6 AN EMERGENCY, CONSUMERS SHALL BE INVOLVED IN PLANNING THEIR
7 TRANSFER TO ANOTHER PLACEMENT AND SHALL HAVE THE RIGHT TO CHOOSE
8 AMONG THE AVAILABLE ALTERNATIVE PLACEMENTS. THE DEPARTMENT MAY
9 MAKE TEMPORARY PLACEMENT UNTIL FINAL PLACEMENT CAN BE ARRANGED.
10 CONSUMERS SHALL BE PROVIDED WITH AN OPPORTUNITY TO VISIT
11 ALTERNATIVE PLACEMENT BEFORE RELOCATION OR FOLLOWING TEMPORARY
12 EMERGENCY RELOCATION. CONSUMERS SHALL CHOOSE THEIR FINAL
13 PLACEMENT AND SHALL BE GIVEN ASSISTANCE IN TRANSFERRING TO SUCH
14 PLACE.

15 (C) WHEN PROHIBITED.--CONSUMERS MAY NOT BE RELOCATED
16 PURSUANT TO THIS SECTION IF THE DEPARTMENT DETERMINES IN WRITING
17 THAT SUCH RELOCATION IS NOT IN THE BEST INTEREST OF THE
18 CONSUMERS.

19 Section 14. Assisted living residence administrators.

20 (a) Appointment.--Ninety days after the effective date of
21 this act, all assisted living residences shall identify and
22 appoint an assisted living residence administrator or
23 administrators who meet, within one year of the effective date
24 of the regulations promulgated under section 5, at a minimum,
25 the qualifications provided in this section.

26 (b) Qualification.--An assisted living residence
27 administrator shall satisfy either of the following
28 qualifications:

29 (1) (i) be 21 years of age or older and be of good
30 moral character;

1 (ii) have a high school diploma or a GED
2 equivalency; and

3 (iii) have knowledge, education and training, as it
4 pertains to assisted living residences, in all of the
5 following:

6 (A) Fire prevention and emergency planning.

7 (B) First aid and cardiopulmonary resuscitation
8 (CPR) certification, medications, medical terminology
9 and personal hygiene.

10 (C) Federal, State and local laws and
11 regulations.

12 (D) Nutrition, food handling and sanitation.

13 (E) Recreation.

14 (F) Matters relating to dementia, including
15 normal aging, cognitive, psychological and function
16 abilities of older persons.

17 (G) Mental health issues.

18 (H) Assisted living philosophy.

19 (I) Use and benefits of assistive technology.

20 (J) Team building and stress reduction for
21 assisted living residence staff.

22 (K) Working with family members.

23 (L) Awareness, identification, prevention and
24 reporting of abuse and neglect.

25 (M) Mission and purpose of services to
26 individuals with cognitive impairments.

27 (N) Communication skills and management of
28 behavioral challenges.

29 (O) Community resources and social services.

30 (P) Staff supervision, budgeting, financial

recordkeeping and training; or

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

(C) TRAINING.--ALL ADMINISTRATORS SHALL COMPLETE A DEPARTMENT-APPROVED TRAINING COURSE OF A MINIMUM OF 120 HOURS. ALL ADMINISTRATORS SHALL PASS A TEST WHICH HAS BEEN APPROVED BY THE DEPARTMENT AND ADMINISTERED BY AN ENTITY APPROVED BY THE DEPARTMENT AT THE END OF TRAINING TO DEMONSTRATE PROFICIENCY IN THE APPLICATION OF SKILLS AND KNOWLEDGE.

(D) CONTINUING EDUCATION.--EVERY TWO YEARS, ALL ADMINISTRATORS SHALL COMPLETE 36 HOURS OF CONTINUING EDUCATION THAT HAS BEEN APPROVED BY THE DEPARTMENT AND IS APPLICABLE TO THE PRACTICE OF ASSISTED LIVING ADMINISTRATORS.

~~Section 15. (Reserved)~~

SECTION 15. STAFF ORIENTATION AND TRAINING IN ASSISTED LIVING RESIDENCES.

(A) GENERAL RULE.--THE DEPARTMENT SHALL PROMULGATE REGULATIONS, NOT LATER THAN 60 DAYS AFTER THE EFFECTIVE DATE OF THIS ACT, THAT REQUIRE ORIENTATION AND TRAINING FOR ALL DIRECT SERVICE STAFF IN ASSISTED LIVING RESIDENCES. SUCH ORIENTATION AND TRAINING SHALL INCLUDE THE FOLLOWING AREAS:

(1) FIRE PREVENTION AND EMERGENCY PLANNING.

(2) FIRST AID AND CPR CERTIFICATION, MEDICATIONS, MEDICAL TERMINOLOGY AND PERSONAL HYGIENE.

(3) FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS.

(4) NUTRITION, FOOD HANDLING AND SANITATION.

(5) RECREATION.

1 (6) MATTERS RELATING TO DEMENTIA, INCLUDING NORMAL
2 AGING, COGNITIVE, PSYCHOLOGICAL AND FUNCTIONAL ABILITIES OF
3 OLDER PERSONS.

4 (7) MENTAL HEALTH ISSUES.

5 (8) ASSISTED LIVING PHILOSOPHY.

6 (9) USE AND BENEFITS OF ASSISTIVE TECHNOLOGY.

7 (10) TEAM BUILDING AND STRESS REDUCTION FOR ASSISTED
8 LIVING RESIDENCE STAFF.

9 (11) WORKING WITH FAMILY MEMBERS.

10 (12) AWARENESS, IDENTIFICATION, PREVENTION AND REPORTING
11 OF ABUSE AND NEGLECT.

12 (13) MISSION AND PURPOSE OF SERVICES TO INDIVIDUALS WITH
13 COGNITIVE IMPAIRMENTS.

14 (14) COMMUNICATION SKILLS AND MANAGEMENT OF BEHAVIORAL
15 CHALLENGES.

16 (15) COMMUNITY RESOURCES AND SOCIAL SERVICES.

17 (B) STANDARDS.--NOT LATER THAN 90 DAYS AFTER THE EFFECTIVE
18 DATE OF THIS ACT, THE DEPARTMENT SHALL, BY REGULATION, DEVELOP
19 SUCH STANDARDS FOR KNOWLEDGE, EDUCATION OR TRAINING TO MEET THE
20 REQUIREMENTS OF THIS SECTION.

21 (C) DEPARTMENT ADMINISTERED TRAINING.--IF NOT OTHERWISE
22 AVAILABLE, THE DEPARTMENT SHALL SCHEDULE AND OFFER, AT COST,
23 TRAINING AND EDUCATIONAL PROGRAMS FOR A PERSON TO MEET THE
24 KNOWLEDGE, EDUCATIONAL AND TRAINING REQUIREMENTS ESTABLISHED BY
25 THIS ACT.

26 SECTION 15.1. STAFFING LEVELS AND TRAINING.

27 (A) GENERAL RULE.--THE DEPARTMENT SHALL ESTABLISH STAFFING
28 LEVELS FOR ASSISTED LIVING RESIDENCES DEPENDING UPON THE
29 FACILITY POPULATION, MOBILITY OF RESIDENTS AND COGNITIVE
30 IMPAIRMENTS TO INSURE:

(1) TWENTY-FOUR-HOUR-A-DAY AWAKE DIRECT CARE STAFF TO MEET THE UNPLANNED AND UNSCHEDULED NEEDS OF CONSUMERS.

(2) DIRECT CARE STAFF TO MEET CONSUMERS' PLANNED AND SCHEDULED NEEDS AS REQUIRED IN THEIR COMPREHENSIVE SERVICE PLANS.

(3) ADDITIONAL STAFF OR CONTRACTED SERVICES TO MEET LAUNDRY, FOOD SERVICE, HOUSEKEEPING, TRANSPORTATION AND MAINTENANCE NEEDS OF THE ASSISTED LIVING RESIDENCE.

(B) TRAINING.--ALL DIRECT CARE STAFF SHALL COMPLETE A DEPARTMENT-APPROVED EDUCATION AND TRAINING PROGRAM WHICH HAS BEEN APPROVED BY THE DEPARTMENT FOR A MINIMUM OF 40 HOURS AND OBTAIN A CERTIFICATE OF COMPLETION. DIRECT CARE STAFF SHALL COMPLETE TRAINING AND DEMONSTRATE PROFICIENCY IN A MANNER APPROVED BY THE DEPARTMENT IN EACH TRAINING COMPONENT PRIOR TO INDEPENDENT WORK IN THAT AREA.

~~Section 16. Immobile persons.~~

~~The department shall not prohibit immobile persons who do not~~
SECTION 16. PERSONS WITH SPECIAL NEEDS.

(A) IMMOBILE PERSONS.--THE DEPARTMENT SHALL NOT PROHIBIT IMMOBILE PERSONS WHO DO NOT require the services of a licensed long-term care facility, but who require assisted living residence services, from residing in an adult living residence with a Category II license, provided that the design, construction, staffing or operation of the assisted living residence allows for safe emergency evacuation.

(B) ALZHEIMER'S DISEASE, DEMENTIA AND COGNITIVE IMPAIRMENT.--FOR CONSUMERS WITH ALZHEIMER'S DISEASE OR DEMENTIA OR WHERE THE ADULT LIVING RESIDENCE HOLDS ITSELF OUT TO THE PUBLIC AS PROVIDING SERVICES OR HOUSING FOR PERSONS WITH COGNITIVE IMPAIRMENTS, ADULT LIVING RESIDENCES SHALL DISCLOSE TO

1 CONSUMERS AND PROVIDE:

2 (1) THE RESIDENCE'S WRITTEN STATEMENT OF ITS PHILOSOPHY
3 AND MISSION WHICH REFLECTS THE NEEDS OF INDIVIDUALS WITH
4 COGNITIVE IMPAIRMENTS;

5 (2) A DESCRIPTION OF THE RESIDENCE'S PHYSICAL
6 ENVIRONMENT AND DESIGN FEATURES TO SUPPORT THE FUNCTIONING OF
7 ADULTS WITH COGNITIVE IMPAIRMENTS;

8 (3) A DESCRIPTION OF THE FREQUENCY AND TYPES OF
9 INDIVIDUAL AND GROUP ACTIVITIES DESIGNED SPECIFICALLY TO MEET
10 THE NEEDS OF RESIDENTS WITH COGNITIVE IMPAIRMENTS;

11 (4) A DESCRIPTION OF SECURITY MEASURES PROVIDED BY THE
12 FACILITY;

13 (5) A DESCRIPTION OF TRAINING PROVIDED TO STAFF
14 REGARDING PROVISION OF CARE TO CONSUMERS WITH COGNITIVE
15 IMPAIRMENTS;

16 (6) A DESCRIPTION OF AVAILABILITY OF FAMILY SUPPORT
17 PROGRAMS AND FAMILY INVOLVEMENT; AND

18 (7) THE PROCESS USED FOR ASSESSMENT AND ESTABLISHMENT OF
19 A PLAN OF SERVICES FOR THE CONSUMER, INCLUDING METHODS BY
20 WHICH THE PLAN OF SERVICES WILL REMAIN RESPONSIVE TO CHANGES
21 IN THE CONSUMER'S CONDITION.

22 (C) COGNITIVE SUPPORT SERVICES.--

23 (1) AN ADULT LIVING RESIDENCE SHALL PROVIDE TO A
24 COGNITIVELY IMPAIRED CONSUMER COGNITIVE SUPPORT SERVICES,
25 INCLUDING DEMENTIA-SPECIFIC ACTIVITY PROGRAMMING.

26 (2) WITHIN 30 DAYS OF ADMISSION OF A COGNITIVELY
27 IMPAIRED CONSUMER, THE ADULT LIVING RESIDENCE SHALL REGISTER
28 THE CONSUMER WITH THE COMMONWEALTH'S SAFE RETURN PROGRAM FOR
29 INDIVIDUALS WITH COGNITIVE IMPAIRMENTS AND TENDENCIES TO
30 WANDER.

1 Section 17. Violations.

2 ~~(a) Notice of violations.~~ <—

3 ~~(1) If the department, whether upon inspection,~~

4 (A) CLASSIFICATION OF VIOLATIONS.--THERE SHALL BE THREE <—

5 CLASSES OF VIOLATIONS:

6 (1) CLASS I. A VIOLATION INCLUDING FAILURE TO OR
7 NEGLIGENT PROVISION OF SERVICES IN THE SERVICE PLAN, WHICH
8 INDICATES A SUBSTANTIAL PROBABILITY THAT DEATH OR SERIOUS
9 MENTAL OR PHYSICAL HARM TO A CONSUMER MAY RESULT OR DEATH
10 ACTUALLY RESULTS.

11 (2) CLASS II. A VIOLATION INCLUDING FAILURE TO OR
12 NEGLIGENT PROVISION OF SERVICES IN THE SERVICE PLAN, WHICH
13 HAS A POTENTIAL OR ACTUAL SUBSTANTIAL ADVERSE EFFECT UPON THE
14 HEALTH, SAFETY OR WELL-BEING OF A CONSUMER.

15 (3) CLASS III. A MINOR VIOLATION WHICH HAS AN ADVERSE
16 EFFECT UPON THE HEALTH, SAFETY OR WELL-BEING OF A CONSUMER.

17 (B) NOTICE OF VIOLATIONS.--IF THE DEPARTMENT, WHETHER UPON
18 INSPECTION, investigation or complaint, finds a violation of
19 this act or regulations promulgated under this act, it shall
20 give written notice to the licensee specifying the violation or
21 violations found. The notice shall require the licensee to take
22 action or to submit a plan of correction to bring the adult
23 living residence into compliance with applicable law or
24 regulation within a specified time.

25 ~~(2) The licensee shall, within 15 days of receipt of the~~ <—
26 ~~written notice or sooner if directed to do so by the~~
27 ~~department, submit a plan of correction.~~

28 (C) REMEDIES AND PENALTIES.--THE REMEDY AND PENALTY FOR <—
29 VIOLATIONS SHALL DEPEND ON THE VIOLATION AS FOLLOWS:

30 (1) ISOLATED CLASS III VIOLATIONS. WITHIN 30 DAYS OF THE

1 DATE OF THE CITATION, THE ASSISTED LIVING RESIDENCE
2 ADMINISTRATOR OR ASSISTED LIVING SERVICES PROVIDER MUST
3 CORRECT THE VIOLATION AND CERTIFY IN WRITING TO THE
4 DEPARTMENT THAT THE VIOLATION HAS BEEN CORRECTED.

5 (2) PATTERN OF CLASS III VIOLATIONS. WITHIN TEN DAYS OF
6 THE DATE OF THE CITATION, THE ASSISTED LIVING RESIDENCE
7 ADMINISTRATOR OR ASSISTED LIVING SERVICES PROVIDER MUST
8 SUBMIT A PLAN OF CORRECTION FOR DEPARTMENTAL APPROVAL. WITHIN
9 30 DAYS OF THE DATE OF THE CITATION, THE ASSISTED LIVING
10 RESIDENCE ADMINISTRATOR OR ASSISTED LIVING SERVICES PROVIDER
11 MUST CORRECT THE VIOLATIONS AND CERTIFY IN WRITING THAT
12 CORRECTIONS HAVE BEEN MADE. THE DEPARTMENT SHALL ISSUE FINES
13 AND GRANT A PROVISIONAL LICENSE WHICH SHALL BE IN EFFECT ONLY
14 UNTIL WRITTEN CERTIFICATION OF CORRECTIONS HAS BEEN RECEIVED
15 BY THE DEPARTMENT. IMMEDIATE CORRECTION OF THE VIOLATION TO
16 THE INSPECTOR'S SATISFACTION DURING THE SURVEY PROCESS WILL
17 PRECLUDE THE APPLICATION OF A PENALTY UNDER THIS SUBSECTION.

18 (3) ISOLATED CLASS II VIOLATIONS. WITHIN TEN DAYS OF THE
19 DATE OF THE CITATION, THE ASSISTED LIVING RESIDENCE
20 ADMINISTRATOR OR ASSISTED LIVING SERVICES PROVIDER MUST
21 SUBMIT A PLAN OF CORRECTION FOR DEPARTMENTAL APPROVAL. WITHIN
22 30 DAYS OF THE DATE OF CITATION, THE ASSISTED LIVING
23 RESIDENCE ADMINISTRATOR OR ASSISTED LIVING SERVICES PROVIDER
24 SHALL CORRECT THE VIOLATIONS AND CERTIFY IN WRITING TO THE
25 DEPARTMENT THAT CORRECTIONS HAVE BEEN MADE. THE DEPARTMENT
26 SHALL FINE THE ASSISTED LIVING RESIDENCE OR ASSISTED LIVING
27 SERVICES PROVIDER AND ISSUE A PROVISIONAL LICENSE UNTIL
28 CERTIFICATION OF CORRECTIONS HAS BEEN RECEIVED BY THE
29 DEPARTMENT. IMMEDIATE CORRECTION OF VIOLATION TO THE
30 INSPECTOR'S SATISFACTION DURING THE SURVEY PROCESS WILL

1 PRECLUDE THE APPLICATION OF A PENALTY UNDER THIS SUBSECTION.

2 (4) PATTERN OF CLASS II VIOLATIONS. WITHIN TEN DAYS OF
3 THE DATE OF THE CITATION, THE ASSISTED LIVING RESIDENCE
4 ADMINISTRATOR OR ASSISTED LIVING SERVICES PROVIDER SHALL
5 SUBMIT A PLAN OF CORRECTION FOR DEPARTMENTAL APPROVAL. WITHIN
6 30 DAYS OF THE DATE OF THE CITATION, THE ASSISTED LIVING
7 RESIDENCE ADMINISTRATOR OR ASSISTED LIVING SERVICES PROVIDER
8 SHALL CORRECT THE VIOLATIONS AND SHALL CERTIFY IN WRITING TO
9 THE DEPARTMENT THAT ALL CORRECTIONS HAVE BEEN MADE. THE
10 DEPARTMENT SHALL FINE THE PROVIDER AND ISSUE A PROVISIONAL
11 LICENSE WITH A BAN ON ADMISSIONS OR SERVICE UNTIL WRITTEN
12 CERTIFICATION OF CORRECTIONS HAS BEEN RECEIVED AND
13 CORRECTIONS HAVE BEEN VERIFIED BY THE DEPARTMENT. THE
14 DEPARTMENT SHALL CONDUCT AN ONSITE INSPECTION TO VERIFY
15 CORRECTIONS WITHIN TWO BUSINESS DAYS OF RECEIPT OF THE
16 CERTIFICATION OF CORRECTION. THE DEPARTMENT SHALL CONDUCT
17 INTENSIFIED INSPECTIONS OF THE PROVIDER WITH MORE NUMEROUS
18 UNANNOUNCED INSPECTIONS.

19 (5) ISOLATED CLASS I VIOLATIONS. UPON A FINDING BY THE
20 DEPARTMENT OF A CLASS I VIOLATION, THE DEPARTMENT SHALL
21 IMMEDIATELY DECIDE WHETHER:

22 (I) TO GIVE A PROVISIONAL LICENSE WITH A BAN ON
23 ADMISSIONS OR SERVICES AND ALLOW THE ASSISTED LIVING
24 RESIDENCE OR ASSISTED LIVING SERVICES PROVIDER TO CORRECT
25 THE VIOLATION;

26 (II) TO REQUIRE THE APPOINTMENT OF A MASTER AT THE
27 ASSISTED LIVING RESIDENCE'S EXPENSE TO OVERSEE THE
28 IMMEDIATE CORRECTION OF THE VIOLATIONS; OR

29 (III) TO REVOKE THE LICENSE AND ARRANGE FOR THE
30 IMMEDIATE RELOCATION OR TRANSFER OF CONSUMERS.

1 THE DEPARTMENT SHALL FINE THE PROVIDER AND SHOULD THE
2 PROVIDER REMAIN IN OPERATION, SUBJECT IT TO INTENSIFIED AND
3 MORE NUMEROUS UNANNOUNCED INSPECTIONS.

4 (6) PATTERN OF CLASS I VIOLATIONS. UPON A FINDING BY THE
5 DEPARTMENT THAT A PROVIDER HAS A PATTERN OF CLASS I
6 VIOLATIONS, THE DEPARTMENT SHALL IMMEDIATELY REVOKE THE
7 PROVIDER'S LICENSE AND ARRANGE FOR RELOCATION OR TRANSFER OF
8 THE CONSUMERS OR APPOINT A MASTER AT THE ASSISTED LIVING
9 RESIDENCE'S EXPENSE TO BRING THE ASSISTED LIVING RESIDENCE
10 INTO COMPLIANCE WITHIN 30 DAYS. THE DEPARTMENT SHALL ISSUE A
11 PROVISIONAL LICENSE WITH A BAN ON ADMISSIONS OR SERVICE IF
12 THE PROVIDER IS PERMITTED TO CONTINUE IN OPERATION AND SHALL
13 FINE THE PROVIDER. SHOULD THE PROVIDER REMAIN IN OPERATION,
14 THE DEPARTMENT SHALL CONDUCT INTENSIFIED AND MORE NUMEROUS
15 INSPECTIONS.

16 (7) ANY ADMINISTRATOR WHO FALSELY CERTIFIES TO THE
17 DEPARTMENT THAT VIOLATIONS HAVE BEEN CORRECTED SHALL BE FINED
18 BY THE DEPARTMENT AND SHALL LOSE THE ADMINISTRATOR LICENSE.

19 (8) WITHIN SIX MONTHS OF THE DATE OF THIS ACT, THE
20 DEPARTMENT SHALL ISSUE REGULATIONS GOVERNING THIS SECTION.
21 THE REGULATIONS SHALL ENSURE THAT INSPECTIONS ARE NOT
22 INVASIVE OF CONSUMER'S PRIVACY OR DIGNITY, SUPPORT THE
23 PRINCIPLES OF ASSISTED LIVING AND CAN BE UNIFORMLY AND
24 CONSISTENTLY APPLIED BY THE DEPARTMENT.

25 ~~(3)~~ (9) The department may revoke a license before <—
26 providing notice or before a plan of correction is submitted
27 whenever a violation poses a significant threat to the health
28 or safety of the consumers in an adult living residence.

29 ~~(b) Administrative fines. If the department determines that~~ <—

30 (D) ADMINISTRATIVE FINES.-- <—

1 (1) IF THE DEPARTMENT DETERMINES THAT an adult living
2 residence has failed to comply with the provisions of this
3 act or the regulations promulgated under this act, it may
4 assess an administrative fine of not more than \$1,000 per day
5 per violation. In setting the fine, the department shall
6 consider the severity of the violation and whether there is a
7 pattern of violations.

8 (2) MONEY COLLECTED BY THE DEPARTMENT UNDER THIS SECTION <—
9 SHALL BE FIRST USED TO DEFRAY THE EXPENSES INCURRED BY
10 CONSUMERS RELOCATED UNDER THIS ACT. ANY MONEYS REMAINING
11 SHALL BE USED BY THE DEPARTMENT FOR ENFORCING THE PROVISIONS
12 OF THIS ACT. FINES COLLECTED PURSUANT TO THIS ACT SHALL NOT
13 BE SUBJECT TO THE PROVISIONS OF 42 PA.C.S. § 3733 (RELATING
14 TO DEPOSITS INTO ACCOUNT).

15 ~~(e)~~ (E) Criminal penalties.--A licensee that intentionally <—
16 commits a violation or continues to operate an adult living
17 residence without a license by the department commits a
18 misdemeanor of the second degree and shall, upon conviction, be
19 sentenced to pay a fine of \$5,000 or to imprisonment for not
20 more than two years, or both.

21 (F) APPEAL OF VIOLATIONS.-- <—

22 (1) A PROVIDER APPEALING A DEPARTMENTAL BAN ON
23 ADMISSIONS OR LICENSE REVOCATION OR NONRENEWAL SHALL BE
24 DENIED A SUPERSEDEAS UNLESS THE PROVIDER DEMONSTRATES
25 SUBSTANTIAL LIKELIHOOD OF PREVAILING ON THE MERITS.

26 (2) WHERE A SUPERSEDEAS IS GRANTED, IT SHALL BE REVOKED
27 IF THE DEPARTMENT PRESENTS EVIDENCE OF ANY INTERVENING CLASS
28 I OR II VIOLATIONS.

29 (3) WHERE A SUPERSEDEAS IS GRANTED:

30 (I) THE DEPARTMENT SHALL INSPECT A FACILITY OR

1 ASSISTED LIVING SERVICES PROVIDER AT LEAST MONTHLY OR
2 MORE FREQUENTLY TO ENSURE RESIDENTS' OR RECIPIENTS'
3 SAFETY AND WELL-BEING. THOSE INSPECTION REPORTS SHALL BE
4 MAINTAINED AS PART OF THE PUBLIC RECORD FOR THE ASSISTED
5 LIVING RESIDENCE OR ASSISTED LIVING SERVICES PROVIDER.

6 (II) WHERE A SUPERSEDEAS HAS BEEN GRANTED, A CLASS I
7 OR II VIOLATION CITED AFTER THE GRANTING OF THE
8 SUPERSEDEAS SHALL LEAD TO A REVOCATION OF THE
9 SUPERSEDEAS.

10 (G) EXPEDITED HEARINGS.--THE DEPARTMENT'S BUREAU OF HEARINGS
11 AND APPEALS SHALL MAKE THE ASSISTED LIVING RESIDENCE OR ASSISTED
12 LIVING SERVICES PROVIDER APPEALS A PRIORITY, WITH NO APPEAL
13 OUTSTANDING MORE THAN 60 DAYS BEYOND THE DATE ON WHICH THE
14 APPEAL WAS FILED.

15 (H) EXPEDITED RECONSIDERATION.--THE SECRETARY SHALL RULE ON
16 RECONSIDERATIONS WITHIN 60 DAYS.

17 Section 18. Reasons for denial, nonrenewal or revocation of a
18 license.

19 The department may deny, refuse or renew or revoke a license
20 for all or any portion of an adult living residence or may
21 suspend or restrict admissions to the residence for any of the
22 following reasons:

23 (1) Failure of a licensee to submit an acceptable plan
24 of correction with a reasonable timetable to correct
25 violations.

26 (2) The existence of a pattern of violations.

27 (3) Failure to comply with a plan of correction or to
28 report violations in accordance with a timetable submitted by
29 the applicant and agreed upon by the department.

30 (4) Fraud or deceit in obtaining or attempting to obtain

1 a license.

2 (5) Lending, borrowing or using the license of another
3 or in any way knowingly aiding or abetting the improper
4 granting of a license.

5 (6) Incompetence, negligence or misconduct in operating
6 the adult living residence.

7 (7) Mistreatment or abuse of a consumer of the adult
8 living residence.

9 (8) Violation of the provisions of this act or the
10 regulations promulgated under this act.

11 (9) Violation of other applicable Federal or State laws.

12 Section 19. Licensure appeals.

13 (a) Nature of proceeding.--A licensee aggrieved by a
14 decision of the department under this act shall have the right
15 to an appeal. The appeal shall be conducted in accordance with 2
16 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of
17 Commonwealth agencies) to the board.

18 (b) Time for hearing.--

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

22 (2) If the board determines that continued operation,
23 pending administrative review, poses an immediate threat to
24 the consumers in the assisted living residence or if the
25 department has implemented an emergency action pursuant to
26 section 21(c) and a timely request for a hearing has been
27 made, a hearing shall be held within 15 days after the
28 receipt of the response or request for a hearing.

29 (3) Hearing dates specified in this subsection may be
30 extended by the board for good cause if agreed to by all

1 parties.

2 (c) Decisions.--A decision shall be issued within 60 days
3 after the final day of the hearing. In the case of an expedited
4 hearing under subsection (b)(2), a decision shall be issued
5 within five days after the final date of the hearing.

6 (d) Subpoenas.--The presiding officer may issue a subpoena
7 at the request of either party.

8 (e) Discovery.--Discovery shall be limited to reasonable
9 requests for production of documents and identification of
10 witnesses. All other discovery shall be by mutual agreement of
11 the parties.

12 Section 20. Effect of departmental orders.

13 Orders of the department from which no appeal is taken to the
14 board and orders of the board from which no timely appeal is
15 taken to the court shall be final orders and may be enforced by
16 a court of competent jurisdiction.

17 Section 21. Actions against violations of law and regulations.

18 (a) Violations.--Whenever any person, regardless of whether
19 such person is a licensee, has violated any of the provisions of
20 this act or the regulations issued pursuant thereto, the
21 department may maintain an action in the name of the
22 Commonwealth for an injunction or other process restraining or
23 prohibiting such person from engaging in such activity.

24 (b) Residence closure for threat to health or safety.--
25 Whenever the department determines that a violation poses an
26 immediate and serious threat to the health or safety of the
27 consumers of an adult living residence, the department may
28 direct the closure of the assisted living residence and the
29 transfer of the consumers to other adult living residences with
30 a Category II license or other appropriate locations. The

1 department may petition the Commonwealth Court or the court of
2 common pleas of the county in which the adult living residence
3 is located to appoint the department temporary management of the
4 adult living residence. If granted, the department shall assume
5 operation of the adult living residence at the licensee's
6 expense until there is an orderly closure of the adult living
7 residence.

8 (c) Unlicensed adult living residences.--

9 (1) Whenever a license is required by this act, the
10 department may maintain an action in a court of competent
11 jurisdiction in the name of the Commonwealth for an
12 injunction or other process restraining or prohibiting any
13 person from establishing, maintaining or operating an adult
14 living residence that does not possess a Category I license
15 or Category II license.

16 (2) If a person who is refused a license or the renewal
17 of a license to operate or conduct an adult living residence,
18 or whose license to operate or conduct an adult living
19 residence is revoked, fails to appeal, or should such appeal
20 be decided finally favorable to the department, then the
21 court shall issue a permanent injunction upon proof that the
22 person is operating or conducting an adult living residence
23 without a license as required by this act.

24 Section 22. Injunction or restraining order when appeal is
25 pending.

26 Whenever the department refuses to renew or revokes a license
27 or orders a person to refrain from violating this act or the
28 regulations promulgated under this act and the person, deeming
29 himself aggrieved by the refusal, revocation or order, appeals
30 from the action of the department to the board or from the order

1 of the board to the court, the court may during pendency of the
2 appeal:

3 (1) issue a restraining order or injunction upon a
4 showing that the continued operation of the adult living
5 residence adversely affects the health, safety or care of the
6 consumers of the adult living residence; or

7 (2) authorize continued operation of the residence or
8 make such other order, pending final disposition of the case,
9 as justice and equity require.

10 ~~Section 23. (Reserved)~~ <—

11 ~~Section 24. (Reserved)~~

12 SECTION 23. ANNUAL REPORT. <—

13 (A) CONTENTS OF.--THE DEPARTMENT OF PUBLIC WELFARE SHALL,
14 AFTER CONSULTING WITH THE DEPARTMENT OF AGING AND THE DEPARTMENT
15 OF HEALTH, PROVIDE AN ANNUAL REPORT TO THE INTRA-GOVERNMENTAL
16 COUNCIL ON LONG-TERM CARE. THE ANNUAL REPORT SHALL INCLUDE, AT A
17 MINIMUM, THE FOLLOWING:

18 (1) THE TOTAL NUMBER OF ADULT LIVING RESIDENCES AND
19 ASSISTED LIVING SERVICES PROVIDERS IN THIS COMMONWEALTH AS
20 WELL AS THE NUMBERS OF RESIDENCES AND PROVIDERS NEWLY
21 LICENSED WITHIN THE PREVIOUS YEAR. SUCH REPORT SHALL ALSO
22 INCLUDE INFORMATION PRESENTED SEPARATELY REGARDING CATEGORY I
23 PERSONAL CARE HOMES AND CATEGORY II ASSISTED LIVING
24 RESIDENCES.

25 (2) COMPLAINTS RECEIVED BY THE LICENSING DEPARTMENTS,
26 THE OMBUDSMAN PROGRAM OR THE PROTECTIVE SERVICES UNITS IN
27 EACH AREA AGENCY ON AGING AND THE OUTCOME OF ANY
28 INVESTIGATIONS.

29 (3) COMMONWEALTH COSTS ASSOCIATED WITH THE LICENSING,
30 INSPECTION AND PAYMENT OF ASSISTED LIVING SERVICES.

1 (4) THE AVAILABILITY OF ASSISTED LIVING RESIDENCES AND
2 ASSISTED LIVING SERVICES TO CONSUMERS AND ANY BARRIERS
3 EXPERIENCED BY CONSUMERS IN ACCESSING ASSISTED LIVING
4 RESIDENCES AND ASSISTED LIVING SERVICES.

5 (5) GENERAL PROFILE INFORMATION REGARDING THE TYPES OF
6 CONSUMERS ACCESSING ASSISTED LIVING RESIDENCES AND ASSISTED
7 LIVING SERVICES.

8 (6) THE COSTS EXPERIENCED BY CONSUMERS IN ASSISTED
9 LIVING RESIDENCES AND BY CONSUMERS USING ASSISTED LIVING
10 SERVICES.

11 (7) RECOMMENDATIONS FOR ADDITIONAL LEGISLATIVE OR
12 REGULATORY ACTION TO IMPROVE THE QUALITY, AFFORDABILITY OR
13 ACCESSIBILITY OF ASSISTED LIVING IN THIS COMMONWEALTH.

14 (B) REVIEW PROCESS.--THE INTRA-GOVERNMENTAL COUNCIL ON LONG-
15 TERM CARE SHALL HAVE 30 DAYS TO REVIEW THE REPORT AND TO PREPARE
16 WRITTEN COMMENTS THERETO. SUCH COMMENTS SHALL INCLUDE
17 RECOMMENDATIONS REGARDING LEGISLATION OR REGULATIONS AND
18 REPORTING METHODS. AFTER THE 30-DAY REVIEW AND COMMENT PERIOD,
19 THE COUNCIL SHALL FORWARD THE DEPARTMENT'S REPORT AND THEIR
20 WRITTEN COMMENTS TO THE GOVERNOR, THE AGING AND YOUTH COMMITTEE
21 OF THE SENATE AND THE AGING AND OLDER ADULT SERVICES COMMITTEE
22 OF THE HOUSE OF REPRESENTATIVES.

23 SECTION 24. LEGISLATIVE BUDGET AND FINANCE COMMITTEE STUDY.

24 WITHIN NINE MONTHS AFTER THE EFFECTIVE DATE OF THIS ACT, THE
25 LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL REPORT TO THE
26 GENERAL ASSEMBLY ON EXISTING FEDERAL AND OTHER STATES'
27 INITIATIVES AND PROGRAMS THAT PROVIDE FINANCIAL ASSISTANCE FOR
28 ASSISTED LIVING. THIS STUDY SHALL INCLUDE INFORMATION ON OTHER
29 FEDERAL OR STATE ASSISTED LIVING PROGRAMS THAT ARE EFFECTIVELY
30 ADMINISTERED AND CAN BE CONSIDERED A MODEL.

1 Section 25. Committee regulation review.

2 In accordance with the act of June 25, 1982 (P.L.633,
3 No.181), known as the Regulatory Review Act, all regulations
4 promulgated pursuant to this act shall be referred to the Aging
5 and Youth Committee of the Senate and the Aging and Older Adult
6 Services Committee of the House of Representatives.

7 SECTION 26. INCREASE TO STATE SUPPLEMENTAL ASSISTANCE FOR
8 PERSONS IN PERSONAL CARE HOMES.

<—

9 (A) GENERAL RULE.--NOTWITHSTANDING ANY OTHER PROVISION OF
10 THE ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE PUBLIC
11 WELFARE CODE, OR REGULATIONS OF THE DEPARTMENT TO THE CONTRARY,
12 THE AMOUNT OF THE STATE SUPPLEMENTAL ASSISTANCE PAYABLE TO A
13 PERSON WHO IS ELIGIBLE UNDER SECTION 432(2)(II) OF THE PUBLIC
14 WELFARE CODE AND WHO IS A RESIDENT OF A PERSONAL CARE HOME SHALL
15 BE INCREASED BY AN AMOUNT OF \$15 PER DAY.

16 (B) CONSUMER PRICE INDEX ADJUSTMENT.--THE AMOUNT OF STATE
17 SUPPLEMENTAL ASSISTANCE PAYABLE UNDER SUBSECTION (A) SHALL BE
18 INCREASED BEGINNING JULY 1, 2002, BY AN AMOUNT EQUAL TO THE
19 INCREASE IN THE CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS FOR
20 THE IMMEDIATELY PRECEDING CALENDAR YEAR, WHICH AMOUNT SHALL BE
21 PUBLISHED IN THE PENNSYLVANIA BULLETIN ANNUALLY BY THE
22 DEPARTMENT ON OR BEFORE THE PRECEDING NOVEMBER 30.

23 Section ~~26~~ 27. Severability.

<—

24 If any provision of this act or the application thereof to
25 any person or circumstances is held invalid, such invalidity
26 shall not affect other provisions or applications of the act
27 which can be given effect without the invalid provision or
28 application, and to this end the provisions of this act are
29 declared to be severable.

30 Section ~~27~~ 28. Repeal.

<—

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

3 Section ~~28~~ 29. Effective date.

←

4 This act shall take effect in one year.