

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 136 Session of 2003

INTRODUCED BY MOWERY, BOSCOLA, EARLL, ERICKSON, GREENLEAF, KASUNIC, KITCHEN, KUKOVICH, LEMMOND, MADIGAN, ORIE, TARTAGLIONE, THOMPSON, WAGNER, C. WILLIAMS, STACK AND PIPPY, FEBRUARY 3, 2003

SENATOR MOWERY, PUBLIC HEALTH AND WELFARE, AS AMENDED, MAY 18, 2004

AN ACT

1 ~~Providing for the licensure of assisted living residences and~~ <—
2 ~~services, for expansion of publicly funded home based and~~
3 ~~community based assisted living services and for greater~~
4 ~~information to the public about long term care options;~~
5 ~~expanding Medicaid funded services under the Pennsylvania~~
6 ~~State plan and through the expansion of home based and~~
7 ~~community based services waivers; establishing a new State-~~
8 ~~funded program of assisted living services to help consumers~~
9 ~~bridge to eligibility under Medicaid; eliminating barriers~~
10 ~~and financial disincentives to receiving home based and~~
11 ~~community based assisted living services; conferring powers~~
12 ~~and duties on the Department of Public Welfare, the~~
13 ~~Department of Health and the Department of Aging; and making~~
14 ~~an appropriation.~~

15 ~~The General Assembly finds and declares as follows:~~

16 ~~(1) Assisted living residences and community based~~
17 ~~assisted living services are a rapidly growing long term care~~
18 ~~alternative across the nation.~~

19 ~~(2) Whereas there have been a number of instances of~~
20 ~~consumer harm due to inadequate training or staffing,~~
21 ~~Pennsylvanians want to know that they will receive quality~~
22 ~~care from adequately and appropriately trained and~~

1 ~~eredentialed staff.~~

2 ~~(3) Assisted living residences and home based and~~
3 ~~community based assisted living services are widely accepted~~
4 ~~by the general public because they allow people to age in~~
5 ~~place, maintain their independence and exercise decision~~
6 ~~making and personal choice.~~

7 ~~(4) Consumers continue to say if they should need long-~~
8 ~~term care services, the four things they want most are:~~

9 ~~(i) To stay independent and live at home or in their~~
10 ~~community as long as possible.~~

11 ~~(ii) To be treated with respect and dignity.~~

12 ~~(iii) To have a choice of long term care and~~
13 ~~supportive services options.~~

14 ~~(iv) If they can no longer be maintained at home,~~
15 ~~they want to be in as residential a setting as possible~~
16 ~~where they can have their own private living unit.~~

17 ~~(5) Medicare, Medicaid State plan services and most~~
18 ~~private insurance pay for very little home based and~~
19 ~~community based assisted living services or assisted living~~
20 ~~residences and many Pennsylvanians cannot afford to pay for~~
21 ~~themselves.~~

22 ~~(6) It is often far less expensive to provide publicly~~
23 ~~funded assisted living services in the home or in an assisted~~
24 ~~living residence than to provide such services in a nursing~~
25 ~~facility.~~

26 ~~(7) Presently, Pennsylvania lags behind other states in~~
27 ~~the imbalance of its public funding for nursing facility care~~
28 ~~versus home based and community based services.~~

29 ~~(8) Pennsylvania's publicly funded programs for home-~~
30 ~~based and community based services have complicated~~

1 ~~application forms, delays for assessment and approval and~~
2 ~~inadequate assisted living services available for~~
3 ~~Pennsylvanians needing long term care services who wish to~~
4 ~~remain in the community.~~

5 ~~(9) Although Pennsylvanians wish to remain in the~~
6 ~~community when they are in need of long term care services,~~
7 ~~they are generally unaware of what assisted living services~~
8 ~~are available or of the availability of public funding for~~
9 ~~those services other than in a nursing facility.~~

10 ~~(10) Publicly funded home based and community based~~
11 ~~services should meet consumers' needs, assist family~~
12 ~~caregivers, permit consumers to live independently in the~~
13 ~~residential environment of their choice, promote integration~~
14 ~~of consumers into the community, maximize consumer choice to~~
15 ~~promote and support the consumer's changing needs, be~~
16 ~~consumer oriented and meet professional standards of quality.~~

17 ~~(11) It is in the best interest of all Pennsylvanians~~
18 ~~that the Commonwealth license assisted living residences and~~
19 ~~services and establish a wider range of publicly funded home-~~
20 ~~based and community based assisted living services, make~~
21 ~~information about these services widely available, streamline~~
22 ~~and simplify the application and publicly funded services in~~
23 ~~the community rather than a nursing facility and make these~~
24 ~~services available in residential settings with the~~
25 ~~availability of 24 hour services, if the consumer lives alone~~
26 ~~and needs to move to such a setting.~~

27 PROVIDING FOR THE LICENSURE OF ASSISTED LIVING RESIDENCES AND ←
28 SERVICES; AND CONFERRING POWERS AND DUTIES ON THE DEPARTMENT
29 OF PUBLIC WELFARE AND THE DEPARTMENT OF AGING.

30 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

31 (1) ASSISTED LIVING RESIDENCES ARE A RAPIDLY GROWING

1 LONG-TERM CARE ALTERNATIVE.

2 (2) LICENSING IS NEEDED TO ENSURE THAT PENNSYLVANIANS
3 RECEIVE QUALITY CARE FROM TRAINED AND CREDENTIALLED STAFF.

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 Pennsylvania~~
8 ~~Assisted Living Act.~~

9 ~~Section 2. Definitions.~~

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

13 ~~"Abuse." One or more of the following acts:~~

14 ~~(1) infliction of injury, unreasonable confinement,~~
15 ~~intimidation or punishment with resulting physical harm, pain~~
16 ~~or mental anguish;~~

17 ~~(2) willful deprivation of goods or services by a~~
18 ~~caretaker or assisted living provider or direct service staff~~
19 ~~which are necessary to maintain physical or mental health;~~

20 ~~(3) sexual harassment, rape or abuse as defined in 23~~
21 ~~Pa.C.S. Ch. 61 (relating to protection from abuse);~~

22 ~~(4) exploitation by an act or a course of conduct,~~
23 ~~including misrepresentation or failure to obtain informed~~
24 ~~consent which results in monetary, personal or other benefit,~~
25 ~~gain or profit for the perpetrator or monetary or personal~~
26 ~~loss to the consumer;~~

27 ~~(5) neglect of the consumer which results in physical~~
28 ~~harm, pain or mental anguish; or~~

29 ~~(6) abandonment or desertion by a caretaker.~~

30 ~~"Activities of daily living." Activities including eating,~~

1 ~~bathing, dressing, toileting, transferring in and out of bed or~~
2 ~~in and out of a chair and personal hygiene.~~

3 ~~"Adult."— A person who is 18 year of age or older.~~

4 ~~"Aging in place."— The process of providing increased or~~
5 ~~adjusted services to a person to compensate for the physical or~~
6 ~~mental decline that occurs with the aging process in order to~~
7 ~~maximize individual dignity and independence and permit the~~
8 ~~person to remain in a familiar, noninstitutional, residential~~
9 ~~environment for as long as possible. Such services may be~~
10 ~~provided through residence staff, a third party, volunteers,~~
11 ~~friends or family.~~

12 ~~"Applicant."— An individual who has expressed interest in~~
13 ~~applying for residence in an assisted living residence or~~
14 ~~obtaining services from an assisted living services provider.~~

15 ~~"Area agency on aging."— The local agency designated by the~~
16 ~~Department of Aging within each planning and service area to~~
17 ~~administer the delivery of a comprehensive and coordinated plan~~
18 ~~of social and other services and activities.~~

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

27 ~~"Assisted living residence."— A residential setting that:~~

28 ~~(1) Offers, provides and/or coordinates a combination of~~
29 ~~personal care services, activities, whether scheduled or~~
30 ~~unscheduled, and 24 hour supervision and health related~~

1 ~~services for four or more consumers who are not related to~~
2 ~~the operator.~~

3 ~~(2) Has a service program and physical environment~~
4 ~~designed to minimize the need for residents to move within or~~
5 ~~from the setting to accommodate changing needs and~~
6 ~~preferences.~~

7 ~~(3) Has an organized mission, service programs and a~~
8 ~~physical environment designed to maximize residents' dignity,~~
9 ~~autonomy, privacy and independence and encourages family and~~
10 ~~community involvement.~~

11 ~~(4) Charges costs for housing and services which may be~~
12 ~~independent of one another and that provides consumers with~~
13 ~~the ability to choose their service provider and the services~~
14 ~~to be provided.~~

15 ~~(5) Has a goal of fostering aging in place and promoting~~
16 ~~consumer self direction and active participation in decision~~
17 ~~making while emphasizing an individual's privacy and dignity.~~

18 ~~The term does not include residential living units in continuing~~
19 ~~care providers certified by the Insurance Department or~~
20 ~~residential living units in subsidized housing apartments,~~
21 ~~unless required to be licensed under the United States~~
22 ~~Department of Housing and Urban Development Assisted Living~~
23 ~~Conversion Program.~~

24 ~~"Assisted living residency agreement." The contract or~~
25 ~~contracts between a provider and a consumer regarding the~~
26 ~~consumer's residency at the assisted living residence. The term~~
27 ~~also includes the agreement between an assisted living residence~~
28 ~~and an entity contracting for assisted living residence for the~~
29 ~~consumer using public funding.~~

30 ~~"Assisted living services." A combination of supportive~~

1 ~~services, personal care services, personalized assistance~~
2 ~~services, assistive technology and health related services~~
3 ~~designed to respond to the individual needs of those who need~~
4 ~~assistance with activities of daily living (ADLs) and~~
5 ~~instrumental activities of daily living (IADLs).~~

6 ~~"Assisted living services agreement."—The contract or~~
7 ~~contracts between a provider or providers and the consumer~~
8 ~~needing assisted living services regarding the provision and~~
9 ~~terms of the assisted living services. The term includes~~
10 ~~contracts between assisted living service providers and entities~~
11 ~~contracting for services for consumers using public funding.~~

12 ~~"Assistive technology."—Those devices and services, whether~~
13 ~~medically necessary or not, that are used to increase, maintain~~
14 ~~or improve the functional capabilities of individuals with~~
15 ~~disabilities which may or may not be needed to permit the person~~
16 ~~to live independently. The term shall include, but not be~~
17 ~~limited to, hand reachers, adapted telephones, reading aids and~~
18 ~~other nonmedical devices.~~

19 ~~"Cognitive support services."—Services provided as part of a~~
20 ~~coordinated care plan to individuals who have memory impairments~~
21 ~~and other cognitive problems that significantly interfere with~~
22 ~~their ability to carry out activities of daily living without~~
23 ~~assistance and who require that supervision, monitoring and~~
24 ~~programming be available to them 24 hours a day, seven days a~~
25 ~~week in order for them to reside safely in setting of their~~
26 ~~choice, including assessment, service planning, ongoing~~
27 ~~monitoring, personal care services, health support services and~~
28 ~~a full range of dementia capable activity programming and crisis~~
29 ~~management.~~

30 ~~"Compliance."—A residence or assisted living service~~

1 ~~provider will be found in compliance with the requirements of~~
2 ~~this act and its regulations where, but for isolated Class III~~
3 ~~violations for which the assisted living residence administrator~~
4 ~~has provided written certification of correction of the isolated~~
5 ~~Class III violations within 30 days of the date of the~~
6 ~~inspection, and has met all other requirements of this act and~~
7 ~~its regulations.~~

8 ~~"Comprehensive assessment."— A thorough review and analysis~~
9 ~~of a consumer's functional status. The term includes a personal~~
10 ~~history, assessment of physical and emotional health, ability to~~
11 ~~carry out activities of daily living, informal supports,~~
12 ~~environmental factors and cognitive functioning, including~~
13 ~~immobility assessment.~~

14 ~~"Consumer."— A person who receives assisted living services~~
15 ~~in an assisted living residence, a home or other location~~
16 ~~approved by the Department of Public Welfare.~~

17 ~~"Department."— The Department of Public Welfare of the~~
18 ~~Commonwealth.~~

19 ~~"Direct care staff."— A person who directly assists residents~~
20 ~~with activities of daily living, provides services or is~~
21 ~~otherwise responsible for the health, safety and welfare of the~~
22 ~~residents. Direct care staff must meet all training and testing~~
23 ~~requirements of this act.~~

24 ~~"Discharge."— Termination of the consumer's residency in the~~
25 ~~assisted living residence or of services from an assisted living~~
26 ~~services provider.~~

27 ~~"Federally Funded Home and Community Based Waiver Service~~
28 ~~Slots and Services."— The packages of services which are~~
29 ~~Federally funded, in part, pursuant to a waiver of Title XIX of~~
30 ~~the Social Security Act (49 Stat. 620, 42 U.S.C. § 1396 et seq.)~~

1 ~~and which are available in designated numbers to individuals~~
2 ~~eligible for Pennsylvania medical assistance who qualify for the~~
3 ~~nursing facility level of care but who elect home based and~~
4 ~~community based services in lieu of institutionalization in a~~
5 ~~nursing facility.~~

6 ~~"Financial management."— A service provided by an assisted~~
7 ~~living residence or assisted living services provider with~~
8 ~~budgeting and spending for the consumer's personal needs.~~

9 ~~"Fair share first day medical assistance access formulae."~~
10 ~~The percentage determined by the Department of Public Welfare of~~
11 ~~those qualifying for publicly funded assisted living services~~
12 ~~who were income eligible for medical assistance on the first day~~
13 ~~they met the functional eligibility for publicly funded assisted~~
14 ~~living services out of all those assessed as functionally~~
15 ~~qualifying for assisted living services.~~

16 ~~"Immobile person."— An individual who is unable to move from~~
17 ~~one location to another or has difficulty in understanding and~~
18 ~~carrying out instructions without the continued full assistance~~
19 ~~of another person or is incapable of independently operating a~~
20 ~~device, such as a wheelchair, prosthesis, walker or cane to exit~~
21 ~~to a point of safety.~~

22 ~~"Instrumental activities of daily living."— The term~~
23 ~~includes, but is not limited to, preparing meals, taking~~
24 ~~medication, using the telephone, handling finances, banking and~~
25 ~~shopping, light housekeeping, heavy housekeeping and getting to~~
26 ~~appointments.~~

27 ~~"Isolated Class III violations."— A finding by the Department~~
28 ~~of Public Welfare at the annual inspection of less than three~~
29 ~~Class III violations that had not been previously cited at the~~
30 ~~last inspection and that related to the services provided to an~~

1 ~~individual or did not present a threat to the health and well-~~
2 ~~being of consumers.~~

3 ~~"Isolated violations."— A finding by the Department of Public~~
4 ~~Welfare on any inspection of less than three Class I, II or III~~
5 ~~violations of separate and distinct provisions of the act or~~
6 ~~regulations or less than two Class I, II or III violations of~~
7 ~~the same provision of the act or regulations.~~

8 ~~"Legal representative."— A person duly authorized by law to~~
9 ~~take certain action on behalf of a consumer, including, but not~~
10 ~~limited to, legal counsel, a court appoint guardian, an~~
11 ~~attorney in fact under a durable power of attorney, an agent~~
12 ~~under a health care proxy or a representative payee. In cases~~
13 ~~where the consumer has a cognitive impairment, this may include~~
14 ~~a responsible family member.~~

15 ~~"Level of care screening."— An assessment of a person's~~
16 ~~functional abilities and general health status and family friend~~
17 ~~support system completed to determine the level of care and~~
18 ~~services appropriate for the individual.~~

19 ~~"Licensing information."— Information relating to the~~
20 ~~licensing agency, licensing process, and licensing status and~~
21 ~~history of a provider.~~

22 ~~"Living unit."— A room, apartment, cottage or other self-~~
23 ~~contained unit containing no fewer than 100 square feet per~~
24 ~~person, which need not be shared except by choice of the~~
25 ~~resident and which is capable of being locked by the resident,~~
26 ~~with a readily available bathroom, toilet and sink and shower or~~
27 ~~bath, space and electrical outlets for residents to have a small~~
28 ~~microwave and refrigerator and a sleeping and living area unless~~
29 ~~adjustments have been made to accommodate persons who are~~
30 ~~significantly cognitively impaired.~~

1 ~~"Long term care ombudsperson/ombudsman."—An agent of the~~
2 ~~Department of Aging who investigates and seeks to resolve~~
3 ~~complaints made by or on behalf of older individuals or adults~~
4 ~~with disabilities who are consumers of assisted living services~~
5 ~~pursuant to section 2203 A of the act of April 9, 1929 (P.L.177,~~
6 ~~No.175), known as The Administrative Code of 1929. Complaints~~
7 ~~may relate to action, inaction or decisions of providers of~~
8 ~~assisted living services or residences, of public agencies or of~~
9 ~~social service agencies, or their representatives, which may~~
10 ~~adversely affect the health, safety, welfare, interests,~~
11 ~~preferences or rights of consumers.~~

12 ~~"Options."—The Long Term Care Pre admission Assessment~~
13 ~~Program administered by the Department of Aging and operated by~~
14 ~~the area agencies on aging.~~

15 ~~"PACE."—The Pharmaceutical Assistance Contract for the~~
16 ~~Elderly.~~

17 ~~"Pattern of violations."—A finding by the Department of~~
18 ~~Public Welfare at the annual inspection of any violations that~~
19 ~~had been cited at one or both of the last two annual or other~~
20 ~~consecutive inspections or of more than three distinct~~
21 ~~violations of the same requirement.~~

22 ~~"Pennsylvania Assisted Living Services Program" or "PALS."~~
23 ~~The array of publicly funded home based and community based~~
24 ~~assisted living services and other health and social services~~
25 ~~benefits available to eligible consumers who have applied for~~
26 ~~and been found to need these services.~~

27 ~~"Personal care home."—Any premises in which food, shelter~~
28 ~~and personal assistance or supervision are provided for a period~~
29 ~~exceeding 24 hours for four or more adults who are not relatives~~
30 ~~of the operator, who do not require the services in or of a~~

1 ~~licensed long term care facility but who do require assistance~~
2 ~~or supervision in such matters as dressing, bathing, diet,~~
3 ~~financial management, evacuation of a residence in the event of~~
4 ~~an emergency or medication prescribed for self administration.~~

5 ~~"Personal care services." Assistance or supervision in~~
6 ~~matters such as dressing, bathing, diet, financial management,~~
7 ~~evacuation of the resident in the event of an emergency or~~
8 ~~medication prescribed for self administration. Personal care~~
9 ~~services shall include prompting, cuing, monitoring and focusing~~
10 ~~on maintaining functioning.~~

11 ~~"Provider." An assisted living residence, assisted living~~
12 ~~services provider, an approved personal care home or an approved~~
13 ~~domiciliary care home.~~

14 ~~"Publicly funded assisted living." Includes bridging,~~
15 ~~medical assistance, HealthChoices, Options, waiver programs and~~
16 ~~other appropriate publicly funded services that assist~~
17 ~~individuals to remain in the community.~~

18 ~~"Qualified assessor." A person approved by the Department of~~
19 ~~Public Welfare as qualified to conduct assessments of persons~~
20 ~~needing long term care services and develop service plans based~~
21 ~~thereon. A qualified assessor may include an employee of an area~~
22 ~~agency on aging, an assisted living residence, an assisted~~
23 ~~living services provider or an independent entity, but may not~~
24 ~~include hospital discharge planners or other staff or employees~~
25 ~~of an insured's health or long term care insurance company.~~

26 ~~"Qualified couple." A qualified couple for cost of living~~
27 ~~increase is two qualified persons, living together, who are~~
28 ~~considered a couple under the Supplemental Security Income~~
29 ~~program, Title XVI of the Social Security Act (49 Stat. 620,~~
30 ~~U.S.C. 301 et seq.).~~

1 ~~"Qualified person."—A qualified person for cost of living~~
2 ~~increase includes persons meeting the nonfinancial, categorical~~
3 ~~eligibility requirements under Title XIX of the Social Security~~
4 ~~Act (49 Stat. 620, U.S.C. 301 et seq.) as aged, blind or~~
5 ~~disabled and receiving or applying for long term care services~~
6 ~~under a special income level.~~

7 ~~"Resident."—An individual who resides in and may receive~~
8 ~~assisted living services from an assisted living residence or~~
9 ~~from a personal care home or domiciliary care home approved by~~
10 ~~the Department of Public Welfare.~~

11 ~~"Responsible family member."—A family member, such as a~~
12 ~~spouse or adult child, who has been assisting the consumer and~~
13 ~~to whom the consumer turns to for assistance.~~

14 ~~"Restraint."—A chemical or mechanical device used to~~
15 ~~restrict the movement or normal function of an individual or a~~
16 ~~portion of the individual's body, including geriatric chairs;~~
17 ~~posey; chest; waist, wrist or ankle restraints; locked~~
18 ~~restraints and locked doors to prevent egress. The term does not~~
19 ~~include devices used to provide support for the achievement of~~
20 ~~functional body position or proper balance as long as the device~~
21 ~~can easily be removed by the resident.~~

22 ~~"Restricted unit."—A unit within a licensed assisted living~~
23 ~~residence that has received a specialized license designation~~
24 ~~pursuant to the requirements of this section and regulations of~~
25 ~~the Department of Public Welfare to provide services to people~~
26 ~~with cognitive impairments.~~

27 ~~"Service plan."—A detailed plan based on a comprehensive~~
28 ~~assessment designed to meet the resident's individual physical,~~
29 ~~mental and psychosocial needs consistent with the resident's~~
30 ~~preferences and capabilities.~~

1 ~~"Specialty assisted living residence."—A licensed assisted~~
2 ~~living residence that has received a specialized license~~
3 ~~designation pursuant to the requirements of this section and the~~
4 ~~regulations of the Department of Public Welfare to provide~~
5 ~~services to people with cognitive impairments.~~

6 ~~"Stakeholders."—The Medical Assistance Advisory Committee,~~
7 ~~the Consumer and Long Term Care Subcommittees of the Medical~~
8 ~~Assistance Advisory Committee, the Intra Governmental Council on~~
9 ~~Long Term Care, the Statewide Independent Living Council and the~~
10 ~~Council on Aging.~~

11 ~~"Transfer."—Movement of a consumer within the assisted~~
12 ~~living residence or to a hospital or other temporary placement.~~
13 ~~For consumers receiving assisted living services in their home,~~
14 ~~the term means movement between assisted living services~~
15 ~~providers.~~

16 ~~Section 3.—Assisted living residences.~~

17 ~~(a) Licensure.—The department shall license and regulate~~
18 ~~living residences and shall establish an annual licensure fee~~
19 ~~schedule.~~

20 ~~(b) Physical site standards.—The department shall require~~
21 ~~assisted living residences to meet all requirements of the act~~
22 ~~of November 10, 1999 (P.L. 491, No. 45), known as the Pennsylvania~~
23 ~~Construction Code Act.~~

24 ~~(c) Level of care screening, assessment and comprehensive~~
25 ~~service plan.—~~

26 ~~(1) Prior to admission to an assisted living residence~~
27 ~~or start of services by an assisted living services provider,~~
28 ~~a level of care screening to determine the level of care and~~
29 ~~services needed by the applicant shall be obtained. A~~
30 ~~standardized screening instrument developed by the Department~~

1 ~~of Aging in consultation with the Department of Public~~
2 ~~Welfare and the Department of Health shall be used for all~~
3 ~~screens. The area agency on aging shall be available to~~
4 ~~conduct level of care screenings for applicants. Qualified~~
5 ~~employees of assisted living residences or assisted living~~
6 ~~services providers may conduct level of care screening but~~
7 ~~shall inform individuals of the right to receive a screening~~
8 ~~by an area agency on aging.~~

9 ~~(2) A medical evaluation, using a form developed by the~~
10 ~~Department of Public Welfare, the Department of Aging and the~~
11 ~~Department of Health, shall be obtained by all applicants~~
12 ~~prior to admission to an assisted living residence or start~~
13 ~~of services by an assisted living provider.~~

14 ~~(3) A qualified assessor must assess an individual's~~
15 ~~care and service needs after the level of care screening has~~
16 ~~determined a need for assisted living services or residency.~~

17 ~~(i) The department shall develop a training and~~
18 ~~certification program for qualified assessors.~~

19 ~~(ii) Only those qualified assessors trained and~~
20 ~~certified by the Commonwealth shall be permitted to~~
21 ~~conduct assessments to identify the services an~~
22 ~~individual requires and that serve as the basis for a~~
23 ~~comprehensive service plan.~~

24 ~~(iii) Assessors must certify that the assessment is~~
25 ~~true and correct to the best of their knowledge and~~
26 ~~skill. The department shall revoke the certification of~~
27 ~~any long term care assessor that falsely certifies a need~~
28 ~~for services.~~

29 ~~(iv) The qualified assessor must use a standardized~~
30 ~~assessment instrument that shall be developed by the~~

1 ~~Department of Public Welfare, the Department of Aging and~~
2 ~~the Department of Health, within six months of the~~
3 ~~effective date of this act.~~

4 ~~(v) When the area agency on aging is the chosen~~
5 ~~assessor, the area agency on aging must complete an~~
6 ~~assessment within five business days or, if there is an~~
7 ~~expedited need, within one business day of the request~~
8 ~~for an assessment.~~

9 ~~(vi) Consumers shall have choice of assisted living~~
10 ~~providers and be free to present a completed assessment~~
11 ~~to any provider to compare services and price.~~

12 ~~(vii) The department shall review provider's~~
13 ~~compliance with the assessment provisions of this act as~~
14 ~~part of the annual licensure inspection.~~

15 ~~(viii) The area agency on aging shall assist any~~
16 ~~assessed consumer found to need long term care services~~
17 ~~to seek public funding, where eligible, and to set up the~~
18 ~~services if family members or friends are not available~~
19 ~~to do so.~~

20 ~~(4) Following completion of a comprehensive assessment~~
21 ~~and prior to admission or start of services, an appropriately~~
22 ~~trained person employed by the provider shall work in~~
23 ~~cooperation with an interdisciplinary team that includes the~~
24 ~~consumer, the consumer's legal representative or the~~
25 ~~consumer's responsible family member, with the consumer's~~
26 ~~consent, to develop a written comprehensive services plan~~
27 ~~based on the comprehensive assessment and consistent with the~~
28 ~~consumer's unique physical and psychosocial needs, with~~
29 ~~recognition of the consumer's capabilities and preferences.~~

30 ~~(5) Reassessment and revision of service plan, if~~

1 ~~necessary based on reassessment, will take place annually or~~
2 ~~when there is a significant change in a consumer's condition.~~

3 ~~(6) The comprehensive assessment and comprehensive~~
4 ~~services plan shall be kept on file for each consumer by the~~
5 ~~provider and shall be available to the consumer or the~~
6 ~~consumer's legal representative.~~

7 ~~(d) Assisted living residence administrator qualifications~~
8 ~~and training.—~~

9 ~~(1) An assisted living residence administrator shall~~
10 ~~satisfy either of the following qualifications:~~

11 ~~(i) Be at least 21 years of age and meet the~~
12 ~~requirements of Chapters 5 and 7 of the act of November~~
13 ~~6, 1987 (P.L.381, No.79), known as the Older Adults~~
14 ~~Protective Services Act, regarding criminal history.~~

15 ~~(ii) Have a high school diploma or a general~~
16 ~~educational development diploma (GED).~~

17 ~~(iii) Complete an education and training course~~
18 ~~which has been approved by the department of not less~~
19 ~~than 120 hours. The department shall establish a training~~
20 ~~curriculum that shall include comprehensive training in~~
21 ~~areas appropriate to the care and health of residents in~~
22 ~~an assisted living residence, including, but not limited~~
23 ~~to:~~

24 ~~(A) Training in assistive technology.~~

25 ~~(B) Training in working with persons with~~
26 ~~cognitive impairments.~~

27 ~~(C) Training in assisted living principles and~~
28 ~~laws.~~

29 ~~(D) Training in medication assistance.~~

30 ~~(E) Consumer rights.~~

1 ~~(2) The department shall develop a shorter program of~~
2 ~~instruction for licensed nursing home administrators,~~
3 ~~nationally accredited retirement housing professionals or~~
4 ~~NAB licensed assisted living administrators that does not~~
5 ~~duplicate areas where proficiency has been demonstrated but~~
6 ~~that is particular to assisted living in this Commonwealth.~~

7 ~~(3) All administrators shall pass a test which has been~~
8 ~~approved by the department and is administered by an entity~~
9 ~~approved by the department at the end of training to~~
10 ~~demonstrate proficiency in the application of skills and~~
11 ~~knowledge.~~

12 ~~(4) All administrators shall complete 36 hours of~~
13 ~~continuing education every two years that has been approved~~
14 ~~by the department and is applicable to the practice of~~
15 ~~assisted living administrator. Coordinating education program~~
16 ~~shall include training and competency testing.~~

17 ~~(5) One year after the effective date of this act, no~~
18 ~~one shall be employed as an assisted living administrator~~
19 ~~unless they have completed the training and testing~~
20 ~~requirements herein.~~

21 ~~(c) Direct care and other staff qualifications and~~
22 ~~training.—~~

23 ~~(1) Direct care staff in an assisted living residence or~~
24 ~~of an assisted living services provider must meet the~~
25 ~~following qualifications:~~

26 ~~(i) Be either at least 18 years of age with a high~~
27 ~~school diploma or 17 years of age with a high school~~
28 ~~diploma and meet the requirements of the Older Adult~~
29 ~~Protective Services Act regarding criminal history.~~

30 ~~(ii) Complete an education and training course which~~

1 ~~has been approved by the department for a minimum of 40~~
2 ~~hours and obtain a certificate of completion. The~~
3 ~~department shall establish a training curriculum. Direct~~
4 ~~care staff of assisted living residences and assisted~~
5 ~~living services providers must demonstrate proficiency in~~
6 ~~a manner approved by the department in each component~~
7 ~~prior to start of independent work in that component.~~
8 ~~Approved coursework shall include comprehensive training~~
9 ~~in areas appropriate to the care and health of assisted~~
10 ~~living residents and recipients, including, but not~~
11 ~~limited to:~~

12 ~~(A) Training in assistive technology.~~

13 ~~(B) Training in working with persons with~~
14 ~~cognitive impairments.~~

15 ~~(C) Training in assisted living principles and~~
16 ~~laws.~~

17 ~~(D) Consumer rights.~~

18 ~~(2) The department shall develop a shorter program of~~
19 ~~instruction for nurse assistants deemed competent that does~~
20 ~~not duplicate areas where proficiency has been demonstrated~~
21 ~~but that is particular to assisted living in this~~
22 ~~Commonwealth.~~

23 ~~(f) Direct care staff assisting residents with medication.~~

24 ~~Within six months of the effective date of this act, the~~
25 ~~department shall:~~

26 ~~(1) Develop a special training and certification program~~
27 ~~or expand its current medications administration course for~~
28 ~~direct care staff that assist residents with medication. The~~
29 ~~program shall include testing and demonstrated proficiency.~~

30 ~~(2) Establish regulations permitting only those who have~~

1 ~~completed and passed the training on assisting with the~~
2 ~~administration of medication to do so in assisted living~~
3 ~~residences or as an assisted living service provider.~~

4 ~~(g) Other assisted living residence staff. Within 30 days~~
5 ~~of employment or start of voluntary service, staff persons and~~
6 ~~volunteers shall receive orientation to the general operation of~~
7 ~~the assisted living residence, training in fire prevention,~~
8 ~~operation of safety equipment, emergency procedures and~~
9 ~~evacuation of residents.~~

10 ~~(h) Exemptions. Existing personal care home staff employed~~
11 ~~by personal care homes that apply for and become licensed as~~
12 ~~assisted living residences have one year from the date of~~
13 ~~application to complete the direct care staff training except~~
14 ~~that those who have been working as direct care staff for more~~
15 ~~than 24 months can opt not to take the training provided they~~
16 ~~demonstrate proficiency in each training component within one~~
17 ~~year of the personal care home becoming an assisted living~~
18 ~~residence.~~

19 ~~(i) Staffing levels.—~~

20 ~~(1) The department shall establish minimum staffing~~
21 ~~levels for assisted living residences, restricted units and~~
22 ~~specialty assisted living residences depending upon the~~
23 ~~residence population, mobility of residents and cognitive~~
24 ~~impairments to ensure adequate 24 hours a day awake direct~~
25 ~~care staff to meet the unplanned and unscheduled needs of~~
26 ~~residents.~~

27 ~~(2) The department shall require each assisted living~~
28 ~~residence to maintain adequate additional direct care staff~~
29 ~~to meet the residents' planned and scheduled needs as~~
30 ~~required in their service plans as well as to ensure a safe~~

1 ~~and efficient evacuation to a place of safety in case of~~
2 ~~emergency. Each assisted living residence shall have as a~~
3 ~~minimum the staff necessary to meet the hours of care set~~
4 ~~forth in the service plans and the staffing requirements of~~
5 ~~paragraph (1).~~

6 ~~(3) Additional staff or contracted services shall be~~
7 ~~provided as necessary to meet laundry, food service,~~
8 ~~housekeeping, transportation and maintenance needs of the~~
9 ~~assisted living residence.~~

10 ~~(j) Supplemental services. A resident receiving assisted~~
11 ~~living services in an assisted living residence may arrange for~~
12 ~~the receipt of supplemental services where:~~

13 ~~(1) the supplemental services adequately meet the~~
14 ~~residents changing needs so that the assisted living~~
15 ~~residence is not required to fundamentally change its program~~
16 ~~or residence to accommodate the resident; and~~

17 ~~(2) the supplemental services are provided by:~~

18 ~~(i) a licensed entity or an area agency on aging; or~~

19 ~~(ii) an unlicensed provider, permitted by specified~~
20 ~~criteria and conditions of the department to provide~~
21 ~~supplemental services agreed to by resident and assisted~~
22 ~~living services provider.~~

23 ~~(k) Transfer and discharge.—~~

24 ~~(1) A resident may not be transferred or discharged~~
25 ~~without consent, except for nonpayment of contractual fees~~
26 ~~after a good faith effort to obtain payment unless:~~

27 ~~(i) the person has one of the conditions determined~~
28 ~~by the department;~~

29 ~~(ii) to accommodate the consumer's needs would~~
30 ~~require the assisted living residence to fundamentally~~

1 ~~change the basic program or building modification;~~

2 ~~(iii) the person is a danger to self or others; or~~

3 ~~(iv) transfer to a hospital or treatment facility is~~
4 ~~necessary to meet the consumer's needs and the resident's~~
5 ~~needs cannot be maintained in the assisted living~~
6 ~~residence.~~

7 ~~(2) The assisted living residence must insure that the~~
8 ~~transfer or discharge is safe, orderly and appropriate to the~~
9 ~~resident's needs.~~

10 ~~(1) Notices. The assisted living residence must provide 30~~
11 ~~days' advance written notice of changes in policies, services or~~
12 ~~costs and of intent to transfer or discharge a resident. Written~~
13 ~~notice must include the reason for the transfer or discharge,~~
14 ~~the effective date of the transfer or discharge, the location to~~
15 ~~which the consumer is being transferred or discharged, if known,~~
16 ~~a statement that the resident has the right to appeal to the~~
17 ~~department and the contact information for the Long Term Care~~
18 ~~Ombudsman and the department's 24 hour hotline.~~

19 ~~(m) Dispute resolution. Consumers may seek resolution of~~
20 ~~disputes in the following ways and selection of one option does~~
21 ~~not preclude simultaneous or subsequent selection of the other:~~

22 ~~(1) The department's hearing and appeals bureau will~~
23 ~~hear complaints and appeals through its fair hearing process.~~

24 ~~(i) Appeal hearings must include notice, opportunity~~
25 ~~to be heard, impartial review and prompt decision.~~

26 ~~(ii) Assisted living residents may appeal decisions~~
27 ~~regarding:~~

28 ~~(A) Whether discharge or transfer is~~
29 ~~appropriate.~~

30 ~~(B) Whether accommodations would fundamentally~~

1 ~~alter the program or residence.~~

2 ~~(C) Whether supplemental services provider is~~
3 ~~unsafe.~~

4 ~~(D) What level of care is appropriate.~~

5 ~~(2) Each provider shall maintain an internal process for~~
6 ~~resolving consumer complaints and grievances.~~

7 ~~(3) The department shall develop an expedited hearing~~
8 ~~process for review of department, consumer or provider~~
9 ~~actions.~~

10 ~~(n) Written agreements. The department shall require as a~~
11 ~~condition of licensure that all providers shall have an assisted~~
12 ~~living residency agreement in writing with each consumer. Each~~
13 ~~agreement should be signed prior to admission or start of~~
14 ~~services or no later than 24 hours after admission and shall~~
15 ~~include in clear and simple language the following:~~

16 ~~(1) Standardized clauses provided by the department on:~~

17 ~~(i) The consumer's rights.~~

18 ~~(ii) Negotiated risk, if appropriate.~~

19 ~~(iii) The Commonwealth's processes for resolving~~
20 ~~disputes under the contract.~~

21 ~~(iv) Explanation of the screening, assessment and~~
22 ~~annual reassessment requirements.~~

23 ~~(v) The available financial management services a~~
24 ~~provider may or may not provide.~~

25 ~~(vi) A prohibition on resident assignment of assets~~
26 ~~for life to the assisted living residence.~~

27 ~~(vii) If a resident is receiving publicly funded~~
28 ~~care and services, details about Social Security Income~~
29 ~~recipient protections, rent rebate programs and the~~
30 ~~personal needs allowance.~~

1 ~~(viii) Explanation of the right to continued~~
2 ~~residency in an assisted living residence as provided in~~
3 ~~this act.~~

4 ~~(ix) Applicant's right to cancel without penalty an~~
5 ~~assisted living residency agreement within 72 hours of~~
6 ~~signing.~~

7 ~~(x) Requirement that consumer receive 30 days'~~
8 ~~advance written notice of changes to contract, to the~~
9 ~~charges of the provider and to the provider's policies.~~

10 ~~(xi) The bases under which a consumer or provider~~
11 ~~may terminate the agreement.~~

12 ~~(xii) Contractual enforcement rights of the parties.~~

13 ~~(2) At a minimum, the provider shall include the~~
14 ~~following in the agreement:~~

15 ~~(i) The provider's list of services offered.~~

16 ~~(ii) By addendum or otherwise, individualized~~
17 ~~itemization of services that will be provided to the~~
18 ~~resident and costs thereof, separating housing costs from~~
19 ~~service costs.~~

20 ~~(iii) Provider policies.~~

21 ~~(iv) Internal dispute resolution process.~~

22 ~~(v) Clear and specific occupancy criteria and~~
23 ~~procedures, based on Commonwealth requirements and~~
24 ~~assisted living residence's policies regarding bedholds~~
25 ~~and refunds.~~

26 ~~The department shall review contracts at site visits for~~
27 ~~compliance with this section and the provisions of this act and~~
28 ~~its regulations.~~

29 ~~(o) Disclosure. Each consumer or the consumer's legal~~
30 ~~representative or responsible family member shall receive an~~

1 ~~information packet at the time of application for admission or~~
2 ~~start of services which shall include the following items to be~~
3 ~~presented in a form able to be easily understood and read by the~~
4 ~~consumer:~~

5 ~~(1) A standardized form developed by the department with~~
6 ~~information pertaining to:~~

7 ~~(i) The use of advance directives during residency.~~

8 ~~(ii) Information regarding how to contact and obtain~~
9 ~~what is required by the licensing agency for providers.~~

10 ~~(iii) Information about availability and access to~~
11 ~~and contact information for the ombudsman and the~~
12 ~~department's 24 hour hotline.~~

13 ~~(iv) Details about the department's external~~
14 ~~complaint mechanisms available to consumers.~~

15 ~~(v) General information about the admission and~~
16 ~~application process.~~

17 ~~(vi) Details about the applicant's rights to~~
18 ~~independent assessment and nondiscrimination in the~~
19 ~~application process.~~

20 ~~(vii) Consumer rights.~~

21 ~~(2) Documentation from the provider to provide the~~
22 ~~applicant with the following information:~~

23 ~~(i) A copy of the provider's policies affecting~~
24 ~~consumers, including discharge or termination or~~
25 ~~bedholds.~~

26 ~~(ii) Information regarding the department's~~
27 ~~inspections and inspection reports demonstrating~~
28 ~~provider's licensing status.~~

29 ~~(iii) Complete copy of the assisted living residence~~
30 ~~agreement, including all attachments and all current~~

1 ~~rates that may be charged.~~

2 ~~(iv) Details about the internal complaint mechanism~~
3 ~~used by the provider.~~

4 ~~(v) Provider's specific admission and application~~
5 ~~process.~~

6 ~~(vi) Information on discharge policies.~~

7 ~~(p) Housing and services.—~~

8 ~~(1) Assisted living residences shall separately charge~~
9 ~~for housing and services.~~

10 ~~(2) Residents who have been assessed as needing personal~~
11 ~~care services may be required by the assisted living~~
12 ~~residence to receive those services from the assisted living~~
13 ~~residence as a condition of admission to the assisted living~~
14 ~~residence.~~

15 ~~(3) No resident shall be required to pay for services~~
16 ~~not needed, as indicated in their initial or annual~~
17 ~~assessment.~~

18 ~~(4) Services other than those identified in paragraph~~
19 ~~(2), including, but not limited to, home health, massage,~~
20 ~~physician services and physical therapy services, can be~~
21 ~~purchased by the resident from the assisted living residence~~
22 ~~or from an outside provider, unless to accommodate the person~~
23 ~~would require the assisted living residence to fundamentally~~
24 ~~change the basic program or building and to do so would put~~
25 ~~in jeopardy the life and safety of persons in the assisted~~
26 ~~living residence.~~

27 ~~(5) If the resident arranges for services other than~~
28 ~~those identified in paragraph (2) from unlicensed persons or~~
29 ~~those not on the area agency provider list, the assisted~~
30 ~~living residence may screen providers but shall not~~

1 ~~of serving individuals with cognitive impairments. Only those~~
2 ~~assisted living residences that receive this special license~~
3 ~~designation may have or hold themselves out as having~~
4 ~~specialized units or specialized purpose. This special~~
5 ~~designation shall require that the assisted living residences~~
6 ~~meet all the requirements for assisted living residences set~~
7 ~~forth in this act and resulting regulations and additional~~
8 ~~requirements that address:~~

9 ~~(1) Special admission and transfer criteria.~~

10 ~~(2) Adequate indoor and outdoor wandering space~~
11 ~~requirements.~~

12 ~~(3) Requirements relating to provision of therapeutic~~
13 ~~activities that meet the scheduled and unscheduled individual~~
14 ~~needs of each resident, with such services focusing on~~
15 ~~maximizing independence and on the individual's strengths and~~
16 ~~abilities.~~

17 ~~(4) Physical design and safety requirements.~~

18 ~~(5) Additional and specialized training requirements.~~

19 ~~(6) Prearranged procedures for notification of~~
20 ~~authorities should a resident wander away from the residence.~~

21 ~~(b) Admission or transfer to specially designated unit or~~
22 ~~specialty assisted living residence. Assisted living residences~~
23 ~~should be able to support residents with cognitive impairments~~
24 ~~if or until the person's needs are such that they are a danger~~
25 ~~to themselves or others and accommodation would require the~~
26 ~~assisted living residence to fundamentally change the basic~~
27 ~~program or building.~~

28 ~~(1) When either of these conditions are met and if this~~
29 ~~is reflected in an annual or other assessment, the resident~~
30 ~~may be transferred to a specialized, restricted unit or~~

1 ~~specialty assisted living residence or may be requested to~~
2 ~~leave.~~

3 ~~(2) Before a person may be transferred or admitted to a~~
4 ~~specially designated restricted unit or a specially~~
5 ~~designated specialty assisted living residence:~~

6 ~~(i) The person, responsible family member or person~~
7 ~~with legal authority, if any, must be advised of the~~
8 ~~assisted living residence's intent to discharge or~~
9 ~~transfer with 30 days' advance written notice and of~~
10 ~~resident's right to seek an assessment from the area~~
11 ~~agency on aging or other individual who is independent~~
12 ~~from the assisted living residence and of the resident's~~
13 ~~right to appeal to the department or use the internal~~
14 ~~grievance process to address the appropriateness of~~
15 ~~restricted movement, or both. The 30 day notice~~
16 ~~requirement shall not apply, but the provider shall give~~
17 ~~as much advance notice as possible where transfer or~~
18 ~~discharge is necessary to meet a consumer's urgent or~~
19 ~~emergency medical needs or in emergency situations where~~
20 ~~there is a danger to consumers or others.~~

21 ~~(ii) A physician must approve the transfer to a~~
22 ~~restricted unit or admission to a specialized assisted~~
23 ~~living residence, and the resident or individual with~~
24 ~~legal authority to act for the resident must sign off on~~
25 ~~the transfer or admission.~~

26 ~~(iii) Where neither the resident, the resident's~~
27 ~~responsible family member nor anyone with legal authority~~
28 ~~signs to authorize the transfer or discharge, the~~
29 ~~assisted living residence must refer the matter to the~~
30 ~~local agency charged to administer the act of November 6,~~

1 ~~1987 (P.L.381, No.79), known as the Older Adults~~
2 ~~Protective Services Act, for review.~~

3 ~~(3) The department shall, through its inspection~~
4 ~~process, review transfer and discharge cases that are based~~
5 ~~on cognitive impairments for compliance with this provision.~~

6 ~~(c) Administer training. Administrators working in special~~
7 ~~license designation restricted units or specialized assisted~~
8 ~~living residences must be trained and tested in a program~~
9 ~~approved by the department in training areas developed by the~~
10 ~~department in consultation with stakeholders on issues relating~~
11 ~~to providing care and services to cognitively impaired~~
12 ~~individuals. This training shall be in addition to that required~~
13 ~~under section 3.~~

14 ~~(d) Staff training. All direct care staff wishing to work~~
15 ~~in specially designated restricted units or specialty assisted~~
16 ~~living residences shall, in addition to the training required of~~
17 ~~direct care staff in section 3, receive additional specialized~~
18 ~~training approved by the department in training areas~~
19 ~~established by the department in consultation with stakeholders~~
20 ~~relating to providing care and services to cognitively impaired~~
21 ~~individuals.~~

22 ~~(e) Disclosures. Assisted living residences with specially~~
23 ~~designated restricted units or that are specialty assisted~~
24 ~~living residences must, in addition to the disclosures required~~
25 ~~under section 3:~~

26 ~~(1) Provide each applicant with a standardized~~
27 ~~disclosure form designed by the department in consultation~~
28 ~~with stakeholders describing the requirements that must be~~
29 ~~met by a restricted unit or specialty assisted living~~
30 ~~residence which shall include, but not be limited to, the~~

~~philosophy and mission of serving individuals with cognitive impairments, the requirements for physical space, wandering space, therapeutic activities, additional training and security, that must be met for special designation.~~

~~(2) A representation that the residence meets the special licensure designation, including a description of the frequency and types of individual and group activities, security measures and family support programs.~~

~~(f) Accreditation. If national accreditation of specialty assisted living units becomes available with standards that equal or exceed those in this act and supporting regulations, the department may deem that an accredited assisted living residence meets the special licensing designations under this section.~~

~~(g) Staffing levels. Staffing levels will be set in accordance with the staffing levels required under section 3. However, if an assisted living residence has national accreditation which has higher staffing requirements, the residence shall meet the higher requirements.~~

~~Section 5. Assisted living services providers.~~

~~(a) Licensure. The Department of Health shall license entities that are not already licensed by the department that either coordinate and provide, or coordinate and subcontract for provisions of assisted living services.~~

~~(b) Application.~~

~~(1) Within six months of the effective date of this act, the department shall license assisted living services providers. Assisted living services providers shall be licensed and bonded, and a licensure fee shall be applied.~~

~~(2) Direct care staff employed by assisted living~~

1 ~~services providers or providing direct care services to~~
2 ~~consumers in their homes shall meet all training and testing~~
3 ~~requirements of this act and present documentation from the~~
4 ~~State of completed training and testing to employers and~~
5 ~~consumers. Passing a criminal history check shall be a~~
6 ~~prerequisite to training and testing.~~

7 ~~(3) Family or friend caregivers shall be exempt from the~~
8 ~~requirements of this act.~~

9 ~~(4) Entities that do not provide personal care services,~~
10 ~~but that solely provide assistance with instrumental~~
11 ~~activities of daily living shall be exempt from the~~
12 ~~requirements of this act.~~

13 ~~(c) Requirements.—~~

14 ~~(1) Assisted living services providers shall be subject~~
15 ~~to the disclosure and contract requirements set forth in~~
16 ~~section 3 to the extent applicable to assisted living~~
17 ~~services providers.~~

18 ~~(2) Direct care staff shall provide assisted living~~
19 ~~services consumers with 30 days' advance written notice,~~
20 ~~where possible, of interruption or termination of service~~
21 ~~delivery, except where the safety of the direct care staff is~~
22 ~~at risk. Direct care staff shall be included under the~~
23 ~~reporting requirements of older adult protective services~~
24 ~~review. Direct care staff found to be in violation of the~~
25 ~~advance notice provision of this section may be sanctioned by~~
26 ~~the department and have their documentation of training~~
27 ~~necessary for employment withdrawn.~~

28 ~~(3) All consumer rights specified in section 6 shall~~
29 ~~apply to consumers of assisted living services providers~~
30 ~~unless the right is specific to residency. The department~~

1 ~~shall craft a standardized assisted living service disclosure~~
2 ~~from such as the one required in section 3 for assisted~~
3 ~~living residences. As a condition of licensure, all assisted~~
4 ~~living services providers must provide consumers and~~
5 ~~applicants with the department's standardized disclosure form~~
6 ~~of consumers rights.~~

7 ~~(d) Inspection. The department shall conduct annual~~
8 ~~unannounced inspections of assisted living services providers~~
9 ~~and shall include visits to and interviews of a random sample of~~
10 ~~consumers as part of the inspection process.~~

11 ~~Section 6. Consumer rights.~~

12 ~~(a) Regulations. Consumers shall have the following rights~~
13 ~~which shall attach upon admission to an assisted living~~
14 ~~residence or start of service receipt from an assisted living~~
15 ~~services provider and the department shall promptly implement~~
16 ~~regulations to insure these rights:~~

17 ~~(1) With respect to management of funds:~~

18 ~~(i) There shall be no commingling of the residence's~~
19 ~~and residents' funds.~~

20 ~~(ii) Assisted living residences shall maintain~~
21 ~~residents' funds in accounts separate from those of the~~
22 ~~residence.~~

23 ~~(iii) When a residents' funds exceed \$200, the~~
24 ~~assisted living residence must offer the resident an~~
25 ~~opportunity to have the funds placed in an interest-~~
26 ~~bearing account.~~

27 ~~(iv) The assisted living residence must keep~~
28 ~~individual records of individual moneys.~~

29 ~~(v) Residents are only required to deposit funds~~
30 ~~with an assisted living residence if they are accepting~~

1 ~~financial management services.~~

2 ~~(vi) The department shall develop a means of~~
3 ~~safeguarding residents' funds and requiring prompt~~
4 ~~repayment by the assisted living residence of funds that~~
5 ~~are stolen by residence employees, subcontractors or~~
6 ~~otherwise mismanaged.~~

7 ~~(vii) Residents shall have prompt access to funds.~~

8 ~~(viii) Residents shall receive quarterly statements~~
9 ~~from assisted living residences holding their funds.~~

10 ~~(ix) Upon death or discharge, the assisted living~~
11 ~~residence is required to repay funds to estate or~~
12 ~~resident within five business days.~~

13 ~~(x) Assisted living residence staff must obtain~~
14 ~~written permission for expenditures from the consumer of~~
15 ~~legally responsible person and keep receipts of~~
16 ~~expenditures.~~

17 ~~(xi) No provider or staff of provider or individual~~
18 ~~affiliated with the provider may assume power of attorney~~
19 ~~or guardianship over any resident. However, the~~
20 ~~department shall come up with a process for allowing~~
21 ~~guardianship in emergency situations where the consumer~~
22 ~~is unable to authorize and where there is no existing~~
23 ~~legal representative or the legal representative cannot~~
24 ~~be reached.~~

25 ~~(xii) No resident may be required to endorse checks~~
26 ~~over to the assisted living residence.~~

27 ~~(2) Each consumer has the right to:~~

28 ~~(i) Be involved in service planning process and to~~
29 ~~receive services with reasonable accommodation of~~
30 ~~individual needs and preferences except where the health~~

1 ~~or safety of the individual or other residents would be~~
2 ~~endangered.~~

3 ~~(ii) Have privacy, confidentiality and freedom from~~
4 ~~abuse, neglect and financial exploitation.~~

5 ~~(iii) Refuse treatment or services under the plan.~~

6 ~~(iv) Receive from the assisted living residence 30~~
7 ~~days' advance written notice of the assisted living~~
8 ~~residence's proposed changes to charges and policies and~~
9 ~~of the intent of the residence to transfer or discharge~~
10 ~~the resident, except where transfer is necessary to meet~~
11 ~~consumer's urgent or emergency medical needs or where~~
12 ~~immediate risk of harm to consumer or others warrants~~
13 ~~shorter notice.~~

14 ~~(v) Be free from physical or chemical restraints.~~

15 ~~(vi) Be free from unreasonable interference with~~
16 ~~right to leave and return, have visitors, send and~~
17 ~~receive mail, and participate or not participate in~~
18 ~~religious activities.~~

19 ~~(vii) Receive a qualified assessment by someone not~~
20 ~~associated with the residence.~~

21 ~~(viii) Be entitled to residency and services 365~~
22 ~~days a year, with no planned or intermittent~~
23 ~~interruptions.~~

24 ~~(ix) Access the ombudsman and the department's 24-~~
25 ~~hour hotline.~~

26 ~~(x) Be free from discrimination on the basis of~~
27 ~~race, color, religious creed, disability, handicap,~~
28 ~~ancestry, sexual orientation, national origin, age or~~
29 ~~sex.~~

30 ~~(xi) Be free from any duration of stay requirements~~

1 ~~prior to public funding.~~

2 ~~(xii) Select a doctor or other health care provider~~
3 ~~of the consumer's choice.~~

4 ~~(xiii) Reside and receive services with reasonable~~
5 ~~accommodation of individual needs and preferences except~~
6 ~~where health, safety, or rights of individual or other is~~
7 ~~endangered and does not change the nature, etc., of the~~
8 ~~assisted living residence.~~

9 ~~(xiv) Review inspection and complaint survey and~~
10 ~~inspection results conducted by the department.~~

11 ~~(xv) Exercise all rights as a citizen, including,~~
12 ~~but not limited to, the right to vote, the right to voice~~
13 ~~grievances with respect to services without retaliation~~
14 ~~and to organize and participate in resident and family~~
15 ~~groups.~~

16 ~~Section 7. Survey, inspection and enforcement process.~~

17 ~~(a) Licensure and inspection. The appropriate department~~
18 ~~shall license and inspect all assisted living residences and~~
19 ~~assisted living services providers at least annually. Licensure~~
20 ~~fees shall be established and funds from such fees shall be~~
21 ~~employed to defray the costs of enforcing the provisions of this~~
22 ~~act.~~

23 ~~(1) The appropriate department shall establish and make~~
24 ~~public specific, objective guidelines for inspectors to~~
25 ~~employ in the inspection of assisted living residences and~~
26 ~~assisted living services providers. Inspectors shall be~~
27 ~~adequately trained in the intention and interpretation of~~
28 ~~inspection guidelines to ensure consistent application of~~
29 ~~legal requirements. Each department shall ensure adequate,~~
30 ~~trained staff and provide annual continuing education courses~~

1 ~~to inspection staff.~~

2 ~~(2) There shall be four classes of licensure as follows:~~

3 ~~(i) Exceptional quality licensure will be awarded to~~
4 ~~providers based on a finding by a panel established by~~
5 ~~each department that the provider is in compliance with~~
6 ~~licensure requirements and should be recognized for its~~
7 ~~use of best practices and high consumer satisfaction and~~
8 ~~positive outcomes. Providers with this licensure~~
9 ~~classification may advertise and each department shall~~
10 ~~post names of those providers with this licensure~~
11 ~~classification on its web site.~~

12 ~~(ii) Compliance licensure will be provided to~~
13 ~~providers with either no violations or isolated Class III~~
14 ~~(minor) violations which the administrator or provider~~
15 ~~has certified in writing to the appropriate department~~
16 ~~have been corrected within 30 days of the date of the~~
17 ~~annual licensure inspection.~~

18 ~~(iii) Provisional licensure will be given to~~
19 ~~providers with a pattern of Class III (minor) violations~~
20 ~~or isolated Class II violations for a period of six~~
21 ~~months. Substantial improvement must be demonstrated for~~
22 ~~a provider to receive a second six month provisional~~
23 ~~license. Those providers which do not meet the standards~~
24 ~~for a compliance license at the next scheduled inspection~~
25 ~~shall have their license revoked by the appropriate~~
26 ~~department.~~

27 ~~(iv) Provisional licensure with ban on admissions~~
28 ~~will be given for a six month period to providers with a~~
29 ~~pattern of Class II, isolated Class I or a pattern of~~
30 ~~Class I violations such that new consumers may not be~~

1 ~~admitted or provided services by the provider with this~~
2 ~~licensure status.~~

3 ~~(3) Before an assisted living residence is licensed and~~
4 ~~permitted to open, operate or admit residents and before an~~
5 ~~assisted living services provider is permitted to provide~~
6 ~~services to consumers, it shall be inspected by the~~
7 ~~appropriate department and must be found in compliance with~~
8 ~~the requirements set forth in this act and the resulting~~
9 ~~regulations.~~

10 ~~(4) After initial licensure inspection, survey staff~~
11 ~~shall, at a minimum, conduct one onsite unannounced~~
12 ~~inspection per year. Each department shall develop a uniform~~
13 ~~survey tool to be used by inspectors.~~

14 ~~(5) Within 24 hours, upon receipt of a complaint from~~
15 ~~any person alleging an immediate serious risk to the health~~
16 ~~or safety of a consumer, the appropriate department shall~~
17 ~~conduct an onsite unannounced inspection of the provider.~~
18 ~~Complaints prompting an inspection pursuant to this~~
19 ~~subsection may include severe injury or death of a consumer,~~
20 ~~reports of abuse or conditions or practices that cause an~~
21 ~~immediate and serious risk to a consumer. Complaints shall be~~
22 ~~investigated immediately but no later than 48 hours after~~
23 ~~receipt of the complaint.~~

24 ~~(6) Each department shall develop requirements for the~~
25 ~~preinspection provision of information and documents by the~~
26 ~~provider on the annual anniversary of initial licensure, to~~
27 ~~be reviewed by the appropriate department's inspectors prior~~
28 ~~to the onsite inspection.~~

29 ~~(7) Within six months of the passage of this act, each~~
30 ~~department shall develop a time line and work plan to be used~~

1 ~~to develop quality indicators of care and consumer~~
2 ~~satisfaction surveys that will be used as part of the annual~~
3 ~~inspection process. The quality indicators of care and~~
4 ~~consumer satisfaction surveys shall be developed in~~
5 ~~consultation with stakeholders and shall be placed within 24~~
6 ~~months of the passage of this act.~~

7 ~~(8) Each department shall develop a provider survey~~
8 ~~instrument to obtain provider feedback on the inspection~~
9 ~~process. The survey instrument shall be sent in the~~
10 ~~preinspection submission information to be returned to the~~
11 ~~deputy secretary of the appropriate department by the~~
12 ~~provider after the onsite inspection.~~

13 ~~(9) After three annual unannounced inspections resulting~~
14 ~~in compliance or exceptional quality licensure status, a~~
15 ~~provider shall receive abbreviated inspections for as long as~~
16 ~~it maintains compliance or exceptional quality licensure~~
17 ~~status. The appropriate department shall develop an~~
18 ~~abbreviated inspection process.~~

19 ~~(10) As provided in section 7(b), assisted living~~
20 ~~residences not in compliance with the requirements of this~~
21 ~~act and its regulations shall be subject to intensified~~
22 ~~inspections which shall include intensified frequency,~~
23 ~~duration and scope.~~

24 ~~(11) There shall be no transfer of license unless the~~
25 ~~appropriate department approves the transfer of license. The~~
26 ~~appropriate department may deny transfers to friends,~~
27 ~~relatives, business associates, etc., if it appears that~~
28 ~~purpose of transfer is to avoid licensure action or it~~
29 ~~appears that the previous owner will continue to have~~
30 ~~involvement in the residence or business.~~

1 ~~(b) Violations.~~

2 ~~(1) Within six months of the effective date of this~~
3 ~~section, the Department of Public Welfare and the Department~~
4 ~~of Health shall classify each violation of its regulations~~
5 ~~into one of the following categories:~~

6 ~~(i) Class I. A violation, including failure to or~~
7 ~~negligent provision of services in the service plan,~~
8 ~~which indicates a substantial probability that death or~~
9 ~~serious mental or physical harm to a consumer may result~~
10 ~~or death actually results.~~

11 ~~(ii) Class II. A violation, including failure to or~~
12 ~~negligent provision of services in the service plan,~~
13 ~~which has a potential or actual substantial adverse~~
14 ~~effect upon the health, safety or well being of a~~
15 ~~consumer.~~

16 ~~(iii) Class III. A minor violation which has an~~
17 ~~adverse effect upon the health, safety or well being of a~~
18 ~~consumer.~~

19 ~~(2) The remedy and penalty for violations will depend on~~
20 ~~the violations.~~

21 ~~(i) Isolated Class III violation. Within 30 days of~~
22 ~~the date of the citation, the assisted living residence~~
23 ~~administrator or assisted living services provider must~~
24 ~~correct the violation and certify in writing to the~~
25 ~~appropriate department that the violation has been~~
26 ~~corrected.~~

27 ~~(ii) Pattern of Class III violations. Within ten~~
28 ~~days of the date of the citation, the assisted living~~
29 ~~residence administrator or assisted living services~~
30 ~~provider must submit a plan of correction for appropriate~~

1 ~~department approval. Within 30 days of the date of the~~
2 ~~citation, the assisted living residence administrator or~~
3 ~~assisted living services provider must correct the~~
4 ~~violations and certify in writing to the appropriate~~
5 ~~department that corrections have been made. The~~
6 ~~appropriate department shall issue fines and grant a~~
7 ~~provisional license, which shall be in effect only until~~
8 ~~written certification of corrections has been received by~~
9 ~~the appropriate department. Immediate correction of the~~
10 ~~violation to the inspector's satisfaction during the~~
11 ~~survey process will preclude the application of a penalty~~
12 ~~under this subsection.~~

13 ~~(iii) Isolated Class II violations. Within ten days~~
14 ~~of the date of the citation, the assisted living~~
15 ~~residence administrator or assisted living services~~
16 ~~provider must submit a plan of correction for appropriate~~
17 ~~departmental approval. Within 30 days of the date of the~~
18 ~~citation, the assisted living residence administrator or~~
19 ~~assisted living services provider shall correct the~~
20 ~~violations and certify in writing to the appropriate~~
21 ~~department that corrections have been made. The~~
22 ~~appropriate department shall fine the assisted living~~
23 ~~residence or assisted living service provider and issue a~~
24 ~~provisional license until certification of corrections~~
25 ~~has been received by the appropriate department.~~
26 ~~Immediate correction of the violation to the inspector's~~
27 ~~satisfaction during the survey process will preclude the~~
28 ~~application of a penalty under this subsection.~~

29 ~~(iv) Pattern of Class II violations. Within ten days~~
30 ~~of the date of the citation, the assisted living~~

1 ~~residence administrator or assisted living services~~
2 ~~provider shall submit a plan of correction for~~
3 ~~appropriate departmental approval. Within 30 days of the~~
4 ~~date of the citation, the assisted living residence~~
5 ~~administrator or assisted living services provider shall~~
6 ~~correct the violations and shall certify in writing to~~
7 ~~the appropriate department that all corrections have been~~
8 ~~made. The appropriate department shall fine the provider~~
9 ~~and issue a provisional license with a ban on admissions~~
10 ~~or service until written certification of corrections has~~
11 ~~been received and corrections have been verified by the~~
12 ~~appropriate department. The appropriate department shall~~
13 ~~conduct an onsite inspection to verify corrections within~~
14 ~~two business days of receipt of the certification of~~
15 ~~correction. The appropriate department shall conduct~~
16 ~~intensified inspections of the provider with more~~
17 ~~numerous unannounced inspections.~~

18 ~~(v) Isolated Class I violations. Upon a finding by~~
19 ~~the appropriate department of a Class I violation, the~~
20 ~~appropriate department shall immediately decide whether:~~

21 ~~(A) to give a provisional license with a ban on~~
22 ~~admissions or services and allow the assisted living~~
23 ~~residence or assisted living services provider to~~
24 ~~correct the violation;~~

25 ~~(B) require the appointment of a master at the~~
26 ~~assisted living residence's expense to oversee the~~
27 ~~immediate correction of the violations; or~~

28 ~~(C) to revoke the license and arrange for the~~
29 ~~immediate relocation or transfer of consumers. The~~
30 ~~appropriate department shall fine the provider and~~

1 ~~should the provider remain in operation, subject it~~
2 ~~to intensified and more numerous unannounced~~
3 ~~inspections.~~

4 ~~(vi) Pattern of Class I violations. Upon a finding~~
5 ~~by the appropriate department that a provider has a~~
6 ~~pattern of Class I violations, the appropriate department~~
7 ~~shall immediately revoke the provider's license and~~
8 ~~arrange for relocation or transfer of the consumers or~~
9 ~~appoint a master at the assisted living residence's~~
10 ~~expense to bring the assisted living residence into~~
11 ~~compliance within 30 days. The appropriate department~~
12 ~~shall issue a provisional license with a ban on~~
13 ~~admissions or service if the provider is permitted to~~
14 ~~continue in operation and shall fine the provider. Should~~
15 ~~the provider remain in operation, the appropriate~~
16 ~~department shall conduct intensified and more numerous~~
17 ~~inspections.~~

18 ~~(vii) False certifications. Any administrator that~~
19 ~~falsely certifies to the appropriate department that~~
20 ~~violations have been corrected shall be fined by the~~
21 ~~appropriate department and shall lose his administrator~~
22 ~~license.~~

23 ~~(3) Within six months of the effective date of this act,~~
24 ~~the appropriate department shall issue regulations pursuant~~
25 ~~to this section. The regulations shall ensure that~~
26 ~~inspections are not invasive of consumer's privacy or~~
27 ~~dignity, support the principles of assisted living and can be~~
28 ~~uniformly and consistently applied by the appropriate~~
29 ~~department.~~

30 ~~(4) The appropriate department shall establish monetary~~

1 ~~penalties that relate to the severity of the violation. Money~~
2 ~~collected by the appropriate department under this section~~
3 ~~shall be first used to defray the expenses incurred by~~
4 ~~consumers relocated under this act. Any moneys remaining~~
5 ~~shall be used by the appropriate department for enforcing the~~
6 ~~provisions of this act. Fines collected pursuant to this act~~
7 ~~shall not be subject to the provisions of 42 Pa.C.S. § 3733~~
8 ~~(relating to deposits into account).~~

9 ~~(c) Relocation, relocation assistance and transfer.—~~

10 ~~(1) In addition to making all licensing surveys~~
11 ~~available, assisted living residences shall post all Class I~~
12 ~~and II licensing actions. The department shall inform all~~
13 ~~residents of their right to leave the assisted living~~
14 ~~residence and to receive relocation assistance.~~

15 ~~(i) The department shall promptly relocate consumers~~
16 ~~from an assisted living residence if any of the following~~
17 ~~conditions exist:~~

18 ~~(A) The assisted living residence is operating~~
19 ~~without a license.~~

20 ~~(B) The licensee is voluntarily closing an~~
21 ~~assisted living residence and relocation is necessary~~
22 ~~for the health and welfare of the consumers.~~

23 ~~(C) The assisted living residence has engaged in~~
24 ~~conduct that endangers the health and safety of its~~
25 ~~residents, leading a reasonable consumer to be~~
26 ~~concerned for his or her safety.~~

27 ~~(D) When the assisted living resident wishes to~~
28 ~~leave.~~

29 ~~(ii) The department shall offer relocation~~
30 ~~assistance to consumers of assisted living residences.~~

1 ~~This shall include:~~

2 ~~(A) Providing residents with pertinent~~
3 ~~information, such as referrals to nearby social~~
4 ~~service agencies or assisted living residences in~~
5 ~~complete compliance with governing regulations.~~

6 ~~(B) Determining other options for relocation;~~
7 ~~and assisting residents to make arrangements for~~
8 ~~relocation if family members are not available for~~
9 ~~this purpose.~~

10 ~~(iii) Except in an emergency, the consumer shall be~~
11 ~~involved in planning his transfer to another placement~~
12 ~~and shall have the right to choose among the available~~
13 ~~alternative placements. The department may make temporary~~
14 ~~placement until final placement can be arranged.~~

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

20 ~~(iv) Consumers shall not be relocated pursuant to~~
21 ~~this section if the department determines in writing and~~
22 ~~consistent with consumer preference that such relocation~~
23 ~~is not in the best interest of the consumer.~~

24 ~~(2) All consumers of assisted living services providers~~
25 ~~shall be notified by the Department of Health of its Class I~~
26 ~~and II licensing actions against their provider, informed of~~
27 ~~their right to switch providers and informed of their right~~
28 ~~to receive assistance in locating a new assisted living~~
29 ~~services provider. The Department of Health shall provide~~
30 ~~assistance to consumers of assisted living services providers~~

1 ~~who require assistance in transferring to other assisted~~
2 ~~living services providers. The assistance shall be consistent~~
3 ~~with the conditions for and forms of assistance stated in~~
4 ~~paragraph (1).~~

5 ~~(d) Appeal of violations. A provider appealing appropriate~~
6 ~~departmental ban on admissions and/or license revocation or~~
7 ~~nonrenewal shall be denied a supersedeas unless the provider~~
8 ~~demonstrates substantial likelihood of prevailing on the merits.~~
9 ~~Where a supersedeas is granted it shall be revoked if the~~
10 ~~department presents evidence of any intervening Class I or II~~
11 ~~violations. Where supersedeas is granted:~~

12 ~~(1) The appropriate department shall inspect a residence~~
13 ~~or assisted living services provider at least monthly or more~~
14 ~~frequently to ensure residents' or recipients' safety and~~
15 ~~well being. These inspection reports will be maintained as~~
16 ~~part of the public record for the assisted living residence~~
17 ~~or assisted living services provider.~~

18 ~~(2) Where a supersedeas has been granted, a Class I or~~
19 ~~II violation cited after the granting of the supersedeas~~
20 ~~shall lead to a revocation of the supersedeas.~~

21 ~~(e) Hearings. The Department of Public Welfare and the~~
22 ~~Department of Health, respectively, shall make the assisted~~
23 ~~living residence or services consumer and provider appeals a~~
24 ~~priority, with no appeal outstanding more than 60 days beyond~~
25 ~~the date on which the appeal was filed.~~

26 ~~(f) Expedited reconsideration. The Secretary of Public~~
27 ~~Welfare shall rule on reconsiderations within 60 days.~~

28 ~~(g) Definitions. As used in this section, the following~~
29 ~~words and phrases shall have the meanings given to them in this~~
30 ~~subsection:~~

1 ~~"Appropriate department."—The appropriate department with~~
2 ~~respect to assisted living residences shall be the Department of~~
3 ~~Public Welfare and the appropriate department with respect to~~
4 ~~assisted living services providers shall be the Department of~~
5 ~~Health.~~

6 ~~"Each department."—The term shall mean both the Department~~
7 ~~of Public Welfare and the Department of Health acting~~
8 ~~independently but following the same instruction from the~~
9 ~~legislature.~~

10 ~~Section 8.—Expansion of availability of publicly funded home-~~
11 ~~based and community based assisted living~~
12 ~~services.~~

13 ~~(a) Categories and services.—Within the next fiscal year~~
14 ~~following the effective date of this act, the department shall:~~

15 ~~(1) Immediately work with stakeholders to identify~~
16 ~~categories of persons qualifying for nursing facility care~~
17 ~~who do not presently fit in any of Pennsylvania's present~~
18 ~~Medicaid home based and community based waiver programs, such~~
19 ~~as persons with autism, persons who have suffered a stroke~~
20 ~~and others.~~

21 ~~(2) Seek amendment of all present Medicaid home based~~
22 ~~and community based services waivers consistent with Federal~~
23 ~~requirements for the purposes of adding/increasing needed~~
24 ~~services not presently provided and covering populations~~
25 ~~identified in paragraph (1), to fill in the gaps in~~
26 ~~Pennsylvania's current Medicaid waivers and to maximize caps~~
27 ~~on payment, such as adding cognitive support services and~~
28 ~~assistive technology to the PDA waiver, amending the AIDS~~
29 ~~waver and increasing the 80% cap on PDA waiver services.~~

30 ~~(3) Amend, if permitted by Federal law, the State plan~~

1 ~~to include in medical assistance financial eligibility~~
2 ~~determination the following:~~

3 ~~(i) In determining the countable resources of~~
4 ~~qualified persons for purposes of medical assistance~~
5 ~~eligibility, the department shall use a computation~~
6 ~~method which exempts an amount of otherwise countable~~
7 ~~resources which is equal to the difference between \$2,000~~
8 ~~and an amount calculated as follows: \$2,000 increased by~~
9 ~~each of the Social Security cost of living adjustments~~
10 ~~sequentially from January 1, 1990, to the present.~~

11 ~~(ii) For qualified couples, the department shall use~~
12 ~~a computation method which exempts an amount of otherwise~~
13 ~~countable resources which is equal to the difference~~
14 ~~between \$3,000 and the amount calculated as follows:~~
15 ~~\$3,000 increased by each of the Social Security cost of~~
16 ~~living adjustments sequentially from January 1, 1990, to~~
17 ~~the present.~~

18 ~~(iii) The department shall promptly adjust upward~~
19 ~~the exempted amounts each year as new Social Security~~
20 ~~cost of living adjustments go into effect.~~

21 ~~(4) Change and, where necessary, seek Federal approval~~
22 ~~to liberalize eligibility requirements for nursing facility~~
23 ~~eligible persons receiving Medicaid funded services in the~~
24 ~~community to parallel the requirements for those receiving~~
25 ~~care in a nursing facility. Where permitted by Federal law,~~
26 ~~the department shall increase the resource level, adjust the~~
27 ~~spousal impoverishment level and revise spenddown allowances~~
28 ~~for those receiving services in their home and community to~~
29 ~~parallel the requirements for those persons receiving such~~
30 ~~services in a Medicaid funded nursing facility.~~

1 ~~(b) Housing. Within nine months the Department of Aging and~~
2 ~~the Department of Public Welfare shall:~~

3 ~~(1) Establish a presumptive eligibility program for~~
4 ~~immediately putting assisted living services in place for~~
5 ~~persons needing long term care services who appear to be~~
6 ~~eligible for State funded or Medicaid funded programs, where~~
7 ~~the individual is at risk of imminent placement in a nursing~~
8 ~~facility. In so doing, the department shall attempt to~~
9 ~~maximize Federal matching funding but, if necessary, may use~~
10 ~~State funding exclusively.~~

11 ~~(2) Establish rules and procedures for a program to~~
12 ~~provide payment for a housing supplement funded with State~~
13 ~~dollars to be used with Medicaid funded home based and~~
14 ~~community based services to help keep the consumer at home,~~
15 ~~in an approved domiciliary care home, in an assisted living~~
16 ~~residence or in an approved personal care home where:~~

17 ~~(i) the total State cost of the housing supplement~~
18 ~~and home based and community based services is less than~~
19 ~~the State cost for that consumer in a nursing facility;~~
20 ~~or~~

21 ~~(ii) a housing supplement is necessary to avoid~~
22 ~~nursing facility placement unwanted by the consumer:~~

23 ~~(A) the person is certified for an available~~
24 ~~waiver slot in the Medicaid funded home based and~~
25 ~~community based services waiver program; and~~

26 ~~(B) adequate State funds have been appropriated~~
27 ~~for the year for the payment of the supplement.~~

28 ~~(3) Begin annual assessment of the availability of home-~~
29 ~~based and community based assisted living services in all~~
30 ~~counties and assist counties to develop needed services, such~~

1 ~~as adult day care, where they are presently unavailable.~~

2 ~~(4) Establish a program which allows persons with~~
3 ~~medical assistance countable assets of up to \$40,000, but who~~
4 ~~are presently income eligible for Medicaid funded home based~~
5 ~~and community based assisted living services to equally share~~
6 ~~the cost of those services with a State funded program and~~
7 ~~provides State support to bridge the transition to Medicaid-~~
8 ~~funded services.~~

9 ~~(5) Implement a quality assessment and improvement~~
10 ~~program, which includes consumer satisfaction surveys and~~
11 ~~quality of life outcome measures to ensure that publicly~~
12 ~~funded home based and community based services meet~~
13 ~~consumers' needs and permit consumers to live independently~~
14 ~~in the residential environment of their choice, promote~~
15 ~~integration of consumers into the community, maximize~~
16 ~~consumer choice to promote and support the consumer's~~
17 ~~changing needs, are consumer oriented and meet professional~~
18 ~~standards of quality.~~

19 ~~(6) Work with stakeholders to develop recommendations~~
20 ~~for the General Assembly for public funding and cost sharing~~
21 ~~for consumers needing assistance with activities of daily~~
22 ~~living whose income is higher than the Medicaid or~~
23 ~~Supplemental Security Income State supplement but less than~~
24 ~~the medical assistance home based and community based waiver~~
25 ~~income level, and who do not meet the functional eligibility~~
26 ~~for Medicaid home based and community based waiver services.~~

27 ~~(c) Transition. On a timely and ongoing basis, the~~
28 ~~department shall identify persons aging out of the Early and~~
29 ~~Periodic Screening, Diagnosis and Treatment (EPSDT) Program and~~
30 ~~other publicly funded programs who would be eligible for~~

1 ~~publicly funded home based and community based assisted living~~
2 ~~services and assist them to make a safe and uninterrupted~~
3 ~~transfer to those programs so that they may continue to remain~~
4 ~~in their communities.~~

5 ~~(d) Report. The Department of Public Welfare and the~~
6 ~~Department of Aging shall provide annually a public report~~
7 ~~including the following information:~~

8 ~~(1) The types of home based and community based services~~
9 ~~funded through public sources by county, including~~
10 ~~descriptions of services, units of services, an unduplicated~~
11 ~~count of people served by service and consumer satisfaction~~
12 ~~information.~~

13 ~~(2) The number of people who applied for home based and~~
14 ~~community based services, the number of people on waiting~~
15 ~~lists, the number of people denied home based and community~~
16 ~~based services because of financial ineligibility, the~~
17 ~~adequacy of access to providers funded under this act and~~
18 ~~choice of quality providers for first day medical assistance~~
19 ~~beneficiaries qualifying for services under this act, an~~
20 ~~analysis of the adequacy of reimbursement to providers for~~
21 ~~publicly funded services under this act and the number of~~
22 ~~people denied home based and community based services because~~
23 ~~of functional ineligibility.~~

24 ~~(3) The number, types and results of complaints,~~
25 ~~consumer satisfaction information, length of stay or service~~
26 ~~delivery, reasons for termination of service and development~~
27 ~~of evaluation tools for determining quality of life and care.~~

28 ~~(c) Annual determination. The department shall annually~~
29 ~~determine, on a county by county basis, the adequacy of access~~
30 ~~of first day medical assistance beneficiaries who qualify for~~

~~1 services under this act to a reasonable choice of quality
2 providers funded for services under this act. In those counties
3 where first day Medicaid beneficiaries do not have adequate
4 access and choice of quality providers, the department shall,
5 after consultation with stakeholders, determine a fair share
6 first day medical assistance access formula to be applied to
7 providers in that county who provide services under this act,
8 for the purpose of providing access for first day medical
9 assistance beneficiaries. In such cases, the department shall
10 only contract with those providers who agree to serve a fair
11 share of first day medical assistance consumers. However, no
12 provider shall be penalized for not meeting the fair share
13 requirements if it can demonstrate that access or services have
14 not been denied to any first day medical assistance recipient
15 meeting the providers' admission/acceptance standards.~~

~~16 Section 9. Application, assessment and appeal process for
17 publicly funded home based and community based
18 assisted living services.~~

~~19 (a) Application form and application process. Within six
20 months of the effective date of this act, the Department of
21 Public Welfare and the Department of Aging, working with the
22 stakeholders, shall design and utilize a single, simple,
23 consumer friendly, attractive and readily available PALS
24 application form for publicly funded services and benefits
25 available in Pennsylvania for persons needing long term care
26 services, which will serve as a one stop application for these
27 services. The application shall be for all publicly funded
28 assisted living services available in Pennsylvania and shall be
29 known as the PALS Program Application.~~

~~30 (b) Duties of departments. The departments shall:~~

1 ~~(1) To the extent possible, rely primarily on income and~~
2 ~~asset verification that is independently available to the~~
3 ~~Commonwealth, with little burden placed on the applicant.~~

4 ~~(2) Ensure swift and seamless application process for~~
5 ~~all PALS programs so that there are consistent income~~
6 ~~eligibility periods and use of self declaration of income for~~
7 ~~PACE and Medicaid so that Medicaid eligible PACE applicants~~
8 ~~will receive the greater package of services through~~
9 ~~Medicaid, while helping the Commonwealth maximize Federal~~
10 ~~funding and free up State lottery funds.~~

11 ~~(3) Permit PALS application submission to either the~~
12 ~~Department of Aging or the Department of Public Welfare and~~
13 ~~take other steps to ensure the prompt and seamless processing~~
14 ~~of applications and provision of services.~~

15 ~~(4) Promptly assist and advise applicants and their~~
16 ~~family members in gathering necessary nonindependently~~
17 ~~available verification of income and assets and directly~~
18 ~~contact sources of information if the consumer requests.~~

19 ~~(5) Ensure that the application is capable of swift~~
20 ~~determination on completeness and eligibility so that, upon~~
21 ~~submission, additional items necessary for processing the~~
22 ~~completed application will be identified to the applicant or~~
23 ~~their family members.~~

24 ~~(6) Ensure that eligibility determinations made in one~~
25 ~~county shall be good for use in any county of this~~
26 ~~Commonwealth during the period of eligibility.~~

27 ~~(c) Legislative Budget and Finance Committee. Within six~~
28 ~~months of the effective date of this act, the Legislative Budget~~
29 ~~and Finance Committee shall evaluate the efficiency,~~
30 ~~responsiveness to consumers, consumer satisfaction with and~~

1 ~~effectiveness of the present staffing and application and~~
2 ~~verification process for publicly funded home based and~~
3 ~~community based assisted living services and make~~
4 ~~recommendations for improvements.~~

5 ~~(d) Screening, assessment and eligibility determination.~~

6 ~~(1) The department shall immediately establish~~
7 ~~procedures requiring all persons seeking long term care~~
8 ~~services in an assisted living residence or personal care~~
9 ~~home to obtain a level of care screening and comprehensive~~
10 ~~assessment from the area agency on aging program prior to~~
11 ~~admission to such residence.~~

12 ~~(2) The procedures may permit an area agency on aging~~
13 ~~level of care screening and comprehensive assessment to be~~
14 ~~conducted by telephone based on representations made by the~~
15 ~~provider and applicant subject to retrospective face to face~~
16 ~~evaluation of the applicant thereafter.~~

17 ~~(3) All persons may obtain level of care screenings and~~
18 ~~comprehensive assessments from the area agency on aging.~~

19 ~~(4) All area agency on aging level of care screenings or~~
20 ~~comprehensive assessments must be completed within five~~
21 ~~business days of the request, except where an urgent~~
22 ~~situation requires that they be completed within one business~~
23 ~~day, and shall be valid for six months unless the resident's~~
24 ~~or recipient's condition changes.~~

25 ~~(5) All area agency on aging determinations of need for~~
26 ~~publicly funded long term care services shall be evaluated by~~
27 ~~the county assistance offices for financial eligibility~~
28 ~~within five business days generally or one day for emergency~~
29 ~~eases from date of receipt of completed Medicaid application.~~

30 ~~(6) The departments, in consultation with stakeholders,~~

1 shall establish the negotiated risk standards to be used in
2 determining the consumer's eligibility for publicly funded
3 assisted living services.

4 (c) Appeals. The department shall promptly develop an
5 expedited fair hearing process for addressing challenges to
6 financial eligibility, level of care, service plan and
7 Supplemental Security Income supplemental decisions where the
8 denial has resulted in failure to provide long term care
9 services. Hearing and decision must take place within 30 days of
10 filing of fair hearing.

11 Section 10. Information on publicly funded assisted living
12 services.

13 Within nine months of the effective date of this act, the
14 Department of Public Welfare and the Department of Aging shall:

15 (1) Develop an extensive multimedia public information
16 campaign to inform Pennsylvanians needing home based and
17 community based long term assisted living services of the
18 range of options available, which list shall be updated and
19 disseminated annually, and of the availability of the
20 Pennsylvania Assisted Living Services (PALS) Program. The
21 public information campaign shall be reviewed and updated
22 every two years with reports to and an opportunity for input
23 by the stakeholders.

24 (2) Establish a toll free PALS Help Line for consumers
25 needing home based and community based assisted living
26 services to advise consumers of programs in their area and of
27 public funding availability and to assist with the
28 application process.

29 (3) Initiate a training program for hospital discharge
30 planners, area aging personnel, nursing home staff,

1 ~~Department of Public Welfare caseworkers, HealthChoices~~
2 ~~special needs personnel and social service programs on the~~
3 ~~range of publicly funded home based and community based~~
4 ~~assisted living services and the new application process~~
5 ~~therefore.~~

6 ~~Section 11.—Information sharing.~~

7 ~~The department shall maintain a data base of licensed~~
8 ~~assisted living residences and assisted living services~~
9 ~~providers and shall make available from the department and on~~
10 ~~its World Wide Web site, at a minimum, the following information~~
11 ~~for each licensed provider: name, address, licensing status,~~
12 ~~resident profiles, number of beds, payer sources, consumer~~
13 ~~satisfaction and quality indicators, and important links to~~
14 ~~related long term care World Wide Web sites. This information~~
15 ~~must be regularly updated and it must be timely.~~

16 ~~Section 12.—Appropriation.~~

17 ~~The sum of \$1,000,000 is hereby appropriated to the~~
18 ~~Department of Public Welfare for the housing supplement purposes~~
19 ~~set out in section 8(b)(2) for the fiscal year July 1, 2003, to~~
20 ~~June 30, 2004, to carry out the provisions of this act.~~

21 ~~Section 13.—Repeal.~~

22 ~~All acts and parts of acts are repealed insofar as they are~~
23 ~~inconsistent with this act.~~

24 ~~Section 14.—Effective date.~~

25 ~~This act shall take effect in 60 days.~~

26 SECTION 1. SHORT TITLE.

27 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE ASSISTED
28 LIVING ACT.

29 SECTION 2. DEFINITIONS.

30 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL

1 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
2 CONTEXT CLEARLY INDICATES OTHERWISE:

3 "ABUSE." ONE OR MORE OF THE FOLLOWING ACTS:

4 (1) INFLICTION OF INJURY, UNREASONABLE CONFINEMENT,
5 INTIMIDATION OR PUNISHMENT WITH RESULTING PHYSICAL HARM, PAIN
6 OR MENTAL ANGUISH.

7 (2) WILLFUL DEPRIVATION OF GOODS OR SERVICES BY A
8 PROVIDER OR ITS EMPLOYEES WHICH ARE NECESSARY TO MAINTAIN
9 PHYSICAL OR MENTAL HEALTH.

10 (3) SEXUAL HARASSMENT, RAPE OR ABUSE AS DEFINED IN 23
11 PA.C.S. § 6102 (RELATING TO DEFINITIONS).

12 (4) EXPLOITATION BY AN ACT OR A COURSE OF CONDUCT,
13 INCLUDING MISREPRESENTATION OR FAILURE TO OBTAIN INFORMED
14 CONSENT, WHICH RESULTS IN MONETARY, PERSONAL OR OTHER
15 BENEFIT, GAIN OR PROFIT FOR THE PERPETRATOR OR MONETARY OR
16 PERSONAL LOSS TO AN INDIVIDUAL.

17 (5) NEGLIGENCE OF AN INDIVIDUAL WHICH RESULTS IN PHYSICAL
18 HARM, PAIN OR MENTAL ANGUISH.

19 (6) ABANDONMENT OR DESERTION BY A PROVIDER OR ITS
20 EMPLOYEES.

21 "ACTIVITIES OF DAILY LIVING." ACTIVITIES INCLUDING EATING,
22 BATHING, DRESSING, TOILETING, TRANSFERRING IN AND OUT OF BED OR
23 IN AND OUT OF A CHAIR AND PERSONAL HYGIENE.

24 "APPLICANT." AN INDIVIDUAL WHO HAS EXPRESSED INTEREST IN
25 APPLYING FOR RESIDENCE IN AN ASSISTED LIVING RESIDENCE OR
26 OBTAINING SERVICES FROM AN ASSISTED LIVING RESIDENCE.

27 "AREA AGENCY ON AGING." THE LOCAL AGENCY DESIGNATED BY THE
28 DEPARTMENT OF AGING AS DEFINED IN SECTION 2202-A OF THE ACT OF
29 APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE
30 CODE OF 1929.

1 "ASSESSMENT." A COMPREHENSIVE REVIEW AND ANALYSIS OF AN
2 INDIVIDUAL'S FUNCTIONAL STATUS THAT INCLUDES A PERSONAL HISTORY;
3 AN ASSESSMENT OF PHYSICAL AND EMOTIONAL HEALTH, INCLUDING AN
4 EVALUATION OF THE ABILITY TO CARRY OUT ACTIVITIES OF DAILY
5 LIVING, OF MOBILITY AND OF COGNITIVE FUNCTIONING; AND A REVIEW
6 OF INFORMAL SUPPORTS AVAILABLE TO THE INDIVIDUAL AND
7 ENVIRONMENTAL FACTORS AFFECTING THE INDIVIDUAL.

8 "ASSISTED LIVING." SERVICES AS DETERMINED AND SELF-DIRECTED
9 BY AN INDIVIDUAL OR HIS REPRESENTATIVE THAT PERMIT AND ASSIST
10 THE INDIVIDUAL TO LIVE IN A COMMUNITY, INCLUDING SUCH HOUSING
11 ASSISTANCE OR RESIDENCY IN AN ASSISTED LIVING RESIDENCE THAT
12 PERMITS THE INDIVIDUAL TO SAFELY BE SUPPORTED IN A RESIDENCE IN
13 WHICH THE INDIVIDUAL'S INDEPENDENCE, DIGNITY AND ABILITY TO MAKE
14 CHOICES ARE MAINTAINED, TO THE EXTENT OF THE INDIVIDUAL'S
15 CAPABILITIES.

16 "ASSISTED LIVING RESIDENCE." A RESIDENTIAL SETTING THAT DOES
17 ALL OF THE FOLLOWING:

18 (1) OFFERS, PROVIDES OR COORDINATES A COMBINATION OF
19 PERSONAL CARE SERVICES AND HEALTH-RELATED SERVICES, WHETHER
20 SCHEDULED OR UNSCHEDULED, ACTIVITIES, AND PROVIDES 24-HOUR
21 SUPERVISION FOR TWO OR MORE INDIVIDUALS WHO ARE NOT RELATED
22 TO THE OPERATOR.

23 (2) HAS A SERVICE PROGRAM AND PHYSICAL ENVIRONMENT
24 DESIGNED TO ADJUST SERVICES TO ACCOMMODATE A RESIDENT'S
25 CHANGING NEEDS AND PREFERENCES TO PERMIT RESIDENTS TO REMAIN
26 IN A FAMILIAR ENVIRONMENT AND MINIMIZE THE NEED FOR RESIDENTS
27 TO MOVE CONSISTENT WITH PREVAILING LAW.

28 (3) HAS A MISSION, SERVICE PROGRAMS AND A PHYSICAL
29 ENVIRONMENT DESIGNED TO FOSTER RESIDENTS' DIGNITY, AUTONOMY,
30 PRIVACY AND INDEPENDENCE; PROMOTE SELF-DIRECTION; AND

1 ENCOURAGE FAMILY AND COMMUNITY INVOLVEMENT.

2 (4) CHARGES COSTS FOR HOUSING AND SERVICES WHICH SHALL
3 BE INDEPENDENT OF ONE ANOTHER AND WHICH PROVIDE RESIDENTS
4 WITH THE ABILITY TO CHOOSE THEIR SERVICES AND PROVIDERS
5 CONSISTENT WITH THE PROVISIONS OF THIS ACT.

6 THE TERM DOES NOT INCLUDE A PERSONAL CARE HOME, DOMICILIARY CARE
7 HOME, ANY PUBLICLY FINANCED HOUSING, INDEPENDENT LIVING
8 COMMUNITIES OR HOUSING UNITS IN CONTINUING CARE COMMUNITIES
9 CERTIFIED BY THE INSURANCE DEPARTMENT, WHERE SUPPORTIVE SERVICES
10 ARE MADE AVAILABLE TO RESIDENTS AT THEIR OPTION, AS LONG AS THE
11 PROPERTY OWNER OR MANAGER DOES NOT PROVIDE OR CONTRACT FOR
12 SERVICES THAT PROVIDE ASSISTANCE WITH ACTIVITIES OF DAILY
13 LIVING. THE PROPERTY OWNER OR MANAGER MAY COORDINATE OR HELP
14 RESIDENTS GAIN ACCESS TO SUPPORTIVE SERVICES EITHER DIRECTLY OR
15 THROUGH A SERVICE COORDINATOR. THE TERM INCLUDES HOUSING
16 REQUIRED TO BE LICENSED UNDER THE DEPARTMENT OF HOUSING AND
17 URBAN DEVELOPMENT ASSISTED LIVING CONVERSION PROGRAM.

18 "ASSISTED LIVING RESIDENCY AGREEMENT." THE CONTRACT BETWEEN
19 A PROVIDER AND A RESIDENT OR RESIDENT'S REPRESENTATIVE REGARDING
20 THE RESIDENCY AND SERVICES PROVIDED AT THE ASSISTED LIVING
21 RESIDENCE. THE TERM INCLUDES THE AGREEMENT BETWEEN AN ASSISTED
22 LIVING RESIDENCE AND AN ENTITY CONTRACTING FOR ASSISTED LIVING
23 RESIDENCE FOR THE RESIDENT USING PUBLIC FUNDING.

24 "ASSISTED LIVING SERVICES." SUPPORTIVE SERVICES, PERSONAL
25 CARE SERVICES, PERSONALIZED ASSISTANCE SERVICES, ASSISTIVE
26 TECHNOLOGY AND HEALTH-RELATED SERVICES, OR A COMBINATION OF SUCH
27 SERVICES, DESIGNED TO RESPOND TO THE INDIVIDUAL'S NEEDS.

28 "ASSISTIVE TECHNOLOGY." DEVICES AND SERVICES, WHETHER
29 MEDICALLY NECESSARY OR NOT, THAT ARE USED TO INCREASE, MAINTAIN
30 OR IMPROVE THE FUNCTIONAL CAPABILITIES OF INDIVIDUALS WITH

1 DISABILITIES WHICH MAY OR MAY NOT BE NEEDED TO PERMIT THE
2 INDIVIDUAL TO LIVE INDEPENDENTLY. THE TERM INCLUDES HAND
3 REACHERS, ADAPTED TELEPHONES, READING AIDS AND OTHER NONMEDICAL
4 DEVICES.

5 "COGNITIVE SUPPORT SERVICES." SERVICES PROVIDED AS PART OF A
6 COORDINATED CARE PLAN TO INDIVIDUALS WHO HAVE MEMORY IMPAIRMENTS
7 AND OTHER COGNITIVE PROBLEMS THAT SIGNIFICANTLY INTERFERE WITH
8 THEIR ABILITY TO CARRY OUT ACTIVITIES OF DAILY LIVING WITHOUT
9 ASSISTANCE AND WHO REQUIRE THAT SUPERVISION, MONITORING AND
10 PROGRAMMING BE AVAILABLE TO THEM 24 HOURS A DAY, SEVEN DAYS A
11 WEEK IN ORDER FOR THEM TO RESIDE SAFELY IN A SETTING OF THEIR
12 CHOICE. THE TERM INCLUDES ASSESSMENT, SERVICE PLANNING, ONGOING
13 MONITORING, PERSONAL CARE SERVICES, HEALTH SUPPORT SERVICES AND
14 A FULL RANGE OF DEMENTIA-CAPABLE ACTIVITY PROGRAMMING AND CRISIS
15 MANAGEMENT.

16 "DEPARTMENT." THE DEPARTMENT OF PUBLIC WELFARE OF THE
17 COMMONWEALTH.

18 "DIRECT CARE STAFF." AN INDIVIDUAL WHO DIRECTLY ASSISTS
19 RESIDENTS WITH ASSISTED LIVING SERVICES.

20 "DISCHARGE." TERMINATION OF AN INDIVIDUAL'S RESIDENCY IN THE
21 ASSISTED LIVING RESIDENCE.

22 "FINANCIAL MANAGEMENT." A SERVICE PROVIDED BY AN ASSISTED
23 LIVING RESIDENCE OR A PROVIDER TO ASSIST THE RESIDENT WITH
24 BUDGETING AND SPENDING FOR PERSONAL NEEDS.

25 "INSTRUMENTAL ACTIVITIES OF DAILY LIVING." INCLUDES
26 ASSISTANCE IN PREPARING MEALS, TAKING MEDICATION, USING THE
27 TELEPHONE, HANDLING FINANCES, BANKING AND SHOPPING, HOUSEKEEPING
28 AND GETTING TO APPOINTMENTS.

29 "LEVEL-OF-CARE SCREENING." AN EVALUATION OF AN INDIVIDUAL'S
30 FUNCTIONAL ABILITIES, GENERAL HEALTH STATUS, AND INFORMAL

1 SUPPORT SYSTEM TO DETERMINE AN APPROPRIATE PLACEMENT OF THE
2 INDIVIDUAL FOR SERVICES.

3 "LICENSE." AN ASSISTED LIVING RESIDENCE LICENSE. THE TERM
4 INCLUDES A PROVISIONAL LICENSE.

5 "LONG-TERM CARE OMBUDSMAN." AN AGENT OF THE DEPARTMENT OF
6 AGING WHO INVESTIGATES AND SEEKS TO RESOLVE COMPLAINTS PURSUANT
7 TO SECTION 2203-A OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175),
8 KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

9 "PERSONAL CARE HOME." PREMISES IN WHICH FOOD, SHELTER AND
10 PERSONAL ASSISTANCE OR SUPERVISION ARE PROVIDED FOR A PERIOD
11 EXCEEDING 24 HOURS FOR FOUR OR MORE ADULTS WHO:

12 (1) ARE NOT RELATIVES OF THE OPERATOR;

13 (2) DO NOT REQUIRE THE SERVICES IN OR OF A LICENSED
14 LONG-TERM CARE FACILITY; AND

15 (3) DO REQUIRE ASSISTANCE OR SUPERVISION IN SUCH MATTERS
16 AS DRESSING, BATHING, DIET, FINANCIAL MANAGEMENT, EVACUATION
17 OF A RESIDENCE IN THE EVENT OF AN EMERGENCY OR MEDICATION
18 PRESCRIBED FOR SELF-ADMINISTRATION.

19 "PERSONAL CARE SERVICES." ASSISTANCE OR SUPERVISION IN
20 MATTERS SUCH AS DRESSING, BATHING, DIET, FINANCIAL MANAGEMENT,
21 EVACUATION OF THE RESIDENT IN THE EVENT OF AN EMERGENCY OR
22 MEDICATION PRESCRIBED FOR SELF-ADMINISTRATION. THE TERM INCLUDES
23 PROMPTING, CUING, MONITORING AND FOCUSING ON MAINTAINING
24 FUNCTIONING.

25 "PROVIDER." AN ASSISTED LIVING RESIDENCE OR AN ENTITY
26 OFFERING ASSISTED LIVING SERVICES IN AN ASSISTED LIVING
27 RESIDENCE.

28 "QUALIFIED ASSESSOR." AN INDIVIDUAL APPROVED BY THE
29 DEPARTMENT OF PUBLIC WELFARE AS QUALIFIED TO CONDUCT ASSESSMENTS
30 OF INDIVIDUALS NEEDING LONG-TERM CARE SERVICES AND TO DEVELOP

1 SERVICE PLANS. THE TERM INCLUDES AN EMPLOYEE OF AN AREA AGENCY
2 ON AGING, A PROVIDER OR AN INDEPENDENT ENTITY. THE TERM DOES NOT
3 INCLUDE HOSPITAL DISCHARGE PLANNERS OR OTHER STAFF OR EMPLOYEES
4 OF AN INSURED'S HEALTH OR LONG-TERM CARE INSURANCE COMPANY.

5 "REPRESENTATIVE." A RESPONSIBLE INDIVIDUAL OR AN INDIVIDUAL
6 AUTHORIZED BY LAW TO TAKE CERTAIN ACTION ON BEHALF OF AN
7 INDIVIDUAL. THE TERM INCLUDES LEGAL COUNSEL, A COURT-APPOINTED
8 GUARDIAN, AN ATTORNEY IN FACT UNDER A DURABLE POWER OF ATTORNEY,
9 AN AGENT UNDER A HEALTH CARE PROXY AND A REPRESENTATIVE PAYEE.

10 "RESIDENT." AN INDIVIDUAL WHO RESIDES IN AN ASSISTED LIVING
11 RESIDENCE.

12 "RESPONSIBLE INDIVIDUAL." AN INDIVIDUAL RESPONSIBLE FOR
13 MAKING DECISIONS ON BEHALF OF A RESIDENT AS DESIGNATED BY THE
14 RESIDENT.

15 "RESTRAINT." A CHEMICAL OR MECHANICAL DEVICE USED TO
16 RESTRICT THE MOVEMENT OR NORMAL FUNCTION OF AN INDIVIDUAL OR A
17 PORTION OF THE INDIVIDUAL'S BODY. THE TERM INCLUDES GERIATRIC
18 CHAIRS; POSEY, CHEST, WAIST, WRIST OR ANKLE RESTRAINTS; LOCKED
19 RESTRAINTS AND LOCKED DOORS TO PREVENT EGRESS. THE TERM DOES NOT
20 INCLUDE DEVICES USED TO PROVIDE SUPPORT FOR THE ACHIEVEMENT OF
21 FUNCTIONAL BODY POSITION OR PROPER BALANCE AS LONG AS THE DEVICE
22 CAN EASILY BE REMOVED BY THE RESIDENT.

23 "SECRETARY." THE SECRETARY OF PUBLIC WELFARE OF THE
24 COMMONWEALTH.

25 "SECURED ASSISTED LIVING RESIDENCE." A LICENSED ASSISTED
26 LIVING RESIDENCE THAT HAS RECEIVED A SPECIALIZED LICENSE
27 DESIGNATION PURSUANT TO THE REQUIREMENTS OF THIS ACT AND THE
28 REGULATIONS OF THE DEPARTMENT OF PUBLIC WELFARE TO PROVIDE
29 SERVICES TO PEOPLE WITH COGNITIVE IMPAIRMENTS.

30 "SECURED UNIT." A UNIT WITHIN A LICENSED ASSISTED LIVING

1 RESIDENCE THAT HAS RECEIVED A SPECIALIZED LICENSE DESIGNATION
2 PURSUANT TO THE REQUIREMENTS OF THIS ACT AND REGULATIONS OF THE
3 DEPARTMENT OF PUBLIC WELFARE TO PROVIDE SERVICES TO PEOPLE WITH
4 COGNITIVE IMPAIRMENTS.

5 "SELF-CARE." SERVICES ADMINISTERED BY A RESIDENT OR A
6 RESPONSIBLE INDIVIDUAL IN A MANNER THAT MANAGES THE HEALTH CARE
7 NEED.

8 "SERVICE PLAN." A DETAILED PLAN BASED ON AN ASSESSMENT
9 DESIGNED TO MEET THE RESIDENT'S INDIVIDUAL PHYSICAL, MENTAL AND
10 PSYCHOSOCIAL NEEDS CONSISTENT WITH THE RESIDENT'S PREFERENCES
11 AND CAPABILITIES.

12 "STAKEHOLDER." A PERSON WITH AN INTEREST IN THE
13 IMPLEMENTATION OF THIS ACT. THE TERM INCLUDES ALL OF THE
14 FOLLOWING:

15 (1) PERSONS NECESSARY TO ENSURE A BALANCE OF RESIDENT
16 AND PROVIDER INTERESTS.

17 (2) PERSONS WITH CLINICAL, PROFESSIONAL, PERSONAL OR
18 FINANCIAL INTERESTS.

19 "SUPPLEMENTAL SERVICES." ASSISTED LIVING SERVICES THAT ARE
20 PROVIDED BY SOMEONE OTHER THAN AN ASSISTED LIVING RESIDENCE.

21 "TRANSFER." MOVEMENT OF A RESIDENT WITHIN THE ASSISTED
22 LIVING RESIDENCE OR TO A HOSPITAL OR OTHER TEMPORARY PLACEMENT.

23 SECTION 3. ASSISTED LIVING RESIDENCES.

24 (A) LEVEL-OF-CARE SCREENING, ASSESSMENT AND SERVICE PLAN.--

25 (1) SCREENING:

26 (I) PRIOR TO ADMISSION TO AN ASSISTED LIVING
27 RESIDENCE OR START OF SERVICES BY A PROVIDER, AN
28 APPLICANT SHALL OBTAIN A LEVEL-OF-CARE SCREENING TO
29 DETERMINE IF THE APPLICANT IS ELIGIBLE FOR ADMISSION
30 PURSUANT TO SUBSECTION (I). IF THE APPLICANT RECEIVES

1 PUBLIC FUNDING FOR SERVICES, THE LEVEL-OF-CARE SCREENING
2 SHALL BE CONDUCTED BY THE AREA AGENCY ON AGING. THE
3 PROVIDER SHALL INFORM ALL APPLICANTS OF THIS RIGHT.

4 (II) A SCREENING FORM INDICATING THE MINIMUM
5 STANDARDIZED ELEMENTS REQUIRED FOR ALL SCREENS SHALL BE
6 DEVELOPED BY THE DEPARTMENT OF AGING FOR USE IN
7 IMPLEMENTING THIS SECTION. THE DEPARTMENT OF AGING SHALL
8 CONSULT WITH THE DEPARTMENT AND STAKEHOLDERS, AS
9 DETERMINED BY THE DEPARTMENT.

10 (2) A MEDICAL EVALUATION, USING A FORM DEVELOPED BY THE
11 DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF AGING
12 SHALL BE OBTAINED BY ALL APPLICANTS PRIOR TO ADMISSION TO AN
13 ASSISTED LIVING RESIDENCE OR START OF SERVICES BY A PROVIDER
14 OR WHEN CIRCUMSTANCES MAKE THIS REQUIREMENT IMPRACTICABLE,
15 WITHIN 72 HOURS OF ADMISSION.

16 (3) A QUALIFIED ASSESSOR SHALL ASSESS AN INDIVIDUAL'S
17 CARE AND SERVICE NEEDS AFTER THE LEVEL-OF-CARE SCREENING HAS
18 DETERMINED A NEED FOR ASSISTED LIVING SERVICES OR RESIDENCY.

19 (I) THE DEPARTMENT, IN CONSULTATION WITH THE
20 DEPARTMENT OF AGING, SHALL DEVELOP A TRAINING AND
21 CERTIFICATION PROGRAM FOR QUALIFIED ASSESSORS.

22 (II) ONLY THOSE QUALIFIED ASSESSORS TRAINED AND
23 CERTIFIED BY THE COMMONWEALTH SHALL BE PERMITTED TO
24 CONDUCT ASSESSMENTS TO IDENTIFY THE SERVICES THAT AN
25 INDIVIDUAL REQUIRES AND THAT SERVE AS THE BASIS FOR A
26 SERVICE PLAN.

27 (III) QUALIFIED ASSESSORS MUST CERTIFY THAT THE
28 ASSESSMENT IS TRUE AND CORRECT TO THE BEST OF THEIR
29 KNOWLEDGE AND SKILL. THE DEPARTMENT SHALL REVOKE THE
30 CERTIFICATION OF ANY QUALIFIED ASSESSOR WHO FALSELY

1 CERTIFIES A NEED FOR SERVICES.

2 (IV) THE QUALIFIED ASSESSOR SHALL USE AN ASSESSMENT
3 INSTRUMENT THAT INCLUDES, AT A MINIMUM, INFORMATION
4 DETERMINED NECESSARY BY THE DEPARTMENT, IN CONSULTATION
5 WITH THE DEPARTMENT OF AGING AND STAKEHOLDERS, AS
6 DETERMINED BY THE DEPARTMENT.

7 (V) RESIDENTS SHALL HAVE CHOICE OF PROVIDERS EXCEPT
8 AS PROVIDED FOR IN SUBSECTION (N) AND BE FREE TO PRESENT
9 A COMPLETED ASSESSMENT TO ANY PROVIDER TO COMPARE
10 SERVICES AND PRICE.

11 (VI) THE DEPARTMENT SHALL REVIEW PROVIDERS'
12 COMPLIANCE WITH THE ASSESSMENT PROVISIONS OF THIS ACT AS
13 PART OF THE ANNUAL LICENSURE INSPECTION.

14 (VII) THE AREA AGENCY ON AGING SHALL ASSIST ANY
15 ASSESSED RESIDENT FOUND TO NEED PUBLICLY FUNDED LONG-TERM
16 CARE SERVICES, WHERE ELIGIBLE, AND TO ARRANGE THE
17 SERVICES IF FAMILY MEMBERS OR FRIENDS ARE NOT AVAILABLE
18 TO DO SO.

19 (4) A WRITTEN SERVICE PLAN SHALL BE DEVELOPED FOLLOWING
20 COMPLETION OF AN ASSESSMENT. AN APPROPRIATELY TRAINED
21 INDIVIDUAL, AS DETERMINED BY THE DEPARTMENT, EMPLOYED BY THE
22 PROVIDER SHALL WORK IN COOPERATION WITH A TEAM THAT INCLUDES
23 THE RESIDENT. IF THE RESIDENT HAS A COGNITIVE IMPAIRMENT OR
24 IF THE RESIDENT REQUESTS, THE TEAM MAY ALSO INCLUDE THE
25 RESIDENT'S REPRESENTATIVE WHEN APPROPRIATE. THE ASSISTED
26 LIVING RESIDENCE SHALL COORDINATE OR PROVIDE ALL KNOWN
27 SERVICE NEEDS IDENTIFIED ON THE ASSESSMENT UPON ADMISSION
28 AND, PRIOR TO OR WITHIN 14 DAYS OF ADMISSION, DEVELOP A
29 WRITTEN SERVICE PLAN BASED ON THE ASSESSMENT AND CONSISTENT
30 WITH THE RESIDENT'S UNIQUE PHYSICAL AND PSYCHOSOCIAL NEEDS,

1 WITH RECOGNITION OF THE RESIDENT'S CAPABILITIES AND
2 PREFERENCES.

3 (5) REASSESSMENT AND REVISION OF SERVICE PLAN, IF
4 NECESSARY BASED ON REASSESSMENT, SHALL TAKE PLACE ANNUALLY
5 AND WHEN THE PROVIDER IS AWARE OF A SIGNIFICANT CHANGE IN THE
6 RESIDENT'S NEED FOR PERSONAL CARE SERVICES OR HEALTH CARE
7 SERVICES.

8 (6) THE ASSESSMENT AND SERVICE PLAN SHALL BE KEPT ON
9 FILE FOR EACH RESIDENT WHO RECEIVES SERVICES BY THE PROVIDER
10 AND SHALL BE AVAILABLE TO THE RESIDENT OR THE RESIDENT'S
11 REPRESENTATIVE OR RESPONSIBLE INDIVIDUAL.

12 (B) ASSISTED LIVING RESIDENCE ADMINISTRATOR QUALIFICATIONS
13 AND TRAINING.--

14 (1) AN ASSISTED LIVING RESIDENCE ADMINISTRATOR MUST HAVE
15 THE FOLLOWING QUALIFICATIONS:

16 (I) BE AT LEAST 21 YEARS OF AGE AND MEET THE
17 REQUIREMENTS OF CHAPTERS 5 AND 7 OF THE ACT OF NOVEMBER
18 6, 1987 (P.L.381, NO.79), KNOWN AS THE OLDER ADULTS
19 PROTECTIVE SERVICES ACT, REGARDING CRIMINAL HISTORY.

20 (II) BE OF GOOD MORAL CHARACTER AND FREE OF MEDICAL
21 CONDITIONS THAT WOULD INTERFERE WITH ESSENTIAL JOB
22 FUNCTIONS.

23 (III) SATISFY ONE OF THE FOLLOWING:

24 (A) HAVE AN ASSOCIATE DEGREE OF 60 CREDIT HOURS
25 AT A COLLEGE AND ONE YEAR EXPERIENCE IN A RELATED
26 FIELD.

27 (B) HAVE A VALID LICENSE AS A LICENSED PRACTICAL
28 NURSE (LPN) AND ONE YEAR RELATED WORK EXPERIENCE.

29 (C) HAVE A VALID NURSING HOME ADMINISTRATOR
30 LICENSE.

1 (D) HAVE OPERATED A PERSONAL CARE HOME FOR AT
2 LEAST TWO YEARS PRIOR TO THE EFFECTIVE DATE OF THIS
3 SECTION AND HAVE NO PREVIOUS CLASS I VIOLATIONS OR
4 MULTIPLE CLASS II VIOLATIONS THAT POSED A SERIOUS
5 DANGER TO THE HEALTH, SAFETY OR WELFARE OF RESIDENTS.
6 AUTHORIZATION UNDER THIS CLAUSE SHALL BE ONE TIME;
7 AND PROBATIONARY STATUS SHALL BE DEEMED FULL STATUS
8 IF THE ADMINISTRATOR DOES NOT HAVE CLASS I OR
9 MULTIPLE CLASS II VIOLATIONS DURING THE PROBATIONARY
10 PERIOD THAT POSE A SERIOUS DANGER TO THE HEALTH,
11 SAFETY OR WELFARE OF RESIDENTS.

12 (IV) COMPLETE AN EDUCATION AND TRAINING COURSE WHICH
13 HAS BEEN APPROVED BY THE DEPARTMENT OF NOT LESS THAN 120
14 HOURS. THE DEPARTMENT SHALL ESTABLISH A TRAINING
15 CURRICULUM THAT SHALL INCLUDE COMPREHENSIVE TRAINING IN
16 AREAS APPROPRIATE TO THE CARE AND HEALTH OF RESIDENTS IN
17 AN ASSISTED LIVING RESIDENCE, INCLUDING:

18 (A) TRAINING IN ASSISTIVE TECHNOLOGY.

19 (B) TRAINING IN WORKING WITH INDIVIDUALS WITH
20 COGNITIVE IMPAIRMENTS.

21 (C) TRAINING IN ASSISTED LIVING PRINCIPLES AND
22 LAWS.

23 (D) TRAINING IN MEDICATION ASSISTANCE.

24 (E) RESIDENT RIGHTS AS DEFINED IN SECTION 5.

25 (2) THE DEPARTMENT SHALL DEVELOP A SHORTER PROGRAM OF
26 INSTRUCTION FOR LICENSED NURSING HOME ADMINISTRATORS,
27 NATIONALLY ACCREDITED RETIREMENT HOUSING PROFESSIONALS OR
28 INDIVIDUALS WHO HAVE SUCCESSFULLY PASSED THE ASSISTED LIVING
29 ADMINISTRATORS EXAMINATION OF THE NATIONAL ASSOCIATION OF
30 BOARD OF EXAMINERS OF LONG TERM CARE ADMINISTRATORS, THAT

1 DOES NOT DUPLICATE AREAS WHERE PROFICIENCY HAS BEEN
2 DEMONSTRATED BUT THAT IS PARTICULAR TO ASSISTED LIVING IN
3 THIS COMMONWEALTH.

4 (3) ALL ADMINISTRATORS MUST PASS A TEST WHICH HAS BEEN
5 APPROVED BY THE DEPARTMENT AND IS ADMINISTERED BY AN ENTITY
6 APPROVED BY THE DEPARTMENT AT THE END OF TRAINING TO
7 DEMONSTRATE PROFICIENCY IN THE APPLICATION OF SKILLS AND
8 KNOWLEDGE.

9 (4) ALL ADMINISTRATORS MUST COMPLETE 36 HOURS OF
10 CONTINUING EDUCATION EVERY TWO YEARS THAT HAS BEEN APPROVED
11 BY THE DEPARTMENT AND IS APPLICABLE TO THE PRACTICE OF
12 ASSISTED LIVING ADMINISTRATOR.

13 (5) ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION,
14 AN INDIVIDUAL MAY NOT BE EMPLOYED AS AN ASSISTED LIVING
15 ADMINISTRATOR UNLESS THE INDIVIDUAL HAS COMPLETED THE
16 TRAINING AND TESTING REQUIREMENTS IN THIS SUBSECTION.

17 (C) DIRECT CARE AND OTHER STAFF QUALIFICATIONS AND
18 TRAINING.--

19 (1) DIRECT CARE STAFF IN AN ASSISTED LIVING RESIDENCE
20 MUST MEET THE FOLLOWING QUALIFICATIONS:

21 (I) BE AT LEAST 18 YEARS OF AGE OR BE AT LEAST 17
22 YEARS OF AGE WITH A HIGH SCHOOL DIPLOMA OR GENERAL
23 EDUCATION DIPLOMA.

24 (II) BE AT LEAST 16 YEARS OF AGE AND ACTIVELY
25 ENROLLED IN A SCHOOL-TO-WORK CAREGIVER OR NURSE AIDE
26 TRAINING PROGRAM.

27 (III) MEET THE REQUIREMENTS OF THE OLDER ADULTS
28 PROTECTIVE SERVICES ACT REGARDING CRIMINAL HISTORY.

29 (IV) HAVE A CERTIFICATE OF COMPLETING AN EDUCATION
30 AND TRAINING COURSE OF AT LEAST 40 HOURS WHICH HAS BEEN

1 APPROVED BY THE DEPARTMENT. THE DEPARTMENT SHALL
2 ESTABLISH QUALIFICATIONS FOR TRAINERS AND A TRAINING
3 CURRICULUM WHICH MAY BE OFFERED IN-HOUSE BY ASSISTED
4 LIVING RESIDENCES. ASSISTED LIVING RESIDENCES SHALL
5 DOCUMENT TRAINING. DIRECT CARE STAFF OF ASSISTED LIVING
6 RESIDENCES MUST DEMONSTRATE PROFICIENCY IN A MANNER
7 APPROVED BY THE DEPARTMENT IN EACH COMPONENT OF THE
8 TRAINING CURRICULUM PRIOR TO START OF INDEPENDENT WORK IN
9 THAT COMPONENT. APPROVED COURSEWORK SHALL INCLUDE
10 COMPREHENSIVE TRAINING IN AREAS APPROPRIATE TO THE CARE
11 AND HEALTH OF ASSISTED LIVING, INCLUDING:

12 (A) TRAINING IN ASSISTIVE TECHNOLOGY.

13 (B) TRAINING IN WORKING WITH INDIVIDUALS WITH
14 COGNITIVE IMPAIRMENTS.

15 (C) TRAINING IN ASSISTED LIVING PRINCIPLES AND
16 LAWS RELEVANT TO THEIR JOB FUNCTIONS.

17 (D) RESIDENT RIGHTS AS DEFINED IN SECTION 5.

18 (2) THE DEPARTMENT SHALL DEVELOP A SHORTER PROGRAM OF
19 INSTRUCTION FOR NURSE ASSISTANTS DEEMED COMPETENT THAT DOES
20 NOT DUPLICATE AREAS WHERE PROFICIENCY HAS BEEN DEMONSTRATED
21 BUT THAT IS PARTICULAR TO ASSISTED LIVING IN THIS
22 COMMONWEALTH. THIS PROGRAM OF INSTRUCTION SHALL BE LIMITED TO
23 THOSE HOURS NECESSARY TO DEMONSTRATE PROFICIENCY.

24 (D) DIRECT CARE STAFF ASSISTING RESIDENTS WITH MEDICATION.--
25 WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE
26 DEPARTMENT SHALL:

27 (1) DEVELOP A SPECIAL TRAINING AND CERTIFICATION PROGRAM
28 OR EXPAND ITS CURRENT MEDICATIONS ADMINISTRATION COURSE FOR
29 DIRECT CARE STAFF THAT ASSIST RESIDENTS WITH MEDICATION. THE
30 PROGRAM SHALL INCLUDE TESTING AND DEMONSTRATED PROFICIENCY.

1 (2) ESTABLISH REGULATIONS PERMITTING ONLY THOSE WHO HAVE
2 COMPLETED AND PASSED THE TRAINING ON ASSISTING WITH THE
3 ADMINISTRATION OF MEDICATION TO DO SO IN ASSISTED LIVING
4 RESIDENCES.

5 (E) OTHER ASSISTED LIVING RESIDENCE STAFF.--WITHIN 30 DAYS
6 OF EMPLOYMENT OR START OF VOLUNTARY SERVICE, STAFF PERSONS AND
7 VOLUNTEERS SHALL RECEIVE ORIENTATION TO THE GENERAL OPERATION OF
8 THE ASSISTED LIVING RESIDENCE, TRAINING IN FIRE PREVENTION,
9 OPERATION OF SAFETY EQUIPMENT, EMERGENCY PROCEDURES AND
10 EVACUATION OF RESIDENTS.

11 (F) EXEMPTIONS.--

12 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), EXISTING
13 PERSONAL CARE HOME STAFF EMPLOYED BY PERSONAL CARE HOMES THAT
14 APPLY FOR AND BECOME LICENSED AS ASSISTED LIVING RESIDENCES
15 HAVE ONE YEAR FROM THE DATE OF APPLICATION TO COMPLETE THE
16 DIRECT CARE STAFF TRAINING.

17 (2) EXISTING PERSONAL CARE HOME STAFF WHO HAVE BEEN
18 WORKING AS DIRECT CARE STAFF FOR MORE THAN 24 MONTHS CAN OPT
19 NOT TO TAKE THE TRAINING IF THEY DEMONSTRATE PROFICIENCY IN
20 EACH TRAINING COMPONENT WITHIN ONE YEAR OF THE PERSONAL CARE
21 HOME BECOMING AN ASSISTED LIVING RESIDENCE.

22 (G) STAFFING LEVELS.--

23 (1) THE DEPARTMENT SHALL ESTABLISH MINIMUM STAFFING
24 LEVELS FOR ASSISTED LIVING RESIDENCES, SECURED UNITS AND
25 SECURED ASSISTED LIVING RESIDENCES. STAFFING LEVELS SHALL BE
26 BASED UPON THE RESIDENCE POPULATION, MOBILITY AND COGNITIVE
27 IMPAIRMENT OF RESIDENTS AND BE ADEQUATE TO ENSURE 24 HOURS A
28 DAY AWAKE DIRECT CARE STAFF TO MEET THE UNSCHEDULED NEEDS OF
29 RESIDENTS.

30 (2) THE DEPARTMENT SHALL REQUIRE EACH ASSISTED LIVING

1 RESIDENCE TO MAINTAIN ADEQUATE ADDITIONAL DIRECT CARE STAFF
2 TO MEET THE RESIDENTS' PLANNED AND SCHEDULED NEEDS AS
3 REQUIRED IN THEIR SERVICE PLANS AS WELL AS TO ENSURE A SAFE
4 AND EFFICIENT EVACUATION TO A PLACE OF SAFETY IN CASE OF
5 EMERGENCY. EACH ASSISTED LIVING RESIDENCE SHALL HAVE AS A
6 MINIMUM THE STAFF NECESSARY TO MEET THE HOURS OF CARE SET
7 FORTH IN THE SERVICE PLANS AND THE STAFFING REQUIREMENTS OF
8 PARAGRAPH (1).

9 (3) ADDITIONAL STAFF OR CONTRACTED SERVICES SHALL BE
10 PROVIDED AS NECESSARY TO MEET LAUNDRY, FOOD SERVICE,
11 HOUSEKEEPING, TRANSPORTATION AND MAINTENANCE NEEDS OF THE
12 ASSISTED LIVING RESIDENCE.

13 (H) SUPPLEMENTAL SERVICES.--

14 (1) A RESIDENT RECEIVING ASSISTED LIVING SERVICES IN AN
15 ASSISTED LIVING RESIDENCE MAY ARRANGE FOR THE RECEIPT OF
16 SUPPLEMENTAL SERVICES IF THE SUPPLEMENTAL SERVICES ADEQUATELY
17 MEET THE RESIDENTS CHANGING NEEDS SO THAT:

18 (I) THE ASSISTED LIVING RESIDENCE IS NOT REQUIRED TO
19 FUNDAMENTALLY CHANGE ITS PROGRAM OR RESIDENCE TO
20 ACCOMMODATE THE RESIDENT; AND

21 (II) THE RESIDENT'S RECEIPT OF SUPPLEMENTAL SERVICES
22 DOES NOT CREATE AN UNDUE BURDEN ON THE ASSISTED LIVING
23 RESIDENCE.

24 (2) THE ASSISTED LIVING RESIDENCE MAY SCREEN
25 SUPPLEMENTAL SERVICES PROVIDERS. AN ASSISTED LIVING RESIDENCE
26 SHALL NOT UNREASONABLY DENY A SUPPLEMENTAL SERVICES PROVIDER
27 ACCESS TO A RESIDENT'S LIVING UNIT.

28 (3) EXCEPT AS SET FORTH IN PARAGRAPH (4), THE FOLLOWING
29 ARE IMMUNE FROM CIVIL LIABILITY FOR A CLAIM ARISING FROM AN
30 ACT OR OMISSION RELATED TO SUPPLEMENTAL SERVICES:

1 (I) AN ASSISTED LIVING RESIDENCE.

2 (II) THE OWNER OF AN ASSISTED LIVING RESIDENCE WHICH
3 IS A SOLE PROPRIETORSHIP.

4 (III) THE PARTNERS OF AN ASSISTED LIVING RESIDENCE
5 WHICH IS A PARTNERSHIP.

6 (IV) THE MEMBERS OF AN ASSISTED LIVING RESIDENCE
7 WHICH IS AN UNINCORPORATED ASSOCIATION.

8 (V) THE STOCKHOLDERS, OFFICERS AND DIRECTORS OF AN
9 INCORPORATED ASSISTED LIVING RESIDENCE.

10 (VI) A PARENT OR SUBSIDIARY OF AN INCORPORATED
11 ASSISTED LIVING RESIDENCE.

12 (4) PARAGRAPH (3) DOES NOT APPLY IF ANY OF THE FOLLOWING
13 APPLY:

14 (I) THE PERSON CHARGED WITH THE ACT OR OMISSION ACTS
15 IN BAD FAITH.

16 (II) THE PERSON CHARGED WITH THE ACT OR OMISSION
17 KNOWS OR HAS REASON TO KNOW THAT THE ACT OR OMISSION
18 POSES A SUBSTANTIAL DANGER TO THE HEALTH, SAFETY OR
19 WELFARE OF THE RESIDENT.

20 (I) ADMISSION, TRANSFER AND DISCHARGE.--

21 (1) AN ASSISTED LIVING RESIDENCE MAY NOT ADMIT OR RETAIN
22 AN INDIVIDUAL WITH ANY OF THE FOLLOWING CONDITIONS OR HEALTH
23 CARE NEEDS UNLESS THE INDIVIDUAL RECEIVES HOSPICE CARE OR THE
24 DEPARTMENT, UPON THE REQUEST OF THE PROVIDER, PERMITS THE
25 ADMITTANCE OR RETENTION OF THE INDIVIDUAL:

26 (I) VENTILATOR DEPENDENCY.

27 (II) STAGE III AND IV, OR MULTIPLE STAGE II
28 DECUBITUS AND VASCULAR ULCERS THAT ARE NOT IN A HEALING
29 STAGE.

30 (III) CONTINUOUS INTRAVENOUS FLUIDS OR INJECTIONS

1 DIRECTLY INTO THE VEIN, EXCEPT FOR INDIVIDUALS RECEIVING
2 HOSPICE SERVICES.

3 (IV) REPORTABLE INFECTIOUS DISEASE, SUCH AS
4 TUBERCULOSIS, IN A COMMUNICABLE STATE THAT REQUIRES
5 ISOLATION OF THE APPLICANT OR RESIDENT OR REQUIRES
6 SPECIAL PRECAUTIONS BY THE CARETAKER TO PREVENT
7 TRANSMISSION OF THE DISEASE.

8 (V) NASOGASTRIC TUBES.

9 (VI) PHYSICAL RESTRAINTS.

10 (VII) A CONDITION OR HEALTH CARE NEED IDENTIFIED BY
11 THE DEPARTMENT IN A REGULATION.

12 (2) AN ASSISTED LIVING RESIDENCE MAY NOT ADMIT OR RETAIN
13 AN APPLICANT OR A RESIDENT WHOSE PHYSICIAN CERTIFIES THAT
14 PLACEMENT IN THE ASSISTED LIVING RESIDENCE IS NOT
15 APPROPRIATE.

16 (3) AN ASSISTED LIVING RESIDENCE MAY NOT ADMIT OR RETAIN
17 AN INDIVIDUAL WHOSE HEALTH CARE NEEDS CANNOT BE MET IN THE
18 SPECIFIC ASSISTED LIVING RESIDENCE. THE DETERMINATION OF
19 WHETHER THE NEEDS CAN BE MET SHALL BE MADE BY THE ASSISTED
20 LIVING RESIDENCE, THE INDIVIDUAL OR THE INDIVIDUAL'S
21 REPRESENTATIVE AND THE INDIVIDUAL'S PHYSICIAN, EXCEPT THAT NO
22 ASSISTED LIVING RESIDENCE SHALL BE REQUIRED TO RETAIN A
23 RESIDENT OR ADMIT AN APPLICANT IF DOING SO WOULD REQUIRE A
24 FUNDAMENTAL ALTERATION OF THE ASSISTED LIVING RESIDENCE'S
25 BASIC PROGRAM OR BUILDING OR CREATE AN UNDUE BURDEN ON THE
26 ASSISTED LIVING RESIDENCE. THE HEALTH CARE NEEDS MAY INCLUDE:

27 (I) AN APPLICANT OR A RESIDENT REQUIRING SLIDING
28 SCALE INSULIN ADMINISTRATION UNLESS SELF-PERFORMED OR
29 ADMINISTERED BY A LICENSED HEALTH CARE PROFESSIONAL.

30 (II) AN APPLICANT OR A RESIDENT REQUIRING

1 INTERMITTENT INTRAVENOUS THERAPY UNLESS MANAGED BY A
2 LICENSED HEALTH CARE PROFESSIONAL.

3 (III) AN APPLICANT OR A RESIDENT REQUIRING
4 INSERTION, STERILE IRRIGATION AND REPLACEMENT OF CATHETER
5 EXCEPT FOR ROUTINE MAINTENANCE OF URINARY CATHETER UNLESS
6 THE CATHETER CARE IS SELF-ADMINISTERED OR ADMINISTERED BY
7 A LICENSED HEALTH CARE PROFESSIONAL.

8 (IV) AN APPLICANT OR A RESIDENT REQUIRING OXYGEN
9 UNLESS SELF-CARE OR ADMINISTERED BY A LICENSED HEALTH
10 CARE PROFESSIONAL.

11 (V) AN APPLICANT OR A RESIDENT REQUIRING INHALATION
12 THERAPY UNLESS SELF-CARE OR IF ADMINISTERED BY A LICENSED
13 HEALTH CARE PROFESSIONAL.

14 (VI) GASTRIC TUBES, EXCEPT WHEN THE APPLICANT OR
15 RESIDENT IS INDEPENDENTLY CAPABLE OF SELF-CARE OF THE
16 TUBE.

17 (VII) TRACHEOSTOMY EXCEPT WHEN THE APPLICANT OR
18 RESIDENT IS INDEPENDENTLY CAPABLE OF SELF-CARE OF THE
19 TRACHEOSTOMY.

20 (4) AN ASSISTED LIVING RESIDENCE MAY ALSO DISCHARGE A
21 RESIDENT IF THE FOLLOWING CIRCUMSTANCES EXIST:

22 (I) THE RESIDENT PRESENTS AN IMMINENT PHYSICAL
23 THREAT OR DANGER TO SELF OR OTHERS.

24 (II) THE RESIDENT PERSISTENTLY AND SUBSTANTIALLY
25 VIOLATES THE RIGHTS OR NEGATIVELY IMPACTS THE QUALITY OF
26 LIFE OF OTHERS.

27 (III) THE RESIDENT DOES NOT PAY APPROPRIATE FEES
28 WITHIN 30 DAYS FOLLOWING A DOCUMENTED EFFORT TO OBTAIN
29 PAYMENT BY THE RESIDENCE.

30 (IV) THE RESIDENT OR RESIDENT'S REPRESENTATIVE OR

1 RESPONSIBLE INDIVIDUAL FAILS TO COOPERATE WITH THE
2 RESIDENCE IN ITS EFFORTS TO OBTAIN PUBLIC FUNDING.

3 (5) EXCEPT AS PROVIDED IN THIS SUBSECTION, A RESIDENT
4 MAY NOT BE TRANSFERRED OR DISCHARGED. THE ASSISTED LIVING
5 RESIDENCE SHALL ENSURE THAT THE TRANSFER IS SAFE AND ORDERLY
6 AND SHALL MAKE A REASONABLE EFFORT TO ENSURE THE TRANSFER IS
7 APPROPRIATE TO MEET THE RESIDENT'S NEEDS. IF THERE IS NO
8 APPROPRIATE PLACE TO TRANSFER THE RESIDENT, THE ASSISTED
9 LIVING RESIDENCE SHALL CONTACT THE AREA AGENCY ON AGING AS
10 DEFINED IN THE OLDER ADULTS PROTECTIVE SERVICES ACT FOR
11 PROTECTIVE SERVICES OR PENNSYLVANIA PROTECTION AND ADVOCACY,
12 WHEN APPROPRIATE.

13 (J) NOTICES.--THE ASSISTED LIVING RESIDENCE SHALL PROVIDE 30
14 DAYS' ADVANCE WRITTEN NOTICE OF CHANGES IN RESIDENT-RELATED
15 POLICIES, SERVICES OR COSTS AND OF INTENT TO TRANSFER OR
16 DISCHARGE A RESIDENT. WRITTEN NOTICE MUST BE PROVIDED TO THE
17 RESIDENT, THE RESIDENT'S REPRESENTATIVE AND THE LONG-TERM HEALTH
18 CARE OMBUDSMAN RESPONSIBLE FOR THE COUNTY OF THE RESIDENT.
19 WRITTEN NOTICE MUST INCLUDE:

- 20 (1) THE REASON FOR THE TRANSFER OR DISCHARGE;
- 21 (2) THE EFFECTIVE DATE OF THE TRANSFER OR DISCHARGE;
- 22 (3) THE LOCATION TO WHICH THE RESIDENT IS BEING
23 TRANSFERRED OR DISCHARGED, IF KNOWN;
- 24 (4) A STATEMENT THAT THE RESIDENT HAS THE RIGHT TO
25 APPEAL TO THE DEPARTMENT; AND
- 26 (5) THE CONTACT INFORMATION FOR THE LONG-TERM CARE
27 OMBUDSMAN AND THE DEPARTMENT'S 24-HOUR HOTLINE.

28 (K) DISPUTE RESOLUTION.--RESIDENTS MAY SEEK RESOLUTION OF
29 DISPUTES IN THE FOLLOWING WAYS, AND SELECTION OF ONE OPTION DOES
30 NOT PRECLUDE SIMULTANEOUS OR SUBSEQUENT SELECTION OF THE OTHER:

1 (1) EACH PROVIDER SHALL MAINTAIN AN INTERNAL PROCESS FOR
2 RESOLVING RESIDENT COMPLAINTS AND GRIEVANCES.

3 (2) THE DEPARTMENT'S HEARING AND APPEALS BUREAU SHALL
4 HEAR DISPUTES THROUGH ITS FAIR HEARING PROCESS.

5 (I) APPEAL HEARINGS MUST INCLUDE NOTICE, OPPORTUNITY
6 TO BE HEARD, IMPARTIAL REVIEW AND PROMPT DECISION.

7 (II) ASSISTED LIVING RESIDENTS MAY APPEAL DECISIONS
8 REGARDING:

9 (A) WHETHER DISCHARGE OR TRANSFER IS APPROPRIATE
10 BASED ON THE PROVISIONS OF SUBSECTION (I) OR SECTION
11 4(A)(2) AND APPLICABLE LAWS.

12 (B) WHETHER THE ASSISTED LIVING RESIDENCE'S
13 DENIAL OF A SUPPLEMENTAL SERVICES PROVIDER IS
14 REASONABLE PURSUANT TO SUBSECTION (H)(2).

15 (C) WHAT LEVEL OF CARE IS APPROPRIATE.

16 (3) THE DEPARTMENT SHALL DEVELOP AN EXPEDITED HEARING
17 PROCESS FOR REVIEW OF DEPARTMENT, RESIDENT OR PROVIDER
18 ACTIONS.

19 (4) THIS SUBSECTION IS SUBJECT TO 2 PA.C.S. CH. 5 SUBCH.
20 A (RELATING TO PRACTICE AND PROCEDURE OF COMMONWEALTH
21 AGENCIES) AND CH. 7 SUBCH. A (RELATING TO JUDICIAL REVIEW OF
22 COMMONWEALTH AGENCY ACTION). THE DEPARTMENT SHALL NOT BE
23 DEEMED A PARTY TO AN ACTION UNDER THIS SUBSECTION BUT HAS THE
24 RIGHT TO INTERVENE IN A JUDICIAL APPEAL OF A DETERMINATION
25 UNDER THIS SUBSECTION.

26 (L) WRITTEN AGREEMENTS.--THE DEPARTMENT SHALL REQUIRE AS A
27 CONDITION OF LICENSURE THAT ALL ASSISTED LIVING RESIDENCES HAVE
28 AN ASSISTED LIVING RESIDENCY AGREEMENT IN WRITING WITH EACH
29 RESIDENT. AT SITE VISITS, THE DEPARTMENT SHALL REVIEW AGREEMENTS
30 UNDER THIS SUBSECTION FOR COMPLIANCE WITH THIS SUBSECTION AND

1 APPLICABLE REGULATIONS. EACH AGREEMENT SHALL BE SIGNED PRIOR TO
2 ADMISSION OR START OF SERVICES AND SHALL BE SIGNED NO LATER THAN
3 24 HOURS AFTER ADMISSION AND SHALL INCLUDE IN CLEAR AND SIMPLE
4 LANGUAGE ALL OF THE FOLLOWING:

5 (1) STANDARDIZED CLAUSES PROVIDED BY THE DEPARTMENT ON
6 ALL OF THE FOLLOWING:

7 (I) THE RESIDENT'S RIGHTS.

8 (II) THE DEPARTMENT'S APPEAL PROCESS.

9 (III) EXPLANATION OF THE SCREENING, ASSESSMENT AND
10 ANNUAL REASSESSMENT REQUIREMENTS.

11 (IV) THE AVAILABLE FINANCIAL MANAGEMENT SERVICES A
12 PROVIDER MAY OR MAY NOT PROVIDE.

13 (V) A PROHIBITION ON RESIDENT ASSIGNMENT OF ASSETS
14 FOR LIFE TO THE ASSISTED LIVING RESIDENCE. CONTINUING
15 CARE COMMUNITIES THAT HAVE OBTAINED A CERTIFICATE OF
16 AUTHORITY FROM THE INSURANCE DEPARTMENT SHALL PROVIDE A
17 COPY OF THE CERTIFICATE TO THE DEPARTMENT. UPON RECEIPT
18 OF THE CERTIFICATE BY THE DEPARTMENT, THE CONTINUING CARE
19 COMMUNITY SHALL NOT BE REQUIRED TO INCLUDE THE
20 STANDARDIZED CLAUSE REQUIRED UNDER THIS SUBPARAGRAPH.

21 (VI) IF A RESIDENT IS RECEIVING PUBLICLY FUNDED CARE
22 AND SERVICES, DETAILS ABOUT SUPPLEMENTAL SECURITY INCOME
23 RECIPIENT PROTECTIONS, RENT REBATE PROGRAMS AND ANY
24 PERSONAL NEEDS ALLOWANCE AS DETERMINED BY THE DEPARTMENT.

25 (VII) EXPLANATION OF THE RIGHT TO CONTINUED
26 RESIDENCY IN AN ASSISTED LIVING RESIDENCE.

27 (VIII) APPLICANT'S RIGHT TO CANCEL WITHOUT PENALTY
28 AN ASSISTED LIVING RESIDENCY AGREEMENT WITHIN THREE
29 BUSINESS DAYS OF SIGNING.

30 (IX) REQUIREMENT THAT A RESIDENT RECEIVE 30 DAYS'

1 ADVANCE WRITTEN NOTICE OF CHANGES TO CONTRACT, TO THE
2 CHARGES OF THE PROVIDER AND TO THE PROVIDER'S RESIDENT-
3 RELATED POLICIES.

4 (X) THE BASES UNDER WHICH A RESIDENT OR PROVIDER MAY
5 TERMINATE THE AGREEMENT.

6 (XI) CONTRACTUAL ENFORCEMENT RIGHTS OF THE PARTIES.

7 (2) THE FOLLOWING STATEMENTS BY THE PROVIDER:

8 (I) THE PROVIDER'S LIST OF SERVICES OFFERED.

9 (II) INDIVIDUALIZED ITEMIZATION OF SERVICES THAT
10 WILL BE PROVIDED TO THE RESIDENT AND COSTS OF THE
11 SERVICES, SEPARATING HOUSING COSTS FROM SERVICE COSTS.

12 (III) PROVIDER POLICIES REGARDING RESIDENTS.

13 (IV) INTERNAL DISPUTE RESOLUTION PROCESS.

14 (V) CLEAR AND SPECIFIC OCCUPANCY CRITERIA AND
15 PROCEDURES, BASED ON THE DEPARTMENT'S REQUIREMENTS AND
16 ASSISTED LIVING RESIDENCE'S POLICIES REGARDING BEDHOLDS
17 AND REFUNDS.

18 (M) DISCLOSURE.--EACH RESIDENT OR THE RESIDENT'S
19 REPRESENTATIVE SHALL RECEIVE AN INFORMATION PACKET AT THE TIME
20 OF APPLICATION FOR ADMISSION OR START OF SERVICES. THE PACKET
21 SHALL INCLUDE THE FOLLOWING ITEMS TO BE PRESENTED IN A FORM ABLE
22 TO BE EASILY UNDERSTOOD AND READ BY THE RESIDENT:

23 (1) A STANDARDIZED FORM DEVELOPED BY THE DEPARTMENT WITH
24 INFORMATION PERTAINING TO ALL OF THE FOLLOWING:

25 (I) THE USE OF ADVANCE DIRECTIVES DURING RESIDENCY.

26 (II) HOW TO CONTACT THE DEPARTMENT AND OBTAIN
27 INFORMATION ON THE LICENSING REQUIREMENTS AND LICENSING
28 STATUS OF PROVIDERS.

29 (III) INFORMATION ABOUT AVAILABILITY AND ACCESS TO
30 AND CONTACT INFORMATION FOR THE LONG-TERM CARE OMBUDSMAN

1 AND THE DEPARTMENT'S 24-HOUR HOTLINE.

2 (IV) DETAILS ABOUT THE DEPARTMENT'S COMPLAINT
3 INVESTIGATION PROCESS, INCLUDING INFORMATION ON HOW A
4 RESIDENT CAN FILE A COMPLAINT WITH THE DEPARTMENT.

5 (V) GENERAL INFORMATION ABOUT THE ADMISSION AND
6 APPLICATION PROCESS.

7 (VI) DETAILS ABOUT THE APPLICANT'S RIGHTS TO
8 INDEPENDENT ASSESSMENT AND NONDISCRIMINATION IN THE
9 APPLICATION PROCESS.

10 (VII) RESIDENT RIGHTS AS DETAILED IN SECTION 5.

11 (2) DOCUMENTATION FROM THE PROVIDER TO PROVIDE THE
12 APPLICANT WITH THE FOLLOWING INFORMATION:

13 (I) A COPY OF THE PROVIDER'S POLICIES AFFECTING
14 RESIDENTS, INCLUDING DISCHARGE OR TERMINATION OR
15 BEDHOLDS.

16 (II) INFORMATION REGARDING THE DEPARTMENT'S
17 INSPECTIONS AND INSPECTION REPORTS DEMONSTRATING
18 PROVIDER'S LICENSING STATUS.

19 (III) COMPLETE COPY OF THE ASSISTED LIVING RESIDENCE
20 AGREEMENT, INCLUDING ALL ATTACHMENTS AND ALL CURRENT
21 RATES THAT MAY BE CHARGED.

22 (IV) DETAILS ABOUT THE INTERNAL COMPLAINT MECHANISM
23 USED BY THE PROVIDER.

24 (V) PROVIDER'S SPECIFIC ADMISSION AND APPLICATION
25 PROCESS.

26 (VI) INFORMATION ON DISCHARGE POLICIES.

27 (N) HOUSING AND SERVICES.--

28 (1) ASSISTED LIVING RESIDENCES SHALL SEPARATELY CHARGE
29 FOR HOUSING AND SERVICES.

30 (2) RESIDENTS WHO HAVE BEEN ASSESSED AS NEEDING PERSONAL

1 CARE SERVICES MAY BE REQUIRED BY THE ASSISTED LIVING
2 RESIDENCE TO RECEIVE THOSE SERVICES FROM THE ASSISTED LIVING
3 RESIDENCE AS A CONDITION OF ADMISSION TO AND CONTINUING
4 RESIDENCE IN THE ASSISTED LIVING RESIDENCE.

5 (3) NO RESIDENT SHALL BE REQUIRED TO PAY FOR ASSISTED
6 LIVING SERVICES NOT NEEDED, OR REQUESTED, AS INDICATED IN
7 THEIR MOST RECENT ASSESSMENT, EXCEPT FOR THE COSTS ASSOCIATED
8 WITH MEETING UNSCHEDULED CARE NEEDS.

9 (4) SERVICES OTHER THAN THOSE IDENTIFIED IN PARAGRAPH
10 (2), INCLUDING, BUT NOT LIMITED TO, HOME HEALTH, MASSAGE,
11 PHYSICIAN SERVICES AND PHYSICAL THERAPY SERVICES CAN BE
12 PURCHASED BY THE RESIDENT FROM THE ASSISTED LIVING RESIDENCE
13 OR FROM AN OUTSIDE PROVIDER, UNLESS ACCOMMODATING THE
14 INDIVIDUAL WOULD REQUIRE A FUNDAMENTAL ALTERATION OF THE
15 ASSISTED LIVING RESIDENCE'S BASIC PROGRAM OR BUILDING, WOULD
16 CREATE AN UNDUE BURDEN ON THE ASSISTED LIVING RESIDENCE OR
17 WOULD PUT IN JEOPARDY THE HEALTH, SAFETY OR WELFARE OF
18 INDIVIDUALS IN THE ASSISTED LIVING RESIDENCE. THE ASSISTED
19 LIVING RESIDENCE MAY SCREEN SERVICE PROVIDERS WHO PROVIDE A
20 SERVICE PURSUANT TO THIS PARAGRAPH. AN ASSISTED LIVING
21 RESIDENCE SHALL NOT UNREASONABLY DENY SERVICE PROVIDERS
22 ACCESS TO A RESIDENT'S LIVING UNIT.

23 (O) LIVING UNIT.--

24 (1) ASSISTED LIVING RESIDENCES SHALL PROVIDE RESIDENTS
25 WITH THEIR OWN INDIVIDUAL LIVING UNITS, WHICH SHALL INCLUDE A
26 SLEEPING AND LIVING AREA, SHARED ONLY WITH THE CONSENT OF THE
27 RESIDENTS IN THE UNIT.

28 (2) EACH LIVING UNIT MUST PROVIDE A BATHROOM READILY
29 AVAILABLE FOR EACH RESIDENT. ONE BATHROOM CAN BE SHARED
30 BETWEEN ADJACENT LIVING UNITS. LICENSED PERSONAL CARE HOMES

1 IN OPERATION ON THE EFFECTIVE DATE OF THIS SECTION, WHICH
2 MEET ALL OTHER REQUIREMENTS OF AN ASSISTED LIVING RESIDENCE,
3 MAY SEEK A WAIVER FROM THE DEPARTMENT TO PERMIT BATHING
4 FACILITIES IN CLOSE PROXIMITY, BUT NOT LOCATED IN, THE
5 INDIVIDUAL RESIDENT BATHROOM SHARED BY TWO ADJACENT
6 RESIDENTS. THIS WAIVER SHALL BE REVOCABLE BY THE DEPARTMENT
7 IF THE ASSISTED LIVING RESIDENCE FAILS TO MEET THE WAIVER
8 REQUIREMENTS.

9 (3) EXCEPT FOR RESIDENTS WITH COGNITIVE IMPAIRMENTS,
10 EACH LIVING UNIT MUST PROVIDE SPACE AND ELECTRICAL OUTLETS
11 FOR RESIDENTS TO HAVE SMALL APPLIANCES SUCH AS MICROWAVES AND
12 REFRIGERATORS.

13 (4) EACH LIVING UNIT SHALL CONTAIN NO FEWER THAN 100
14 SQUARE FEET PER RESIDENT.

15 (5) EACH LIVING UNIT SHALL HAVE INDIVIDUALLY LOCKABLE
16 DOORS, EXCEPT WHERE INAPPROPRIATE FOR INDIVIDUALS WITH
17 COGNITIVE IMPAIRMENTS.

18 (P) DEPARTMENT OF AGING.--THE DEPARTMENT OF AGING SHALL
19 ENSURE THAT THE LONG-TERM CARE OMBUDSMAN PROGRAM IS MADE
20 AVAILABLE TO ASSISTED LIVING RESIDENTS OVER 59 YEARS OF AGE.

21 (Q) CONTACT INFORMATION.--THE DEPARTMENT SHALL REQUIRE
22 ASSISTED LIVING RESIDENCES TO POST CONTACT INFORMATION FOR THE
23 LONG-TERM CARE OMBUDSMAN AND SHALL MAKE AVAILABLE A 24-HOUR
24 TOLL-FREE HOTLINE FOR RESIDENTS TO USE IN CONTACTING THE
25 DEPARTMENT WITH QUESTIONS, CONCERNS AND COMPLAINTS ABOUT THEIR
26 CARE AND SERVICES. DOCUMENTATION OF THE DESIGNATION OF A
27 RESPONSIBLE INDIVIDUAL SHALL BE KEPT IN THE RESIDENT'S RECORD.
28 SECTION 4. SPECIALLY DESIGNATED ASSISTED LIVING RESIDENCES.

29 (A) COGNITIVE SUPPORT SERVICES.--

30 (1) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS

1 SECTION, THE DEPARTMENT SHALL ESTABLISH A SPECIAL LICENSE
2 DESIGNATION FOR ASSISTED LIVING RESIDENCES THAT WISH TO
3 MAINTAIN SECURED UNITS OR WISH TO BE SECURED FOR THE PURPOSE
4 OF SERVING INDIVIDUALS WITH COGNITIVE IMPAIRMENTS. ONLY THOSE
5 ASSISTED LIVING RESIDENCES THAT RECEIVE SPECIAL LICENSE
6 DESIGNATION MAY HAVE OR HOLD THEMSELVES OUT AS HAVING SECURED
7 UNITS OR AS BEING A SECURED ASSISTED LIVING RESIDENCE. THE
8 DEPARTMENT SHALL REQUIRE THAT IN ORDER TO RECEIVE A SPECIAL
9 LICENSE DESIGNATION THE ASSISTED LIVING RESIDENCES MEET ALL
10 OF THE REQUIREMENTS FOR ASSISTED LIVING RESIDENCES THAT
11 ADDRESS:

- 12 (I) SPECIAL ADMISSION AND TRANSFER CRITERIA.
- 13 (II) ADEQUATE INDOOR AND OUTDOOR WANDERING SPACE.
- 14 (III) THE PROVISION OF THERAPEUTIC ACTIVITIES THAT
15 MEET THE SCHEDULED AND UNSCHEDULED INDIVIDUAL NEEDS OF
16 EACH RESIDENT, WITH THE SERVICES FOCUSING ON FOSTERING
17 INDEPENDENCE AND ON THE INDIVIDUAL'S STRENGTHS AND
18 ABILITIES.
- 19 (IV) PHYSICAL DESIGN AND SAFETY.
- 20 (V) TRAINING SPECIFIC TO A SECURED UNIT OR SECURED
21 ASSISTED LIVING RESIDENCE.
- 22 (VI) PREARRANGED PROCEDURES FOR NOTIFICATION OF
23 AUTHORITIES SHOULD A RESIDENT WANDER AWAY FROM THE
24 RESIDENCE.

25 (2) THE FOLLOWING APPLY TO ADMISSION OR TRANSFER TO
26 SPECIALLY DESIGNATED SECURED UNIT OR SECURED ASSISTED LIVING
27 RESIDENCE:

- 28 (I) ASSISTED LIVING RESIDENCES MAY SUPPORT RESIDENTS
29 WITH COGNITIVE IMPAIRMENTS IF OR UNTIL THE INDIVIDUAL'S
30 NEEDS ARE SUCH THAT THEY ARE A DANGER TO THEMSELVES OR

1 OTHERS OR ACCOMMODATION WOULD REQUIRE A FUNDAMENTAL
2 ALTERATION OF THE ASSISTED LIVING RESIDENCE'S BASIC
3 PROGRAM OR BUILDING OR CREATE AN UNDUE BURDEN ON THE
4 ASSISTED LIVING RESIDENCE. WHEN THESE CONDITIONS ARE MET
5 AND IF THIS IS REFLECTED IN AN ANNUAL OR OTHER
6 ASSESSMENT, THE RESIDENT MAY BE TRANSFERRED TO A SECURED
7 UNIT OR SECURED ASSISTED LIVING RESIDENCE.

8 (II) BEFORE AN INDIVIDUAL MAY BE TRANSFERRED OR
9 ADMITTED TO A SPECIALLY DESIGNATED SECURED UNIT OR A
10 SPECIALLY DESIGNATED SECURED ASSISTED LIVING RESIDENCE:

11 (A) THE RESIDENT AND THE RESIDENT'S
12 REPRESENTATIVE, IF ANY, SHALL BE ADVISED OF THE
13 ASSISTED LIVING RESIDENCE'S INTENT TO DISCHARGE OR
14 TRANSFER THE INDIVIDUAL WITH 30 DAYS' ADVANCE WRITTEN
15 NOTICE. THE WRITTEN NOTICE MUST INCLUDE INFORMATION
16 REGARDING A RESIDENT'S RIGHT TO SEEK AN ASSESSMENT OR
17 REASSESSMENT FROM THE AREA AGENCY ON AGING OR OTHER
18 INDIVIDUAL WHO IS INDEPENDENT FROM THE ASSISTED
19 LIVING RESIDENCE AND OF THE RESIDENT'S RIGHT TO
20 APPEAL TO THE DEPARTMENT OR USE THE INTERNAL
21 GRIEVANCE PROCESS TO ADDRESS THE APPROPRIATENESS OF
22 MOVEMENT TO A SECURED UNIT. THE 30-DAY NOTICE
23 REQUIREMENT SHALL NOT APPLY, BUT THE PROVIDER SHALL
24 GIVE AS MUCH ADVANCE NOTICE AS POSSIBLE WHERE
25 TRANSFER OR DISCHARGE IS NECESSARY TO MEET A
26 RESIDENT'S URGENT OR EMERGENCY MEDICAL NEEDS OR IN
27 EMERGENCY SITUATIONS WHERE THERE IS A DANGER TO
28 RESIDENTS OR OTHERS.

29 (B) A PHYSICIAN MUST APPROVE THE TRANSFER TO A
30 SECURED UNIT OR ADMISSION TO A SECURED ASSISTED

1 LIVING RESIDENCE.

2 (C) THE RESIDENT OR RESIDENT'S REPRESENTATIVE
3 MUST CONSENT IN WRITING TO THE TRANSFER OR ADMISSION.
4 IF NEITHER THE RESIDENT NOR THE RESIDENT'S
5 REPRESENTATIVE AUTHORIZES THE TRANSFER OR DISCHARGE,
6 THE ASSISTED LIVING RESIDENCE MUST REFER THE MATTER
7 TO THE LOCAL AGENCY WHICH IS CHARGED TO ADMINISTER
8 THE ACT OF NOVEMBER 6, 1987 (P.L.381, NO.79), KNOWN
9 AS THE OLDER ADULTS PROTECTIVE SERVICES ACT, FOR
10 REVIEW.

11 (III) THE DEPARTMENT SHALL, THROUGH ITS INSPECTION
12 PROCESS, REVIEW TRANSFER AND DISCHARGE CASES THAT ARE
13 BASED ON COGNITIVE IMPAIRMENTS FOR COMPLIANCE WITH THIS
14 PROVISION.

15 (3) ADMINISTRATORS WORKING IN SPECIAL LICENSE
16 DESIGNATION SECURED UNITS OR SECURED ASSISTED LIVING
17 RESIDENCES MUST BE TRAINED AND TESTED IN A PROGRAM APPROVED
18 BY THE DEPARTMENT IN TRAINING AREAS DEVELOPED BY THE
19 DEPARTMENT IN CONSULTATION WITH STAKEHOLDERS, DESIGNATED BY
20 THE DEPARTMENT, ON ISSUES RELATING TO PROVIDING CARE AND
21 SERVICES TO COGNITIVELY IMPAIRED INDIVIDUALS. THIS TRAINING
22 SHALL BE IN ADDITION TO THAT REQUIRED UNDER SECTION 3.

23 (4) ALL DIRECT CARE STAFF WISHING TO WORK IN SPECIALLY
24 DESIGNATED SECURED UNITS OR SECURED ASSISTED LIVING
25 RESIDENCES SHALL, IN ADDITION TO THE TRAINING REQUIRED OF
26 DIRECT CARE STAFF IN SECTION 3, RECEIVE ADDITIONAL SECURED
27 TRAINING APPROVED BY THE DEPARTMENT IN TRAINING AREAS
28 ESTABLISHED BY THE DEPARTMENT IN CONSULTATION WITH
29 STAKEHOLDERS, DESIGNATED BY THE DEPARTMENT, ON ISSUES
30 RELATING TO PROVIDING CARE AND SERVICES TO COGNITIVELY

1 IMPAIRED INDIVIDUALS.

2 (5) ASSISTED LIVING RESIDENCES WITH SPECIALLY DESIGNATED
3 SECURED UNITS OR THAT ARE SECURED ASSISTED LIVING RESIDENCES,
4 IN ADDITION TO THE DISCLOSURES REQUIRED UNDER SECTION 3 SHALL
5 DO ALL OF THE FOLLOWING:

6 (I) PROVIDE EACH APPLICANT WITH A STANDARDIZED
7 DISCLOSURE FORM DESIGNED BY THE DEPARTMENT IN
8 CONSULTATION WITH STAKEHOLDERS, DESIGNATED BY THE
9 DEPARTMENT, DESCRIBING THE REQUIREMENTS THAT MUST BE MET
10 BY A SECURED UNIT OR SECURED ASSISTED LIVING RESIDENCE
11 WHICH SHALL INCLUDE THE PHILOSOPHY AND MISSION OF SERVING
12 INDIVIDUALS WITH COGNITIVE IMPAIRMENTS, THE REQUIREMENTS
13 FOR PHYSICAL SPACE, WANDERING SPACE, THERAPEUTIC
14 ACTIVITIES AND ADDITIONAL TRAINING AND SECURITY, THAT
15 MUST BE MET FOR SPECIAL DESIGNATION.

16 (II) A REPRESENTATION THAT THE RESIDENCE MEETS THE
17 SPECIAL LICENSURE DESIGNATION, INCLUDING A DESCRIPTION OF
18 THE FREQUENCY AND TYPES OF INDIVIDUAL AND GROUP
19 ACTIVITIES, SECURITY MEASURES AND FAMILY SUPPORT
20 PROGRAMS.

21 (6) IF NATIONAL ACCREDITATION OF SECURED ASSISTED LIVING
22 RESIDENCES BECOMES AVAILABLE THE DEPARTMENT SHALL DEEM ALL
23 ASSISTED LIVING RESIDENCES ACCREDITED BY ACCREDITING BODIES
24 THAT HAVE STANDARDS THAT EQUAL OR EXCEED THOSE IN THIS ACT
25 AND REGULATIONS AS MEETING THE SPECIAL LICENSING DESIGNATIONS
26 UNDER THIS SECTION.

27 (7) STAFFING LEVELS SHALL BE SET IN ACCORDANCE WITH THE
28 STAFFING LEVELS REQUIRED UNDER SECTION 3, EXCEPT THAT IF AN
29 ASSISTED LIVING RESIDENCE HAS NATIONAL ACCREDITATION WHICH
30 HAS HIGHER STAFFING REQUIREMENTS, THE RESIDENCE SHALL MEET

1 THE HIGHER REQUIREMENTS.

2 (B) OTHER DESIGNATIONS.--THE DEPARTMENT MAY RECOGNIZE AND
3 ESTABLISH OTHER SPECIAL DESIGNATIONS FOR ASSISTED LIVING
4 RESIDENCES. THE DEPARTMENT SHALL ESTABLISH STANDARDS AND
5 REQUIREMENTS NECESSARY FOR SPECIAL DESIGNATION.

6 SECTION 5. RESIDENT RIGHTS.

7 RESIDENTS SHALL HAVE THE FOLLOWING RIGHTS AND THE DEPARTMENT
8 SHALL PROMPTLY IMPLEMENT REGULATIONS TO ENSURE THESE RIGHTS:

9 (1) IF THE ASSISTED LIVING RESIDENCE PROVIDES MANAGEMENT
10 OF FUNDS ALL OF THE FOLLOWING APPLY:

11 (I) ASSISTED LIVING RESIDENCES SHALL MAINTAIN
12 RESIDENTS' FUNDS IN ACCOUNTS SEPARATE FROM THOSE OF THE
13 RESIDENCE.

14 (II) WHEN A RESIDENT'S FUNDS EXCEED \$200, THE
15 ASSISTED LIVING RESIDENCE SHALL OFFER THE RESIDENT AN
16 OPPORTUNITY TO HAVE THE FUNDS PLACED IN AN INTEREST-
17 BEARING ACCOUNT.

18 (III) THE ASSISTED LIVING RESIDENCE SHALL KEEP
19 INDIVIDUAL RECORDS OF RESIDENTS' FUNDS.

20 (IV) RESIDENTS SHALL ONLY BE REQUIRED TO DEPOSIT
21 FUNDS WITH AN ASSISTED LIVING RESIDENCE IF THEY ARE
22 ACCEPTING FINANCIAL MANAGEMENT SERVICES.

23 (V) THE ASSISTED LIVING RESIDENCE SHALL DEVELOP AND
24 IMPLEMENT WRITTEN POLICIES AND PROCEDURES THAT PROHIBIT
25 MISAPPROPRIATION OF RESIDENT FUNDS OR PROPERTY.

26 (A) THE ASSISTED LIVING RESIDENCE SHALL ENSURE
27 THAT ALL REASONABLE ALLEGATIONS OF MISAPPROPRIATION
28 OF RESIDENT PROPERTY OR FUNDS ARE REPORTED
29 IMMEDIATELY TO THE ADMINISTRATOR OF THE ASSISTED
30 LIVING RESIDENCE AND TO THE DEPARTMENT AND OTHER

1 OFFICIALS IN ACCORDANCE WITH STATE LAW.

2 (B) THE ASSISTED LIVING RESIDENCE SHALL
3 INVESTIGATE ALL REASONABLE ALLEGATIONS OF
4 MISAPPROPRIATION OF PROPERTY OR FUNDS AND UNDERTAKE
5 CORRECTIVE MEASURES WHERE APPROPRIATE.

6 (C) THE RESULTS OF ALL INVESTIGATIONS SHALL BE
7 REPORTED TO THE ADMINISTRATOR OR HIS DESIGNATED
8 REPRESENTATIVE, TO THE RESIDENT AND, IF APPROPRIATE,
9 THE RESIDENT'S REPRESENTATIVE, AND TO THE DEPARTMENT
10 AND OTHER OFFICIALS IN ACCORDANCE WITH STATE LAW. IF
11 THE ALLEGED VIOLATION IS VERIFIED, APPROPRIATE
12 CORRECTIVE ACTION MUST BE TAKEN.

13 (VI) RESIDENTS SHALL HAVE PROMPT ACCESS TO FUNDS.

14 (VII) RESIDENTS SHALL RECEIVE QUARTERLY STATEMENTS
15 FROM ASSISTED LIVING RESIDENCES HOLDING THEIR FUNDS.

16 (VIII) UPON DISCHARGE, THE ASSISTED LIVING RESIDENCE
17 SHALL REPAY FUNDS FROM THE PERSONAL NEEDS ACCOUNT TO THE
18 RESIDENT WITHIN FIVE BUSINESS DAYS. THE AMOUNT OF THE
19 DIFFERENCE BETWEEN ANY PAYMENT MADE, INCLUDING ANY UNPAID
20 INTEREST THEREON, AND THE COST OF SERVICES ACTUALLY
21 PROVIDED TO THE RESIDENT SHALL BE REPAID BY THE ASSISTED
22 LIVING RESIDENCE WITHIN 15 DAYS.

23 (IX) ASSISTED LIVING RESIDENCE STAFF SHALL OBTAIN
24 WRITTEN PERMISSION FOR EXPENDITURES FROM THE RESIDENT OR
25 THE RESIDENT'S REPRESENTATIVE AND SHALL KEEP RECEIPTS OF
26 EXPENDITURES.

27 (X) NO PROVIDER, ITS STAFF OR INDIVIDUAL AFFILIATED
28 WITH THE PROVIDER MAY ASSUME POWER OF ATTORNEY OR
29 GUARDIANSHIP OVER ANY RESIDENT, EXCEPT THAT THE
30 DEPARTMENT SHALL DEVISE A PROCESS FOR ALLOWING

1 GUARDIANSHIP IN EMERGENCY SITUATIONS IF THE RESIDENT IS
2 UNABLE TO AUTHORIZE A REPRESENTATIVE AND IF THERE IS NO
3 EXISTING REPRESENTATIVE OR THE REPRESENTATIVE CANNOT BE
4 REACHED.

5 (XI) NO RESIDENT MAY BE REQUIRED TO ENDORSE CHECKS
6 OVER TO THE ASSISTED LIVING RESIDENCE.

7 (2) THE BASIC RIGHT TO:

8 (I) BE INVOLVED IN THE SERVICE PLANNING PROCESS AND
9 TO RECEIVE SERVICES WITH REASONABLE ACCOMMODATION OF
10 INDIVIDUAL NEEDS AND PREFERENCES EXCEPT WHERE THE HEALTH,
11 SAFETY OR WELFARE OF THE INDIVIDUAL OR OTHER RESIDENTS
12 WOULD BE ENDANGERED.

13 (II) HAVE PRIVACY, CONFIDENTIALITY AND FREEDOM FROM
14 ABUSE, NEGLECT AND FINANCIAL EXPLOITATION.

15 (III) REFUSE TREATMENT OR SERVICES UNDER THE PLAN.
16 IF A RESIDENT REFUSES TREATMENT OR SERVICES UNDER THE
17 PLAN, THE ASSISTED LIVING RESIDENCE MAY, IN ITS SOLE
18 DISCRETION, PROPOSE THE USE OF A SHARED RISK AGREEMENT
19 WITH THE RESIDENT DOCUMENTING THE REASON THE TREATMENT OR
20 SERVICES HAVE BEEN RECOMMENDED, THE POTENTIAL ADVERSE
21 CONSEQUENCES OF REFUSING THE TREATMENT OR SERVICES AND
22 THE RESIDENT'S REFUSAL OF THE TREATMENT OR SERVICES.

23 (IV) RECEIVE FROM THE ASSISTED LIVING RESIDENCE 30
24 DAYS' ADVANCE WRITTEN NOTICE OF THE ASSISTED LIVING
25 RESIDENCE'S PROPOSED CHANGES TO CHARGES AND POLICIES AND
26 OF THE INTENT OF THE RESIDENCE TO TRANSFER OR DISCHARGE
27 THE RESIDENT, EXCEPT WHERE TRANSFER IS NECESSARY TO MEET
28 THE RESIDENT'S URGENT OR EMERGENCY MEDICAL NEEDS OR WHERE
29 IMMEDIATE RISK OF HARM TO THE RESIDENT OR OTHERS WARRANTS
30 SHORTER NOTICE.

1 (V) BE FREE FROM PHYSICAL OR CHEMICAL RESTRAINTS,
2 EXCEPT AS SET FORTH IN SECTION 4, RELATING TO SECURED
3 UNITS AND SECURED ASSISTED LIVING RESIDENCE.

4 (VI) BE FREE FROM UNREASONABLE INTERFERENCE WITH THE
5 RIGHT TO LEAVE AND RETURN, HAVE VISITORS, SEND AND
6 RECEIVE MAIL AND PARTICIPATE OR NOT PARTICIPATE IN
7 RELIGIOUS ACTIVITIES.

8 (VII) RECEIVE AN ASSESSMENT BY SOMEONE NOT
9 ASSOCIATED WITH THE RESIDENCE.

10 (VIII) RESIDENCY AND SERVICES EVERY DAY OF THE YEAR.

11 (IX) ACCESS THE LONG-TERM CARE OMBUDSMAN AND THE
12 DEPARTMENT'S 24-HOUR HOTLINE.

13 (X) BE FREE FROM DISCRIMINATION ON THE BASIS OF
14 RACE, COLOR, RELIGIOUS CREED, DISABILITY, HANDICAP,
15 ANCESTRY, SEXUAL ORIENTATION, NATIONAL ORIGIN, AGE OR
16 SEX.

17 (XI) SELECT A DOCTOR OR OTHER HEALTH CARE PROVIDER
18 OF THE RESIDENT'S CHOICE.

19 (XII) RESIDE AND RECEIVE SERVICES WITH REASONABLE
20 ACCOMMODATION OF INDIVIDUAL NEEDS AND PREFERENCES EXCEPT
21 IF CONTINUED RESIDENCE OR RECEIPT OF SERVICES WOULD:

22 (A) ENDANGER THE HEALTH, SAFETY OR RIGHTS OF THE
23 INDIVIDUAL OR OTHERS;

24 (B) CAUSE A FUNDAMENTAL ALTERATION OF THE
25 ASSISTED LIVING RESIDENCE'S BASIC PROGRAM OR
26 BUILDING; OR

27 (C) CREATE AN UNDUE BURDEN UPON THE ASSISTED
28 LIVING RESIDENCE.

29 (XIII) REVIEW INSPECTION AND COMPLAINT SURVEY AND
30 RESULTS CONDUCTED BY THE DEPARTMENT.

1 (XIV) EXERCISE ALL RIGHTS AS A CITIZEN, INCLUDING
2 THE RIGHT TO VOTE, THE RIGHT TO VOICE GRIEVANCES WITH
3 RESPECT TO SERVICES WITHOUT RETALIATION AND TO ORGANIZE
4 AND PARTICIPATE IN RESIDENT AND FAMILY GROUPS.

5 (XV) RECEIVE AND REVIEW COPIES OF RESIDENT RECORDS
6 FOR A REASONABLE COST.

7 SECTION 6. LICENSURE.

8 (A) REQUIREMENT.--

9 (1) AN ENTITY MAY NOT HOLD ITSELF OUT AS AN ASSISTED
10 LIVING RESIDENCE UNLESS THE ENTITY HAS A LICENSE.

11 (2) THE DEPARTMENT SHALL LICENSE ASSISTED LIVING
12 RESIDENCES.

13 (3) THE DEPARTMENT, IN CONSULTATION WITH STAKEHOLDERS,
14 SHALL ANNUALLY PUBLISH IN THE PENNSYLVANIA BULLETIN A FEE
15 SCHEDULE FOR LICENSES BASED ON THE SIZE OF THE ASSISTED
16 LIVING RESIDENCE WITH RESPECT TO BEDS. FEES SHALL BE
17 REASONABLY SUFFICIENT TO OFFSET THE REGULATORY COSTS OF THE
18 DEPARTMENT UNDER THIS ACT.

19 (4) COMPLIANCE WITH THE ACT OF NOVEMBER 10, 1999
20 (P.L.491, NO.45), KNOWN AS THE PENNSYLVANIA CONSTRUCTION CODE
21 ACT, IS A CONDITION OF LICENSURE.

22 (B) PROVISIONAL LICENSE.--

23 (1) THE DEPARTMENT SHALL ISSUE A PROVISIONAL LICENSE IF
24 ALL OF THE FOLLOWING APPLY:

25 (I) THERE IS SUBSTANTIAL BUT NOT COMPLETE COMPLIANCE
26 WITH ALL APPLICABLE STATUTES, REGULATIONS AND ORDINANCES.

27 (II) THE APPLICANT HAS TAKEN APPROPRIATE STEPS TO
28 CORRECT DEFICIENCIES.

29 (2) A PROVISIONAL LICENSE SHALL BE FOR A PERIOD
30 SPECIFIED BY THE DEPARTMENT NOT TO EXCEED SIX MONTHS.

1 (3) A PROVISIONAL LICENSE MAY BE RENEWED NO MORE THAN
2 THREE TIMES.

3 (4) UPON COMPLETE COMPLIANCE WITH ALL APPLICABLE
4 STATUTES, ORDINANCES AND REGULATIONS, A REGULAR LICENSE SHALL
5 BE ISSUED.

6 (C) INITIAL LICENSURE.--

7 (1) BEFORE AN ASSISTED LIVING RESIDENCE IS LICENSED AND
8 PERMITTED TO OPEN, OPERATE OR ADMIT RESIDENTS, IT SHALL BE
9 INSPECTED BY THE DEPARTMENT AND MUST BE FOUND IN COMPLIANCE
10 WITH THE REQUIREMENTS SET FORTH IN THIS ACT AND THE
11 APPLICABLE REGULATIONS. THE DEPARTMENT MAY REFUSE TO ISSUE A
12 LICENSE IF ANY OF THE FOLLOWING APPLY:

13 (I) THERE WAS A CLASS I VIOLATION BY THE APPLICANT.

14 (II) THERE WERE MULTIPLE SERIOUS CLASS II VIOLATIONS
15 BY THE APPLICANT.

16 (2) NEW LICENSES SHALL BE VALID FOR SIX MONTHS OR UNTIL
17 THE DATE OF REINSPECTION, WHICHEVER IS LATER, AND SHALL BE
18 MARKED WITH A NOTATION THAT THE LICENSE IS NEW.

19 (3) THE DEPARTMENT SHALL REINSPECT NEWLY OPENED
20 FACILITIES WITHIN THREE MONTHS OF THE DATE OF LICENSE
21 ISSUANCE TO CHECK FOR COMPLIANCE WITH REQUIREMENTS WHICH
22 BECOME EFFECTIVE ONCE AN ASSISTED LIVING RESIDENCE IS IN
23 OPERATION AND HAS ADMITTED RESIDENTS. THIS PARAGRAPH DOES NOT
24 APPLY TO CURRENTLY LICENSED ENTITIES IN GOOD STANDING,
25 INCLUDING PERSONAL CARE HOMES, NURSING FACILITIES AND OTHER
26 ENTITIES DESIGNATED BY THE DEPARTMENT, WHICH ARE APPLYING FOR
27 A LICENSE

28 (4) A NEW ASSISTED LIVING RESIDENCE MUST BE IN
29 COMPLIANCE AT THE END OF THE FIRST SIX MONTHS OF OPERATION IN
30 ORDER TO RECEIVE A LICENSE.

1 (5) EXCEPT AS SET FORTH IN PARAGRAPH (6), THE TERM OF A
2 LICENSE SHALL BE ONE YEAR.

3 (6) THE DEPARTMENT MAY ISSUE A LICENSE FOR 18 MONTHS.
4 THIS PARAGRAPH EXPIRES DECEMBER 31, 2006.

5 (D) LICENSE RENEWAL.--

6 (1) AN ASSISTED LIVING RESIDENCE SEEKING TO RENEW A
7 LICENSE MUST APPLY AND SUBMIT PREINSPECTION DOCUMENTS AND ALL
8 INFORMATION REQUIRED BY THE DEPARTMENT NO LESS THAN THREE
9 MONTHS PRIOR TO THE EXPIRATION OF THE CURRENT LICENSE.

10 (2) IF AN ASSISTED LIVING RESIDENCE IS IN COMPLIANCE AT
11 THE TIME OF LICENSURE INSPECTION, ITS LICENSE SHALL BE
12 RENEWED.

13 (3) EXCEPT AS SET FORTH IN PARAGRAPH (4), AN ASSISTED
14 LIVING RESIDENCE WHICH CORRECTS ALL VIOLATIONS PRIOR TO THE
15 EXPIRATION OF ITS CURRENT LICENSE SHALL HAVE ITS LICENSE
16 RENEWED.

17 (4) THE DEPARTMENT MAY REFUSE TO ISSUE A LICENSE IF ANY
18 OF THE FOLLOWING APPLY:

19 (I) THERE WAS A CLASS I VIOLATION BY THE APPLICANT.

20 (II) THERE WERE MULTIPLE SERIOUS CLASS II VIOLATIONS
21 BY THE APPLICANT.

22 (5) AN ASSISTED LIVING RESIDENCE WITH UNCORRECTED MINOR
23 CLASS II OR CLASS III VIOLATIONS SHALL NOT BE ISSUED A
24 LICENSE BUT SHALL BE ISSUED A PROVISIONAL LICENSE IF THE
25 DEPARTMENT APPROVES ITS PLAN OF CORRECTION. AN ASSISTED
26 LIVING RESIDENCE WITH A PROVISIONAL LICENSE MUST CORRECT
27 VIOLATIONS PRIOR TO THE EXPIRATION OF THE PROVISIONAL LICENSE
28 PERIOD. IF THE ASSISTED LIVING RESIDENCE DOES NOT CORRECT THE
29 VIOLATIONS PRIOR TO THE EXPIRATION OF ITS LICENSURE PERIOD,
30 IT SHALL NOT BE ELIGIBLE FOR LICENSE RENEWAL.

1 (6) THE DEPARTMENT MAY NOT ISSUE A SECOND OR SUBSEQUENT
2 PROVISIONAL LICENSE TO AN ASSISTED LIVING RESIDENCE IF A
3 VIOLATION WHICH RESULTED IN PREVIOUS PROVISIONAL LICENSURE
4 HAS NOT BEEN CORRECTED OR IF THE SAME VIOLATION HAS BEEN
5 REPEATED. EXCEPT AS SET FORTH IN PARAGRAPH (7), THE
6 DEPARTMENT MAY ISSUE A SECOND OR SUBSEQUENT PROVISIONAL
7 LICENSE IF A DIFFERENT CLASS III VIOLATION HAS BEEN FOUND.

8 (7) IF AN ASSISTED LIVING RESIDENCE WHICH HAS HAD FOUR
9 CONSECUTIVE PROVISIONAL LICENSES IS NOT IN FULL COMPLIANCE
10 PRIOR TO THE BEGINNING OF THE NEXT LICENSING PERIOD, NO
11 LICENSE MAY BE ISSUED.

12 (E) COMPLIANCE DURING APPEAL PERIOD.--THE DEPARTMENT SHALL
13 NOT ISSUE A LICENSE TO AN ASSISTED LIVING RESIDENCE IF IT COMES
14 INTO COMPLIANCE WITH LICENSING REQUIREMENTS DURING AN APPEAL OF
15 A CEASE AND DESIST ORDER.

16 (F) PROCEDURE.--THIS SECTION IS SUBJECT TO 2 PA.C.S. CH 5
17 SUBCH. A (RELATING TO PRACTICE AND PROCEDURE OF COMMONWEALTH
18 AGENCIES).

19 SECTION 7. INSPECTION PROCESS.

20 (A) INSPECTIONS.--

21 (1) AFTER INITIAL LICENSURE INSPECTION, SURVEY STAFF
22 SHALL, AT LEAST 45 DAYS PRIOR TO EXPIRATION OF THE LICENSE,
23 CONDUCT AN ONSITE UNANNOUNCED LICENSURE INSPECTION.
24 ADDITIONAL INSPECTIONS MAY BE CONDUCTED.

25 (2) THE DEPARTMENT SHALL DEVELOP AN ABBREVIATED
26 INSPECTION PROCESS FOR ASSISTED LIVING RESIDENCES WHICH HAVE
27 HAD NO VIOLATIONS DURING THREE UNANNOUNCED CONSECUTIVE
28 INSPECTIONS. AN ABBREVIATED INSPECTION PROCESS SHALL CONTINUE
29 FOR AN ASSISTED LIVING RESIDENCE AS LONG AS NO VIOLATIONS ARE
30 CITED.

1 (3) DURING LICENSING INSPECTIONS, THE DEPARTMENT SHALL
2 CONSIDER ISSUES WHICH HAVE BEEN THE SUBJECT OF COMPLAINTS IN
3 AN ASSISTED LIVING RESIDENCE.

4 (B) INSPECTORS.--

5 (1) AN INSPECTOR OF THE DEPARTMENT HAS THE RIGHT TO
6 ENTER AND INSPECT AN ASSISTED LIVING RESIDENCE. THE INSPECTOR
7 SHALL HAVE ACCESS TO THE RECORDS OF THE ASSISTED LIVING
8 RESIDENCE AND OF THE RESIDENTS. THE INSPECTOR SHALL HAVE THE
9 OPPORTUNITY TO INTERVIEW RESIDENTS.

10 (2) THE DEPARTMENT SHALL ESTABLISH AND MAKE PUBLIC
11 SPECIFIC, OBJECTIVE GUIDELINES FOR INSPECTORS TO EMPLOY IN
12 THE INSPECTION OF ASSISTED LIVING RESIDENCES.

13 (3) INSPECTORS SHALL BE TRAINED IN THE INTENTION AND
14 INTERPRETATION OF INSPECTION GUIDELINES, INCLUDING CARE AND
15 SERVICES PROVIDED TO ENSURE CONSISTENT APPLICATION OF LEGAL
16 REQUIREMENTS.

17 (4) THE DEPARTMENT SHALL ENSURE ADEQUATE, TRAINED STAFF
18 AND PROVIDE ANNUAL CONTINUING EDUCATION COURSES TO INSPECTION
19 STAFF. STAKEHOLDERS DETERMINED BY THE DEPARTMENT SHALL HAVE
20 INPUT INTO THE CONTINUING EDUCATION CURRICULUM FOR
21 INSPECTORS.

22 (C) INSPECTION SURVEY.--

23 (1) THE DEPARTMENT SHALL DEVELOP A UNIFORM SURVEY TO BE
24 USED BY INSPECTORS IN THE INSPECTION PROCESS.

25 (2) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS
26 SECTION, THE DEPARTMENT SHALL DEVELOP A TIME LINE AND WORK
27 PLAN, COMPATIBLE WITH THE OBJECTIVE GUIDELINES FOR LICENSURE,
28 TO DEVELOP QUALITY INDICATORS OF CARE AND RESIDENT
29 SATISFACTION SURVEYS, WHICH WILL BE USED AS PART OF THE
30 ANNUAL INSPECTION PROCESS AND TO DEVELOP BEST PRACTICES. THE

1 QUALITY INDICATORS OF CARE AND RESIDENT SATISFACTION SURVEYS
2 SHALL BE DEVELOPED IN CONSULTATION WITH STAKEHOLDERS
3 DETERMINED BY THE DEPARTMENT, AND SHALL BE IN PLACE WITHIN 24
4 MONTHS OF THE EFFECTIVE DATE OF THIS SECTION.

5 (D) PROVIDER FEEDBACK.--THE DEPARTMENT SHALL DEVELOP A
6 PROVIDER SURVEY TO OBTAIN PROVIDER FEEDBACK ON THE INSPECTION
7 PROCESS. THE SURVEY SHALL BE SENT IN THE PREINSPECTION
8 SUBMISSION INFORMATION TO BE RETURNED TO THE DEPARTMENT BY THE
9 PROVIDER AFTER THE ONSITE INSPECTION. THE SECRETARY SHALL
10 DESIGNATE AN ENTITY NOT DIRECTLY INVOLVED IN THE REGULATION OF
11 ASSISTED LIVING RESIDENCES TO RECEIVE AND EVALUATE THE SURVEYS.
12 THE DESIGNATED ENTITY SHALL PROVIDED INFORMATION TO THE
13 INSPECTION STAFF IN A MANNER WHICH ASSURES THE CONFIDENTIALITY
14 OF THE PROVIDERS SUBMITTING FEEDBACK.

15 SECTION 8. COMPLAINTS.

16 (A) PROCEDURE.--

17 (1) THE DEPARTMENT SHALL ESTABLISH A STANDARD PROCEDURE
18 FOR CONDUCTING A PROMPT ONSITE INVESTIGATION FOLLOWING THE
19 REPORT OF A VIOLATION OF THE COMPLAINT. THIS PARAGRAPH
20 INCLUDES ANALYSIS OF COMPLIANCE WITH RELATED LICENSURE AT AN
21 ASSISTED LIVING RESIDENCE.

22 (2) THE DEPARTMENT SHALL ESTABLISH STANDARD PROTOCOLS,
23 INCLUDING STANDARD FORMS, ARTICULATING WHAT STEPS A COMPLAINT
24 INVESTIGATION SHALL INCLUDE, HOW IT IS TO PROCEED AND AT WHAT
25 POINT IT WILL BE DEEMED COMPLETE. THE PROTOCOLS SHALL SPECIFY
26 THE TYPES OF INDIVIDUALS WHO MUST BE INTERVIEWED IN THE
27 INVESTIGATION AND INCLUDE THE REQUIREMENT THAT ALL
28 INDIVIDUALS WITH INFORMATION PERTINENT TO THE COMPLAINT SHALL
29 BE INTERVIEWED, INCLUDING OTHER RESIDENTS, FAMILY MEMBERS AND
30 PHYSICIANS.

1 (3) INTERVIEWS SHALL BE CONDUCTED CONFIDENTIALLY. IF A
2 VIOLATION OF A RESIDENT'S RIGHTS IS ALLEGED, CONFIDENTIAL
3 INTERVIEWS SHALL BE CONDUCTED WITH OTHER RESIDENTS IN ORDER
4 TO DETERMINE WHETHER THE ALLEGED VIOLATIONS ARE OCCURRING.

5 (B) TIME FRAMES.--

6 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), THE FOLLOWING
7 APPLY:

8 (I) THE DEPARTMENT SHALL INVESTIGATE A COMPLAINT
9 WITHIN 48 HOURS OF RECEIPT OF THE COMPLAINT.

10 (II) IF THE DEPARTMENT DETERMINES IT NECESSARY, AN
11 UNANNOUNCED INSPECTION SHALL BE CONDUCTED.

12 (2) IF A COMPLAINT ALLEGES AN IMMEDIATE SERIOUS RISK TO
13 THE HEALTH OR SAFETY OF A RESIDENT, THE DEPARTMENT SHALL
14 CONDUCT AN ONSITE UNANNOUNCED INSPECTION OF THE PROVIDER
15 WITHIN 24 HOURS OF RECEIPT OF THE COMPLAINT.

16 (C) SCOPE.--COMPLAINT INVESTIGATIONS SHALL FOCUS ON THE
17 INDIVIDUAL CIRCUMSTANCES OF THE COMPLAINANT AND ON WHETHER A
18 SYSTEMIC PROBLEM EXISTS WHICH THREATENS HARM TO ADDITIONAL
19 RESIDENTS. IF A SYSTEMIC PROBLEM EXISTS, THE PROBLEM SHALL BE
20 CONSIDERED AN IMMEDIATE OR POTENTIAL THREAT TO RESIDENTS
21 REGARDLESS OF WHETHER THE COMPLAINANT IS PRESENTLY RESIDING AT
22 THE ASSISTED LIVING RESIDENCE.

23 (D) ONSITE VISITS.--ONSITE VISITS FOR COMPLAINT
24 INVESTIGATIONS SHALL BE UNANNOUNCED EXCEPT IF IMMEDIATE
25 TELEPHONE CONTACT WITH THE PROVIDER IS NECESSARY TO AVERT AN
26 IMMINENT RISK TO THE RESIDENT.

27 (E) FOLLOW-UP.--

28 (1) AFTER INVESTIGATION OF A SUBSTANTIATED COMPLAINT,
29 THE DEPARTMENT SHALL PROMPTLY FOLLOW UP WITH THE RESIDENT OR,
30 IF APPROPRIATE, THE RESIDENT'S REPRESENTATIVE TO VERIFY THAT

1 THE CONDITIONS COMPLAINED OF HAVE BEEN CORRECTED.

2 (2) THE DEPARTMENT SHALL NOTIFY THE COMPLAINANT IN
3 WRITING OF ALL OF THE FOLLOWING:

4 (I) THE FINDINGS OF THE INVESTIGATION.

5 (II) WHETHER THE COMPLAINT WAS FOUNDED.

6 (III) RESULTING ACTIONS.

7 (F) COMPLAINT TRACKING SYSTEM.--THE DEPARTMENT SHALL UTILIZE
8 A DATABASE TO TRACK COMPLAINTS REGARDING FACILITIES MORE
9 EFFECTIVELY AND MAKE THE COMPLAINT TRACKING SYSTEM AVAILABLE TO
10 LICENSING STAFF. COMPLAINT RECORDS SHALL DOCUMENT, IN A
11 RETRIEVABLE FORM, THE NATURE OF EACH COMPLAINT, WHETHER IT WAS
12 SUBSTANTIATED, ACTIONS AND FOLLOW-UP MONITORING PERFORMED BY THE
13 DEPARTMENT AND ISSUES TO BE MONITORED AT THE NEXT INSPECTION.

14 SECTION 9. VIOLATIONS.

15 (A) CLASSIFICATION.--WITHIN SIX MONTHS OF THE EFFECTIVE DATE
16 OF THIS SECTION, THE DEPARTMENT SHALL CLASSIFY EACH VIOLATION OF
17 THE REGULATIONS INTO ONE OF THE FOLLOWING CATEGORIES:

18 (1) CLASS I.A VIOLATION, INCLUDING FAILURE TO PROVIDE OR
19 NEGLIGENTLY PROVIDING SERVICES IN THE SERVICE PLAN, WHICH
20 INDICATES A SUBSTANTIAL PROBABILITY THAT DEATH OR SERIOUS
21 MENTAL OR PHYSICAL HARM TO A RESIDENT MAY OR DID RESULT.

22 (2) CLASS II.A VIOLATION, INCLUDING FAILURE TO PROVIDE
23 OR NEGLIGENTLY PROVIDING SERVICES IN THE SERVICE PLAN, WHICH
24 HAS A PROBABLE OR ACTUAL SUBSTANTIAL ADVERSE EFFECT UPON THE
25 HEALTH, SAFETY OR WELFARE OF A RESIDENT.

26 (3) CLASS III.A VIOLATION, WHICH HAS AN ADVERSE EFFECT
27 UPON THE HEALTH, SAFETY OR WELFARE OF A RESIDENT.

28 (B) NOTIFICATION OF VIOLATION.--IF THE DEPARTMENT, UPON
29 INSPECTION OR INVESTIGATION, LEARNS OF A VIOLATION OF THIS ACT
30 OR OF REGULATIONS PURSUANT TO THIS ACT, THE DEPARTMENT SHALL

1 GIVE WRITTEN NOTICE OF THE VIOLATION TO THE ASSISTED LIVING
2 RESIDENCE ADMINISTRATOR OR DESIGNEE. UNLESS ONE OF THE
3 CONDITIONS IN SUBSECTION (A)(1) IS PRESENT, THE NOTICE SHALL
4 REQUIRE THE ASSISTED LIVING RESIDENCE TO COMPLY WITH THIS ACT OR
5 WITH THE RELEVANT REGULATION WITHIN A SPECIFIED TIME.

6 SECTION 10. PLANS OF CORRECTION.

7 (A) REQUIREMENT.--

8 (1) THE DEPARTMENT SHALL PROMULGATE REGULATIONS
9 DETAILING REQUIREMENTS FOR AN ASSISTED LIVING RESIDENCE PLAN
10 OF CORRECTION.

11 (2) THE DEPARTMENT SHALL PROVIDE A REASONABLE
12 OPPORTUNITY FOR AN ASSISTED LIVING RESIDENCE TO DEVELOP,
13 SUBMIT AND RECEIVE APPROVAL OF A PLAN OF CORRECTION DURING AN
14 INSPECTION VISIT DURING WHICH A VIOLATION IS FOUND.

15 (3) A PLAN OF CORRECTION MUST ADDRESS THE UNDERLYING
16 CAUSE OF A VIOLATION AND PROVIDE A DETAILED PLAN FOR THE
17 PROMPT CORRECTION OF EACH VIOLATION.

18 (4) AN INSPECTOR MAY APPROVE A PLAN OF CORRECTION ONSITE
19 IF THE PLANNED CORRECTION COMPORTS WITH CORRECTION MEASURES
20 DEVELOPED BY THE DEPARTMENT FOR CLASS III AND SELECTED CLASS
21 II VIOLATIONS. IF THE CORRECTION MEASURES DO NOT COMPORT WITH
22 THOSE DEVELOPED BY THE DEPARTMENT, THE PLAN MUST BE REVIEWED
23 AND APPROVED BY THE DEPARTMENT.

24 (5) IF A PLAN OF CORRECTION IS NOT APPROVED ONSITE UNDER
25 PARAGRAPH (4) AND IS SUBSEQUENTLY SUBMITTED, THE DEPARTMENT
26 SHALL, WITHIN THREE BUSINESS DAYS OF SUBMITTAL, DETERMINE AND
27 NOTIFY THE ASSISTED LIVING RESIDENCE WHETHER THE PLAN IS
28 ACCEPTABLE.

29 (6) IF A PLAN OF CORRECTION IS APPROVED BY THE
30 DEPARTMENT, THE ASSISTED LIVING RESIDENCE MUST DEMONSTRATE

1 IMPLEMENTATION OF THE PLAN AND PROVIDE CERTIFICATION TO THE
2 DEPARTMENT THAT COMPLIANCE HAS BEEN ACHIEVED. VERIFICATION
3 MUST BE PROVIDED BEFORE EXPIRATION OF THE ASSISTED LIVING
4 RESIDENCE'S LICENSE FOR THE LICENSE TO BE RENEWED AND WITHIN
5 THE TIME FRAMES FOR CORRECTION SET FORTH BY THE DEPARTMENT TO
6 AVOID A CONTINUING VIOLATION FINE. DEMONSTRATION THAT A
7 VIOLATION HAS BEEN CORRECTED MUST BE CONSISTENT WITH THE
8 NATURE AND SERIOUSNESS OF THE VIOLATION, INCLUDING:

9 (I) REVISITATION BY AN INSPECTOR, WHICH SHALL BE
10 REQUIRED FOR ALL CLASS I AND CLASS II VIOLATIONS PRIOR TO
11 EXPIRATION OF THE LICENSE.

12 (II) SUBMISSION OF RECEIPTS OR PHOTOGRAPHS.

13 (III) CERTIFICATION BY THE ADMINISTRATOR.

14 (B) RECURRENCE.--IF A VIOLATION ADDRESSED AND RESOLVED BY A
15 PLAN OF CORRECTION RECURS, THE DEPARTMENT SHALL MAKE ITS
16 REQUIREMENTS FOR FURTHER PLANS OF CORRECTION MORE PRESCRIPTIVE
17 AND STRINGENT TO ENSURE THAT THE VIOLATION DOES NOT RECUR. THE
18 STEPS OUTLINED IN THE FIRST PLAN OF CORRECTION SHALL NOT BE
19 CONSIDERED SUFFICIENT IN A SUBSEQUENT PLAN OF CORRECTION FOR THE
20 SAME VIOLATION.

21 (C) CORRECTIVE MEASURES.--THE DEPARTMENT SHALL DEVELOP
22 UNIFORM ACCEPTABLE CORRECTIVE MEASURES FOR EACH TYPE OF
23 VIOLATION, WHICH FACILITIES MAY SELECT UPON A FIRST VIOLATION
24 AND WHICH FACILITIES MUST FOLLOW ON A SUBSEQUENT VIOLATION.
25 THESE MEASURES SHALL INCLUDE PROTOCOLS FOR CORRECTING THE
26 VIOLATION, THE ANTICIPATED EFFECT ON RESIDENTS AND PERIODS FOR
27 COMPLETION.

28 (D) REVOCATION.--ASSISTED LIVING RESIDENCE FAILURE TO MEET
29 DEADLINES FOR COMPLIANCE WITH PLANS OF CORRECTION SHALL RESULT
30 IN REVOCATION OF LICENSURE STATUS. IF COMPLIANCE WITH A PLAN OF

1 CORRECTION IS NOT WITHIN THE DIRECT CONTROL OF AN ASSISTED
2 LIVING RESIDENCE, PROOF OF ACCEPTABLE EFFORTS TO COMPLY SHALL BE
3 TREATED AS COMPLIANCE. IF AT THE NEXT INSPECTION THE VIOLATION
4 REMAINS UNCORRECTED, ADDITIONAL COMPLIANCE EFFORTS SHALL BE
5 REQUIRED OF THE ASSISTED LIVING RESIDENCE.

6 (E) FOLLOW-UP.--THE DEPARTMENT SHALL CONDUCT PROMPT FOLLOW-
7 UP VISITS AFTER VIOLATIONS HAVE BEEN VERIFIED AND PLANS OF
8 CORRECTIONS APPROVED.

9 SECTION 11. QUALITY MANAGEMENT PROGRAM.

10 (A) DEVELOPMENT.--THE DEPARTMENT SHALL DEVELOP A QUALITY
11 MANAGEMENT PROGRAM TO ASSIST PROVIDERS TO DO ALL OF THE
12 FOLLOWING:

- 13 (1) IDENTIFY BEST PRACTICES.
- 14 (2) IMPROVE QUALITY.
- 15 (3) PROVIDE TECHNICAL ASSISTANCE.
- 16 (4) MANAGE RISK.

17 (B) TRAINING.--DEPARTMENT EMPLOYEES RESPONSIBLE FOR QUALITY
18 MANAGEMENT SHALL RECEIVE TRAINING AS INSPECTORS BUT SHALL NOT BE
19 RESPONSIBLE FOR THE LICENSURE OR INSPECTION UNDER THIS ACT.

20 SECTION 12. PENALTIES.

21 (A) CRIMINAL.--

22 (1) A PERSON THAT OPERATES AN ASSISTED LIVING RESIDENCE
23 WITHOUT A LICENSE COMMITS A SUMMARY OFFENSE AND SHALL UPON
24 CONVICTION BE SENTENCED TO PAY A FINE OF \$300. EACH DAY OF
25 VIOLATION CONSTITUTES A SEPARATE OFFENSE. THE DEPARTMENT IS
26 AUTHORIZED TO PROSECUTE VIOLATIONS OF THIS PARAGRAPH.

27 (2) THE PROVISIONS OF 18 PA.C.S. § 2713 (RELATING TO
28 NEGLECT OF CARE-DEPENDENT PERSON) SHALL APPLY TO ASSISTED
29 LIVING RESIDENCES LICENSED UNDER THIS ACT.

30 (B) ADMINISTRATIVE PENALTIES.--

1 (1) THE DEPARTMENT SHALL, IN CONSULTATION WITH
2 STAKEHOLDERS, ANNUALLY DEVELOP AND PUBLISH A FINE SCHEDULE
3 WHICH PROVIDES FOR A FINE TO BE LEVIED FOR A VIOLATION OF
4 THIS ACT OR A REGULATION PROMULGATED UNDER THIS ACT.

5 (2) EXCEPT AS SET FORTH IN PARAGRAPH (3), A FINE SHALL
6 BE IMPOSED IF A VIOLATION OF A REGULATORY REQUIREMENT IS
7 FOUND AND FOR EACH DAY THAT A CITED VIOLATION REMAINS
8 UNCORRECTED, AS FOLLOWS:

9 (I) THE DEPARTMENT SHALL IMPOSE A FINE ON AN
10 ASSISTED LIVING RESIDENCE FOR FAILURE TO COMPLY WITH A
11 PLAN OF CORRECTION OR FOR FALSE DOCUMENTATION OF
12 COMPLIANCE WITH A PLAN OF CORRECTION.

13 (II) THE FINE FOR EACH DAY A CITED VIOLATION REMAINS
14 UNCORRECTED SHALL ACCUMULATE UNTIL THE ASSISTED LIVING
15 RESIDENCE SATISFACTORILY DEMONSTRATES TO THE DEPARTMENT
16 THAT THE VIOLATION HAS BEEN CORRECTED.

17 (III) THE DEPARTMENT SHALL ESTABLISH ADMINISTRATIVE
18 FINES THAT RELATE TO THE SEVERITY OF THE VIOLATION.

19 (3) A FINE SHALL NOT BE IMPOSED FOR A MINOR VIOLATION
20 WHICH DOES NOT HAVE AN ADVERSE EFFECT ON THE HEALTH, SAFETY
21 OR WELFARE OF A RESIDENT.

22 (4) THIS SUBSECTION IS SUBJECT TO 2 PA.C.S. CH. 5 SUBCH.
23 A (RELATING TO PRACTICE AND PROCEDURE OF COMMONWEALTH
24 AGENCIES).

25 (5) NOTWITHSTANDING 42 PA.C.S. § 3733 (RELATING TO
26 DEPOSITS INTO ACCOUNT):

27 (I) MONEY COLLECTED BY THE DEPARTMENT UNDER THIS
28 SUBSECTION SHALL BE FIRST USED TO DEFRAID THE EXPENSES
29 INCURRED BY RESIDENTS RELOCATED UNDER THIS ACT; AND

30 (II) MONEY REMAINING SHALL BE USED BY THE DEPARTMENT

1 FOR ENFORCING THE PROVISIONS OF THIS ACT.

2 (C) REVOCATION OR NONRENEWAL OF LICENSE.--

3 (1) THE DEPARTMENT SHALL REFUSE TO ISSUE A LICENSE OR
4 SHALL REVOKE A LICENSE FOR ANY OF THE FOLLOWING:

5 (I) A CLASS I VIOLATION OR REPEATED CLASS II
6 VIOLATIONS.

7 (II) FRAUD OR DECEIT IN OBTAINING OR ATTEMPTING TO
8 OBTAIN A LICENSE.

9 (III) LENDING, BORROWING OR USING THE LICENSE OF
10 ANOTHER, OR IN ANY WAY KNOWINGLY AIDING OR ABETTING THE
11 IMPROPER GRANTING OF A LICENSE.

12 (IV) NEGLIGENCE OR MISCONDUCT IN OPERATING THE
13 ASSISTED LIVING RESIDENCE.

14 (V) MISTREATING OR ABUSING INDIVIDUALS CARED FOR IN
15 THE ASSISTED LIVING RESIDENCE.

16 (2) THE PROVIDER SHALL, WITHIN THREE BUSINESS DAYS OF
17 RECEIPT OF A DEPARTMENTAL NOTICE, NOTIFY RESIDENTS OF
18 DEPARTMENT REVOCATION AND NONRENEWAL ACTIONS.

19 (3) A LICENSURE REVOCATION NOTICE SHALL INCLUDE A BAN ON
20 NEW ADMISSIONS.

21 SECTION 13. TRANSFER OF LICENSE.

22 (A) GENERAL RULE.--THERE SHALL BE NO TRANSFER OF LICENSE
23 UNLESS APPROVED BY THE DEPARTMENT. THE DEPARTMENT MAY DENY
24 TRANSFERS TO FRIENDS, RELATIVES OR BUSINESS ASSOCIATES IF IT
25 APPEARS THAT THE PURPOSE OF TRANSFER IS TO AVOID LICENSURE
26 ACTION OR THAT THE PREVIOUS OWNER WILL CONTINUE TO HAVE
27 INVOLVEMENT IN THE RESIDENCE OR BUSINESS.

28 (B) TRANSFER DURING DISCIPLINARY ACTION.--IF AN OWNER OF AN
29 ASSISTED LIVING RESIDENCE WITH AN APPEAL PENDING SELLS THE
30 ASSISTED LIVING RESIDENCE TO AVOID CLOSURE, THE RESIDENTS OF THE

1 ASSISTED LIVING RESIDENCE SHALL BE RELOCATED; AND THE NEW ENTITY
2 SHALL REAPPLY AND MEET ALL LICENSURE REQUIREMENTS BEFORE
3 REOPENING.

4 SECTION 14. RELOCATION, RELOCATION ASSISTANCE AND TRANSFER.

5 (A) RELOCATION DUE TO VIOLATION.--

6 (1) A RESIDENT HAS THE RIGHT TO RELOCATE AND RECEIVE
7 RELOCATION ASSISTANCE FROM THE DEPARTMENT AND OTHER
8 COOPERATING COMMONWEALTH AGENCIES IF ANY OF THE FOLLOWING
9 APPLY:

10 (I) AN ASSISTED LIVING RESIDENCE IS CITED FOR A
11 CLASS I VIOLATION.

12 (II) AN ACTION IS INITIATED TO REDUCE THE LICENSURE
13 STATUS OF THE ASSISTED LIVING RESIDENCE TO PROVISIONAL
14 STATUS.

15 (2) IN THE EVENT OF A LICENSURE REVOCATION, LICENSURE
16 DENIAL OR NONRENEWAL OR VOLUNTARY PROVIDER CLOSURE, RESIDENTS
17 HAVE THE RIGHT TO BE RELOCATED BY THE DEPARTMENT AND OTHER
18 COOPERATING COMMONWEALTH AGENCIES; AND THE DEPARTMENT HAS THE
19 OBLIGATION TO RELOCATE THESE RESIDENTS.

20 (3) THE RIGHTS PROVIDED UNDER PARAGRAPHS (1) AND (2)
21 SHALL INURE TO THE RESIDENT AND MAY NOT BE STAYED BY AN
22 APPEAL.

23 (4) A RESIDENT RELOCATED BY THE DEPARTMENT MAY NOT BE
24 PLACED INTO A FACILITY WHICH IS NOT LICENSED OR WHICH HAS A
25 PROVISIONAL LICENSE.

26 (B) RELOCATION DUE TO CERTAIN CONDITIONS.-- THE DEPARTMENT
27 SHALL PROMPTLY RELOCATE RESIDENTS FROM AN ASSISTED LIVING
28 RESIDENCE IF ANY OF THE FOLLOWING CONDITIONS EXIST:

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

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

4 (3) THE ASSISTED LIVING RESIDENCE HAS ENGAGED IN CONDUCT
5 WHICH ENDANGERS THE HEALTH AND SAFETY OF ITS RESIDENTS,
6 LEADING A REASONABLE RESIDENT TO BE CONCERNED FOR HIS SAFETY.

7 (C) RELOCATION ASSISTANCE.--

8 (1) THE DEPARTMENT SHALL OFFER RELOCATION ASSISTANCE TO
9 RESIDENTS OF ASSISTED LIVING RESIDENCES. THIS ASSISTANCE
10 SHALL INCLUDE:

11 (I) PROVIDING RESIDENTS WITH PERTINENT INFORMATION,
12 SUCH AS REFERRALS TO NEARBY SOCIAL SERVICE AGENCIES OR
13 ASSISTED LIVING RESIDENCES IN COMPLETE COMPLIANCE WITH
14 GOVERNING REGULATIONS.

15 (II) DETERMINING OTHER OPTIONS FOR RELOCATION AND
16 ASSISTING RESIDENTS IN MAKING ARRANGEMENTS FOR RELOCATION
17 IF FAMILY MEMBERS ARE NOT AVAILABLE FOR THIS PURPOSE.

18 (2) EXCEPT IN AN EMERGENCY, THE RESIDENT SHALL BE
19 INVOLVED IN PLANNING TRANSFER TO ANOTHER PLACEMENT AND HAS
20 THE RIGHT TO CHOOSE AMONG THE AVAILABLE ALTERNATIVE
21 PLACEMENTS.

22 (3) THE DEPARTMENT MAY MAKE TEMPORARY PLACEMENT UNTIL
23 FINAL PLACEMENT CAN BE ARRANGED.

24 (4) A RESIDENT SHALL BE PROVIDED WITH AN OPPORTUNITY TO
25 VISIT ALTERNATIVE PLACEMENT BEFORE RELOCATING OR FOLLOWING
26 TEMPORARY EMERGENCY RELOCATION.

27 (5) A RESIDENT SHALL CHOOSE FINAL PLACEMENT AND SHALL BE
28 GIVEN ASSISTANCE IN TRANSFERRING TO SUCH PLACE.

29 (D) BEST INTERESTS.--A RESIDENT SHALL NOT BE RELOCATED
30 PURSUANT TO THIS SECTION IF THE DEPARTMENT DETERMINES IN WRITING

1 AND CONSISTENT WITH THE RESIDENT'S PREFERENCE THAT RELOCATION IS
2 NOT IN THE BEST INTEREST OF THE RESIDENT AND THAT REMAINING IN
3 PLACE IS POSSIBLE.

4 SECTION 15. INFORMAL DISPUTE RESOLUTION.

5 (A) ESTABLISHMENT.--THE DEPARTMENT SHALL ESTABLISH AN
6 INFORMAL DISPUTE RESOLUTION PROCESS WHICH ALLOWS ASSISTED LIVING
7 RESIDENCES TO CONTEST A DETERMINATION BY THE DEPARTMENT OF A
8 VIOLATION OF THIS ACT OR A REGULATION PROMULGATED UNDER THIS
9 ACT. THE DEPARTMENT SHALL ENSURE THAT THE ARBITER RESPONSIBLE
10 FOR REVIEWING AN INFORMAL DISPUTE IS AN EMPLOYEE OF THE
11 DEPARTMENT AND RECEIVES TRAINING AS AN INSPECTOR BUT IS NOT
12 RESPONSIBLE FOR LICENSURE OR INSPECTION UNDER THIS ACT.

13 (B) PROCEDURE.--

14 (1) TO UTILIZE INFORMAL DISPUTE RESOLUTION, AN ASSISTED
15 LIVING RESIDENCE MUST DO ALL OF THE FOLLOWING:

16 (I) MAKE A REQUEST WITHIN TEN DAYS FOLLOWING RECEIPT
17 OF A STATEMENT OF VIOLATION OF THIS ACT OR A REGULATION
18 PROMULGATED UNDER THIS ACT.

19 (II) SUBMIT A TIMELY WRITTEN CERTIFICATION OR PLAN
20 OF CORRECTION UNDER THIS ACT.

21 (III) PAY A REASONABLE FEE SET BY THE DEPARTMENT.

22 (2) AN ASSISTED LIVING RESIDENCE HAS THE OPPORTUNITY TO
23 BE HEARD, INCLUDING PRESENTATION OF WRITTEN INFORMATION, AND
24 THE OPTION OF A FACE-TO-FACE CONFERENCE WITH THE ARBITER
25 PRIOR TO ISSUANCE OF A DECISION REGARDING A DISPUTE.

26 (3) THE DEPARTMENT SHALL RESOLVE A DISPUTE WITHIN 30
27 DAYS OF A REQUEST UNDER PARAGRAPH (1)(I).

28 (C) EFFECT.--IF THE INFORMAL DISPUTE RESOLUTION PROCESS
29 RESOLVES AN ISSUE IN FAVOR OF THE ASSISTED LIVING RESIDENCE, THE
30 DEPARTMENT SHALL AMEND ITS STATEMENT OF VIOLATION WITHIN TEN

1 DAYS FOLLOWING THE RESOLUTION.

2 (D) CONFIDENTIALITY.--

3 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), DURING THE
4 DISPUTE RESOLUTION PROCESS, THE DEPARTMENT SHALL NOT
5 DISSEMINATE INFORMATION CONCERNING INSPECTION RESULTS,
6 INCLUDING A STATEMENT OF VIOLATION OF THIS ACT OR A
7 REGULATION PROMULGATED UNDER THIS ACT.

8 (2) PARAGRAPH (1) DOES NOT APPLY IF ANY OF THE FOLLOWING
9 APPLY:

10 (I) THE DISCLOSURE IS REQUIRED BY LAW.

11 (II) THE DEPARTMENT IS TAKING ACTION UNDER SECTION
12 12(C).

13 SECTION 16. APPEALS.

14 (A) ADMINISTRATIVE AGENCY LAW.--A PROVIDER MAY APPEAL A
15 DEPARTMENTAL DECISION IMPOSING A FINE OR REVOKING OR FAILING TO
16 RENEW A LICENSE IN ACCORDANCE WITH 2 PA.C.S. CH. 7 SUBCH. A
17 (RELATING TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION).

18 (B) ACTION PENDING APPEAL.--IF AN ASSISTED LIVING RESIDENCE
19 APPEALS THE REVOCATION OR NONRENEWAL OF ITS LICENSE, THE
20 DEPARTMENT HAS THE AUTHORITY UNDER SECTION 12(C)(3) TO TAKE
21 ACTIONS AS NECESSARY TO PROTECT THE RESIDENTS AND APPOINT A
22 MASTER.

23 (C) SUPERSEDEAS.--

24 (1) THE APPEAL BY THE ASSISTED LIVING RESIDENCE OF THE
25 REVOCATION OR NONRENEWAL OF ITS LICENSE SHALL NOT ACT AS AN
26 AUTOMATIC SUPERSEDEAS. THE ASSISTED LIVING RESIDENCE MAY
27 REQUEST A SUPERSEDEAS FROM THE SECRETARY OR THE SECRETARY'S
28 DESIGNEE.

29 (2) TO OBTAIN A SUPERSEDEAS, THE ASSISTED LIVING
30 RESIDENCE MUST SHOW:

1 (I) A SUBSTANTIAL LIKELIHOOD OF PREVAILING ON THE
2 MERITS; AND

3 (II) THAT THE RESIDENTS WILL BE SAFE AND RECEIVE
4 ADEQUATE CARE PENDING A DECISION ON THE MERITS.

5 (3) DURING THE TIME THE SUPERSEDEAS IS IN EFFECT, THE
6 DEPARTMENT SHALL INSPECT A RESIDENCE AT LEAST MONTHLY OR MORE
7 FREQUENTLY TO ENSURE RESIDENTS' SAFETY AND WELL-BEING.
8 INSPECTION REPORTS SHALL BE MAINTAINED AS PART OF THE PUBLIC
9 RECORD FOR THE ASSISTED LIVING RESIDENCE.

10 (4) IF A SUPERSEDEAS HAS BEEN GRANTED, A CLASS I OR
11 CLASS II VIOLATION CITED AFTER THE GRANTING OF THE
12 SUPERSEDEAS SHALL LEAD TO A REVOCATION OF THE SUPERSEDEAS.

13 (D) GROUNDS FOR SUSTAINING APPEAL.--A REVIEWING COURT SHALL
14 NOT SUSTAIN AN APPEAL ON THE GROUND THAT AN ASSISTED LIVING
15 RESIDENCE, ALTHOUGH OUT OF COMPLIANCE AT THE TIME IT WAS CITED,
16 IS, AT THE TIME OF THE APPEAL, IN COMPLIANCE UNLESS THE ASSISTED
17 LIVING RESIDENCE CAN SHOW BY A PREPONDERANCE OF THE EVIDENCE
18 THAT ITS PROCEDURES, POLICIES AND STAFF RESOURCES WILL CONTINUE
19 TO ENSURE FULL COMPLIANCE IN THE FUTURE.

20 SECTION 37. REGULATIONS.

21 (A) INITIAL REGULATIONS.--

22 (1) THE DEPARTMENT SHALL PROMULGATE TEMPORARY
23 REGULATIONS WITHIN 180 DAYS OF THE EFFECTIVE DATE OF THIS
24 SECTION TO IMPLEMENT THE PROVISIONS OF THIS ACT. THE
25 DEPARTMENT SHALL SEEK COMMENTS ON DRAFT REGULATIONS FROM
26 INTERESTED PARTIES PRIOR TO PUBLICATION OF THESE TEMPORARY
27 REGULATIONS BUT REGULATIONS IMPLEMENTED PURSUANT TO THIS
28 SUBSECTION SHALL NOT BE SUBJECT TO:

29 (I) THE ACT OF JULY 31, 1968 (P.L.769, NO.240),
30 REFERRED TO AS THE COMMONWEALTH DOCUMENTS LAW;

1 (II) THE ACT OF OCTOBER 15, 1980 (P.L.950, NO.164),
2 KNOWN AS THE COMMONWEALTH ATTORNEYS ACT; OR

3 (III) THE ACT OF JUNE 25, 1982 (P.L.633, NO.181),
4 KNOWN AS THE REGULATORY REVIEW ACT.

5 (2) THE REGULATIONS IMPLEMENTED PURSUANT TO THIS
6 SUBSECTION SHALL BE EFFECTIVE UPON PUBLICATION IN THE
7 PENNSYLVANIA BULLETIN.

8 (3) REGULATIONS PROMULGATED UNDER THIS SUBSECTION SHALL
9 EXPIRE TWO YEARS AFTER THEIR EFFECTIVE DATE.

10 (B) SUBSEQUENT REGULATIONS.--

11 (1) THE DEPARTMENT SHALL PROMULGATE REGULATIONS TO
12 REPLACE THE REGULATIONS PROMULGATED PURSUANT TO SUBSECTION
13 (A) WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS SECTION.
14 REGULATIONS PROMULGATED UNDER THIS SUBSECTION SHALL BE
15 SUBJECT TO:

16 (I) THE COMMONWEALTH DOCUMENTS LAW;

17 (II) THE COMMONWEALTH ATTORNEYS ACT; AND

18 (III) THE REGULATORY REVIEW ACT.

19 (2) NOTICE OF PROPOSED RULEMAKING SHALL NOT BE OMITTED
20 PURSUANT TO SECTION 204 OF THE COMMONWEALTH DOCUMENTS LAW,
21 AND NO FINAL-FORM REGULATION SUBJECT TO THIS SUBSECTION MAY
22 TAKE EFFECT PURSUANT TO EMERGENCY CERTIFICATION BY THE
23 GOVERNOR UNDER SECTION 6(D) OF THE REGULATORY REVIEW ACT.

24 SECTION 38. REPEAL.

25 ALL ACTS AND PARTS OF ACTS ARE REPEALED INsofar AS THEY ARE
26 INCONSISTENT WITH THIS ACT.

27 SECTION 39. EFFECTIVE DATE.

28 THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

29 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
30 IMMEDIATELY:

1 (I) SECTION 37.

2 (II) THIS SECTION.

3 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 180

4 DAYS.