
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 567 Session of
2003

INTRODUCED BY SCHWARTZ, MELLOW, O'PAKE, A. WILLIAMS, KASUNIC,
TARTAGLIONE, STOUT, LAVALLE, COSTA, MUSTO AND WOZNIAK,
APRIL 4, 2003

REFERRED TO PUBLIC HEALTH AND WELFARE, APRIL 4, 2003

AN ACT

1 Regulating personal care homes; providing for powers and duties
2 of the Department of Public Welfare; and making a repeal.

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18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:
20 CHAPTER 1
21 PRELIMINARY PROVISIONS
22 Section 101. Short title.
23 This act shall be known and may be cited as the Personal Care
24 Home Reform Act.
25 Section 102. Declaration of policy.
26 The General Assembly finds and declares as follows:
27 (1) Personal care homes have quickly gained popularity
28 in this Commonwealth as alternatives to skilled nursing
29 facilities. They provide older and disabled adults who do not
30 require constant skilled care with a more homelike and

1 independent living environment. However, Pennsylvania's laws
2 and regulations have not kept pace with the growing demand
3 and usage.

4 (2) In recent years, the care needs of persons residing
5 in personal care homes has markedly increased. Currently
6 there are more than 1,750 personal care homes housing more
7 than 76,000 older adults and persons with disabilities. More
8 than 20% of the residents are low-income individuals with
9 disabilities. At least 25% have mental health problems and a
10 growing number of residents have been diagnosed with
11 Alzheimer's disease or other related dementias. While these
12 residents do not require nursing home care, they do need
13 additional supervision and enhanced personal care services.

14 (3) Standards for care in personal care homes are
15 woefully inadequate to ensure the health, safety and welfare
16 of residents. Licensing provisions and enforcement of
17 standards have fallen short of the level of accountability
18 needed to ensure safety and quality of life for some of our
19 most vulnerable citizens.

20 (4) It is the intent of this act to markedly improve
21 licensure and enforcement procedures, increase appropriate
22 staff training, streamline the complaint reporting system,
23 improve the department's administrative and technological
24 resources, enhance resident rights and consumer protections,
25 augment disclosure of compliance and regulatory information
26 to the public and generally improve personal care home
27 oversight to ensure the health and safety and quality of life
28 for personal care home residents.

29 Section 103. 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 "Administrator." A personal care home administrator.

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

6 "Facility." A personal care home.

7 "Full compliance." Having no Class I, Class II or Class III
8 violation.

9 "Noncompliance." Having a Class I or Class II violation.

10 "Ombudsman." The ombudsman of the local area agency on
11 aging.

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

21 "Public Welfare Code." The act of June 13, 1967 (P.L.31,
22 No.21), known as the Public Welfare Code.

23 "Secretary." The Secretary of Public Welfare of the
24 Commonwealth.

25 "Substantial compliance." Having a Class III violation, but
26 no Class I or Class II violation.

27 CHAPTER 3

28 LICENSURE

29 Section 301. Facility licensure.

30 Facilities must be in full compliance with the requirements

1 of this act in order to receive and maintain a full license.

2 Section 302. Application review.

3 The department shall take into consideration the licensure
4 and regulatory compliance history of entities making application
5 to license additional facilities, including a review of whether
6 past violations have been and continue to be corrected.

7 Section 303. Inspections.

8 (a) General rule.--Facility compliance inspections conducted
9 by the department shall be unannounced and performed annually on
10 varying dates so as not to be predictable.

11 (b) Exceptions.--

12 (1) If a facility has been found by the department to be
13 in full compliance with all regulations for three consecutive
14 years, the department may conduct an abbreviated inspection.

15 (2) If a facility has been found by the department to
16 consistently fail to be in full compliance, the department
17 shall conduct an inspection of that facility more often than
18 annually.

19 Section 304. Review and approval of facility licenses.

20 The department shall promulgate regulations to adopt the
21 following procedures in reviewing and approving a facility
22 license:

23 (1) Facilities seeking to renew an existing facility
24 license shall be required to apply no less than two months
25 prior to the expiration of the current license.

26 (2) An unannounced inspection visit shall be conducted
27 upon receipt of application for licensure from a facility.

28 (3) A facility in full compliance shall be issued a full
29 license.

30 (4) A facility in substantial compliance and which has

1 had an acceptable plan of correction approved shall be issued
2 a provisional license. If the facility demonstrates prior to
3 the expiration of its current license that violations have
4 been corrected a full license shall be issued to the
5 facility.

6 (5) A facility in noncompliance shall not be issued a
7 license unless the facility submits an acceptable plan of
8 correction and provides verification that violations have
9 been corrected prior to the end of the licensure period.

10 Section 305. New licenses.

11 The department shall issue a license to newly opened
12 facilities, which are found by the department to be in full
13 compliance with all applicable regulations and requirements,
14 with a notation for a six-month period stating that the license
15 is new. The department shall reinspect newly opened facilities
16 within three months of the date of license issuance to check for
17 compliance with requirements that become effective once a
18 facility is in operation and has admitted residents. Facilities
19 shall not be deemed to possess a provisional license for reason
20 of being a new facility. A new facility must be in full
21 compliance at the end of the first six months of operation in
22 order to receive a full license.

23 Section 306. Provisional licenses.

24 (a) Limitation on issuance.--The department may not issue a
25 second or subsequent provisional license to a facility if a
26 violation, which resulted in previous provisional licensure, has
27 not been corrected or if the same violation has been repeated.
28 The department may issue a subsequent provisional license if a
29 different Class III violation occurred.

30 (b) Multiple provisional licenses.--If a facility, which has

1 had four consecutive provisional licenses, is not in full
2 compliance prior to the beginning of the next licensing period,
3 no license may be issued.

4 Section 307. Relocation of residents when license revoked or
5 denied.

6 (a) Emergency order.--When the department denies or revokes
7 the license of a facility, it shall issue an emergency order to
8 relocate residents while any appeal proceeds.

9 (b) Relocation facility.--When residents are relocated by
10 the department, they may not be placed into facilities with less
11 than full licensure status.

12 Section 308. Certain license transfers.

13 An applicant for a license is not a "responsible person" for
14 purposes of section 1007 of the Public Welfare Code where it
15 appears that the purpose of the change in license holder is to
16 avoid licensing action or if it appears that the former owner
17 will continue to have involvement in the facility.

18 Section 309. Liability insurance.

19 The department shall require that facilities carry a
20 specified minimum amount of liability insurance.

21 Section 310. Fiscal capabilities.

22 The department shall develop a process and criteria to review
23 and approve fiscal capabilities of facilities before licensure.

24 Section 311. Enforcement report.

25 The department shall issue an annual enforcement report,
26 summarizing enforcement activities for the past year, including
27 the ratio of enforcement actions per facility in each region of
28 this Commonwealth.

29 Section 312. Public availability of information.

30 The department shall develop and make available on its World

1 Wide Web site, annual prelicensing surveys and all records
2 pertaining to licensure violations.

3 CHAPTER 5

4 VIOLATIONS AND ENFORCEMENT

5 Section 501. Action against unlicensed facilities.

6 (a) Fine.--The department shall fine operators of unlicensed
7 facilities \$300 per day and seek convictions pursuant to section
8 1031 of the Public Welfare Code. A new provisional license may
9 not be issued until the facility pays fines due and meets
10 conditions of licensure in full.

11 (b) Notification.--The department shall notify the local
12 provider of protective services of all residents residing in an
13 unlicensed facility.

14 Section 502. Classification of violations.

15 (a) Enforcement.--The department shall ensure that the
16 statutory classification system for violations set forth in
17 section 1085 of the Public Welfare Code is implemented whenever
18 applicable. Fines shall be imposed as required by section 1086
19 of the Public Welfare Code whenever applicable.

20 (b) Review of classification system.--

21 (1) The department shall conduct a review of the
22 existing classification system for violations, in conjunction
23 with the department's personal care home advisory committee,
24 to develop a classification system that will facilitate more
25 effective enforcement actions.

26 (2) The department shall review and revise, in
27 conjunction with local area agencies on aging and other
28 interested parties, the current guidelines for classifying
29 violations in the department's procedural manual for
30 licensing staff and department staff. The revised guidelines

1 for classifying violations shall take into account factors
2 including, but not limited to, the number and frequency of
3 violations and the circumstances surrounding and consequences
4 of violations.

5 (c) Certain Class I violations.--A violation which has
6 caused or has a substantial probability of causing death or
7 serious mental or physical harm to any resident constitutes a
8 Class I violation. The term "serious mental harm" shall include
9 the harm resulting from abandonment or financial exploitation.

10 Section 503. Resident notification of violations.

11 The department shall develop and implement procedures
12 necessary to enforce compliance with section 1057.3(a)(4) of the
13 Public Welfare Code, to ensure that each resident is provided
14 with notice of any Class I or Class II violations that remain
15 uncorrected after five days.

16 Section 504. Complaint reporting.

17 (a) General rule.--The department shall include in its
18 regulations protective services reporting requirements,
19 including a requirement that the facility report any unusual
20 incident to:

21 (1) The resident's family members.

22 (2) The legal representative of the resident.

23 (3) The ombudsman.

24 (4) The department.

25 (b) Resident deaths.--The facility shall report all facility
26 resident deaths to the department on a standardized form
27 prescribed by the department.

28 Section 505. Investigation.

29 (a) Onsite investigation.--The department shall establish
30 standard procedures for conducting prompt onsite investigations

1 following the report of a violation at a facility. Procedures
2 shall include:

3 (1) Assessing whether a complaint involves an immediate,
4 potential or no threat to resident health and safety,
5 assuming all facts of the complaint are accurate, in
6 accordance with the department's procedure manual for
7 licensing staff.

8 (2) Analysis of facility compliance with licensure
9 requirements beyond specific record review.

10 (b) Protocols.--The department shall establish standard
11 protocols, including standard forms, articulating what steps a
12 complaint investigation shall include, how it is to proceed and
13 at what point it will be deemed complete. The protocols shall
14 specify the types of individuals who must be interviewed in the
15 investigation and include the requirement that all persons with
16 information pertinent to the complaint shall be interviewed,
17 including, but not limited to, other residents, family members
18 and physicians. Interviews shall be conducted confidentially.
19 Where resident's rights violations are alleged, confidential
20 interviews shall be conducted with other residents in order to
21 determine whether the alleged violations are occurring.

22 (c) Scope.--Complaint investigations shall focus on the
23 individual circumstances of the complainant and on whether a
24 systemic problem exists which threatens harm to additional
25 residents. If a systemic problem exists, the problem shall be
26 considered an immediate or potential threat to residents
27 regardless of whether the complainant is presently residing at
28 the facility.

29 (d) Method.--The department shall develop criteria for
30 circumstances in which a complaint investigation may be

1 performed by telephone and those in which there should be an
2 onsite visit.

3 (e) Onsite visits.--Onsite visits for complaint
4 investigations shall be unannounced except where immediate
5 telephone contact with the provider is necessary to avert an
6 imminent risk to residents.

7 (f) Follow up.--

8 (1) After a complaint investigation, the department
9 shall promptly follow up with the appropriate party,
10 depending on the circumstances of the complaint, to verify
11 that the conditions complained of have been corrected.

12 (2) The department shall establish standard procedures
13 for responding to a complaint regarding the outcome of the
14 complaint and shall notify the complainant in writing of its
15 investigation findings, whether the complaint was founded and
16 any resulting actions to take place.

17 (g) Licensing inspections.--During licensing inspections,
18 the department shall consider issues that have been the subject
19 of complaints in a facility.

20 Section 506. Tracking system.

21 The department shall utilize a database to track complaints
22 regarding facilities more effectively and make available the
23 Pennsylvania Automated Complaint Tracking System (PACTS) to
24 licensing staff. Complaint records shall document, in a
25 retrievable form, the nature of each complaint, actions and
26 follow-up monitoring performed by the department and issues to
27 be monitored at the next inspection.

28 Section 507. Plans of correction.

29 (a) General rule.--The department shall promulgate
30 regulations detailing requirements for facility plans of

1 correction. Plans of correction must address the underlying
2 cause of a violation and provide a detailed plan for the swift
3 correction of each violation.

4 (b) Opportunity to submit.--At an inspection visit, the
5 department shall provide the opportunity for the facility to
6 develop, submit and receive approval of a plan of correction
7 during the visit in cooperation with licensing representatives.

8 (c) Department determinator.--When a plan of correction is
9 submitted, the department shall within three business days
10 determine and notify the facility whether the plan is acceptable
11 as a tool which upon implementation will bring the facility into
12 compliance.

13 (d) Demonstration of compliance.--Once a plan of correction
14 has been approved by the department, the facility shall
15 demonstrate implementation of the plan and provide verification
16 to the department that compliance has been achieved.
17 Verification must be provided before expiration of the
18 facility's license for the license to be renewed and within the
19 time frames for correction set forth in section 1086 of the
20 Public Welfare Code to avoid a fine. Demonstration that a
21 violation has been corrected shall be consistent with the nature
22 and seriousness of the violation and may include:

23 (1) Revisit by an inspector, which shall be required for
24 all Class I and Class II violations.

25 (2) Submission of receipts or photographs.

26 (3) Certification by the administrator.

27 (e) Recurrence.--If a violation addressed and resolved by a
28 plan of correction recurs, the department shall make its
29 requirements for further plans of correction more prescriptive
30 and stringent to ensure that the violation does not recur. The

1 steps outlined in the first plan of correction shall not be
2 considered sufficient in a subsequent plan of correction for the
3 same violation.

4 (f) Uniform corrective measures.--The department shall
5 develop uniform acceptable corrective measures for each type of
6 violation, which facilities may select upon a first violation
7 and which facilities must follow on a subsequent violation.
8 These measures shall include protocols for correcting the
9 violation, the anticipated effect on residents and periods for
10 completion.

11 (g) License revocation.--Facility failure to meet deadlines
12 for compliance with plans of correction shall result in
13 revocation of full licensure status. If compliance with a plan
14 of correction is not within the direct control of a facility,
15 proof of acceptable efforts to comply shall be treated as
16 compliance. If at the next inspection the violation remains
17 uncorrected, additional compliance efforts shall be expected of
18 the facility.

19 (h) Follow up.--The department shall conduct prompt follow-
20 up visits after violations have been verified and plans of
21 corrections approved.

22 Section 508. Fines.

23 (a) Fine accumulation.--Once a daily fine has been imposed
24 on a facility, the amount of the fine shall continue to
25 accumulate until the facility satisfactorily demonstrates to the
26 department that the violation has been corrected. There shall be
27 a rebuttable presumption that a violation exists unless and
28 until the facility satisfactorily demonstrates that it has been
29 corrected.

30 (b) Plans of correction.--The department shall impose a fine

1 on a facility for failure to comply with a plan of correction or
2 for false documentation of compliance with a plan of correction.

3 (c) Serious violations.--In circumstances involving a
4 violation that inflicts or poses a risk of serious harm to
5 residents, the department shall impose a fine irrespective of
6 whether the violation has been corrected. If a facility fails to
7 correct the violation, additional fines shall be imposed.

8 (d) Review of penalty amounts.--The department shall review
9 the penalty amounts under section 1085 of the Public Welfare
10 Code, and recommend to the General Assembly any adjustments
11 necessary to retain their original deterrent effect.

12 CHAPTER 7

13 APPEALS

14 Section 701. Sale of facility.

15 If an owner of a facility with an appeal pending sells the
16 facility to avoid closure, the residents of the facility shall
17 be relocated, and the new entity shall reapply and meet all
18 licensure requirements before reopening.

19 Section 702. Appeal of cease and desist orders.

20 (a) Licensure issuance.--The department shall not issue a
21 license to a facility if it comes into compliance with licensing
22 requirements during an appeal of a cease and desist order.

23 (b) Time parameters.--The department shall establish time
24 parameters for processing appeals of cease and desist orders,
25 including the time for scheduling of hearings and
26 reconsideration.

27 Section 703. Department action.

28 (a) Action pending appeal.--When a facility appeals the
29 revocation of its license or denial of renewal of its license,
30 the department shall take the following actions as necessary to

1 protect the residents:

2 (1) appoint a master pursuant to section 1057.1(b) of
3 the Public Welfare Code.

4 (2) Seek an injunction against new admissions or
5 continued operation of the facility pursuant to section 1055
6 of the Public Welfare Code.

7 (3) Oppose any request for supersedeas.

8 (4) Limit the period of time a facility may continue
9 conducting normal business operations.

10 (b) Action following license revocation or nonrenewal.--The
11 department shall relocate residents, ban new admissions and
12 oppose supersedeas from the time of facility license revocation
13 or denial of renewal of a license when such action is necessary
14 to protect the health and safety of residents. Supersedeas shall
15 not be granted during an administrative appeal or by
16 Commonwealth Court unless the facility demonstrates a
17 substantial likelihood of success on the merits.

18 Section 704. Priority.

19 The Bureau of Hearings and Appeals shall give priority to
20 facility appeals where residents remain in the facility. Hearing
21 decisions for such cases shall be issued within 90 days of the
22 filing of an appeal and a reconsideration request to the
23 secretary shall be decided within 60 days.

24 Section 705. Settlement.

25 (a) General rule.--Appeals shall not routinely be settled
26 with poorly performing facilities. A settlement shall only be
27 used if:

28 (1) The settlement is specific as to what will be
29 required from the facility.

30 (2) The terms of the settlement are enforceable by the

1 imposition of financial or licensure consequences, or both,
2 if the facility does not comply.

3 (b) Settlement agreement.--

4 (1) The department shall not enter into a settlement
5 agreement as an alternative to a hearing unless the agreement
6 commits the facility to efforts in addition to baseline
7 compliance requirements.

8 (2) A settlement agreement shall provide that the
9 facility waives the right to appeal citations for violations
10 of actions prescribed in the settlement agreement.

11 Section 706. Coordination.

12 The department shall coordinate with the local provider of
13 protective services and ombudsman and seek amicus briefs from
14 consumer advocates and other independent parties in processing
15 licensing appeals involving facilities with the most egregious
16 violations, as determined by the department.

17 Section 707. Procedure.

18 The department shall establish standard procedure, depending
19 on the severity of the violation, to require a higher than
20 customary facility penalty payment to be placed in escrow for a
21 facility that appeals the imposition of a fine. An escrow
22 payment shall also be required in an appeal of a license
23 revocation.

24 Section 708. Grounds for sustaining appeal.

25 A reviewing court shall not sustain an appeal on the ground
26 that a facility, although out of compliance at the time it was
27 cited, is presently in compliance unless the facility can show
28 by a preponderance of the evidence that its procedures, policies
29 and staff resources do and will continue to ensure full
30 compliance in the future.

CHAPTER 9

DEPARTMENT ADMINISTRATIVE AND
TECHNOLOGICAL RESOURCES

Section 901. Department duties.

The department shall:

(1) Increase its licensure compliance staff proportionately to the increase in facilities. A licensing representative shall not be required to handle licensure compliance for more than 60 facilities. Regional licensing offices shall be allocated sufficient staff and resources to carry out their functions effectively, taking into consideration the following:

(i) The region's facility demographics.

(ii) The number of beds in each facility.

(iii) The concentration of facilities with high numbers of complaints.

(iv) The geographic distance among facilities which licensing representatives must travel.

(v) The presence of special needs populations.

(2) Designate an enforcement specialist for each region of this Commonwealth who shall be responsible for ensuring consistent and thorough enforcement within the specialist's region.

(3) Designate a separate complaint investigation unit. Unit staff shall not be permitted to interact with facilities on matters other than complaint investigation.

(4) Designate a policy specialist to coordinate facility policy and regulatory issues.

(5) Dedicate adequate staff within its Office of Legal Counsel to facility issues to promptly process legal appeals.

1 (6) Dedicate sufficient staff to the identification of
2 illegally unlicensed facilities.

3 (7) Improve coordination between its Office of Licensing
4 and Regulatory Management and its Office of Social Programs
5 to remedy delays in the scheduling of inspections and
6 completion of the licensing process. Notification of upcoming
7 license renewal and inspections shall be sent to facilities
8 in sufficient time for the license application to be
9 returned, inspections to be conducted and plans of correction
10 to be submitted and implemented prior to the end of the
11 licensing period.

12 (8) For renewals of licenses, consider creating a
13 presumption that the facility intends to reapply. Facilities
14 would be required to have their prelicensure survey and
15 census available during the last three months of the
16 licensure period in order to be prepared for an inspection.

17 (9) Plan to obtain adequate technological resources in
18 order to provide for immediate licensing status updates and
19 tracking.

20 (10) Use available technology and photography to
21 demonstrate and provide evidence of violations to support its
22 actions in appeals.

23 Section 902. Disclosure of information to public.

24 (a) Internet.--The department shall add the following
25 information to its World Wide Web site:

26 (1) Facilities that have secured unit waivers.

27 (2) The nature of facilities' provisional licenses, with
28 respect to whether a facility is new or has been reduced from
29 a full license.

30 (3) The number of consecutive provisional licenses a

1 facility has had.

2 (4) A delineation of the types of violations found in
3 recent inspections at facilities found to have violations.

4 (5) Plans of correction.

5 (6) Information about the facility's legal entity.

6 (b) Changes.--The department shall communicate any changes
7 in the licensing and enforcement process to providers and
8 consumers in a timely manner and shall memorialize such changes
9 in the department's procedure manual for licensing staff or
10 department bulletins, or both.

11 (c) Complaint reports.--Inspection and redacted complaint
12 reports shall be made available as public records, including
13 records of department monitoring during cease and desist and
14 other litigation.

15 (d) Licensing status.--The department shall provide referral
16 agencies and personnel with information regarding the licensing
17 status of facilities.

18 CHAPTER 11

19 FACILITY ADMINISTRATION AND STAFF

20 Section 1101. Admission and discharge procedures.

21 The department shall:

22 (1) Promulgate regulations to explicitly detail
23 appropriate resident discharge policy for facilities with
24 consideration of the waiver process.

25 (2) Require that the assessment of care needs of
26 residents for admission and discharge be conducted by one of
27 the following:

28 (i) Licensed administrator.

29 (ii) Nurse.

30 (iii) Social worker.

1 (iv) Physician.

2 (3) Establish policy and procedures for the external
3 review of discharges and transfers if appealed by the
4 resident or facility.

5 Section 1102. Facility administrator.

6 (a) Administrator certification.--A prospective
7 administrator must successfully complete the following
8 requirements to be eligible for administrator certification:

9 (1) No less than 120 hours of training, including 40
10 hours of classroom instruction and 80 hours of internship
11 under the direct supervision of a certified administrator.

12 (2) A written examination sufficient to demonstrate
13 proficiency in the application of skills and knowledge, with
14 specific and thorough content in the provision of care and
15 relevant regulations. The examination shall be approved by
16 the department and administered by an entity approved by the
17 department at the conclusion of administrator training for
18 certification. The examination shall be completed on an
19 individual basis without the use of material aids.

20 (b) Department approval.--Administrator training and testing
21 programs must be approved by the department and recertified
22 annually.

23 (c) Continuing education.--Administrators must complete 24
24 hours of continuing education approved by the department every
25 two years. The content of continuing education shall be
26 pertinent to administrator duties, practice and regulatory
27 compliance.

28 (d) Testing and training requirements.--Beginning one year
29 following the effective date of this act, a person seeking
30 certification as an administrator shall not be certified until

1 the person has successfully completed the training and testing
2 requirements of this act.

3 Section 1103. Direct care staff.

4 Direct care staff employed by a facility shall be subject to
5 the following:

6 (1) Direct care staff training must be no less than 40
7 hours, including both classroom and supervised on-the-job
8 training, with no less than six hours of first aid and
9 cardiopulmonary resuscitation (CPR) training.

10 (2) Direct care staff may provide unsupervised care
11 prior to final completion of all training requirements in the
12 specific tasks for which they have demonstrated their
13 competency through supervised hands-on training.

14 (3) Direct care staff must pass a competency test prior
15 to the completion of the training program, not more than two
16 weeks following the start of regular employment.

17 (4) Direct care staff training and testing programs
18 shall be approved by the department and administered by an
19 entity approved by the department.

20 Section 1104. Medication technician.

21 (a) General rule.--The department shall develop and
22 implement a medical technician certification program and
23 testing. The training program shall cover the knowledge and
24 skills necessary to ensure the safe and proper dispensing of
25 medications. An examination shall be administered at the
26 conclusion of the training program to demonstrate competency.
27 The training program and examination shall be conducted by an
28 entity approved by the department. A passing score on the exam
29 shall be necessary for certification as a medication technician.

30 (b) Training.--In developing the medical technician

1 certification program, the department shall review and may adapt
2 training programs currently utilized in its other divisions,
3 including the Office of Mental Retardation, the Office of
4 Children, Youth and Families, and the Office of Mental Health
5 and Substance Abuse Services, as well as the medication training
6 program utilized by the Department of Aging for adult day care
7 service providers.

8 (c) Requirement.--Beginning one year following the effective
9 date of this act, no person shall dispense, administer or assist
10 residents with self administration of medications other than a
11 physician or nurse or an individual who has successfully
12 completed the medication technician training course and
13 examination.

14 Section 1105. Training manual.

15 The department shall develop a comprehensive training manual,
16 in consultation with interested parties, that provides a model
17 for department-approved training programs under this act. The
18 department shall disseminate the manual. Availability of the
19 manual on the department's World Wide Web site shall satisfy the
20 dissemination requirement.

21 Section 1106. Staff levels.

22 The following minimum staffing requirements must be met by
23 the facility:

24 (1) No less than one hour of personal care staff time
25 per mobile resident per day.

26 (2) No less than two hours per immobile resident per
27 day.

28 (3) Additional personal care staff hours based on the
29 assessed care needs of residents.

30 Section 1107. Disclosure prior to admission.

Facilities must provide prospective residents with the following information in a standard format determined by the department in advance of any admission decision by the resident or facility:

(1) Resident rights.

(2) A sample contract that the resident would be required to sign for admission.

(3) The population served by the facility and specific services offered.

(4) The cost of the facility's services.

(5) Contact information for the applicable regulatory agency.

(6) Rules and policies of the facility.

(7) Waivers of regulations that are pending or have been granted to the facility.

Section 1108. Written agreement.

Facilities shall include the following additional information as binding elements of resident contracts:

(1) A support plan that articulates how the facility will meet a resident's assessed needs. The department shall establish by regulation what elements of need must be assessed and what areas must be covered by the support plan.

(2) Itemization of the costs of the services that a resident will require for care and residency at the facility.

Section 1109. Financial management.

(a) Bonding requirements.--The department shall develop regulations to either require financial bonding requirements by facilities or establish a licensure fee assessment to be used to reimburse residents or residents' estates if facility staff has illegally taken resident funds.

1 (b) Refunds.--Facilities must distribute at the date of
2 discharge all required monetary refunds to a resident due to the
3 discharge, transfer or relocation of the resident from the
4 facility. The return of resident funds shall be by cash or
5 check. If an invalid check is issued, interest shall accrue in
6 the amount of 1% per day until the refund is made.

7 (c) Administrator as payee.--An administrator may not serve
8 as a representative payee for purposes of managing a resident's
9 Social Security payments unless the resident, the resident's
10 family and legal representative are first provided with a
11 standardized form, developed by the department, that explains
12 the following:

13 (1) Explanation of the duties and function of a
14 representative payee.

15 (2) Information on other agencies that may be available
16 to provide representative payee services for little or no
17 fee.

18 (3) Declaration that the use of a representative payee
19 is voluntary.

20 (4) Information how to terminate a representative payee
21 relationship at any time.

22 Section 1110. Fire and safety.

23 (a) Annual inspection.--The department shall ensure that
24 inspection by the Department of Labor and Industry are conducted
25 annually at each facility.

26 (b) Correction of violations.--The department shall develop
27 standard procedures for working in conjunction with Department
28 of Labor and Industry inspectors when it discovers that
29 facilities do not meet fire safety standards. The department
30 shall work with the Department of Labor and Industry inspectors

1 to achieve immediate correction of violations. If immediate
2 correction cannot be achieved, the department shall suspend the
3 facility's license and relocate residents until violations are
4 corrected.

5 (c) Uniform Construction Code requirements.--Any facility
6 housing an immobile person must meet the requirements under the
7 act of November 10, 1999 (P.L.491, No.45), known as the
8 Pennsylvania Construction Code Act.

9 Section 1111. Residents' rights.

10 (a) Residency and personal care.--Residents shall have the
11 right to continuous uninterrupted residency and personal care
12 services throughout the year.

13 (b) Notification of referring agencies.--The department
14 shall develop policies for advising known referring agencies,
15 including hospitals when a facility has been cited for serious
16 residents' rights violations or Class I or Class II violations.

17 (c) Private room.--Residents shall have the right to a
18 private room and may not be forced by a facility to share a room
19 with another person. Residents shall be able to choose to share
20 a room.

21 (d) Assessment.--Residents shall have the right to receive
22 an assessment of their care needs by an assessor independent of
23 the facility, including, but not limited to, a care needs
24 assessment by the area agency on aging.

25 (e) Complaints.--Residents may file a complaint directly
26 with the department or ombudsman at any time.

27 Section 1112. Building standards.

28 Facilities shall be subject to the following:

29 (1) Resident room size must be 100 square feet at a
30 minimum.

1 (2) Facilities must be air conditioned in all living
2 areas, including, but not limited to, resident rooms, dining
3 and common areas.

4 (3) Facilities must have windows fitted for screens in
5 all living areas, including, but not limited to, resident
6 rooms, dining and common areas.

7 CHAPTER 13

8 WAIVERS

9 Section 1301. Regulations.

10 The department shall promulgate regulations for granting
11 waiver of licensure and compliance requirements that specify:

12 (1) Criteria for waiver.

13 (2) Waiver approval process.

14 (3) Application documents.

15 (4) Oversight procedures.

16 (5) Enforcement mechanisms.

17 (6) Criteria and requirements for secured units.

18 Requirements shall include stipulations for secured units,
19 including, but not limited to:

20 (i) Quality assurance.

21 (ii) Admission criteria and disclosures.

22 (iii) Care standards and service plan.

23 (iv) Discharge criteria.

24 (v) Safety standards.

25 (vi) Environmental support.

26 (vii) Additional training requirements for
27 administrators and direct care staff.

28 (viii) Increased staffing levels.

29 (ix) Program standards, including specialized
30 activity programming.

(7) Criteria and requirements for facilities housing immobile residents, including cognitively impaired residents. Requirements shall address at a minimum:

(i) Increased staffing needs.

(ii) Appropriate training and activities.

(iii) Environmental needs of physically immobile and cognitively impaired residents.

(iv) Ease of egress for emergency evacuation.

(v) Fire safety.

(8) Criteria and requirements for a waiver to permit facilities to possess firearms, ammunition and weapons on facility premises. No facility shall be permitted to possess firearms, ammunition or weapons on its premises without obtaining a waiver from the department.

The department shall further develop and implement measures to ensure consistency in waiver policy and implementation throughout this Commonwealth.

Section 1302. Noncompliance.

If the department finds pursuant to investigation or inspection that a facility is out of compliance with waiver requirements, the department shall revoke the waiver if violations are not corrected immediately.

Section 1303. Limitation.

Certain requirements to be determined by the department, but including residents' rights, may not be waived at the request of a facility under any circumstances.

Section 1304. Onsite evaluation.

The department shall conduct an onsite evaluation of each facility waiver request. The department shall require facilities to submit to the department, prior to the department's onsite

1 evaluation, an assessment and documentation of the justification
2 for the waiver.

3 CHAPTER 51

4 MISCELLANEOUS PROVISIONS

5 Section 5101. Repeal.

6 The act of June 13, 1967 (P.L.31, No.21), known as the Public
7 Welfare Code, is repealed insofar as it is inconsistent with
8 this act.

9 Section 5102. Effective date.

10 This act shall take effect in 60 days.