

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2099 Session of  
2007

INTRODUCED BY WATSON, GINGRICH, BEAR, MAJOR, KENNEY,  
BENNINGHOFF, BIANCUCCI, BOBACK, CLYMER, COX, CREIGHTON,  
DENLINGER, EVERETT, HARHART, HARPER, HELM, HENNESSEY, HESS,  
KOTIK, R. MILLER, MOUL, MOYER, MURT, MUSTIO, O'NEILL,  
PICKETT, REICHLEY, RUBLEY, SOLOBAY, SONNEY, SWANGER AND  
YOUNGBLOOD, DECEMBER 6, 2007

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,  
DECEMBER 6, 2007

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An  
2 act to consolidate, editorially revise, and codify the public  
3 welfare laws of the Commonwealth," further providing for  
4 State plan for regulating and licensing personal care homes,  
5 for Intra-Governmental Council on Long-Term Care and for  
6 rules and regulations for personal care homes and assisted  
7 living residences.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Sections 1021(a) and 1057.3(a) of the act of June  
11 13, 1967 (P.L.31, No.21), known as the Public Welfare Code,  
12 amended July 25, 2007 (P.L. , No.56), are amended to read:

13 Section 1021. Regulations.--(a) (1) The department shall  
14 adopt regulations establishing minimum standards for building,  
15 equipment, operation, care, program and services, training and  
16 staffing and for the issuance of licenses.

17 (2) Regulations for assisted living residences shall:

18 (i) Meet or exceed standards established in 55 Pa. Code §

2600 (relating to personal care homes). Residents' rights in those or subsequent regulations shall not be subject to waiver.

(ii) Require an assisted living residence to provide a resident with the resident's own living unit. Two residents may voluntarily agree to share one unit provided that the agreement is in writing and contained in each of the residency agreements of those residents. A licensee shall not require residents to share a unit.

(iii) Provide that supplemental health care services shall be packaged, contracted and priced separately from the resident agreement.

(iv) Require that each living unit contain a private bathroom, living and bedroom space, kitchen capacity, which may mean electrical outlets to have small appliances such as a microwave and refrigerator, closets and adequate space for storage and a door with a lock, except where a lock or appliances in a unit under special care designation would pose a risk or be unsafe.

(v) Establish minimum square footage requirements for individual living units, which excludes bathrooms and closet space. Exceptions to the size of the living unit may be made at the discretion of the department.

(vi) Establish a special care designation for assisted living residences and units that require specialized staff training, service planning, activity programming and security measures for residents receiving cognitive support services.

(vii) Create standards for informed consent agreements that promote aging in place which includes written acknowledgment of the risks that residents assume while directing their own care and which releases the [facility] assisted living residence from

1 liability for adverse outcomes resulting from actions consistent  
2 with the terms of the informed consent agreement. Such informed  
3 consent agreements shall only be entered into upon the mutual  
4 agreement of the resident and the assisted living residence.

5 (viii) Create standards for transfer and discharge that  
6 require the assisted living residence to make a reasonable  
7 accommodation for aging in place that may include services from  
8 outside providers.

9 \* \* \*

10 Section 1057.3. Rules and Regulations for Personal Care Home  
11 and Assisted Living Residences.--(a) The rules and regulations  
12 for the licensing of personal care homes and assisted living  
13 residences promulgated by the department shall require that:

14 (1) (i) Prior to a resident's admission to a personal care  
15 home or assisted living residence, an initial standardized  
16 screening instrument be completed for that resident by the  
17 provider or a human service agency. Such standardized screening  
18 instrument shall be developed by the department.

19 (ii) For a personal care home, the screening will be done to  
20 determine that the potential resident does not require the  
21 services in or of a long-term care facility and whether the  
22 potential resident requires the services of a personal care home  
23 and, if so, the nature of the services and supervision  
24 necessary.

25 (iii) For an assisted living residence, the screening will  
26 be done to determine whether the potential resident requires the  
27 services provided by an assisted living residence. A resident  
28 who currently does not require assistance in obtaining  
29 supplemental health care services, but who may require such  
30 services in the future or who wishes to obtain assistance in

1 obtaining such services or reside in a facility in which such  
2 services are available, may be admitted to the assisted living  
3 residence, provided the resident is only provided service  
4 required or requested by the resident. Where services are  
5 required, the assisted living residence shall develop a support  
6 plan as defined in 55 Pa. Code § 2600 (relating to personal care  
7 homes) and any other regulations applicable to assisted living  
8 residences.

9 (iv) An initial screening shall not be required to commence  
10 supplemental health care services to a resident of an assisted  
11 living residence who was not receiving such services at the time  
12 of the resident's admission; to transfer a resident from a  
13 portion of an assisted living residence that does not provide  
14 supplemental health care services to a portion of the residence  
15 that provides such service; or to transfer a resident from a  
16 personal care home to an assisted living residence licensed by  
17 the same operator.

18 (2) In addition to the screening, each resident receive a  
19 complete medical examination by a physician prior to, or within  
20 thirty days of, admission and that, once admitted, each resident  
21 receive a screening and medical evaluation at least annually.

22 (3) A personal care home or assisted living residence  
23 administrator refer an applicant whose needs cannot be met by  
24 the home or residence to an appropriate assessment agency.

25 (3.1) Prospective or current residents for whom placement in  
26 a skilled nursing facility is imminent shall be given priority  
27 for assisted living residence services funded through a home-  
28 and community-based waiver.

29 (3.2) All individuals receiving services under the home- and  
30 community-based [waivers] waiver for assisted living services

1 shall have a comprehensive assessment of their needs using an  
2 instrument that provides comparable data elements and at  
3 comparable time intervals as specified by the State for Medicaid  
4 for nursing facilities.

5 (4) Each resident be provided by the administrator with  
6 notice of any Class I or Class II violations uncorrected after  
7 five days.

8 (5) All residents sign a standard written admission  
9 agreement which shall include the disclosure to each resident of  
10 the actual rent and other charges for services provided by the  
11 personal care home or assisted living residence.

12 (6) For residents eligible for Supplemental Security Income  
13 (SSI) benefits, actual rent and other charges not exceed the  
14 resident's actual current monthly income reduced by a personal  
15 needs allowance for the resident in an amount to be determined  
16 by the department, but not less than twenty-five dollars (\$25).

17 (7) A personal care home or assisted living residence not  
18 seek or accept any payments from a resident who is a  
19 Supplemental Security Income (SSI) recipient in excess of one-  
20 half of any funds received by the resident under the act of  
21 March 11, 1971 (P.L.104, No.3), known as the "Senior Citizens  
22 Rebate and Assistance Act."

23 (8) A personal care home or assisted living residence not  
24 seek or accept from a resident who is eligible for Supplemental  
25 Security Income (SSI) benefits any payment from any funds  
26 received as lump sum awards, gifts or inheritances, gains from  
27 the sale of property, or retroactive government benefits:  
28 Provided, however, That an owner or operator may seek and accept  
29 payments from funds received as retroactive awards of Social  
30 Security or Supplemental Security Income (SSI) benefits, but

1 only to the extent that the retroactive awards cover periods of  
2 time during which the resident actually resided in the personal  
3 care home or assisted living residence.

4 (9) Each resident who is a recipient of, or an eligible  
5 applicant for, Supplemental Security Income (SSI) benefits be  
6 provided, at no additional charge to the resident, necessary  
7 personal hygiene items and personal laundry services. This  
8 requirement does not include cosmetic items.

9 (10) All residents may leave and return to a personal care  
10 home or assisted living residence, receive visitors, have access  
11 to a telephone and mail and participate in religious activities.

12 (11) Personal care home and assisted living residence  
13 owners, administrators or employees be prohibited from being  
14 assigned power of attorney or guardianship for any resident.

15 (12) Each assisted living residence demonstrate the ability  
16 to provide supplemental health care services in a manner duly  
17 protective of the health, safety and well-being of its residents  
18 utilizing employees, independent contractors or contractual  
19 arrangements with other health care facilities or practitioners  
20 licensed, registered or certified to the extent required by law  
21 to provide such service. To the extent prominently disclosed in  
22 a written admission agreement, an assisted living residence may  
23 require residents to use providers of supplemental health care  
24 services designated by the assisted living residence.

25 (13) A personal care home not provide supplemental health  
26 care services to residents, provided, however, that a personal  
27 care home may assist residents in obtaining health care services  
28 in the manner provided by 55 Pa. Code §§ 2600.29 (relating to  
29 hospice care and services), 2600.142 (relating to assistance  
30 with health care) and 2600.181 (relating to self-administration)

1 through 2600.191 (relating to [medications] resident education)  
2 or as otherwise provided by regulations adopted by the  
3 department not inconsistent with the requirements of this  
4 section.

5 \* \* \*

6 Section 2. This act shall take effect October 23, 2007, or  
7 immediately, whichever is later.