

ACCESS TO CONGREGATE CARE FACILITIES ACT - ENACTMENT

Act of Jul. 1, 2021, P.L. 355, No. 67

Cl. 35

An Act

Providing for access to congregate care facilities for essential caregivers, for additional safety requirements for residents of congregate care facilities, for suspension of access for essential caregivers and for costs associated with safety measures related to essential caregivers.

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

Section 1. Short title.

This act shall be known and may be cited as the Access to Congregate Care Facilities Act.

Section 2. Definitions.

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

"Congregate care facility." A facility licensed by the department or the Department of Human Services, including, but not limited to, a long-term care nursing facility, a skilled nursing facility, an assisted living facility, a personal care home, an independent long-term care facility or an intermediate care facility for individuals with intellectual disabilities.

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

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

"Essential caregiver." An individual, whether a family member or friend of a resident of a congregate care facility, who is designated by the resident or appointed by an individual with decision-making authority for the resident to provide physical or emotional support to the resident during a declaration of disaster emergency.

Section 3. Access to congregate care facilities for essential caregivers.

The department, in consultation with the Department of Human Services, shall establish protocols to allow a resident of a congregate care facility or an individual with decision-making authority for the resident to designate an individual as the resident's essential caregiver during a declaration of disaster emergency. A resident of a congregate care facility or an individual with decision-making authority for the resident shall designate an essential caregiver during the intake of the resident into the congregate care facility. An essential caregiver shall meet the necessary qualifications to enter the congregate care facility to provide in-person physical or emotional support to a resident of a congregate care facility in accordance with the protocols established under this section. The department may update the protocols established under this section at any time during the disaster emergency. The department may not update the protocols established under this section to extend the duration of the lock-down phase under paragraph (3) for a time period exceeding 45 days. The protocols shall include all of the following:

(1) Safety measures for an essential caregiver, including, but not limited to, restrictions on travel, enhanced testing for communicable diseases and the necessary safety equipment required to protect the health and safety of the residents of the congregate care facility.

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

(3) A duration set by the department, in consultation with the Department of Human Services, not to exceed 45 days after a declaration of disaster emergency, when a congregate care facility may enter a lock-down phase during which the congregate care facility shall exclude essential caregivers for the purpose of establishing safety measures for residents of the congregate care facility and essential caregivers.

Section 4. Additional safety requirements for residents of congregate care facilities.

A congregate care facility may establish reasonable, additional safety requirements to protect the residents of the congregate care facility, including limitations on the duration of the visits, the number of visits per week per resident, the location of visits and the spacing of visitors. The requirements under this section shall meet all of the following criteria:

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

(2) The requirements are not so burdensome and onerous as to substantially prevent an essential caregiver from being able to physically or emotionally support a resident of the congregate care facility in person.

Section 5. Suspension of access for essential caregivers.

A congregate care facility may suspend access to the congregate care facility for an essential caregiver who violates the protocols established under section 3, and the congregate care facility shall allow the resident, or an individual with decision-making authority for the resident, to immediately designate a replacement essential caregiver.

Section 6. Costs associated with safety measures related to essential caregivers.

A congregate care facility may require an essential caregiver to assume the costs of any of the following:

(1) Providing personal protective equipment for himself or herself to allow the essential caregiver to safely provide in-person physical or emotional support. Personal protective equipment provided by the congregate care facility may not reduce the personal protective equipment available to the employees and staff of the congregate care facility.

(2) Meeting the additional safety requirements established by the congregate care facility under section 4.

Section 7. Applicability.

This act shall apply for the period commencing 15 days after a declaration of disaster emergency that results in the closure of congregate care facilities until 60 days after the termination or expiration of the declaration of disaster emergency by executive order, proclamation or operation of law.

Section 8. Construction.

Nothing in this act shall be construed to supersede Federal authority or guidance regarding congregate care facilities or to prevent the department or Department of Human Services from taking necessary actions to render the Commonwealth eligible for Federal funds or reimbursement services provided in congregate care facilities.

Section 9. Effective date.

This act shall take effect in 60 days.