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House Aging & Older Adult Services Committee
Suspended Regulations during COVID-19
September 13, 2021

Department of Aging's COVID-19 Suspended Regulations

6 Pa. Code § 11.241 and 6 Pa. Code § 11.242

- **Regulation's Purpose** – Onsite annual inspection requirements
- **Suspension Benefit/Explanation** – If the Older Adult Daily Living Center is closed due to an emergency disaster as declared by the Governor at the time of license expiration, or if the closure extends past the time of license expiration, the department will issue a letter of good standing, which will be in effect the day after the expiration of the previous license until 12 months following the date of issuance or until such time a full inspection can be conducted, and a regular license can be issued.
- **Date Implemented/Revised** – March 2020
- **Suspension Status** – Currently suspended. If a center reopened during the disaster declaration, inspections were conducted virtually. The department will continue virtual inspections through September 30, 2021 and will resume in-person inspections starting October 1, 2021.
- **Agency Recommendation** – Do not recommend permanent suspension
- **Rational for Agency Recommendation** – Licensing inspections protect the health, safety, and well-being of Older Adult Daily Living Center participants. Permanently suspending annual inspection requirements when Older Adult Daily Living Centers are open/reopening would put participants at risk.
- **Update on Reimplementation** – The department will continue to provide a 60-calendar day transition period upon a center's reopening through September 30, 2021, which will allow centers to come into compliance with any applicable requirements of Chapter 11. The 60-calendar day transition period will also allow the department to process new, renewal, and unprocessed applications and respond to questions that a center might have upon reopening. During the transition period, the department will prioritize processing applications for expired licenses. After the transition period ends, the department will prioritize inspections and license issuance for expired licenses, resume inspections, and issue licenses.

6 Pa. Code § 11.16(d)(1)

- **Regulation's Purpose** – Requires the Older Adult Daily Living Center operators, within three working days after an unusual incident occurs, to conduct an investigation of the unusual incident and complete and send copies of an unusual incident report on a form specified by the department to the department.
- **Suspension Benefit/Explanation** – Centers will be required to immediately report any case of a communicable disease identified in the emergency disaster declaration.
- **Date Implemented/Revised** – March 18, 2020
- **Suspension Status** – Currently suspended
- **Agency Recommendation** – Do not recommend permanent suspension
- **Rational for Agency Recommendation** – Suspending this regulation has been instrumental in preventing and monitoring COVID-19 outbreaks in Older Adult Daily Living Centers. Permanently suspending this regulation would be an administrative burden on both the Adult Daily Living Centers and the department since it would require immediate and additional reporting and documentation.

- Update on Reimplementation – The department will continue to provide a 60-calendar day transition period upon a center’s reopening through September 30, 2021, which will allow centers to come into compliance with any applicable requirements of Chapter 11.

6 Pa. Code § 15.42

- Regulation’s Purpose – Requires a Protective Services Caseworker to conduct a face-to-face visit of an older adult to initiate and conduct Protective Services investigations.
- Suspension Benefit/Explanation – By waiving this requirement, a Protective Services worker could initiate an investigation through another form of electronic communication.
- Date Implemented/Revised – March 18, 2020
- Suspension Status – Currently suspended
- Agency Recommendation – Do not recommend permanent suspension
- Rational for Agency Recommendation – Observing an older adult in their home environment allows the Protective Services Caseworker to assess living conditions, determine functional abilities, and evaluate the need for protective services most effectively.
- Update on Reimplementation – On October 1, 2021, Area Agencies on Aging will resume regulatory required face-to-face consumer contacts, visits, and investigations. The department strongly recommends the following:
 - Review and update COVID-related policies and procedures
 - Create and/or maintain a communication plan to inform staff and consumers of any necessary operational changes related to COVID-19
 - Encourage caseworkers, older adults, and other individuals in the home to wear face coverings, regardless of vaccination status
 - Practice social distancing while in the older adult’s home
 - Utilize health screenings of consumers and others before visiting the home

Licensing Regulation Suspension: Personal Care Homes (2600) and Assisted Living Residences (2800)

Legal Citation	Regulatory Language to be Suspended	Suspension Description (Full or Limited; and any Conditions)
2600.51	Criminal history checks and hiring policies shall be in accordance with the Older Adult Protective Services Act.	Limited. A facility may extend a provisional hire for the sole reason that FBI clearances/checks are not available. The facility must document the reason why the FBI clearance/check was not available. Providers shall obtain the FBI clearances/checks within 60 days from the date the suspension of the regulation is lifted. This only relates to licensing requirements and does not change any other law.
2600.57 (b)	Direct care staff persons shall be available to provide at least 1 hour per day of personal care services to each mobile resident.	Limited. Providers shall notify their Bureau of Human Services Licensing (BHSL) regional office via email of any anticipated or actual staff shortages and of their plan to mitigate the staff shortage for approval by the regional director for BHSL.
2600.57 (c)	Direct care staff persons shall be available to provide at least 2 hours per day of personal care services to each resident who has mobility needs.	Limited. Providers shall notify their regional office via email of any anticipated or actual staff shortages and of their plan to mitigate the staff shortage for approval by the regional director for BHSL.

Legal Citation	Regulatory Language to be Suspended	Suspension Description (Full or Limited; and any Conditions)
2600.64 (c)	An administrator shall have at least 24 hours of annual training relating to the job duties. The Department-approved training sources listed in subsection (a) fulfills the annual training requirement for the first year.	Full. The administrator shall complete the annual training within 90 days from the date the suspension of the regulation is lifted.
2600.65 (e)	Direct care staff persons shall have at least 12 hours of annual training related to their job duties.	Full. The direct care staff shall complete the annual training within 90 days from the date the suspension of the regulation is lifted.
2600.65 (f)	<p>Training topics for the annual training for direct care staff persons shall include the following:</p> <ul style="list-style-type: none"> (1) Medication self-administration training (2) Instruction on meeting the needs of the residents as described in the preadmission screening form, assessment tool, medical evaluation and support plan. (3) Care of residents with dementia and cognitive impairments. (4) Infection control and general principles of cleanliness and hygiene and areas associated with immobility, such as prevention of decubitus ulcers, incontinence, malnutrition and dehydration. (5) Personal care service needs of the resident. (6) Safe management techniques (7) Care for residents with mental illness or an intellectual disability, or both, if the population is served in the home. 	Full. The direct care staff shall complete the annual training within 90 days from the date the suspension of the regulation is lifted.



Legal Citation	Regulatory Language to be Suspended	Suspension Description (Full or Limited; and any Conditions)
2600.65 (g)	<p>Direct care staff persons, ancillary staff persons, substitute personnel and regularly scheduled volunteers shall be trained annually in the following areas:</p> <p>(1) Fire safety completed by a fire safety expert or by a staff person trained by a fire safety expert. Videos prepared by a fire safety expert are acceptable for the training if accompanied by an onsite staff person trained by a fire safety expert.</p> <p>(2) Emergency preparedness procedures and recognition and response to crises and emergency situations.</p> <p>(3) Resident rights.</p> <p>(4) The Older Adult Protective Services Act</p> <p>(5) Falls and accident prevention.</p> <p>(6) New population groups that are being served at the residence that were not previously served, if applicable.</p>	<p>Full. The direct care staff shall complete the annual training within 90 days from the date the suspension of the regulation is lifted.</p>
2600.104 (b)	<p>Dishes, glassware and utensils shall be provided for eating, drinking, preparing and serving food. These utensils must be clean, and free of chips and cracks. Plastic and paper plates, utensils and cups for meals may not be used on a regular basis.</p>	<p>Limited. Facilities may use plastic and paper plates, utensils and cups for meals for infection control purposes.</p>
2600.104 (e)	<p>Breakfast, midday and evening meals shall be served to residents in a dining room except in the following situations:</p> <p>(1) Service in the resident's room shall be available at no additional charge when the resident is unable to come to the dining room due to illness</p> <p>(2) When room service is available in a home, a resident may choose to have a meal served in the resident's room. This shall be provided at the resident's request and may not replace daily meals in a dining room.</p>	<p>Limited. Facilities will be expected to follow guidance provided by Department of Health (DOH). https://www.health.pa.gov/topics/Documents/Diseases%20and%20Conditions/COVID-19%20Interim%20Nursing%20Facility%20Guidance.pdf</p>

Legal Citation	Regulatory Language to be Suspended	Suspension Description (Full or Limited; and any Conditions)
2600.132 (a)	An unannounced fire drill shall be held at least once a month.	Full. The suspension of the regulation shall lift upon the date the Disaster Proclamation is lifted by the Governor.
2800.132 (b)	A fire safety inspection and fire drill conducted by a fire safety expert shall be completed annually. Documentation of this fire drill and fire safety inspection shall be kept.	Full. The annual fire safety inspection and fire drill conducted by a fire safety expert must be completed within 60 of the date the Disaster Proclamation is lifted by the Governor.
2600.141 (b) (1)	A resident shall have a medical evaluation at least annually.	Limited. If the resident's primary care physician determines that the medical evaluation can be conducted at a later date, then the facility can postpone the medical evaluation to the date determined by the physician; provided that, the medical evaluation must be performed no later than 90 days after the Emergency Declarations is lifted. The facility shall document the primary care physician's determination in the resident's record for subsequent review.
2600.190 (a)	A staff person who has successfully completed a Department-approved medications administration course that includes the passing of the Department's performance-based competency test within the past 2 years may administer oral; topical; eye, nose and ear drop prescription medications and epinephrine injections for insect bites or other allergies.	Limited. Staff who have been previously trained may continue to administer oral; topical; eye, nose and ear drop prescription medications; and epinephrine injections for insect bites or other allergies for up to 90 days beyond the staff's training renewal date.

Legal Citation	Regulatory Language to be Suspended	Suspension Description (Full or Limited; and any Conditions)
2600.190 (b)	A staff person is permitted to administer insulin injections following successful completion of a Department-approved medications administration course that includes the passing of a written performance-based competency test within the past 2 years, as well as successful completion of a Department-approved diabetes patient education program within the past 12 months.	Limited. Staff who have been previously trained may continue to administer insulin injections for up to 90 days beyond the staff's training renewal date.
2600.221 (a)	The administrator shall develop a program of activities designed to promote each resident's active involvement with other residents, the resident's family and the community.	Limited. Facilities will be expected to follow guidance provided by DOH. https://www.health.pa.gov/topics/Documents/Diseases%20and%20Conditions/COVID-19%20Interim%20Nursing%20Facility%20Guidance.pdf
2600.236	Each direct care staff person working in a secured dementia care unit shall have 6 hours of annual training specified in 2600.65 (relating to direct care staff person training and orientation.)	Full. The training shall be completed within 90 days from the date the suspension of the regulation is lifted.
2600.237 (a)	The following activities shall be offered at least weekly: (1) Gross motor activities, such as dancing stretching and other exercise. (2) Self-care activities, such as personal hygiene. (3) Social activities, such as games, music and holiday and seasonal celebrations. (4) Crafts, such as sewing, decorations and pictures. (5) Sensory and memory enhancement activities, such as review of current events, movies, story-telling, picture albums, cooking, pet therapy and reminiscing (6) Outdoor activities, as weather permits, such as walking, gardening and field trips.	Limited. Facilities will be expected to follow guidance provided by DOH. https://www.health.pa.gov/topics/Documents/Diseases%20and%20Conditions/COVID-19%20Interim%20Nursing%20Facility%20Guidance.pdf

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2600.56	The administrator shall be present in the home an average of 20 hours or more per week, in each calendar month.	Limited. In the event that an administrator is required to manage multiple facilities because another administrator has been quarantined or isolated, BHSL will not cite failure to meet this requirement.
2800.51 (a)	Criminal history checks and hiring policies shall be in accordance with the Older Adult Protective Services Act.	Limited. A facility may extend a provisional hire for the sole reason that FBI clearances/checks are not available. The facility must document the reason why the FBI clearance/check was not available. Providers shall obtain the FBI clearances/checks within 60 days from the date the suspension of the regulation is lifted. This only relates to licensing requirements and does not change any other law.
2800.57 (b)	Direct care staff persons shall be available to provide at least 1 hour per day of personal care services to each mobile resident.	Limited. Providers shall notify their BHSL regional office via email of any anticipated or actual staff shortages and of their plan to mitigate the staff shortage for approval by the regional director for BHSL.
2800.57 (c)	Direct care staff persons shall be available to provide at least 2 hours per day of personal care services to each resident who has mobility needs.	Limited. Providers shall notify their regional office via email of any anticipated or actual staff shortages and of their plan to mitigate the staff shortage for approval by the regional director for BHSL.

Legal Citation	Regulatory Language to be Suspended	Suspension Description (Full or Limited; and any Conditions)
2800.64 (c)	An administrator shall have at least 24 hours of annual training relating to the job duties. The Department-approved training sources listed in subsection (a) fulfills the annual training requirement for the first year.	Full. The administrator shall complete the training within 90 days from the date the suspension of the regulation is lifted.
2800.65 (h)	Direct care staff persons shall have at least 16 hours of annual training relating to their job duties.	Full. The direct care staff shall complete the training within 90 days from the date the suspension of the regulation is lifted.
2800.65 (i)	<ul style="list-style-type: none"> (1) Medication self-administration training (2) Instruction on meeting the needs of the residents as described in the preadmission screening form, assessment tool, medical evaluation and support plan. (3) Care of residents with dementia and cognitive impairments. (4) Infection control and general principles of cleanliness and hygiene and areas associated with immobility, such as prevention of decubitus ulcers, incontinence, malnutrition and dehydration. (5) Assisted living service needs of the resident. (6) Safe management techniques (7) Care for residents with mental illness or an intellectual disability, or both, if the population is served in the home. 	Full. The direct care staff shall complete the training within 90 days from the date the suspension of the regulation is lifted.

Legal Citation	Regulatory Language to be Suspended	Suspension Description (Full or Limited; and any Conditions)
2800.65 (j)	<p>Direct care staff persons, ancillary staff persons, substitute personnel and regularly scheduled volunteers shall be trained annually in the following areas:</p> <ul style="list-style-type: none"> (1) Fire safety completed by a fire safety expert or by a staff person trained by a fire safety expert. Videos prepared by a fire safety expert are acceptable for the training if accompanied by an onsite staff person trained by a fire safety expert. (2) Emergency preparedness procedures and recognition and response to crises and emergency situations. (3) Resident rights. (4) The Older Adult Protective Services Act (5) Falls and accident prevention. (6) New population groups that are being served at the residence that were not previously served, if applicable. 	<p>Full. The direct care staff shall complete the training within 90 days from the date the suspension of the regulation is lifted.</p>
2800.104 (b)	<p>Dishes, glassware and utensils shall be provided for eating, drinking, preparing and serving food. These utensils must be clean, and free of chips and cracks. Plastic and paper plates, utensils and cups for meals may not be used on a regular basis.</p>	<p>Limited. Facilities may use plastic and paper plates, utensils and cups for meals for infection control purposes.</p>
2800.104 (e)	<p>Breakfast, midday and evening meals shall be served to residents in a dining room except in the following situations:</p> <ul style="list-style-type: none"> (1) Service in the resident's room shall be available at no additional charge when the resident is unable to come to the dining room due to illness (2) When room service is available in a home, a resident may choose to have a meal served in the resident's room. This shall be provided at the resident's request and may not replace daily meals in a dining room. 	<p>Limited. Facilities will be expected to follow guidance provided by Department of Health (DOH). https://www.health.pa.gov/topics/Documents/Diseases%20and%20Conditions/COVID-19%20Interim%20Nursing%20Facility%20Guidance.pdf</p>



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2800.132 (a) 132 (b)	An unannounced fire drill shall be held at least once a month.	Full. The suspension of the regulation shall lift upon the date the Disaster Proclamation is lifted by the Governor.
2800.132 (b)	A fire safety inspection and fire drill conducted by a fire safety expert shall be completed annually. Documentation of this fire drill and fire safety inspection shall be kept.	Full. The annual fire safety inspection and fire drill conducted by a fire safety expert must be completed within 60 of the date the Disaster Proclamation is lifted by the Governor.
2800.141 (b) (1)	A resident shall have a medical evaluation at least annually.	Limited. If the resident's primary care physician determines that the medical evaluation can be conducted at a later date, then the facility can postpone the medical evaluation to the date determined by the physician; provided that, the medical evaluation must be performed no later than 90 days after the Emergency Declarations is lifted. The facility shall document the primary care physician's determination in the resident's record for subsequent review.
2800.190 (a)	A staff person who has successfully completed a Department-approved medications administration course that includes the passing of the Department's performance-based competency test within the past 2 years may administer oral; topical; eye, nose and ear drop prescription medications and epinephrine injections for insect bites or other allergies.	Limited. Staff who have been previously trained may continue to administer oral; topical; eye, nose and ear drop prescription medications; and epinephrine injections for insect bites or other allergies for up to 90 days beyond the staff's training renewal date.

Legal Citation	Regulatory Language to be Suspended	Suspension Description (Full or Limited; and any Conditions)
2800.190 (b)	A staff person is permitted to administer insulin injections following successful completion of a Department-approved medications administration course that includes the passing of a written performance-based competency test within the past 2 years, as well as successful completion of a Department-approved diabetes patient education program within the past 12 months.	Limited. Staff who have been previously trained may continue to administer insulin injections; for up to 90 days beyond the staff's training renewal date.
2800.221 (a)	The residence shall develop a program of daily activities designed to promote each resident's active involvement with other residents, the resident's family and the community and provide the necessary space and equipment for the activities in accordance with 2800.98 and 2800.99 (relating to indoor activity space; and recreation space). The residence shall offer the opportunity for the resident's active participation in the development of the daily calendar.	Limited. Facilities will be expected to follow guidance provided by DOH. https://www.health.pa.gov/topics/Documents/Diseases%20and%20Conditions/COVID-19%20Interim%20Nursing%20Facility%20Guidance.pdf
2800.236 (a)	Each direct care staff person working in a special care unit for residents with Alzheimer's disease or dementia shall have 8 hours of initial training within the first 30 days of the date of hire and a minimum of 8 hours of annual training related to dementia care and services, in addition to the 16 hours of annual training specified in 2800.65 (relating to staff orientation and direct care staff person training and orientation).	Full. The direct care staff shall complete the annual training within 90 days from the date the suspension of the regulation is lifted.
2800.236 (b)	Each direct care staff person working in a special care unit INRBI shall have 8 hours of initial training within the first 30 days of the date of hire and a minimum of 8 hours of annual training related to brain injury, in addition to the 16 hours of annual training specified in 2800.65 and any continuing education required for professional licensing.	Full. The direct care staff shall complete the annual training within 90 days from the date the suspension of the regulation is lifted.

Legal Citation	Regulatory Language to be Suspended	Suspension Description (Full or Limited; and any Conditions)
2800.237 (a)	<p>The following activities shall be offered at least weekly:</p> <ul style="list-style-type: none"> (1) Gross motor activities, such as dancing stretching and other exercise. (2) Self-care activities, such as personal hygiene. (3) Social activities, such as games, music and holiday and seasonal celebrations. (4) Crafts, such as sewing, decorations and pictures. (5) Sensory and memory enhancement activities, such as review of current events, movies, story telling, picture albums, cooking, pet therapy and reminiscing (6) Outdoor activities, as weather permits, such as walking, gardening and field trips. 	<p>Limited. Facilities will be expected to follow guidance provided by DOH. https://www.health.pa.gov/topics/Documents/Diseases%20and%20Conditions/COVID-19%20Interim%20Nursing%20Facility%20Guidance.pdf</p>