

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1930 Session of
1999

INTRODUCED BY SCHULER, PISTELLA, E. Z. TAYLOR, GEORGE, BAKER,
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YUDICHAK, WILLIAMS, FLICK AND SAYLOR, OCTOBER 6, 1999

AS REPORTED FROM COMMITTEE ON AGING AND YOUTH, HOUSE OF
REPRESENTATIVES, AS AMENDED, MARCH 13, 2000

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," providing for State plan~~
4 ~~for regulations and licensing of assisted living residences;~~
5 ~~further providing for intragovernmental council on long term~~
6 ~~care, for definitions and for fees; providing for appeals,~~
7 ~~for relocation, for rules and regulations for assisted living~~
8 ~~residences, for classification of violations and for~~
9 ~~revocation or renewal of license; repealing provisions~~
10 ~~relating to personal care homes; and making editorial~~
11 ~~changes.~~

12 REQUIRING THE DEPARTMENT OF PUBLIC WELFARE TO DEVELOP AND <—
13 IMPLEMENT A STATE PLAN FOR REGULATING AND LICENSING ASSISTED
14 LIVING RESIDENCES AND FOR COORDINATION WITH OTHER STATE AND
15 LOCAL AGENCIES HAVING STATUTORY DUTIES RELATING TO ASSISTED
16 LIVING RESIDENCES AND PROVIDERS OF ASSISTED LIVING SERVICES;
17 PROVIDING FOR THE INTRA-GOVERNMENTAL COUNCIL ON LONG-TERM
18 CARE, FOR APPEALS AND FOR RELOCATION; AND PRESCRIBING
19 PENALTIES.

20 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

21 (1) ASSISTED LIVING IS A RAPIDLY GROWING LONG-TERM CARE
22 ALTERNATIVE ACROSS THE NATION.

23 (2) ASSISTED LIVING IS A COMBINATION OF HOUSING AND

SERVICES AS NEEDED. IT IS EXTREMELY POPULAR WITH THE GENERAL PUBLIC BECAUSE IT ALLOWS PEOPLE TO AGE IN PLACE, MAINTAIN THEIR INDEPENDENCE AND EXERCISE DECISION MAKING AND PERSONAL CHOICE.

(3) CONSUMERS CONTINUE TO SAY THAT THE THREE THINGS THEY WANT MOST ARE TO STAY INDEPENDENT AND LIVE AT HOME AS LONG AS POSSIBLE; RESPECT AND DIGNITY FOR THE INDIVIDUAL; AND A CHOICE OF OPTIONS FOR LONG-TERM CARE AND SERVICES.

(4) IN PENNSYLVANIA, ASSISTED LIVING IS A PRIVATE MARKET PHENOMENON. THERE IS NO UNIFORM ASSISTED LIVING DEFINITION; NO REQUIRED PUBLIC OVERSIGHT OF ENTITIES WHICH HOLD THEMSELVES OUT AS PROVIDING ASSISTED LIVING, ALTHOUGH MANY ARE LICENSED AS PERSONAL CARE HOMES; NO UNIFORM WAY OF ASSURING ASSISTED LIVING QUALITY; AND LIMITED ACCESS TO ASSISTED LIVING EXCEPT FOR PERSONS WITH HIGHER INCOMES.

(5) IT IS IN THE BEST INTEREST OF ALL PENNSYLVANIANS THAT A SYSTEM OF LICENSURE AND REGULATION BE ESTABLISHED FOR ASSISTED LIVING RESIDENCES AND PROVIDERS OF ASSISTED LIVING SERVICES IN ORDER TO ENSURE ACCOUNTABILITY AND A BALANCE OF AVAILABILITY BETWEEN INSTITUTIONAL AND HOME AND COMMUNITY-BASED LONG-TERM CARE FOR OLDER PERSONS AND PERSONS WITH DISABILITIES.

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

~~Section 1. Section 211 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare code, is repealed.~~

~~Section 2. The act is amended by adding a section to read:~~

~~Section 211.1. State Plan for Regulating and Licensing Assisted Living Residences. (a) In accordance with the statutory authority and responsibility vested in the department~~

~~to regulate nonprofit homes for adults which provide personal care and services and to license for profit assisted living residences for adults, pursuant to Articles IX and X, the department shall develop and implement a State plan for regulating and licensing assisted living residences.~~

~~(b) In developing rules and regulations for the State plan, the department shall:~~

~~(1) Distinguish between assisted living residences serving less than eight persons and assisted living residences serving more than eight persons.~~

~~(2) Within 90 days of the effective date of this section, adopt rules relating to the conduct of owners and employees of assisted living residences relative to the endorsement or delivery of public or private welfare, pension or insurance checks by a resident of an assisted living residence.~~

~~(3) Not regulate or require the registration of boarding homes which merely provide room, board and laundry services to persons who do not need assisted living residence services.~~

~~(c) Within three months following the effective date of this section, the department shall submit to the General Assembly for comment and review, and publish in the Pennsylvania Bulletin in accordance with the provisions of the Commonwealth Documents Law relating to the publication of regulations, a preliminary State plan for regulating and licensing assisted living residences.~~

~~(d) The preliminary plan shall include, but is not limited to, the following:~~

~~(1) Coordination of the department's statutory responsibilities with those of other State and local agencies having statutory responsibilities relating to assisted living residences, with particular attention given to the Department of~~

~~Labor and Industry, the Department of Environmental Protection,~~
~~the Department of Conservation and Natural Resources, the~~
~~Department of Aging and the Pennsylvania Human Relations~~
~~Commission. The Department of Labor and Industry shall~~
~~promulgate rules and regulations applicable to assisted living~~
~~residences on a Statewide basis consistent with size~~
~~distinctions set forth in subsection (b) pertaining to~~
~~construction and means of egress.~~

~~(2) Recommendations for changes in existing State law and~~
~~proposed legislation to:~~

~~(i) Resolve inconsistencies that hinder the department's~~
~~implementation of the State plan.~~

~~(ii) Promote the cost efficiency and effectiveness of~~
~~visitations and inspections.~~

~~(iii) Delegate to other State and local agencies~~
~~responsibility for visitations, inspections, referral, placement~~
~~and protection of adults residing in assisted living residences.~~

~~(iv) Evaluate the State's fire and panic laws as applied to~~
~~assisted living residences.~~

~~(3) Recommendations for implementation of fire safety and~~
~~resident care standards relating to assisted living residences~~
~~by cities of the first class, second class and second class A.~~

~~(4) A programmatic and fiscal impact statement regarding the~~
~~effect of the plan on existing residential programs for the~~
~~disabled, including but not limited to skilled nursing homes,~~
~~intermediate care facilities, domiciliary care homes, adult~~
~~foster care homes, community living arrangements for the~~
~~mentally retarded and group homes for the mentally ill and the~~
~~effect of the plan on recipients of Supplemental Security~~
~~Income.~~

~~(5) Cost analysis of the entire plan and of all regulations that will be proposed pursuant to the plan.~~

~~(6) Number of personnel at the State, regional and county level required to inspect assisted living residences and monitor and enforce final rules and regulations adopted by the department.~~

~~(7) Process for relocating residents of assisted living residences whose health and safety are in imminent danger.~~

~~(c) If the department deems that it is in the best interest of the Commonwealth to develop a plan for implementation on a phased basis, the department shall submit a detailed schedule of the plan to the General Assembly which shall be part of the preliminary State plan.~~

~~(f) Within six months of the effective date of this section, the department shall adopt a final State plan which shall be submitted and published in the same manner as the preliminary plan.~~

~~(g) The final plan shall include the information required in the preliminary plan and, in addition, the cost to operators of assisted living residences for compliance with the regulations.~~

~~(h) At no time may the department change, alter, amend or modify the final State plan, except in emergency situations, without first publishing such change in the Pennsylvania Bulletin in accordance with the Commonwealth Documents Law relating to publication of regulations and without first submitting the proposed change to the General Assembly for comment and review. In an emergency, the department may change, alter, amend or modify the State plan without publishing the change or submitting the change to the General Assembly; but, within thirty days, the department shall submit and publish the~~

1 ~~change as otherwise required.~~

2 ~~(i) The State plan shall not apply to any assisted living~~
3 ~~residence operated by a religious organization for the care of~~
4 ~~clergymen or other persons in a religious profession.~~

5 ~~(j) Any regulations by the department relating to the~~
6 ~~funding of residential care for the mentally ill or mentally~~
7 ~~retarded adults and any regulations of the Department of Aging~~
8 ~~relating to domiciliary care shall use as their base,~~
9 ~~regulations established in accordance with this section.~~
10 ~~Supplementary requirements otherwise authorized by law may be~~
11 ~~added.~~

12 ~~(k) After initial approval, assisted living residences shall~~
13 ~~be visited or inspected annually.~~

14 ~~(l) Regulations specifically related to personal care homes,~~
15 ~~assisted living residences or personal care home or assisted~~
16 ~~living residence services adopted prior to the effective date of~~
17 ~~this section shall remain in effect until superseded by a final~~
18 ~~plan adopted in accordance with this section.~~

19 ~~Section 3. Section 212 of the act, added December 21, 1988~~
20 ~~(P.L.1883, No.185), is amended to read:~~

21 ~~Section 212. Intra Governmental Council on Long Term Care.~~

22 ~~(a) The General Assembly hereby establishes the Intra~~
23 ~~Governmental Council on Long Term Care.~~

24 ~~(b) The Intra Governmental Council on Long Term Care shall~~
25 ~~be composed of and appointed in accordance with the following:~~

26 ~~(1) The Secretary of Aging.~~

27 ~~(2) The Secretary of Community [Affairs] and Economic~~
28 ~~Development.~~

29 ~~(3) The Secretary of Health.~~

30 ~~(4) The Secretary of Public Welfare.~~

~~(5) The Insurance Commissioner.~~

~~(6) Two members of the Senate, one appointed by the President pro tempore and one by the Minority Leader.~~

~~(7) Two members of the House of Representatives, one appointed by the Speaker of the House of Representatives and one by the Minority Leader.~~

~~(8) One representative from the Pennsylvania Council on Aging.~~

~~(9) One representative of the [personal care home] assisted living residence industry, who shall be an owner or administrator of a licensed [personal care home] assisted living residence, appointed by the Governor.~~

~~(10) Such other members of the public who represent special needs populations, provider communities, business, labor and consumers as the Governor shall appoint.~~

~~(c) The Secretary of Aging shall serve as chairperson.~~

~~(d) (1) The terms of the Secretary of Aging, the Secretary of Community [Affairs] and Economic Development, the Secretary of Health, the Secretary of Public Welfare and the Insurance Commissioner shall be concurrent with their holding of public office.~~

~~(2) The terms of the members of the Senate and the House of Representatives shall be concurrent with the terms of the appointing officer.~~

~~(3) Nongovernmental members shall be recommended by the Secretary of Aging for appointment by the Governor and shall serve until their successors are appointed.~~

~~(e) The Intra Governmental Council on Long Term Care shall have the following powers and duties:~~

~~(1) To consult with the department and make recommendations~~

~~on regulations, licensure and any other responsibilities of the department relating to [personal care homes] assisted living residences.~~

~~(2) To perform such other duties as the Governor may assign in planning for long term care services.~~

~~(f) The department, in developing rules and regulations for licensure of [personal care homes] assisted living residences, shall work in cooperation with the Department of Aging and shall take into consideration the recommendations of the Intra-Governmental Council on Long Term Care.~~

~~Section 4. Section 213 of the act is repealed.~~

~~Section 5. The act is amended by adding a section to read:~~

~~Section 213.1. Assisted Living Residence Administrator. (a) Ninety days after the effective date of this section, all assisted living residences shall identify and appoint an assisted living residence administrator or administrators who meet the qualifications provided in this section.~~

~~(b) An assisted living residence administrator shall:~~

~~(1) be at least twenty one years of age and be of good moral character; and~~

~~(2) have knowledge, education and training in all of the following:~~

~~(i) fire prevention and emergency planning;~~

~~(ii) first aid, medications, medical terminology and personal hygiene;~~

~~(iii) local, State and Federal laws and regulations;~~

~~(iv) nutrition, food handling and sanitation;~~

~~(v) recreation;~~

~~(vi) mental illness and gerontology;~~

~~(vii) community resources and social services; and~~

~~(viii) staff supervision, budgeting, financial record
keeping and training; or~~

~~(3) be a licensed nursing home administrator who has
completed a course of instruction in the administration of an
assisted living residence as prescribed by the department.~~

~~(c) The department may promulgate regulations requiring
orientation and training for all direct care staff in an
assisted living residence.~~

~~(d) Within 90 days of the effective date of this section,
the department shall by regulation develop such standards for
knowledge, education or training to meet the standards of this
section.~~

~~(e) If not otherwise available, the department shall
schedule, and offer at cost, training and educational programs
for a person to meet the knowledge, educational and training
requirements established by this act.~~

~~Section 6. Sections 1001, 1006, 1051, 1057.1 and 1057.2 of
the act, amended or added December 21, 1998 (P.L.1883, No.185),
are amended to read:~~

~~Section 1001. Definitions. As used in this article—~~

~~"Adult day care" means care given for part of the twenty four
hour day to adults requiring assistance to meet personal needs
and who, because of physical or mental infirmity, cannot
themselves meet these needs, but who do not require nursing
care.~~

~~"Adult day care center" means any premises operated for
profit, in which adult day care is simultaneously provided for
four or more adults who are not relatives of the operator.~~

~~"Assisted living residence" means a residential setting that
offers, provides or coordinates a combination of personal care~~

1 ~~services, 24 hour supervision and scheduled or unscheduled~~
2 ~~assistance activities or health related services and has a~~
3 ~~service program and physical environment designed to minimize~~
4 ~~the need for residents to move within or from the setting to~~
5 ~~accommodate changing needs and preferences; has an~~
6 ~~organizational mission, service programs and a physical~~
7 ~~environment designed to maximize residents' dignity, autonomy,~~
8 ~~privacy and independence; encourages family and community~~
9 ~~involvement; and will disclose services offered, provided or~~
10 ~~coordinated and the costs thereof. The term includes a basic~~
11 ~~assisted living residence, an extended assisted living residence~~
12 ~~and a specialty assisted living residence. The term also~~
13 ~~includes a personal care home that has a current license on the~~
14 ~~effective date of this definition, and the holder of that~~
15 ~~license shall be granted a license as an assisted living~~
16 ~~residence if the holder is in good standing with the department.~~

17 ~~"Assisted living residence administrator" means an individual~~
18 ~~who is charged with the general administration of an assisted~~
19 ~~living residence, whether or not such individual has an~~
20 ~~ownership interest in the residence or his functions and duties~~
21 ~~are shared with other individuals.~~

22 ~~"Basic assisted living residence" means an assisted living~~
23 ~~residence that provides the following services:~~

24 ~~(1) Housing services, such as rent for unit, use of common~~
25 ~~areas and utilities.~~

26 ~~(2) Hospitality, such as meals, housekeeping and laundry~~
27 ~~services.~~

28 ~~(3) Basic assisted living residence services, including 24-~~
29 ~~hour onsite supervision, assistance with activities and tasks of~~
30 ~~daily living, medication supervision, nutritional requirements,~~

1 ~~activities/socialization, transportation, emergency call and~~
2 ~~monitoring systems.~~

3 ~~"Boarding home for children" means any premises operated for~~
4 ~~profit in which care is provided for a period exceeding twenty-~~
5 ~~four hours for any child or children under sixteen years of age,~~
6 ~~who are not relatives of the operator and who are not~~
7 ~~accompanied by parent, individual standing in loco parentis or~~
8 ~~legal guardian. The term shall not be construed to include any~~
9 ~~such premises selected for care of such child or children by a~~
10 ~~parent, individual standing in loco parentis or legal guardian~~
11 ~~for a period of thirty days or less, nor any such premises~~
12 ~~conducted under social service auspices.~~

13 ~~"Child day care" means care in lieu of parental care given~~
14 ~~for part of the twenty four hour day to children under sixteen~~
15 ~~years of age, away from their own homes, but does not include~~
16 ~~child day care furnished in places of worship during religious~~
17 ~~services.~~

18 ~~"Child day care center" means any premises operated for~~
19 ~~profit in which child day care is provided simultaneously for~~
20 ~~seven or more children who are not relatives of the operator,~~
21 ~~except such centers operated under social service auspices.~~

22 ~~"Direct care staff" means a person who directly assists~~
23 ~~residents with activities of daily living; provides services; or~~
24 ~~is otherwise responsible for the health, safety and welfare of~~
25 ~~the residents.~~

26 ~~"Extended assisted living residence" means an assisted living~~
27 ~~residence that provides:~~

28 ~~(1) Services of a basic assisted living residence.~~

29 ~~(2) Extended assisted living residence services which~~
30 ~~include levels of assisted living residence staffing required~~

~~due to non resident managed incontinence, mobility, behavioral modification, general functional limitations, special nutritional requirements and similar conditions.~~

~~"Facility" means an adult day care center, child day care center, family day care home, boarding home for children, mental health establishment, [personal care home] assisted living residence, nursing home, hospital or maternity home, as defined herein, and shall not include those operated by the State or Federal governments or those supervised by the department.~~

~~"Hospital" means any premises, other than a mental health establishment as defined herein, operated for profit, having an organized medical staff and providing equipment and services primarily for inpatient care for two or more individuals who require definitive diagnosis and/or treatment for illness, injury or other disability or during or after pregnancy, and which also regularly makes available at least clinical laboratory services, diagnostic X ray services and definitive clinical treatment services. The term shall include such premises providing either diagnosis or treatment, or both, for specific illnesses or conditions.~~

~~"Immobile person" means an individual who is unable to move from one location to another or has difficulty in understanding and carrying out instructions without the continued full assistance of other persons, or is incapable of independently operating a device such as a wheelchair, prosthesis, walker or cane to exit a building.~~

~~"Maternity home" means any premises operated for profit in which, within a period of six months, any person receives more than one woman or girl, not a relative of the operator, for care during pregnancy or immediately after delivery.~~

~~"Mental health establishment" means any premises or part thereof, private or public, for the care of individuals who require care because of mental illness, mental retardation or inebriety but shall not be deemed to include the private home of a person who is rendering such care to a relative.~~

~~"Nursing home" means any premises operated for profit in which nursing care and related medical or other health services are provided, for a period exceeding twenty four hours, for two or more individuals, who are not relatives of the operator, who are not acutely ill and not in need of hospitalization, but who, because of age, illness, disease, injury, convalescence or physical or mental infirmity need such care.~~

~~"Person" means any individual, partnership, association or corporation operating a facility.~~

~~["Personal care home" means any premises in which food, shelter and personal assistance or supervision are provided for a period exceeding twenty four hours for four or more adults who are not relatives of the operator, who do not require the services in or of a licensed long term care facility but who do require assistance or supervision in such matters as dressing, bathing, diet, financial management, evacuation of a residence in the event of an emergency or medication prescribed for self administration.~~

~~"Personal care home administrator" means an individual who is charged with the general administration of a personal care home, whether or not such individual has an ownership interest in the home or his functions and duties are shared with other individuals.]~~

~~"Relative" means parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half brother, half~~

1 ~~sister, aunt, uncle, niece, nephew.~~

2 ~~"Social service auspices" means any nonprofit agency~~
3 ~~regularly engaged in the affording of child or adult care.~~

4 ~~"Specialty assisted living residence" means an assisted~~
5 ~~living residence that holds itself out to the public as~~
6 ~~providing:~~

7 ~~(1) Services of a basic assisted living residence.~~

8 ~~(2) Specialty assisted services include levels of assisted~~
9 ~~living residence staffing required by the residents with~~
10 ~~specialized needs, including, but not limited to, Alzheimer's~~
11 ~~disease and dementia, AIDS and hospice care.~~

12 ~~Section 1006. Fees. Annual licenses shall be issued when~~
13 ~~the proper fee, if required, is received by the department and~~
14 ~~all the other conditions prescribed in this act are met. For~~
15 ~~{personal care homes} assisted living residences, the fee shall~~
16 ~~be an application fee. The fees shall be:~~

| | | |
|----|-------------------------------------|------------|
| 17 | - Facility | Annual Fee |
| 18 | Adult day care center | \$ 15 |
| 19 | Mental health establishment | 50 |
| 20 | {Personal care home} | |
| 21 | Assisted living residence 0 20 beds | 15 |
| 22 | 21 50 beds | 20 |
| 23 | 51 100 beds | 30 |
| 24 | 101 beds and above | 50 |

25 ~~No fee shall be required for the annual license in the case~~
26 ~~of day care centers, family day care homes, boarding homes for~~
27 ~~children or for public or nonprofit mental institutions.~~

28 ~~Section 1051. Definition. As used in this subarticle—~~

29 ~~"Private institution" means any of the following facilities~~
30 ~~by whatever term known and irrespective of the age group served:~~

~~Mental hospital, institution for the mentally defective, day care center, nursing home, hospital, [personal care home] assisted living residence, and other similar institution which is operated for profit and which requires a license issued by the department.~~

~~Section 1057.1. Appeals. (a) An appeal from the decision of the department relating to the licensure or revocation of [a personal care home] an assisted living residence shall not act as a supersedeas but, upon cause shown and where circumstances require it, the reviewing authority shall have the power to grant a supersedeas.~~

~~(b) If, without good cause, one or more Class I or Class II violations remain uncorrected or when the [home] assisted living residence has demonstrated a pattern of episodes of noncompliance alternating with compliance over a period of at least two years such as would convince a reasonable person that any correction of violations would be unlikely to be maintained, the department may petition the court to appoint a master designated as qualified by the department to assume operation of the [home] assisted living residence at the [home's] assisted living residence's expense for a specified period of time or until all violations are corrected and all applicable laws and regulations are complied with.~~

~~Section 1057.2. Relocation. (a) The department, in conjunction with appropriate local authorities, shall relocate residents from [a personal care home] an assisted living residence if any of the following conditions exist:~~

~~(1) The [home] assisted living residence is operating without a license.~~

~~(2) The licensee is voluntarily closing [a home] an assisted~~

~~living residence and relocation is necessary for the health and welfare of the resident or residents.~~

~~(b) The department shall offer relocation assistance to residents relocated under this section. Except in an emergency, the resident shall be involved in planning his transfer to another placement and shall have the right to choose among the available alternative placements. The department may make temporary placement until final placement can be arranged. Residents shall be provided with an opportunity to visit alternative placement before relocation or following temporary emergency relocation. Residents shall choose their final placement and shall be given assistance in transferring to such place.~~

~~(c) Residents shall not be relocated pursuant to this section if the secretary determines, in writing, that such relocation is not in the best interest of the resident.~~

~~Section 7. Section 1057.3 of the act is repealed.~~

~~Section 8. The act is amended by adding a section to read:~~

~~Section 1057.4. Rules and Regulations for Assisted Living Residence. (a) The rules and regulations for the licensing of assisted living residences promulgated by the department shall require that:~~

~~(1) Prior to a resident's admission to an assisted living residence, an initial standardized screening instrument be completed for that resident by the assisted living residence provider or a human service agency. Such standardized screening instrument shall be developed by the department. This screening will be done to determine that the potential resident does not require the services in or of a long term care facility or whether the potential resident requires assisted living~~

~~residence services and, if so, the nature of the services and supervision necessary.~~

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

~~(3) An assisted living residence administrator refer an applicant whose needs cannot be met by an assisted living residence to an appropriate assessment agency.~~

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

~~(5) All residents sign a standard written admission agreement which shall include the disclosure to each resident of the actual rent and other charges for services provided by the assisted living residence.~~

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

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

~~(8) An assisted living residence not seek or accept from a resident who is eligible for Supplemental Security Income (SSI) benefits any payment from any funds received as lump sum awards, gifts or inheritances, gains from the sale of property, or~~

~~retroactive government benefits: Provided, however, That an owner or operator may seek and accept payments from funds received as retroactive awards of Social Security or Supplemental Security Income (SSI) benefits, but only to the extent that the retroactive awards cover periods of time during which the resident actually resided in the assisted living residence.~~

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

~~(10) All residents may leave and return to the assisted living residence, receive visitors, have access to a telephone and mail and participate in religious activities.~~

~~(11) Assisted living residence owners, administrators or employes be prohibited from being assigned power of attorney or guardianship for any resident.~~

~~(b) The department shall not prohibit immobile persons who do not require the services of a licensed long term care facility, but who require assisted living residence services, from residing in an assisted living residence, provided that the design, construction, staffing or operation of the assisted living residence allows for safe emergency evacuation.~~

~~Section 9. The heading of subarticle (d) of Article X and sections 1085, 1086 and 1087 of the act are repealed.~~

~~Section 10. Article X of the act is amended by adding a subarticle to read:~~

~~(c) Assisted Living Residence~~

~~Section 1088. Classification of Violations. The department~~

~~shall classify each violation of its regulations on assisted living residences into one of the following categories:~~

~~(1) Class I. A violation which indicates a substantial probability that death or serious mental or physical harm to any resident may result.~~

~~(2) Class II. A violation which has a substantial adverse effect upon the health, safety or well being of any resident.~~

~~(3) Class III. A minor violation which has an adverse effect upon the health, safety or well being of any resident.~~

~~Section 1089. Penalties. (a) The department shall assess a penalty for each violation of this subarticle or regulations of the department. Penalties shall be assessed on a daily basis from the date on which the citation was issued until the date such violation is corrected except in the case of Class II violations. In the case of Class II violations, assessment of a penalty shall be suspended for a period of five days from the date of citation provided that, except for good cause, the provider has corrected the violation. If the violation has not been corrected within the five day period, the fine shall be retroactive to the date of citation.~~

~~(b) The department shall assess a penalty of twenty dollars (\$20) per resident per day for each Class I violation.~~

~~(c) The department shall assess a minimum penalty of five dollars (\$5) per resident per day, up to a maximum of fifteen dollars (\$15) per resident per day, for each Class II violation.~~

~~(d) There shall be no monetary penalty for Class III violations unless the provider fails to correct the Class III violation within fifteen days. Failure to correct the violation within fifteen days may result in an assessment of up to three dollars (\$3) per resident per day for each Class III violation,~~

~~retroactive to the date of the citation.~~

~~(c) An assisted living residence found to be operating without a license shall be assessed a penalty of five hundred dollars (\$500). If, after fourteen days, a provider of an assisted living residence cited for operating without a license fails to file an application for a license, the department shall assess an additional twenty dollars (\$20) for each resident for each day in which the assisted living residence fails to make such application.~~

~~(f) Any provider charged with violation of this act shall have thirty days to pay the assessed penalty in full, or, if the provider wishes to contest either the amount of the penalty or the fact of the violation, the party shall forward the assessed penalty, not to exceed five hundred dollars (\$500), to the Secretary of Public Welfare for placement in an escrow account with the State Treasurer. If, through administrative hearing or judicial review of the proposed penalty, it is determined that no violation occurred or that the amount of the penalty shall be reduced, the secretary shall within thirty days remit the appropriate amount to the provider with any interest accumulated by the escrow deposit. Failure to forward the payment to the secretary within thirty days shall result in a waiver of rights to contest the fact of the violation or the amount of the penalty. The amount assessed after administrative hearing or a waiver of the administrative hearing shall be payable to the Commonwealth of Pennsylvania and shall be collectible in any manner provided by law for the collection of debts. If any provider liable to pay such penalty neglects or refuses to pay the same after demand, such failure to pay shall constitute a judgment in favor of the Commonwealth in the amount of the~~

~~penalty, together with the interest and any costs that may
accrue.~~

~~(g) Money collected by the department under this section
shall be placed in a special restricted receipt account and
shall be first used to defray the expenses incurred by residents
relocated under this act. Any moneys remaining in this account
shall annually be remitted to the department for enforcing the
provisions of this subarticle. Fines collected pursuant to this
act shall not be subject to the provisions of 42 Pa.C.S. § 3733
(relating to deposits into account).~~

~~(h) The department shall promulgate regulations necessary
for the implementation of this section in order to ensure
uniformity and consistency in the application of penalties.~~

~~Section 1090. Revocation or Nonrenewal of License. (a) (1)
The department shall temporarily revoke the license of an
assisted living residence if, without good cause, one or more
Class I violations remain uncorrected twenty four hours after
the assisted living residence has been cited for such violation
or if, without good cause, one or more Class II violations
remain uncorrected fifteen days after being cited for such
violation.~~

~~(2) Upon the revocation of a license pursuant to this
subsection, all residents shall be relocated.~~

~~(3) The revocation may terminate upon the department's
determination that its violation is corrected.~~

~~(4) If, after three months, the department does not issue a
new license for an assisted living residence license revoked
pursuant to this section:~~

~~(i) Such revocation or nonrenewal pursuant to this section
shall be for a minimum period of five years.~~

~~(ii) No provider of an assisted living residence who has had a license revoked or not renewed pursuant to this section shall be allowed to operate or staff or hold an interest in an assisted living residence that applies for a license for a period of five years after such revocation or nonrenewal.~~

~~(b) The department shall revoke or refuse to renew the license of an assisted living residence if, during any two year period, the assisted living residence, without good cause, on two or more separate occasions, has been found to have violated a regulation of the department which has been categorized as Class I.~~

~~(c) The power of the department to revoke or refuse to renew or issue a license pursuant to this section is in addition to the powers and duties of the department pursuant to section 1026.~~

~~Section 11. All acts and parts of acts are repealed insofar as they are inconsistent with this act.~~

~~Section 12. All references to personal care homes in affected acts and portions of acts shall now be deemed to be references to assisted living residences unless otherwise provided by this act.~~

~~Section 13. This act shall take effect as follows:~~

~~(1) The amendment or repeal of sections 211, 212, 213, the definitions of "facility," "personal care home" and "personal care home administrator" in section 1001, sections 1006, 1051, 1057.1, 1057.2, 1057.3, the heading of subarticle (d) of Article X and sections 1085, 1086, and 1087 of the act shall take effect in 180 days.~~

~~(2) This section shall take effect immediately.~~

~~(3) The remainder of this act shall take effect in 90~~

1 ~~days.~~

2 SECTION 1. SHORT TITLE.

<—

3 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE ASSISTED
4 LIVING LICENSING ACT.

5 SECTION 2. DEFINITIONS.

6 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
7 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
8 CONTEXT CLEARLY INDICATES OTHERWISE:

9 "ADULT." A PERSON WHO IS 18 YEARS OF AGE OR OLDER.

10 "AGING IN PLACE." THE PROCESS OF PROVIDING INCREASED OR
11 ADJUSTED SERVICES TO A CONSUMER TO COMPENSATE FOR THE PHYSICAL
12 OR MENTAL DECLINE THAT OCCURS WITH THE AGING PROCESS IN ORDER TO
13 MAXIMIZE INDIVIDUAL DIGNITY AND INDEPENDENCE AND PERMIT THE
14 PERSON TO REMAIN IN A FAMILIAR, RESIDENTIAL ENVIRONMENT FOR AS
15 LONG AS POSSIBLE. SUCH SERVICES MAY BE PROVIDED THROUGH FACILITY
16 STAFF, A THIRD PARTY, VOLUNTEERS, FRIENDS OR FAMILY.

17 "AREA AGENCY ON AGING." THE SINGLE LOCAL AGENCY DESIGNATED
18 BY THE DEPARTMENT OF AGING WITHIN EACH PLANNING AND SERVICE AREA
19 TO ADMINISTER THE DELIVERY OF A COMPREHENSIVE AND COORDINATED
20 PLAN OF SOCIAL AND OTHER SERVICES AND ACTIVITIES.

21 "ASSISTED LIVING." THOSE SERVICES AS DETERMINED AND SELF-
22 DIRECTED BY A CONSUMER OR BY LEGAL REPRESENTATIVES THAT PERMIT
23 AND ASSIST THE CONSUMER TO LIVE IN THE COMMUNITY. THE TERM MAY
24 ALSO INCLUDE SUCH HOUSING ASSISTANCE OR RESIDENCY IN AN ASSISTED
25 LIVING RESIDENCE THAT PERMITS CONSUMERS TO SAFELY BE SUPPORTED
26 IN RESIDENCES IN WHICH THEIR INDEPENDENCE, DIGNITY AND ABILITY
27 TO MAKE CHOICES ARE MAINTAINED, TO THE EXTENT OF THEIR
28 CAPABILITIES.

29 "ASSISTED LIVING RESIDENCE." A RESIDENTIAL SETTING THAT:

30 (1) OFFERS, PROVIDES OR COORDINATES A COMBINATION OF

1 PERSONAL CARE SERVICES, ACTIVITIES, 24-HOUR SUPERVISION AND
2 ASSISTED LIVING SERVICES, WHETHER SCHEDULED OR UNSCHEDULED,
3 AND HEALTH-RELATED SERVICES FOR CONSUMERS.

4 (2) HAS A SERVICE PROGRAM AND PHYSICAL ENVIRONMENT
5 DESIGNED TO MINIMIZE THE NEED FOR CONSUMERS TO MOVE WITHIN OR
6 FROM THE SETTING TO ACCOMMODATE CHANGING NEEDS AND
7 PREFERENCES.

8 (3) HAS AN ORGANIZED MISSION, SERVICE PROGRAMS AND A
9 PHYSICAL ENVIRONMENT DESIGNED TO MAXIMIZE CONSUMER'S DIGNITY,
10 AUTONOMY, PRIVACY AND INDEPENDENCE AND ENCOURAGES FAMILY AND
11 COMMUNITY INVOLVEMENT.

12 (4) COSTS FOR HOUSING AND SERVICES INDEPENDENT OF ONE
13 ANOTHER AND THAT PROVIDES CONSUMERS WITH THE ABILITY TO
14 CHOOSE THEIR SERVICE PROVIDER AND THE SERVICES TO BE
15 PROVIDED.

16 (5) HAS A GOAL OF FOSTERING AGING IN PLACE AND PROMOTING
17 CONSUMER SELF-DIRECTION AND ACTIVE PARTICIPATION IN DECISION
18 MAKING WHILE EMPHASIZING AN INDIVIDUAL'S PRIVACY AND DIGNITY.

19 "ASSISTED LIVING SERVICES." A COMBINATION OF SUPPORTIVE
20 SERVICES, PERSONAL CARE SERVICES, PERSONALIZED ASSISTANCE
21 SERVICES, ASSISTIVE TECHNOLOGY AND HEALTH-RELATED SERVICES
22 DESIGNED TO RESPOND TO THE INDIVIDUAL NEEDS OF THOSE WHO NEED
23 ASSISTANCE WITH ACTIVITIES OF DAILY LIVING AND INSTRUMENTAL
24 ACTIVITIES OF DAILY LIVING. THE TERM INCLUDES PUBLICLY FUNDED
25 HOME-BASED SERVICES AND COMMUNITY-BASED SERVICES AVAILABLE
26 THROUGH THE MEDICAL ASSISTANCE PROGRAM AND THE FEDERAL MEDICAID
27 WAIVER PROGRAM AND STATE-FUNDED OPTIONS FOR HOME-BASED SERVICES
28 AND COMMUNITY-BASED SERVICES FUNDED THROUGH THE DEPARTMENT OF
29 AGING.

30 "ASSISTIVE TECHNOLOGY." THOSE DEVICES AND SERVICES, WHETHER

1 MEDICALLY NECESSARY OR NOT, THAT ARE USED TO INCREASE, MAINTAIN
2 OR IMPROVE THE FUNCTIONAL CAPABILITIES OF PERSONS WITH
3 DISABILITIES WHICH MAY OR MAY NOT BE NEEDED TO PERMIT THE PERSON
4 TO LIVE INDEPENDENTLY. THE TERM SHALL INCLUDE, BUT NOT BE
5 LIMITED TO, REACHERS, ADAPTED TELEPHONES, READING AIDS AND OTHER
6 NONMEDICAL DEVICES.

7 "COMPREHENSIVE ASSESSMENT." A THOROUGH REVIEW OF A
8 CONSUMER'S STATUS IN A NUMBER OF FUNCTIONAL AREAS, INCLUDING A
9 BRIEF PERSONAL HISTORY. THE TERM INCLUDES PHYSICAL HEALTH,
10 EMOTIONAL HEALTH, COGNITIVE FUNCTIONING, PHYSICAL FUNCTIONING,
11 ABILITY TO CARRY OUT ACTIVITIES OF DAILY LIVING, INFORMAL
12 SUPPORTS, ENVIRONMENTAL FACTORS AND FINANCES.

13 "COMPREHENSIVE SERVICE PLAN." A PLAN DEVELOPED TO MEET A
14 CONSUMER'S INDIVIDUAL NEEDS IN A NUMBER OF FUNCTIONAL AREAS, AS
15 A RESULT OF THE COMPREHENSIVE ASSESSMENT. COMPREHENSIVE SERVICE
16 PLANNING IS DONE BY AN INTERDISCIPLINARY TEAM THAT INCLUDES THE
17 CONSUMER, THE CONSUMER'S LEGAL REPRESENTATIVE AND THE CONSUMER'S
18 FAMILY MEMBER.

19 "CONSUMER." A PERSON WHO IS 18 YEARS OF AGE OR OLDER AND WHO
20 RECEIVES ASSISTED LIVING SERVICES, IS IN NEED OF ASSISTED LIVING
21 SERVICES OR LIVES IN AN ASSISTED LIVING RESIDENCE.

22 "DEPARTMENT." THE DEPARTMENT OF PUBLIC WELFARE OF THE
23 COMMONWEALTH.

24 "DIRECT SERVICE STAFF." A PERSON WHO DIRECTLY ASSISTS
25 CONSUMERS WITH ACTIVITIES OF DAILY LIVING, PROVIDES SERVICES OR
26 IS OTHERWISE RESPONSIBLE FOR THE HEALTH, SAFETY AND WELFARE OF
27 THE CONSUMERS.

28 "IMMOBILE PERSON." AN INDIVIDUAL WHO IS UNABLE TO MOVE FROM
29 ONE LOCATION TO ANOTHER OR HAS DIFFICULTY IN UNDERSTANDING AND
30 CARRYING OUT INSTRUCTIONS WITHOUT THE CONTINUED FULL ASSISTANCE

1 OF OTHER PERSONS OR IS INCAPABLE OF INDEPENDENTLY OPERATING A
2 DEVICE SUCH AS A WHEELCHAIR, PROSTHESIS, WALKER OR CANE TO EXIT
3 A BUILDING.

4 "LONG-TERM CARE OMBUDSMAN." AN AGENT OF THE DEPARTMENT OF
5 AGING WHO INVESTIGATES AND SEEKS TO RESOLVE COMPLAINTS MADE BY
6 OR ON BEHALF OF OLDER INDIVIDUALS OR ADULTS WITH DISABILITIES
7 WHO ARE CONSUMERS OF ASSISTED LIVING SERVICES, PURSUANT TO
8 SECTION 2203-A OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175),
9 KNOWN AS THE ADMINISTRATIVE CODE OF 1929, WHICH COMPLAINTS MAY
10 RELATE TO ACTION, INACTION OR DECISIONS OF PROVIDERS OF ASSISTED
11 LIVING SERVICES OR RESIDENCES OR OF PUBLIC AGENCIES OR OF SOCIAL
12 SERVICE AGENCIES, OR THEIR REPRESENTATIVES, AND WHICH MAY
13 ADVERSELY AFFECT THE HEALTH, SAFETY, WELFARE, INTERESTS,
14 PREFERENCES OR RIGHTS OF CONSUMERS.

15 "OPTIONS." THE LONG-TERM CARE PRE-ADMISSION ASSESSMENT
16 PROGRAM AND THE COMMUNITY SERVICES FOR NURSING FACILITY
17 ELIGIBILITY PROGRAM ADMINISTERED BY THE DEPARTMENT OF AGING AND
18 OPERATED BY THE AREA AGENCIES ON AGING.

19 "PERSONAL CARE HOME." A PREMISE IN WHICH FOOD, SHELTER AND
20 PERSONAL ASSISTANCE OR SUPERVISION ARE PROVIDED FOR A PERIOD
21 EXCEEDING 24 HOURS FOR FOUR OR MORE CONSUMERS WHO ARE NOT
22 RELATIVES OF THE OPERATOR, WHO DO NOT REQUIRE THE SERVICES IN OR
23 OF A LICENSED LONG-TERM CARE FACILITY, BUT WHO DO REQUIRE
24 ASSISTANCE OR SUPERVISION IN SUCH MATTERS AS DRESSING, BATHING,
25 DIET, FINANCIAL MANAGEMENT, EVACUATION OF A RESIDENCE IN THE
26 EVENT OF AN EMERGENCY OR MEDICATION PRESCRIBED FOR SELF-
27 ADMINISTRATION.

28 SECTION 3. STATE PLAN FOR REGULATING AND LICENSING ASSISTED
29 LIVING RESIDENCES AND PROVIDERS OF ASSISTED
30 LIVING SERVICES.

1 (A) DEVELOPMENT.--IN ACCORDANCE WITH THE STATUTORY AUTHORITY
2 AND RESPONSIBILITY VESTED IN THE DEPARTMENT TO REGULATE AND
3 LICENSE PERSONAL CARE HOMES PURSUANT TO ARTICLES IX AND X OF THE
4 ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE PUBLIC
5 WELFARE CODE, THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT A STATE
6 PLAN FOR REGULATING AND LICENSING ASSISTED LIVING RESIDENCES AND
7 FOR COORDINATION WITH OTHER STATE AND LOCAL AGENCIES HAVING
8 STATUTORY RESPONSIBILITIES RELATING TO ASSISTED LIVING
9 RESIDENCES AND PROVIDERS OF ASSISTED LIVING SERVICES.

10 (B) CONSIDERATIONS FOR DEVELOPMENT.--IN DEVELOPING RULES AND
11 REGULATIONS FOR THE STATE PLAN, THE DEPARTMENT SHALL:

12 (1) DEVELOP STANDARDS FOR LICENSING AS AN ASSISTED
13 LIVING RESIDENCE ANY PREMISES IN WHICH FOOD, SHELTER AND
14 PERSONAL ASSISTANCE OR SUPERVISION ARE PROVIDED FOR A PERIOD
15 EXCEEDING 24 HOURS FOR FOUR OR MORE CONSUMERS WHO ARE NOT
16 RELATIVES OF THE OPERATOR AND HAVE CONTRACTED FOR SUCH
17 SERVICES.

18 (2) REQUIRE PERSONAL CARE HOMES CURRENTLY LICENSED BY
19 THE DEPARTMENT TO COME INTO COMPLIANCE WITH DEPARTMENT RULES
20 AND REGULATIONS AND TO OBTAIN A LICENSE AS AN ASSISTED LIVING
21 RESIDENCE WITHIN THREE YEARS FROM THE EFFECTIVE DATE OF THIS
22 ACT.

23 (3) WITHIN 90 DAYS OF THE EFFECTIVE DATE OF THIS ACT,
24 ADOPT RULES RELATING TO THE CONDUCT OF OWNERS AND EMPLOYEES
25 OF ASSISTED LIVING RESIDENCES RELATIVE TO THE ENDORSEMENT OR
26 DELIVERY OF PUBLIC OR PRIVATE WELFARE, PENSION OR INSURANCE
27 CHECKS BY A CONSUMER OF AN ASSISTED LIVING RESIDENCE.

28 (4) NOT REGULATE OR REQUIRE THE REGISTRATION OF BOARDING
29 HOMES WHICH MERELY PROVIDE ROOM, BOARD AND LAUNDRY SERVICES
30 TO PERSONS WHO DO NOT NEED ASSISTED LIVING SERVICES.

1 (C) PUBLICATION OF PRELIMINARY STATE PLAN.--WITHIN THREE
2 MONTHS OF THE EFFECTIVE DATE OF THIS ACT, THE DEPARTMENT SHALL
3 SUBMIT TO THE AGING AND YOUTH COMMITTEE OF THE SENATE AND THE
4 AGING AND YOUTH COMMITTEE OF THE HOUSE OF REPRESENTATIVES FOR
5 COMMENT AND REVIEW, AND PUBLISH IN THE PENNSYLVANIA BULLETIN IN
6 ACCORDANCE WITH THE PROVISIONS OF THE ACT OF JULY 31, 1968
7 (P.L.769, NO.240), REFERRED TO AS THE COMMONWEALTH DOCUMENTS
8 LAW, RELATING TO THE PUBLICATION OF REGULATIONS, A PRELIMINARY
9 STATE PLAN FOR REGULATING AND LICENSING ASSISTED LIVING
10 RESIDENCES.

11 (D) CONTENTS OF PRELIMINARY STATE PLAN.--THE PRELIMINARY
12 PLAN SHALL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING:

13 (1) COORDINATION OF THE DEPARTMENT'S STATUTORY
14 RESPONSIBILITIES WITH THOSE OF OTHER STATE AND LOCAL AGENCIES
15 HAVING STATUTORY RESPONSIBILITIES RELATING TO ASSISTED LIVING
16 RESIDENCES AND PROVIDERS OF ASSISTED LIVING SERVICES, WITH
17 PARTICULAR ATTENTION GIVEN TO THE DEPARTMENT OF AGING, THE
18 DEPARTMENT OF HEALTH AND THE DEPARTMENT OF LABOR AND
19 INDUSTRY.

20 (2) RECOMMENDATIONS FOR CHANGES IN EXISTING STATE LAW
21 AND PROPOSED LEGISLATION TO:

22 (I) RESOLVE INCONSISTENCIES THAT HINDER THE
23 DEPARTMENT'S IMPLEMENTATION OF THE STATE PLAN.

24 (II) PROMOTE THE COST EFFICIENCY AND EFFECTIVENESS
25 OF VISITATIONS AND INSPECTIONS.

26 (III) DELEGATE TO OTHER STATE AND LOCAL AGENCIES
27 RESPONSIBILITY FOR VISITATIONS, INSPECTIONS, REFERRAL,
28 PLACEMENT AND PROTECTION OF CONSUMERS RESIDING IN
29 ASSISTED LIVING RESIDENCES OR RECEIVING ASSISTED LIVING
30 SERVICES FROM A PROVIDER OF ASSISTED LIVING SERVICES.

(IV) EVALUATE THE STATE'S FIRE AND PANIC LAWS AS
APPLIED TO ASSISTED LIVING RESIDENCES.

(V) ESTABLISH FEES FOR LICENSURE OF ASSISTED LIVING
RESIDENCES.

(VI) CREATE A UNIFORM STANDARD POLICY FOR THE
DISCHARGE OF A CONSUMER FROM AN ASSISTED LIVING
RESIDENCE, WHICH POLICY SHALL INCLUDE, AT A MINIMUM,
ADVANCE NOTICE PROVISIONS FOR THE CONSUMER.

(3) RECOMMENDATIONS FOR IMPLEMENTATION OF FIRE AND
SAFETY AND CONSUMER CARE STANDARDS RELATING TO ASSISTED
LIVING RESIDENCES BY CITIES OF THE FIRST CLASS, SECOND CLASS
AND SECOND CLASS A.

(4) A PROGRAMMATIC AND FISCAL IMPACT STATEMENT REGARDING
THE EFFECT OF THE STATE PLAN ON EXISTING RESIDENTIAL PROGRAMS
FOR THE DISABLED, INCLUDING, BUT NOT LIMITED TO, SKILLED
NURSING HOMES, INTERMEDIATE CARE FACILITIES, DOMICILIARY CARE
HOMES, ADULT FOSTER CARE HOMES, COMMUNITY LIVING ARRANGEMENTS
FOR THE MENTALLY RETARDED AND GROUP HOMES FOR THE MENTALLY
ILL AND THE EFFECT OF THE PLAN ON RECIPIENTS OF SUPPLEMENTAL
SECURITY INCOME.

(5) A COST ANALYSIS OF THE ENTIRE STATE PLAN AND OF ALL
REGULATIONS THAT WILL BE PROPOSED PURSUANT TO THE STATE PLAN.

(6) THE NUMBER OF PERSONNEL AT THE STATE, REGIONAL AND
COUNTY LEVEL REQUIRED TO INSPECT ASSISTED LIVING RESIDENCES
AND MONITOR AND ENFORCE FINAL RULES AND REGULATIONS ADOPTED
BY THE DEPARTMENT.

(7) A PROCESS FOR RELOCATING CONSUMERS OF ASSISTED
LIVING RESIDENCES WHOSE HEALTH AND SAFETY ARE IN IMMINENT
DANGER.

(E) REGULATIONS BY OTHER DEPARTMENTS.--NO LATER THAN ONE

1 YEAR FROM THE EFFECTIVE DATE OF THIS ACT:

2 (1) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL
3 PROMULGATE RULES AND REGULATIONS APPLICABLE TO ASSISTED
4 LIVING RESIDENCES ON A STATEWIDE BASIS CONSISTENT WITH SIZE
5 DISTINCTIONS SET FORTH IN THE ACT OF NOVEMBER 10, 1999
6 (P.L.491, NO.45), KNOWN AS THE PENNSYLVANIA CONSTRUCTION CODE
7 ACT, PERTAINING TO CONSTRUCTION AND MEANS OF EGRESS. THE
8 REGULATIONS SHALL APPLY TO ALL ASSISTED LIVING RESIDENCES NOT
9 CURRENTLY LICENSED BY THE DEPARTMENT OF PUBLIC WELFARE AS A
10 PERSONAL CARE HOME. ASSISTED LIVING RESIDENCES CURRENTLY
11 HOLDING A PERSONAL CARE HOME LICENSE IN GOOD STANDING FROM
12 THE DEPARTMENT OF PUBLIC WELFARE SHALL HAVE THREE YEARS FROM
13 THE EFFECTIVE DATE OF THIS ACT TO COMPLY WITH DEPARTMENT OF
14 LABOR AND INDUSTRY RULES AND REGULATIONS APPLICABLE TO
15 ASSISTED LIVING RESIDENCES.

16 (2) THE DEPARTMENT OF HEALTH SHALL PROMULGATE RULES AND
17 REGULATIONS TO ESTABLISH A SYSTEM OF LICENSURE APPLICABLE TO
18 ALL ASSISTED LIVING SERVICE PROVIDERS WHO ARE NOT ALREADY
19 LICENSED BY THAT DEPARTMENT.

20 (3) THE DEPARTMENT OF AGING SHALL PROMULGATE RULES AND
21 REGULATIONS TO EXTEND REGULATIONS PROMULGATED UNDER THE ACT
22 OF NOVEMBER 6, 1987 (P.L.381, NO.79), KNOWN AS THE OLDER
23 ADULT PROTECTIVE SERVICES ACT, TO ASSISTED LIVING RESIDENCES
24 AND ASSISTED LIVING SERVICE PROVIDERS AND THE CONSUMERS
25 THEREOF.

26 (F) PHASE IN OF PLAN.--IF THE DEPARTMENT DEEMS THAT IT IS IN
27 THE BEST INTEREST OF THE COMMONWEALTH TO IMPLEMENT THE STATE
28 PLAN ON A PHASE-IN BASIS, THE DEPARTMENT SHALL SUBMIT A DETAILED
29 SCHEDULE OF THE PHASE-IN PLAN TO THE AGING AND YOUTH COMMITTEE
30 OF THE SENATE AND THE AGING AND YOUTH COMMITTEE OF THE HOUSE OF

1 REPRESENTATIVES, WHICH SHALL BE A PART OF THE PRELIMINARY STATE
2 PLAN.

3 (G) FINAL STATE PLAN.--WITHIN SIX MONTHS OF THE EFFECTIVE
4 DATE OF THIS ACT, THE DEPARTMENT SHALL ADOPT A FINAL STATE PLAN
5 WHICH SHALL BE SUBMITTED AND PUBLISHED IN THE SAME MANNER AS THE
6 PRELIMINARY STATE PLAN.

7 (H) CONTENTS OF FINAL STATE PLAN.--THE FINAL STATE PLAN
8 SHALL INCLUDE THE INFORMATION REQUIRED IN THE PRELIMINARY STATE
9 PLAN AND, IN ADDITION, THE COST TO OPERATORS OF ASSISTED LIVING
10 RESIDENCES FOR COMPLIANCE WITH THE REGULATIONS AND TO PROVIDERS
11 OF ASSISTED LIVING SERVICES FOR COMPLIANCE WITH REGULATIONS, IN
12 ACCORDANCE WITH THIS SECTION.

13 (I) PUBLICATION OF CHANGES TO STATE PLAN.--

14 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), AT NO TIME MAY
15 THE DEPARTMENT CHANGE, ALTER, AMEND OR MODIFY THE FINAL STATE
16 PLAN WITHOUT FIRST PUBLISHING SUCH CHANGE IN THE PENNSYLVANIA
17 BULLETIN IN ACCORDANCE WITH THE COMMONWEALTH DOCUMENTS LAW
18 RELATING TO PUBLICATION OF REGULATIONS AND WITHOUT FIRST
19 SUBMITTING THE PROPOSED CHANGE TO THE AGING AND YOUTH
20 COMMITTEE OF THE SENATE AND THE AGING AND YOUTH COMMITTEE OF
21 THE HOUSE OF REPRESENTATIVES FOR COMMENT AND REVIEW.

22 (2) IN AN EMERGENCY, THE DEPARTMENT MAY CHANGE, ALTER,
23 AMEND OR MODIFY THE STATE PLAN WITHOUT PUBLISHING THE CHANGE
24 OR SUBMITTING THE CHANGE TO THE AGING AND YOUTH COMMITTEE OF
25 THE SENATE AND THE AGING AND YOUTH COMMITTEE OF THE HOUSE OF
26 REPRESENTATIVES, PROVIDED THAT WITHIN 30 DAYS OF ADOPTING THE
27 CHANGE, THE DEPARTMENT SHALL SUBMIT AND PUBLISH THE CHANGE AS
28 A NOTICE IN THE PENNSYLVANIA BULLETIN.

29 (J) INAPPLICABLE TO RELIGIOUS ORGANIZATIONS.--THE STATE PLAN
30 SHALL NOT APPLY TO ANY ASSISTED LIVING RESIDENCE OPERATED BY A

1 RELIGIOUS ORGANIZATION FOR THE CARE OF CLERGYMEN OR OTHER
2 PERSONS IN A RELIGIOUS PROFESSION.

3 (K) OTHER REGULATIONS.--ANY REGULATIONS BY THE DEPARTMENT
4 RELATING TO THE FUNDING OF RESIDENTIAL CARE FOR THE MENTALLY ILL
5 OR MENTALLY RETARDED ADULTS AND ANY REGULATIONS OF THE
6 DEPARTMENT OF AGING RELATING TO DOMICILIARY CARE SHALL BE
7 CONSISTENT WITH REGULATIONS ESTABLISHED IN ACCORDANCE WITH THIS
8 SECTION. SUPPLEMENTARY REQUIREMENTS OTHERWISE AUTHORIZED BY LAW
9 MAY BE ADDED.

10 (L) ANNUAL INSPECTIONS.--AFTER INITIAL LICENSURE, ASSISTED
11 LIVING RESIDENCES SHALL, AT A MINIMUM, BE INSPECTED ANNUALLY ON
12 AN UNANNOUNCED BASIS. THE DEPARTMENT SHALL ESTABLISH CRITERIA
13 FOR ADDITIONAL INSPECTIONS AS DEEMED NECESSARY.

14 (M) EXISTING REGULATIONS.--REGULATIONS SPECIFICALLY RELATED
15 TO PERSONAL CARE HOMES ADOPTED PRIOR TO THE EFFECTIVE DATE OF
16 THIS SECTION SHALL CONTINUE TO BE APPLIED TO AN OWNER OR
17 ADMINISTRATOR OF A PERSONAL CARE HOME UNTIL THE OWNER OR
18 ADMINISTRATOR OBTAINS LICENSURE AS AN ASSISTED LIVING RESIDENCE
19 PURSUANT TO THIS ACT.

20 SECTION 4. INTRA-GOVERNMENTAL COUNCIL ON LONG-TERM CARE.

21 (A) ADDITIONAL MEMBERS.--IN ADDITION TO THE MEMBERS
22 APPOINTED TO THE INTRA-GOVERNMENTAL COUNCIL ON LONG-TERM CARE,
23 IN ACCORDANCE WITH SECTION 212 OF THE ACT OF JUNE 13, 1967
24 (P.L.31, NO.21), KNOWN AS THE PUBLIC WELFARE CODE, THE GOVERNOR
25 SHALL APPOINT TWO REPRESENTATIVES OF THE ASSISTED LIVING
26 INDUSTRY, ONE OF WHOM SHALL BE AN OWNER OR ADMINISTRATOR OF A
27 LICENSED ASSISTED LIVING RESIDENCE AND ONE OF WHOM SHALL BE A
28 LICENSED PROVIDER OF ASSISTED LIVING SERVICES.

29 (B) RECOMMENDATIONS TO BE CONSIDERED.--IN DEVELOPING RULES
30 AND REGULATIONS FOR LICENSURE OF ASSISTED LIVING RESIDENCES, THE

1 DEPARTMENT SHALL WORK IN COOPERATION WITH THE DEPARTMENT OF
2 AGING AND SHALL TAKE INTO CONSIDERATION RECOMMENDATIONS OF THE
3 INTRA-GOVERNMENTAL COUNCIL ON LONG-TERM CARE.

4 SECTION 5. ASSISTED LIVING RESIDENCE ADMINISTRATOR.

5 (A) APPOINTMENT.--NINETY DAYS AFTER THE EFFECTIVE DATE OF
6 THIS ACT, ALL ASSISTED LIVING RESIDENCES SHALL IDENTIFY AND
7 APPOINT AN ASSISTED LIVING RESIDENCE ADMINISTRATOR OR
8 ADMINISTRATORS WHO MEET, AT A MINIMUM, THE QUALIFICATIONS
9 PROVIDED IN THIS SECTION.

10 (B) QUALIFICATIONS.--AN ASSISTED LIVING RESIDENCE
11 ADMINISTRATOR SHALL:

12 (1) BE AT LEAST 21 YEARS OF AGE AND BE OF GOOD MORAL
13 CHARACTER; AND

14 (2) HAVE KNOWLEDGE, EDUCATION AND TRAINING, AS IT
15 PERTAINS TO ASSISTED LIVING RESIDENCES, IN ALL OF THE
16 FOLLOWING:

17 (I) FIRE PREVENTION AND EMERGENCY PLANNING;

18 (II) FIRST AID, MEDICATIONS, MEDICAL TERMINOLOGY AND
19 PERSONAL HYGIENE;

20 (III) FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS;

21 (IV) NUTRITION, FOOD HANDLING AND SANITATION;

22 (V) RECREATION;

23 (VI) MATTERS RELATING TO DEMENTIA, INCLUDING NORMAL
24 AGING, COGNITIVE, PSYCHOLOGICAL AND FUNCTIONAL ABILITIES
25 OF OLDER PERSONS;

26 (VII) MENTAL HEALTH ISSUES;

27 (VIII) ASSISTED LIVING PHILOSOPHY;

28 (IX) USE AND BENEFITS OF ASSISTIVE TECHNOLOGY;

29 (X) TEAM BUILDING AND STRESS REDUCTION FOR ASSISTING
30 LIVING RESIDENCE STAFF;

(XI) WORKING WITH FAMILY MEMBERS;
(XII) AWARENESS, IDENTIFICATION, PREVENTION AND
REPORTING OF ABUSE AND NEGLECT;
(XIII) MISSION AND PURPOSE OF SERVICES TO
INDIVIDUALS WITH COGNITIVE IMPAIRMENTS;
(XIV) COMMUNICATION SKILLS AND MANAGEMENT OF
BEHAVIORAL CHALLENGES;
(XV) COMMUNITY RESOURCES AND SOCIAL SERVICES;
(XVI) STAFF SUPERVISION, BUDGETING, FINANCIAL
RECORDKEEPING AND TRAINING; OR

(3) BE A LICENSED NURSING HOME ADMINISTRATOR OR PERSONAL
CARE HOME ADMINISTRATOR WHO HAS COMPLETED A COURSE OF
INSTRUCTION IN THE ADMINISTRATION OF AN ASSISTED LIVING
RESIDENCE, INCLUDING INSTRUCTION IN ALL AREAS ENUMERATED
UNDER PARAGRAPH (2).

(C) STAFF ORIENTATION AND TRAINING.--

(1) THE DEPARTMENT SHALL PROMULGATE REGULATIONS, NOT
LATER THAN 60 DAYS AFTER THE EFFECTIVE DATE OF THIS ACT,
REQUIRING ORIENTATION AND TRAINING FOR ALL DIRECT CARE STAFF
IN AN ASSISTED LIVING RESIDENCE, INCLUDING ALL AREAS
ENUMERATED UNDER SUBSECTION (B).

(2) EXCEPT THOSE ITEMS SPECIFICALLY ORIENTED TO
SUPERVISORY STAFF.

(3) NOT LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF
THIS ACT, THE DEPARTMENT SHALL, BY REGULATION, DEVELOP SUCH
STANDARDS FOR KNOWLEDGE, EDUCATION OR TRAINING TO MEET THE
REQUIREMENTS OF THIS SECTION.

(4) IF NOT OTHERWISE AVAILABLE, THE DEPARTMENT SHALL
SCHEDULE AND OFFER AT COST TRAINING AND EDUCATIONAL PROGRAMS
FOR A PERSON TO MEET THE KNOWLEDGE, EDUCATIONAL AND TRAINING

1 REQUIREMENTS ESTABLISHED BY THIS ACT.

2 SECTION 6. APPEALS AND MASTERS.

3 (A) NO SUPERSEDEAS.--AN APPEAL FROM THE DECISION OF THE
4 DEPARTMENT RELATING TO THE LICENSURE OR REVOCATION OF AN
5 ASSISTED LIVING RESIDENCE SHALL NOT ACT AS A SUPERSEDEAS, BUT,
6 UPON CAUSE SHOWN AND WHERE CIRCUMSTANCES REQUIRE IT, THE
7 REVIEWING AUTHORITY SHALL HAVE THE POWER TO GRANT A SUPERSEDEAS.

8 (B) APPOINTMENT OF MASTER BY COURT.--IF, WITHOUT GOOD CAUSE,
9 ONE OR MORE CLASS I OR CLASS II VIOLATIONS AS DEFINED IN SECTION
10 9 REMAIN UNCORRECTED OR WHEN THE ASSISTED LIVING RESIDENCE HAS
11 DEMONSTRATED A PATTERN OF EPISODES OF NONCOMPLIANCE ALTERNATING
12 WITH COMPLIANCE OVER A PERIOD OF AT LEAST TWO YEARS SUCH AS
13 WOULD CONVINCE A REASONABLE PERSON THAT ANY CORRECTION OF
14 VIOLATIONS WOULD BE UNLIKELY TO BE MAINTAINED, THE DEPARTMENT
15 MAY PETITION THE COURT TO APPOINT A MASTER DESIGNATED AS
16 QUALIFIED BY THE DEPARTMENT TO ASSUME OPERATION OF THE ASSISTED
17 LIVING RESIDENCE AT THE ASSISTED LIVING RESIDENCES EXPENSE FOR A
18 SPECIFIED PERIOD OF TIME OR UNTIL ALL VIOLATIONS ARE CORRECTED
19 AND ALL APPLICABLE LAWS AND REGULATIONS ARE COMPLIED WITH.

20 SECTION 7. RELOCATION.

21 (A) CONDITIONS.--EXCEPT AS PROVIDED IN SUBSECTION (C), THIS
22 DEPARTMENT, IN CONJUNCTION WITH APPROPRIATE LOCAL AUTHORITIES,
23 SHALL RELOCATE CONSUMERS FROM AN ASSISTED LIVING RESIDENCE IF
24 ANY OF THE FOLLOWING CONDITIONS EXIST:

25 (1) THE ASSISTED LIVING RESIDENCE IS OPERATING WITHOUT A
26 LICENSE.

27 (2) THE LICENSEE IS VOLUNTARILY CLOSING AN ASSISTED
28 LIVING RESIDENCE AND RELOCATION IS NECESSARY FOR THE HEALTH
29 AND WELFARE OF THE CONSUMERS.

30 (B) ASSISTANCE.--THE DEPARTMENT SHALL OFFER RELOCATION

1 ASSISTANCE TO CONSUMERS RELOCATED UNDER THIS SECTION. EXCEPT IN
2 AN EMERGENCY, THE CONSUMER SHALL BE INVOLVED IN PLANNING HIS
3 TRANSFER TO ANOTHER PLACEMENT AND SHALL HAVE THE RIGHT TO CHOOSE
4 AMONG THE AVAILABLE ALTERNATIVE PLACEMENTS. THE DEPARTMENT MAY
5 MAKE TEMPORARY PLACEMENT UNTIL FINAL PLACEMENT CAN BE ARRANGED.
6 CONSUMERS SHALL BE PROVIDED WITH AN OPPORTUNITY TO VISIT
7 ALTERNATIVE PLACEMENT BEFORE RELOCATION OR FOLLOWING TEMPORARY
8 EMERGENCY RELOCATION. CONSUMERS SHALL CHOOSE THEIR FINAL
9 PLACEMENT AND SHALL BE GIVEN ASSISTANCE IN TRANSFERRING TO SUCH
10 PLACE.

11 (C) WHEN PROHIBITED.--CONSUMERS SHALL NOT BE RELOCATED
12 PURSUANT TO THIS SECTION IF THE DEPARTMENT DETERMINES, IN
13 WRITING, THAT SUCH RELOCATION IS NOT IN THE BEST INTEREST OF THE
14 CONSUMER.

15 SECTION 8. RULES AND REGULATIONS FOR ASSISTED LIVING
16 RESIDENCES.

17 (A) MANDATORY PROVISIONS.--THE RULES AND REGULATIONS FOR THE
18 LICENSING OF ASSISTED LIVING RESIDENCES PROMULGATED BY THE
19 DEPARTMENT NOT LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF
20 THIS ACT SHALL PROVIDE THAT:

21 (1) PRIOR TO ADMISSION TO AN ASSISTED LIVING RESIDENCE
22 OR THE PROVISION OF ASSISTED LIVING SERVICES, AN INITIAL
23 STANDARDIZED SCREENING INSTRUMENT SHALL DETERMINE THE
24 APPROPRIATENESS OF THE ADMISSION OR THE PROVISION OF SERVICES
25 AND SHALL BE COMPLETED FOR ALL CONSUMERS. THIS STANDARDIZED
26 SCREENING INSTRUMENT SHALL BE DEVELOPED BY THE DEPARTMENT OF
27 PUBLIC WELFARE, IN COOPERATION WITH THE DEPARTMENT OF AGING,
28 THE DEPARTMENT OF HEALTH AND THE INTRA-GOVERNMENTAL COUNCIL
29 ON LONG-TERM CARE. IN NO WAY SHALL THE UTILIZATION OF THIS
30 STANDARDIZED SCREENING INSTRUMENT BE IN LIEU OF AN OPTIONS

1 ASSESSMENT FOR ANY INDIVIDUAL WHO MAY NEED PUBLICLY FUNDED
2 SERVICES.

3 (2) IN ADDITION TO THE SCREENING, A MEDICAL EVALUATION
4 SHALL BE COMPLETED AND SIGNED BY A PHYSICIAN UPON ADMISSION
5 TO AN ASSISTED LIVING RESIDENCE, USING A FORM APPROVED BY THE
6 COMMONWEALTH. THEREAFTER, EACH CONSUMER SHALL RECEIVE A
7 SCREENING AND AN ANNUAL EVALUATION OR AN EVALUATION UPON A
8 SIGNIFICANT CHANGE IN CONDITION OF THE CONSUMER.

9 (3) FOLLOWING COMPLETION OF A COMPREHENSIVE ASSESSMENT,
10 AN APPROPRIATELY TRAINED PERSON AT THE ASSISTED LIVING
11 RESIDENCE SHALL WORK IN COOPERATION WITH AN INTERDISCIPLINARY
12 TEAM THAT INCLUDES THE CONSUMER, THE CONSUMER'S LEGAL
13 REPRESENTATIVE OR THE CONSUMER'S FAMILY MEMBER TO DEVELOP A
14 WRITTEN COMPREHENSIVE SERVICE PLAN CONSISTENT WITH THE
15 CONSUMER'S UNIQUE PHYSICAL AND PSYCHOSOCIAL NEEDS WITH
16 RECOGNITION OF THE CONSUMER'S CAPABILITIES AND PREFERENCES.

17 (4) ASSISTED LIVING RESIDENCES SHALL NOT ADMIT A
18 CONSUMER BEFORE A DETERMINATION HAS BEEN MADE THAT THE NEEDS
19 OF THE CONSUMER CAN BE MET BASED UPON:

20 (I) THE COMPLETED SCREENING INSTRUMENT.

21 (II) THE MEDICAL EVALUATION REPORT.

22 (III) AN INTERVIEW BETWEEN THE ASSISTED LIVING
23 RESIDENCE AND THE CONSUMER.

24 (5) ASSISTED LIVING RESIDENCES SHALL FOSTER AGING AND
25 PLACE AND PROMOTE CONSUMER SELF-DIRECTION AND ACTIVE
26 PARTICIPATION IN DECISION MAKING WHILE EMPHASIZING AN
27 INDIVIDUALS PRIVACY AND DIGNITY.

28 (6) ASSISTED LIVING RESIDENCES SHALL PERMIT CONSUMERS TO
29 LIVE INDEPENDENTLY IN THE RESIDENTIAL ENVIRONMENT OF THEIR
30 CHOICE WITH PRIVACY AND DIGNITY.

1 (7) ASSISTED LIVING RESIDENCES SHALL PROMOTE INTEGRATION
2 OF CONSUMERS INTO THE COMMUNITY AND PARTICIPATION IN THE
3 MAINSTREAM OF ACTIVITIES.

4 (8) ASSISTED LIVING RESIDENCES SHALL MAXIMIZE CONSUMER
5 CHOICE TO PROMOTE AND SUPPORT THE CONSUMER'S CHANGING NEEDS
6 AND PREFERENCES.

7 (9) ASSISTED LIVING SERVICES SHALL BE CONSUMER ORIENTED
8 AND MEET PROFESSIONAL STANDARDS OF QUALITY.

9 (10) AN ASSISTED LIVING ADMINISTRATOR SHALL REFER A
10 CONSUMER WHOSE NEEDS CANNOT BE MET BY AN ASSISTED LIVING
11 RESIDENCE FOR A STANDARDIZED SCREENING.

12 (11) A COMPREHENSIVE SERVICE PLAN SHALL BE ON FILE FOR
13 EACH CONSUMER AND SHALL BE STRICTLY ADHERED TO IN THE
14 PROVISION OF CARE AND SERVICES PROVIDED TO THE CONSUMER.

15 (12) EACH CONSUMER, OR THE CONSUMER'S LEGAL
16 REPRESENTATIVE, SHALL RECEIVE AN INFORMATION PACKET AT THE
17 TIME OF APPLICATION WHICH SHALL INCLUDE THE FOLLOWING ITEMS,
18 TO BE PRESENTED IN A FORM EASILY UNDERSTOOD AND READ BY THE
19 CONSUMER:

20 (I) A COPY OF THE ASSISTED LIVING RESIDENCES
21 POLICIES.

22 (II) ADVANCE DIRECTIVE INFORMATION, INCLUDING
23 INFORMATION ON THE RIGHT TO HAVE OR NOT HAVE AN ADVANCE
24 DIRECTIVE.

25 (III) INFORMATION REGARDING LICENSURE STATUS.

26 (IV) TELEPHONE NUMBERS OF THE LOCAL LONG-TERM CARE
27 OMBUDSMAN PROGRAM AND THE LOCAL AREA AGENCY ON AGING.

28 (V) A COPY OF THE ASSISTED LIVING CONSUMER CONTRACT
29 USED BY THE ASSISTED LIVING RESIDENCE AND ALL RATES
30 CHARGED.

1 (VI) A COPY OF THE INTERNAL COMPLAINT RESOLUTION
2 MECHANISM USED BY THE FACILITY.

3 (VII) A DISCLOSURE STATING THE RIGHTS OF CONSUMERS
4 UNDER THIS ACT.

5 (VIII) INFORMATION REGARDING THE DISCHARGE POLICY OF
6 THE ASSISTED LIVING RESIDENCE.

7 (13) EACH CONSUMER SHALL BE PROVIDED BY THE
8 ADMINISTRATOR WITH NOTICE OF ANY CLASS I OR CLASS II
9 VIOLATIONS UNCORRECTED AFTER FIVE DAYS.

10 (14) ALL CONSUMERS SHALL RECEIVE A STANDARD WRITTEN
11 ADMISSION CONTRACT WHICH SHALL INCLUDE THE ACTUAL RENT AND
12 OTHER CHARGES FOR SERVICES PROVIDED BY THE ASSISTED LIVING
13 RESIDENCE. THE CONTRACT SHALL ALSO INCLUDE A DISCLOSURE
14 STATEMENT WHICH SHALL INCLUDE THE FOLLOWING:

15 (I) THAT THE CONSUMER SHALL HAVE 24 HOURS FROM THE
16 TIME OF PRESENTATION TO SIGN THE CONTRACT; OR

17 (II) THAT IF THE CONTRACT IS SIGNED UPON
18 PRESENTATION, THE CONSUMER SHALL HAVE 72 HOURS TO RESCIND
19 THE CONTRACT.

20 (15) A CONSUMER SHALL HAVE THE RIGHT TO LEAVE AND RETURN
21 TO THE ASSISTED LIVING RESIDENCE, RECEIVE VISITORS, HAVE
22 ACCESS TO A TELEPHONE AND MAIL AND PARTICIPATE IN RELIGIOUS
23 ACTIVITIES.

24 (16) ASSISTED LIVING RESIDENCE OWNERS, ADMINISTRATORS OR
25 EMPLOYEES SHALL BE PROHIBITED FROM BEING ASSIGNED POWER OF
26 ATTORNEY OR GUARDIANSHIP FOR ANY CONSUMER.

27 (B) IMMOBILE PERSONS.--THE DEPARTMENT SHALL NOT PROHIBIT
28 IMMOBILE PERSONS WHO DO NOT REQUIRE THE SERVICES OF A LICENSED
29 LONG-TERM CARE FACILITY, BUT WHO REQUIRE ASSISTED LIVING
30 RESIDENCE SERVICES, FROM RESIDING IN AN ASSISTED LIVING

1 RESIDENCE, PROVIDED THAT THE DESIGN, CONSTRUCTION, STAFFING OR
2 OPERATION OF THE ASSISTED LIVING RESIDENCE ALLOWS FOR SAFE
3 EMERGENCY EVACUATION.

4 SECTION 9. CLASSIFICATION OF VIOLATIONS.

5 THE DEPARTMENT SHALL CLASSIFY EACH VIOLATION OF ITS
6 REGULATIONS ON ASSISTED LIVING RESIDENCES INTO ONE OF THE
7 FOLLOWING CATEGORIES:

8 (1) CLASS I. A VIOLATION WHICH INDICATES A SUBSTANTIAL
9 PROBABILITY THAT DEATH OR SERIOUS MENTAL OR PHYSICAL HARM TO
10 A CONSUMER MAY RESULT.

11 (2) CLASS II. A VIOLATION WHICH HAS A SUBSTANTIAL
12 ADVERSE EFFECT UPON THE HEALTH, SAFETY OR WELL-BEING OF A
13 CONSUMER.

14 (3) CLASS III. A MINOR VIOLATION WHICH HAS AN ADVERSE
15 EFFECT UPON THE HEALTH, SAFETY OR WELL-BEING OF A CONSUMER.

16 SECTION 10. PENALTIES.

17 (A) ASSESSMENT.--THE DEPARTMENT SHALL ASSESS A PENALTY FOR
18 EACH VIOLATION OF THIS ACT OR REGULATIONS OF THE DEPARTMENT.
19 PENALTIES SHALL BE ASSESSED ON A DAILY BASIS FROM THE DATE ON
20 WHICH THE CITATION WAS ISSUED UNTIL THE DATE SUCH VIOLATION IS
21 CORRECTED EXCEPT IN THE CASE OF A CLASS II VIOLATIONS. IN THE
22 CASE OF A CLASS II VIOLATION, ASSESSMENT OF A PENALTY SHALL BE
23 SUSPENDED FOR A PERIOD OF FIVE DAYS FROM THE DATE OF CITATION
24 PROVIDED THAT, EXCEPT FOR GOOD CAUSE, THE PROVIDER HAS CORRECTED
25 THE VIOLATION. IF THE VIOLATION HAS NOT BEEN CORRECTED WITHIN
26 THE FIVE-DAY PERIOD, THE FINE SHALL BE RETROACTIVE TO THE DATE
27 OF CITATION.

28 (B) AMOUNTS.--

29 (1) THE DEPARTMENT SHALL ASSESS A MINIMUM PENALTY OF \$20
30 PER CONSUMER PER DAY FOR EACH CLASS I VIOLATION.

1 (2) THE DEPARTMENT SHALL ASSESS A MINIMUM PENALTY OF \$5
2 PER CONSUMER PER DAY, UP TO A MAXIMUM OF \$15 PER CONSUMER PER
3 DAY, FOR EACH CLASS II VIOLATION.

4 (3) THERE SHALL BE NO MONETARY PENALTY FOR CLASS III
5 VIOLATIONS UNLESS THE PROVIDER FAILS TO CORRECT THE CLASS III
6 VIOLATION WITHIN 15 DAYS. FAILURE TO CORRECT THE VIOLATION
7 WITHIN 15 DAYS MAY RESULT IN AN ASSESSMENT OF UP TO \$3 PER
8 CONSUMER PER DAY FOR EACH CLASS III VIOLATION, RETROACTIVE TO
9 THE DATE OF CITATION.

10 (4) AN ASSISTED LIVING RESIDENCE FOUND TO BE OPERATING
11 WITHOUT A LICENSE SHALL BE ASSESSED A PENALTY OF \$500. IF,
12 AFTER 14 DAYS, A PROVIDER OF AN ASSISTED LIVING RESIDENCE
13 CITED FOR OPERATING WITHOUT A LICENSE FAILS TO FILE AN
14 APPLICATION FOR A LICENSE, THE DEPARTMENT SHALL ASSESS AN
15 ADDITIONAL \$20 FOR EACH CONSUMER FOR EACH DAY IN WHICH THE
16 ASSISTED LIVING RESIDENCE FAILS TO MAKE SUCH APPLICATION.

17 (C) DUTY TO PAY.--

18 (1) A PROVIDER CHARGED WITH A VIOLATION OF THIS ACT
19 SHALL HAVE 30 DAYS TO PAY THE ASSESSED PENALTY IN FULL, OR,
20 IF THE PROVIDER WISHES TO CONTEST EITHER THE AMOUNT OF THE
21 PENALTY OR THE FACT OF THE VIOLATION, THE PARTY SHALL FORWARD
22 THE ASSESSED PENALTY, NOT TO EXCEED \$500, TO THE DEPARTMENT
23 FOR PLACEMENT IN AN ESCROW ACCOUNT WITH THE STATE TREASURER.

24 (2) IF, THROUGH ADMINISTRATIVE HEARING OR JUDICIAL
25 REVIEW OF THE PROPOSED PENALTY, IT IS DETERMINED THAT NO
26 VIOLATION OCCURRED OR THAT THE AMOUNT OF THE PENALTY SHOULD
27 BE REDUCED, THE SECRETARY SHALL WITHIN 30 DAYS REMIT THE
28 APPROPRIATE AMOUNT TO THE PROVIDER WITH ANY INTEREST
29 ACCUMULATED BY THE ESCROW DEPOSIT.

30 (3) FAILURE TO FORWARD THE PAYMENT TO THE DEPARTMENT

1 WITHIN 30 DAYS SHALL RESULT IN A WAIVER OF RIGHTS TO CONTEST
2 THE FACT OF THE VIOLATION OR THE AMOUNT OF THE PENALTY.

3 (4) THE AMOUNT ASSESSED AFTER ADMINISTRATIVE HEARING OR
4 A WAIVER OF THE ADMINISTRATIVE HEARING SHALL BE PAYABLE TO
5 THE COMMONWEALTH AND SHALL BE COLLECTIBLE IN ANY MANNER
6 PROVIDED BY LAW FOR THE COLLECTION OF DEBTS. IF ANY PROVIDER
7 LIABLE TO PAY SUCH PENALTY NEGLECTS OR REFUSES TO PAY THE
8 SAME AFTER DEMAND, SUCH FAILURE TO PAY SHALL CONSTITUTE A
9 JUDGMENT IN FAVOR OF THE COMMONWEALTH IN THE AMOUNT OF THE
10 PENALTY, TOGETHER WITH THE INTEREST AND ANY COSTS THAT MAY
11 ACCRUE.

12 (D) DEPOSIT OF PENALTIES.--MONEY COLLECTED BY THE DEPARTMENT
13 UNDER THIS SECTION SHALL BE PLACED IN A SPECIAL RESTRICTED
14 RECEIPT ACCOUNT AND SHALL BE FIRST USED TO DEFRAY THE EXPENSES
15 INCURRED BY CONSUMERS RELOCATED UNDER THIS ACT. ANY MONEYS
16 REMAINING IN THIS ACCOUNT SHALL ANNUALLY BE REMITTED TO THE
17 DEPARTMENT FOR ENFORCING THE PROVISIONS OF THIS ACT. FINES
18 COLLECTED PURSUANT TO THIS ACT SHALL NOT BE SUBJECT TO THE
19 PROVISIONS OF 42 PA.C.S. § 3733 (RELATING TO DEPOSITS INTO
20 ACCOUNT).

21 (E) REGULATIONS.--THE DEPARTMENT SHALL PROMULGATE
22 REGULATIONS NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION IN
23 ORDER TO ENSURE UNIFORMITY AND CONSISTENCY IN THE APPLICATION OF
24 PENALTIES.

25 SECTION 11. REVOCATION OR NONRENEWAL OF LICENSE.

26 (A) GENERAL RULE.--

27 (1) THE DEPARTMENT SHALL TEMPORARILY REVOKE THE LICENSE
28 OF AN ASSISTED LIVING RESIDENCE IF, WITHOUT GOOD CAUSE, ONE
29 OR MORE CLASS I VIOLATIONS REMAIN UNCORRECTED 24 HOURS AFTER
30 THE ASSISTED LIVING RESIDENCE HAS BEEN CITED FOR SUCH

1 VIOLATION OR IF, WITHOUT GOOD CAUSE, ONE OR MORE CLASS II
2 VIOLATIONS REMAIN UNCORRECTED 15 DAYS AFTER BEING CITED FOR
3 VIOLATION.

4 (2) UPON THE REVOCATION OF A LICENSE PURSUANT TO THIS
5 SUBSECTION, ALL CONSUMERS SHALL BE RELOCATED.

6 (3) THE REVOCATION MAY TERMINATE UPON THE DEPARTMENTS
7 DETERMINATION THAT ITS VIOLATION IS CORRECTED.

8 (4) IF, AFTER THREE MONTHS, THE DEPARTMENT DOES NOT
9 ISSUE A NEW LICENSE FOR AN ASSISTED LIVING RESIDENCE LICENSE
10 REVOKED PURSUANT TO THIS SECTION:

11 (I) SUCH REVOCATION OR NONRENEWAL PURSUANT TO THIS
12 SECTION SHALL BE FOR A MINIMUM PERIOD OF FIVE YEARS.

13 (II) NO PROVIDER OF AN ASSISTED LIVING RESIDENCE WHO
14 HAS HAD A LICENSE REVOKED OR NOT RENEWED PURSUANT TO THIS
15 SECTION SHALL BE ALLOWED TO OPERATE OR STAFF OR HOLD AN
16 INTEREST IN AN ASSISTED LIVING RESIDENCE THAT APPLIES FOR
17 A LICENSE FOR A PERIOD OF FIVE YEARS AFTER SUCH
18 REVOCATION OR NONRENEWAL.

19 (B) CONDITIONS FOR.--THE DEPARTMENT SHALL REVOKE OR REFUSE
20 TO RENEW THE LICENSE OF AN ASSISTED LIVING RESIDENCE IF, DURING
21 ANY TWO-YEAR PERIOD, THE ASSISTED LIVING RESIDENCE, WITHOUT GOOD
22 CAUSE, ON TWO OR MORE SEPARATE OCCASIONS HAS BEEN FOUND TO HAVE
23 VIOLATED A REGULATION OF THE DEPARTMENT WHICH HAS BEEN
24 CATEGORIZED AS CLASS I.

25 (C) NATURE OF POWER.--THE POWER OF THE DEPARTMENT TO REVOKE
26 OR REFUSE TO RENEW OR ISSUE A LICENSE PURSUANT TO THIS SECTION
27 IS IN ADDITION TO THE POWERS AND DUTIES OF THE DEPARTMENT
28 PURSUANT TO SECTION 1026 OF THE ACT OF JUNE 13, 1967 (P.L.31,
29 NO.21), KNOWN AS THE PUBLIC WELFARE CODE.

30 SECTION 12. ANNUAL REPORT.

1 THE DEPARTMENT OF PUBLIC WELFARE SHALL, AFTER CONSULTING WITH
2 THE DEPARTMENT OF AGING AND THE DEPARTMENT OF HEALTH, PROVIDE AN
3 ANNUAL REPORT TO THE AGING AND YOUTH COMMITTEE OF THE SENATE,
4 THE AGING AND YOUTH COMMITTEE OF THE HOUSE OF REPRESENTATIVES
5 AND TO THE INTRA-GOVERNMENTAL COUNCIL ON LONG-TERM CARE WHICH
6 SHALL, AT A MINIMUM, INCLUDE THE FOLLOWING INFORMATION:

7 (1) THE TOTAL NUMBER OF ASSISTED LIVING RESIDENCES AND
8 ASSISTED LIVING SERVICE PROVIDERS IN THE COMMONWEALTH AS WELL
9 AS THE NUMBERS OF RESIDENCES AND PROVIDERS NEWLY LICENSED
10 WITHIN THE PREVIOUS YEAR.

11 (2) COMPLAINTS RECEIVED BY THE LICENSING DEPARTMENTS,
12 THE OMBUDSMAN PROGRAM OR TO THE PROTECTIVE SERVICES UNITS IN
13 EACH AREA AGENCY ON AGING AND THE OUTCOME OF ANY
14 INVESTIGATIONS.

15 (3) COMMONWEALTH COSTS ASSOCIATED WITH THE LICENSING,
16 INSPECTION AND PAYMENT OF ASSISTED LIVING SERVICES.

17 (4) THE AVAILABILITY OF ASSISTED LIVING RESIDENCES AND
18 ASSISTED LIVING SERVICES TO CONSUMERS AND ANY BARRIERS
19 EXPERIENCED BY CONSUMERS IN ACCESSING ASSISTED LIVING
20 RESIDENCES AND ASSISTED LIVING SERVICES.

21 (5) GENERAL PROFILE INFORMATION REGARDING THE TYPES OF
22 CONSUMERS ACCESSING ASSISTED LIVING RESIDENCES AND ASSISTED
23 LIVING SERVICES.

24 (6) THE COSTS EXPERIENCED BY CONSUMERS IN ASSISTED
25 LIVING RESIDENCES AND BY CONSUMERS USING ASSISTED LIVING
26 SERVICES. UPON THE DEPARTMENT'S COMPLETION OF SUCH A COST
27 ANALYSIS, THE COST INFORMATION SHALL ALSO BE INCLUDED AS AN
28 UPDATE IN THE DEPARTMENT'S STATE PLAN PURSUANT TO SECTION 3.

29 (7) RECOMMENDATIONS FOR ADDITIONAL LEGISLATIVE OR
30 REGULATORY ACTION TO IMPROVE THE QUALITY, AFFORDABILITY OR

1 ACCESSIBILITY OF ASSISTED LIVING IN THIS COMMONWEALTH.

2 SECTION 13. REPEAL.

3 ALL ACTS AND PARTS OF ACTS ARE REPEALED INSOFAR AS THEY ARE
4 INCONSISTENT WITH THIS ACT.

5 SECTION 14. EFFECTIVE DATE.

6 THIS ACT SHALL TAKE EFFECT IN ONE YEAR.