AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, providing for the licensure and regulation of assisted living residences and services.

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

Section 1. Title 35 of the Pennsylvania Consolidated Statutes is amended by adding a part to read:

PART VI

REGULATED ENTITIES

Chapter

81. Assisted Living Residences

CHAPTER 81

ASSISTED LIVING RESIDENCES

Sec.

8101. Scope.

8102. Definitions.
8103. Licensure.
8104. Initial interview.
8105. Agreements and charges.
8106. Evaluation and services plan.
8107. Transfer and discharge.
8108. Informed consent process.
8109. Notices.
8110. Disputes and appeals.
8111. Resident's rights.
8112. Additional requirements.
8113. Regulations.

§ 8101. Scope.
This chapter relates to assisted living residence licensure.

§ 8102. Definitions.
The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Activities of daily living." The phrase shall include eating, ambulating, transferring in and out of a bed or chair, toileting, bladder and bowel management, personal hygiene, bathing, showering, dressing, assistance with self medication, proper turning and positioning in a bed or chair and assistance with securing and managing health care.

"Age in place." Receive care and services at a licensed assisted living residence to accommodate changing needs and preferences in order to remain in the assisted living residence for as long as possible.

"Area agency on aging." The local agency designated by the Department of Aging as defined in section 2202-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative
"Assisted living." A program based on the individual's autonomy and self-direction, involvement with family and the community, and participation in decisions emphasizing choice, dignity, privacy, individuality and independence in a homelike environment.

"Assisted living residence." As follows:

(1) A building, complex or distinct part of a building or complex:

(i) which meets the requirements of this chapter;

(ii) in which a resident may age in place;

(iii) which consists of self-contained individual living units where services, including required cognitive services, are available to support resident independence and autonomy and aging in place in the least restrictive environment possible; and

(iv) which promotes resident self-direction and active participation in decision making while emphasizing individuality, privacy and dignity.

(2) The term includes housing required to be licensed under the United States Department of Housing and Urban Development Assisted Living Conversion Program.

(3) The term does not include any of the following in which a resident contracts for services directly and does not receive services by or through the property owner or manager:

(i) A personal care home.

(ii) A domiciliary care home.

(iii) Publicly financed housing.

(iv) A housing unit in a continuing care retirement community certified by the Insurance Department.
"Assisted living services." Services designed to support assisted living, including personal care services, assistive technology and health-related services, cognitive support services or a combination of these services which respond to an individual resident's needs. The term does not include cognitive support services.

"Assistive technology." Devices which:

(1) are used to increase, maintain or improve the functional capabilities of an individual resident with disabilities; and

(2) may or may not be needed to permit the individual to live independently.

"Cognitive support services." Services provided as part of a coordinated services plan to an individual resident who has memory impairments and other cognitive problems that significantly interfere with the ability to carry out activities of daily living or instrumental activities of daily living without assistance and who requires that supervision and monitoring be available to the resident 24 hours per day and seven days per week in order to reside safely in an assisted living residence. The term includes ongoing monitoring and a full range of activity programming and therapeutic activities specifically designed for the engagement of residents with dementia to help them maintain retained abilities.

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

"Direct care staff." An individual who:

(1) is employed by an assisted living residence;

(2) assists residents with personal care services or health-related services; and

(3) provides for the safety and well-being of residents.
"Discharge." Termination of an individual's residency in an
assisted living residence.

"Evaluation." A comprehensive review and analysis of an
individual's physical and emotional health and ability to
function within and benefit from assisted living, undertaken in
consultation with the individual and the individual's family,
friends and caretakers.

"Financial management." A service provided by an assisted
living residence or a provider to assist the resident with
budgeting and spending for personal needs.

"Health Care Facilities Act." The act of July 19, 1979
(P.L.130, No.48), known as the Health Care Facilities Act, and
regulations promulgated under the act.

"Health-related service." A service necessary to promote or
maintain a resident's individual health needs, but which does
not require direct care of a personal health care provider.
Services include securing health care services, managing health
care, assistance with chronic pain management, and may include
medication administration under the direction of a licensed
prescriber.

"Instrumental activities of daily living." Includes, when
conducted to assist a resident: doing laundry; shopping;
financial management; using a telephone; making and keeping
appointments; caring for personal possessions; writing
correspondence; engaging in social and leisure activities; using
a prosthetic device; obtaining and keeping clean seasonal
clothing; and securing and using transportation to social,
recreational, leisure, religious, community and medical
activities.

"License." The license required to be obtained by an
assisted living residence under this chapter in accordance with
the act of July 19, 1979 (P.L.130, No.48), known as the Health
Care Facilities Act, and regulations promulgated under the act.

"Licensee." A person legally responsible for the operations
of an assisted living residence duly licensed in accordance with
this chapter.

"Licensed prescriber." An individual allowed by law to
prescribe and administer prescription drugs in the course of
professional practice.

"Long-term care ombudsman." A representative of the office
of the State Long-Term Care Ombudsman in the department who,
under section 2203-A of the act of April 9, 1929 (P.L.177,
No.175), known as The Administrative Code of 1929, investigates
and seeks to resolve a complaint which:

(1) relates to or is made by or on behalf of an
individual who is:

   (i) at least 60 years of age; and
   (ii) a consumer of long-term care services; and

(2) involves action, inaction or a decision which:

   (i) is made by a provider of long-term care
services, a public agency or a social service agency or a
representative of that provider or agency; and
   (ii) may adversely affect the health, safety, well-
being or rights of an individual under paragraph (1).

"Informed consent agreement." A formal, mutually agreed
upon, written understanding which:

(1) results after thorough discussion among the assisted
living facility staff, the resident and any individuals the
resident wants to be involved; and

(2) identifies how to balance a resident's choices and
capabilities with the possibility that those choices will place the resident or other residents at risk of harm.

"Nursing facility clinically eligible." The level of clinical acuity, as determined by an assessment instrument administered under the auspices of the Commonwealth, sufficient to qualify an individual for long-term care services in the home and community-based waiver programs or in a nursing facility under the Commonwealth's Medicaid program.


"Personal care services." Assistance or supervision in activities of daily living or instrumental activities of daily living, or both.

"Personal physical or behavioral health care provider." A health care professional:

1. licensed, registered or certified in this Commonwealth; and
2. chosen by a resident to provide personal physical or behavioral health care, medical care or medication services.

"Physician services." The continuing general supervision by a physician of the resident's choosing of services provided to a resident who:

1. has an identified acute or chronic medical problem; or
2. is deemed to need nursing overview or supervision on a 24-hour basis.

"Representative." A responsible individual designated by the resident or a person authorized by law to take certain action on behalf of a resident. The term includes legal counsel; a court-
appointed guardian; an attorney-in-fact under a durable power of
attorney or a durable power of attorney for health care; the
long-term care ombudsman if the resident designates; and, with
respect to payment of resident funds, a designated fiscal
intermediary under section 3504 of the Internal Revenue Code of

"Residency agreement." The contract between an assisted
living residence and a resident or resident's representative,
including any services agreements.

"Resident." An individual, other than an on-site manager,
personnel or staff, who lives in an assisted living residence.

"Secretary." The Secretary of Health of the Commonwealth.

"Services agreement." The written agreement setting forth
the assisted living services to be provided by or through the
assisted living residence to support the resident and the
pricing for each service.

"Services plan." A written plan for a resident developed in
 collaboration with the resident or resident's representative
following an evaluation to meet the needs of the resident which
ensures that the resident receives the necessary care and
services to attain and maintain the highest practicable
physical, mental and psychosocial well-being consistent with the
level of services the assisted living residence is authorized to
provide and the resident's personal choice, dignity, privacy,
individuality and independence.

"Special care designation." A licensed assisted living
residence, or a distinct part of the residence, which is
specifically designated by the department as capable of
providing cognitive support services to residents with severe
cognitive impairments such as dementia or Alzheimer's disease in
the least restrictive manner to ensure the safety of the resident and others in the residence while maintaining the resident's ability to age in place.

"Third-party provider." A person that:

(1) offers services through a contract with the assisted living residence; and

(2) is not related to or affiliated with, either directly or indirectly, the assisted living residence or any owner, director or officer of the assisted living residence. The term includes physicians and home care providers.

"Transfer." Movement of a resident within the assisted living residence or to a temporary placement outside of the assisted living residence.

§ 8103. Licensure.

(a) License required.--Every person intending to operate an assisted living residence in this Commonwealth shall apply for and obtain a license as a health care facility under the Health Care Facilities Act and shall be subject to all authorities and enforcement powers of the department set forth therein. In addition to the requirements set forth in the Health Care Facilities Act, the requirements for assisted living residence licensure shall include the requirements of this chapter along with any additional requirements imposed by the department.

(b) Application.--Application for a license shall be made on forms and with fees as the department may prescribe. The department may establish additional fees for special care designation.

(c) Term of license.--Licenses shall be valid for a period of two years unless the department takes action pursuant to its authority under the Health Care Facilities Act to shorten the
(d) Reporting and other requirements.--Every licensee shall report to the department and otherwise meet requirements applicable to health care facilities under 28 Pa. Code Pt. IV Subpt. A (relating to general provisions).

(e) Prohibition on use of term.--No person, organization or program shall use the term "assisted living" in any name or written material except as a licensee in accordance with this chapter.

§ 8104. Initial interview.

(a) Interview.--Prior to acceptance into the assisted living residence, a licensee shall conduct an interview with the prospective resident and his representative, when applicable, to provide written information about and to discuss the following:

(1) The range and pricing of each of the services provided at the residence, including services provided directly and services provided through identified third-party providers.

(2) The amount of rent for the resident's living unit, including any packaged services such as housekeeping, laundry and basic meals.

(3) The rules, policies and procedures expected to be adhered to by all residents.

(4) The current needs of the prospective resident, including any need for physician services and whether the licensee expects to be able to accommodate those needs.

(5) The types of daily program activities and socialization opportunities offered through the assisted living residence.

(6) The availability of health care and social services
not provided at the assisted living residence but which are available in the community, such as hospice care, home health care, transportation and similar services to support a resident who is aging in place.

(7) Any additional information required by the department.

(b) Required disclosure.--At or before the initial interview, the licensee shall provide the prospective resident and his representative with the following disclosure information written in a form able to be easily understood and read by the prospective resident:

(1) Contact information for:

   (i) The department, for the purpose of obtaining information on the licensing requirements and licensing status of assisted living residences.

   (ii) The long-term care ombudsman, with information on the ombudsman's role and availability.

   (iii) The department's 24-hour hotline for making complaints, along with information on how a resident can make a complaint and the department's investigation process.

(2) A delineation of resident rights.

(3) The following additional information:

   (i) A copy of the assisted living residence’s policies and procedures affecting residents.

   (ii) Information regarding the assisted living residence's quality improvement program.

   (iii) Details about the internal dispute resolution process used by the licensee.

   (iv) Information on transfer and discharge policies.
(v) Copies of all charge schedules and rates, including those separate charges for each of the following:

(A) utilities, telephone, cable television, garage fees, maintenance or management services, minimum or extended meal plans, bed and linen fees, if any, and any additional services related to occupancy of the resident's unit; and

(B) assisted living services and cognitive support services.

(c) Acceptance requirements.--A licensee may accept and retain any individual for residency who is 18 years of age or older, including those who are nursing facility clinically eligible, if those needs can be met by or through the assisted living residence and if the resident arranges for any additional necessary health services directly, except that the licensee shall not accept an individual:

(1) who has a serious, acute illness which at the time requires the medical, surgical or nursing care provided by a general or special hospital;

(2) who has the following equipment, treatment or care needs: stage III or IV decubitus ulcer that is not in a healing stage, or nasopharyngeal, oral or tracheal suctioning; or

(3) for whom assisted living services will be funded by public funds, unless a determination is made by the appropriate agency that the individual is eligible for the services.

(d) Exceptions.--Notwithstanding the provisions of subsection (c), a resident of an assisted living residence may...
remain in the residence to age in place even where the resident
develops a terminal illness or a need for equipment, treatment
or care as listed in subsection (c)(2) so long as:

(1) the licensee can safely meet the resident's needs
directly or through a third-party provider;

(2) the resident has entered into an informed consent
agreement; or

(3) the resident's needs can be met through a personal
health care provider.

§ 8105. Agreements and charges.

(a) Residency agreement required.--Upon admission and prior
to occupancy, the resident and the licensee shall enter into a
residency agreement that includes, in clear and simple language,
the following:

(1) The terms of occupancy, together with the separate
charges for each of the following: utilities, telephone,
cable television, garage fees, maintenance or management
services, minimum or extended meal plans, bed and linen fees,
if any, and any additional services related to occupancy of
the resident's unit.

(2) The services agreement setting forth the assisted
living services and cognitive support services, if the
services will be provided at or through the assisted living
residence. The following shall apply:

(i) The services shall be packaged, contracted and
priced separate from the residency agreement.

(ii) Except for the services of a personal health
care provider, no resident shall contract directly for
services with any outside vendor unless the assisted
living residence does not offer the service, either
directly or through a third-party provider.

(3) Standardized clauses provided by the department setting forth all of the following:

(i) The applicant's rights as a resident.

(ii) A prohibition against the assignment of assets for life by the resident to the assisted living residence.

(iii) If a resident is receiving publicly funded care and services, details about supplemental security income recipient protections, rent rebate programs and any personal needs allowance as determined by the department.

(iv) Explanation of the right to continued residency in an assisted living residence to age in place, provided there is no basis for terminating the residency agreement.

(v) The applicant's right to cancel the residency agreement without penalty within three business days of signing.

(vi) A requirement that a resident receive 30 days' advance written notice of changes to: the residency agreement; the charges of the assisted living residence or third-party provider; and the assisted living residence's resident-related policies.

(vii) The bases under which a resident, assisted living residence or third-party provider may terminate the residency agreement or cease providing any services.

(4) The following statements by the licensee:

(i) A description of all services offered with charges for each, including any packaged services and
(ii) Individualized itemization of services that will be provided to the resident and costs of the services, separating housing costs from service costs.

(iii) Policies regarding residents.

(iv) Description of an internal dispute resolution process.

(b) Changes.--The licensee and the resident or his representative shall sign a written document evidencing any change in the services agreement prior to the commencement of the change. Any change shall be incorporated into the residency agreement.

§ 8106. Evaluation and services plan.

(a) Evaluation.--Upon acceptance of an individual into residency, but prior to occupancy, the licensee shall conduct an evaluation of the resident in consultation with the resident and the resident's family, friends, caretakers and support system. The evaluation shall be required at least annually and upon a substantial change in health or mental status. The evaluation review shall include:

(1) Personal history.

(2) Physical and emotional health, including an evaluation of the ability to carry out activities of daily living.

(3) Mobility and cognitive functioning.

(4) Informal supports available to the individual.

(5) Environmental factors affecting the individual.

(6) Where the individual has specific medical or cognitive needs, consultation with the individual's personal health care provider responsible for diagnosing and treating
those needs; and

(7) Whether the assisted living residence is able to meet the medical and cognitive needs of the individual.

(b) Services plan.--Within 14 days following the evaluation, the licensee and the resident shall develop a services plan to meet the resident's needs as identified in the course of the evaluation, consistent with the resident's unique physical and psychosocial health and recognizing the resident's capabilities and preferences, including any preference for a personal health care provider. A services plan using State-funded services shall be developed with and approved by the appropriate State agency. The services plan shall be reviewed and revised as necessary within 14 days of each new evaluation.

(1) The services plan shall be written in a manner that is understood by the resident and the resident's representative and shall include the issues that must be addressed as specified by the department. The following shall apply:

(i) The resident and/or resident's representative shall actively participate in the development of the services plan to the extent of the resident's ability to do so.

(ii) The services plan shall reflect the resident's decisions and level of involvement.

(iii) The services plan shall support principles of dignity, privacy, choice and independence and identify all types of health care providers who will participate in the delivery of services.

(iv) The licensee shall provide those services identified in the services plan which it is able to
provide directly or through a third-party provider, except for any services provided by the resident's personal health care provider. Services a licensee is not able to provide may be contracted for directly by the resident.

(2) If the assisted living residence and the resident cannot reach agreement on the resident's initial services plan within 14 days following the evaluation, the resident or the assisted living residence has the right to cancel the residency agreement without penalty.

(3) To ensure that the services plan is meeting the resident's needs, the evaluation and the services plan shall be reviewed and revised annually and at any time where there is a substantial change in a resident's condition or circumstance, including whenever a resident's decisions, behavior or actions place the resident or other residents at risk of harm or the resident is incapable of engaging in the informed consent process. A service plan shall be reviewed at the request of the resident, the resident's representative or a representative from the department.

(c) Reviews and revisions to be available.--All reviews and revisions to the evaluation and services plan shall be in writing, signed and dated, and kept on file for each resident. The evaluation and plan shall be available to the resident or the resident's representative and any personal health care provider of the resident.

§ 8107. Transfer and discharge.

(a) Involuntary transfer or discharge.--A licensee shall not initiate an involuntary discharge because a resident's choice might pose a risk if the resident is competent and the choice is
informed and poses a danger or risk only to the resident. A licensee shall only transfer or discharge a resident involuntarily under the following circumstances:

(1) The resident presents an imminent physical threat or danger to himself or herself or to other residents that cannot be managed through interventions, services planning or informed consent agreements.

(2) The resident persistently and substantially violates the rights or negatively impacts the quality of life of others where the behavior cannot be managed through interventions and/or services planning.

(3) A court has ordered the transfer or discharge.

(4) The resident, after reasonable and appropriate notice, does not pay rent or agreed-upon services or care charges in accordance with the residency agreement or otherwise refuses to abide by its terms and is not eligible for publicly funded programs that can do so.

(5) The licensee can no longer meet the care needs of the resident as required under this chapter.

(6) The assisted living residence ceases to operate.

(b) Transfer or discharge to be safe and appropriate.--Unless the discharge is initiated by the resident or the resident's representative, a licensee shall ensure that a transfer or discharge is safe and orderly and that the transfer or discharge is appropriate to meet the resident's needs. If there is no appropriate place to which the resident may be transferred, the residence shall contact the department working in conjunction with the appropriate local agencies for assistance and coordination.

(c) Transfer to hospital or nursing facility.--Before an
assisted living residence transfers a resident to a hospital or
nursing facility, the assisted living residence must provide
written notification to the resident and the resident's
representative that specifies the assisted living residence's
policies regarding the resident's right to return to the
resident's own living unit at the assisted living residence. At
a minimum, the assisted living residence must hold the
resident's living unit for a period of 15 days. In the absence
of specific arrangements between the assisted living residence
and the resident to hold the living unit for a period beyond the
required 15 days, the assisted living residence must permit the
resident to return to the assisted living residence immediately
upon the first availability of a living unit.

§ 8108. Informed consent process.

(a) Initiation of process.--When a licensee determines that
a resident's decisions, behavior or action creates a dangerous
situation and places the resident or other residents at imminent
risk of substantial harm, the licensee shall initiate an
informed consent process to address the identified risk and to
reach a mutually agreed-upon plan of action with the resident or
the resident's representative.

(b) Notification.--The licensee shall initiate the informed
consent process by notifying the resident and, if applicable,
the resident's representative in writing and orally. The
notification shall include a statement that the long-term care
ombudsman is available to assist in the process and shall
include the contact information for the ombudsman.

(c) Resident's involvement.--The resident shall be entitled
to involve his representative and physician, and any other
individual the resident wants involved, to assist in developing
a satisfactory informed consent that balances the resident's choices and capabilities with the possibility that the choices will place the resident or other residents at risk of harm.

(d) Informed consent.--

(1) In words the resident can understand, the licensee must discuss the decision, behavior or action that places the resident or other residents in danger, the substantial risks and hazards inherent in the resident's action, feasible alternatives for mitigating the risk, the significant benefits and disadvantages of each alternative and the most likely outcome of each alternative.

(2) A resident shall not have the right to place other residents at risk, but, consistent with statutory and regulatory requirements, may elect to proceed with a decision, behavior or action affecting only his or her own safety or health status, foregoing alternatives for mitigating the risk, after consideration of the benefits and disadvantages of the alternatives. The licensee shall evaluate whether the resident understands and appreciates the nature and consequences of the risk, including the significant benefits and disadvantages of each alternative considered, and then must further ascertain whether the resident is consenting to accept or mitigate the risk with full knowledge and forethought.

(e) Successful negotiation.--If the parties agree, the informed consent agreement shall be reduced to writing and signed by all parties and shall be retained in the resident's file as part of the service plan.

(f) Unsuccessful negotiation.--If the parties do not agree, the licensee shall notify the resident and the resident's
representative and shall include information on the local
ombudsman or the appropriate advocacy organization for
assistance as to the disposition and whether the licensee will
issue a notice of discharge.

(g) Freedom from duress.--An informed consent agreement must
be voluntary and free of force, fraud, deceit, duress, coercion
or undue influence, except that a licensee may issue a notice of
discharge in the event a resident's decision, behavior or action
creates a dangerous situation and places persons other than the
resident at imminent risk of substantial harm and, after a
discussion of the danger, the resident declines alternatives to
mitigate the risk.

(h) Individualized nature.--An informed consent agreement
shall be unique to the resident's situation and utilized only
when a resident's decision, behavior or action creates a
dangerous situation and places the resident or other residents
at imminent risk of substantial harm. A licensee shall not
require execution of an informed consent agreement as a standard
condition of admission.

(i) Liability.--Execution of an informed consent agreement
shall not constitute a waiver of liability beyond the scope of
the agreement or with respect to acts of negligence. An informed
consent agreement shall not relieve a licensee of liability for
violation of statutory or regulatory requirements promulgated
under this chapter nor affect enforceability of regulatory
provisions regarding admission or discharge of the permissible
level of care in an assisted living residence.

(j) Change in resident's condition.--An informed consent
agreement must be updated following any change in the resident's
condition that affects the risk potential to the resident or
other residents.

§ 8109. Notices.

(a) Written notice required.--A licensee shall provide an advanced written notice of changes in resident-related policies, services or costs and of intent to discharge a resident. The notice shall be provided to the resident and the resident's representative and shall include information on the local ombudsman or the appropriate advocacy organization for assistance.

(1) A licensee shall provide a 30-day advanced written notice of any changes in policies, services or costs. This paragraph does not imply that the residence may change policies, services or costs without valid reason so long as the changes meet the 30-day notice requirement.

(2) A licensee shall provide a 30-day written notice of the intent to transfer or discharge a resident unless one of the following applies:

(i) appropriate plans which are acceptable to the resident can be implemented sooner; or

(ii) an immediate transfer or discharge is required by the resident's urgent medical needs.

(b) Contents of notice.--The notice must include all of the following:

(1) The reason for the change or the transfer or discharge.

(2) The effective date of the change or the transfer or discharge.

(3) The location to which the resident is being transferred or discharged, if known.

(4) A statement that the resident has the right to
appeal to the department.

(5) The contact information for the long-term care ombudsman and other appropriate advocacy organizations.

§ 8110. Disputes and appeals.

(a) Internal dispute resolution.--A licensee shall maintain an internal process for quickly and expeditiously resolving resident complaints and grievances, which shall be submitted annually to and approved by the department. As part of the dispute resolution process, the resident shall have the right to request assistance with the dispute from the long-term care ombudsman or other appropriate advocacy organization.

(b) Right to appeal.--Every resident of an assisted living residence shall have a right to appeal a decision with respect to discharge, transfer or unsuccessful resolution of an informed consent agreement. The resident, or the resident's representative, shall have 30 days from the date of the decision to submit an appeal. The appeal shall be submitted to the department and a copy sent to the local ombudsman and/or appropriate advocacy organization. The policies and procedures for appeal shall be similar to those required for appeals of nursing facility residents with respect to nursing facility decisions.

(c) Pending outcome of appeal.--Pending outcome of an appeal, the resident shall be permitted to continue residency at the assisted living residence and receive all services designated in the resident's service plan.

§ 8111. Resident's rights.

(a) Rights.--A resident and a resident's representative, as appropriate, shall have, at a minimum, the right to:

(1) Participate in assisted living voluntarily.
(2) Be free from infringement of civil and religious liberties, including the right to independent personal decisions and knowledge of available choices.

(3) Conduct private communications and consultations with family, friends, physician, attorney and any other person.

(4) Present grievances on behalf of himself or others without fear of reprisal and join with other residents or individuals within or outside of the residence to work for improvements in resident care.

(5) Manage the resident's financial affairs.

(6) Privacy in treatment and in caring for personal needs.

(7) Confidentiality in the treatment of personal, social, financial and medical records and security in storing personal possessions.

(8) Receive courteous, fair and respectful care and treatment and a written statement of the services provided by the residence, including services required to be offered on an as-needed basis.

(9) Receive or send personal mail or any other correspondence without interception or interference by the licensee.

(10) Receive care from a personal health care provider who shall be afforded access to the resident.

(11) All other rights as designated by the department.

(b) No waiver.--A resident may not waive the rights provided for in this section. Any such waiver shall be void.
units within a homelike setting that respect the privacy and
individuality of the resident and shall offer and coordinate a
range of supportive personal and health-related services
available on a 24-hour basis to meet the needs and preferences
of residents even as needs change so that residents can remain
in a familiar environment, minimizing the need for residents to
move and maximizing the ability of the individual to age in
place.

(b) Rates and charges.--

(1) A licensee shall not vary charges under the
residency agreement for any reason related to the
requirements of the resident for assisted living services or
for aging in place. Charges may vary based on size of unit,
included amenities or any fee scale or system of housing
subsidies administered by the licensee.

(2) A licensee shall not charge a resident for assisted
living services, other than core services, if the resident
does not require or chooses not to purchase the services.
Core services of an assisted living residence include
laundry, housekeeping and meals.

(3) A licensee shall only charge for assisted living
services as follows:

(i) For personal care services, a licensee may
charge on a basis that includes a minimum level of
services for any resident requiring the services and must
offer weekly or monthly rates. A licensee may further
offer tiers of personal care services, charging different
rates for each tier that will provide different levels of
services to meet different levels of need of residents.
The licensee may not establish tiers of service based
upon resident ability to pay. Any differences in rates shall be clearly specified and capable of understanding by the resident.

(ii) For health-related services, a licensee shall offer a menu of options and charge on the basis of each separate health-related service provided to the resident. All services identified in the service plan shall be provided to all residents of the assisted living residence regardless of payor.

(iii) For assistive technology, a licensee shall charge those residents who choose this technology separately for the specific device or service used for the period of the use. Residents may own or choose to purchase equipment independently.

(4) A licensee offering financial management services shall charge those residents who receive the services separately and in accordance with the licensee's schedule of charges and shall provide a complete and accurate monthly accounting to the resident or the resident's representative. The licensee shall make the individual personal needs account available to the resident upon request.

(5) A licensee offering cognitive support services shall charge those residents who receive the services in accordance with the licensee's schedule of charges for the services.

(c) Staffing.--

(1) The department shall establish minimum direct care staffing levels for assisted living residences and for special care designations. Staffing levels shall be based upon the residence population, mobility and cognitive impairment of residents and shall be adequate to ensure 24-
hour-a-day-awake direct care staff to meet the scheduled and
unscheduled needs of residents.

(2) A licensee shall maintain adequate additional direct
care staff to meet the residents' planned and scheduled needs
as required in their service plans as well as to ensure a
safe and efficient evacuation to a place of safety in case of
emergency. A licensee shall employ, at a minimum, the staff
necessary to meet the hours of care set forth in the service
plans and minimum staffing levels and to meet the residents'
scheduling preferences.

(3) A licensee shall provide for additional staff or
contracted services, as necessary, to meet laundry, food
service, housekeeping, transportation, maintenance and other
needs of the assisted living residence.

(4) The department shall establish minimum core
competencies for employees of assisted living residences, and
the licensee shall ensure that all staff, including
administrators and direct care staff, meet the minimum core
competencies.

(5) Department staff shall meet minimum qualifications
and training requirements specific to assisted living
licensure.

(6) At a minimum, regulations under 55 Pa. Code Ch. 2600
(relating to personal care home licensing) for direct care
staff and administrator qualifications and training
requirements will be used unless the department mandates
additional qualifications and training during the regulatory
process.

(d) Living units.--

(1) A licensee shall provide a resident with the
resident's own living unit, which shall include private living and bedroom space, private bath, kitchen capacity, closets and adequate space for storage and a door with a lock. Two residents may voluntarily agree to share one unit provided that the agreement is in writing and contained in each of the residency agreements of those residents. A licensee shall not require residents to share a unit.

(2) Each living unit shall include a separate bathroom, equipped with a toilet with grab bars, sink, hot and cold running water, a shower or bathtub with nonskid surfaces and grab bars, a mirror and towel racks.

(3) Each living unit, other than a unit under special care designation, shall provide space and electrical outlets for residents to have small appliances such as microwaves and refrigerators.

(4) Each living unit shall contain no fewer than 250 square feet per resident, excluding bathrooms and closets. Exceptions to the size of the living unit may be made at the discretion of the department.

(5) Each living unit shall have a telephone jack, individually controlled thermostats for heating and cooling and individually lockable doors, except where usage of a lock in a unit under special care designation would pose a risk or be unsafe.

(6) All doors in units, including entrance doors, all bathrooms and the entire living space within the unit shall be accessible or adaptable for wheelchair use.

(e) Facility requirements.--

(1) Each assisted living residence shall meet Department of Labor and Industry building and fire and safety
requirements, unless the department by regulation designates a different standard.

(2) An assisted living residence shall have at least two common areas for use by all residents, designed to meet resident needs for socialization and recreation and accessible for wheelchair use. One of those areas shall be available for resident use at any time, provided the use does not affect or disturb others.

(3) An assisted living residence shall have accessible common dining space outside the residential units sufficient to accommodate residents and shall have the capacity to provide a full meal and snack program for residents.

(4) An assisted living residence shall have at least one public restroom that meets applicable Federal, State and local laws and regulations and that is convenient to common areas.

(5) A licensee seeking special care designation shall demonstrate to the department's satisfaction its ability to maintain the resident in that resident's living unit to age in place in the most integrated and least restrictive manner to ensure the safety of the resident and others.

(f) Policies and procedures.--A licensee shall establish policies and procedures regarding each of the following:

(1) Unexplained absences of residents.

(2) Behavioral symptoms of residents, including wandering, sexually inappropriate or socially disruptive behaviors and resistance to care.

(3) Managing residents with declining cognitive status, including incompetence.

(4) The informed consent agreement process.
(g) Quality improvement.--A licensee shall do all of the following:

(1) Establish, implement and maintain records for department review of a quality improvement program to identify and address quality issues.

(2) Provide for an internal quality improvement committee that meets quarterly, consists of both staff and residents and provides for resident input and discussion of quality of life issues.

(3) Survey residents at least annually with respect to satisfaction of services and living arrangements at the residence. The results of the survey shall be addressed by the quality improvement committee.

(4) Ensure the confidentiality of any complaints or grievances.

(5) Post license and survey results in a visible location.

(h) Ombudsman information.--A licensee shall post contact information for the long-term care ombudsman in a prominent location in a large-print, easy-to-read format in the assisted living facility.

(i) Records.--Documentation of the designation of a resident's representative shall be kept in the resident's file, together with the residency agreement, the identity of the physician providing physician services, the identity of any personal health care provider and any other relevant information for the resident. Residents shall have access to their resident file upon request.

(j) Medical assistance providers.--A licensee intending to enroll as a medical assistance provider shall apply for and
receive prior approval from the Department of Public Welfare
with respect to the units approved for occupancy by a medical
assistance recipient and may not discharge any resident due to a
change in payor source.

(k) Compliance with all laws.--A licensee shall comply with
all applicable Federal, State and local laws.

§ 8113. Regulations.

(a) Promulgation.--The department shall promulgate
regulations to implement this chapter.

(b) Fees.--The department shall by regulation set fees for
application for licensure and licensure renewal to ensure that
the Commonwealth's administration and oversight of assisted
living residence licensure is self-funded, which fees shall be
adjusted by an annual cost-of-living adjustment. Fees received
by the department shall augment the department's funding for
quality assurance and shall be used for the purposes of this
chapter.

Section 2. This act shall take effect as follows:

(1) The following provisions shall take effect
immediately:

(i) The addition of 35 Pa.C.S. § 8113.

(ii) This section.

(2) The remainder of this act shall take effect in 180
days.