

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2861 Session of 2020

INTRODUCED BY RAPP, KAUFFMAN, SAYLOR, TOEPEL, CAUSER, DRISCOLL, COX, TOOHIL, PICKETT, MILLARD, GLEIM, KLUNK AND GAYDOS, SEPTEMBER 14, 2020

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 16, 2020

AN ACT

1 Amending the act of July 19, 1979 (P.L.130, No.48), entitled "An
2 act relating to health care; prescribing the powers and
3 duties of the Department of Health; establishing and
4 providing the powers and duties of the State Health
5 Coordinating Council, health systems agencies and Health Care
6 Policy Board in the Department of Health, and State Health
7 Facility Hearing Board in the Department of Justice;
8 providing for certification of need of health care providers
9 and prescribing penalties," in licensing of health care
10 facilities, providing for access to long-term care nursing- <--
11 facilities for essential caregivers.

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

14 Section 1. The act of July 19, 1979 (P.L.130, No.48), known
15 as the Health Care Facilities Act, is amended by adding a
16 section to read:

17 Section 822. Access to long-term care nursing facilities for <--
18 essential caregivers.

19 (a) Protocols.--The department, in consultation with the
20 Department of Human Services, shall establish protocols to allow
21 a resident of a long-term care nursing facility or an individual <--

1 with decision-making authority for the resident to designate an
2 individual as the resident's essential caregiver during a
3 declaration of disaster emergency. An essential caregiver shall
4 meet the necessary qualifications to enter the long-term care
5 nursing facility to provide in-person physical or emotional <--
6 support to a resident of a long-term care nursing facility in <--
7 accordance with the protocols established under this section.
8 The protocols shall include all of the following:

9 (1) Safety measures for an essential caregiver,
10 including, but not limited to, restrictions on travel,
11 enhanced testing for communicable diseases and the necessary
12 safety equipment required to protect the health and safety of
13 the residents of the long-term care nursing facility. <--

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

17 (3) A duration, not to exceed 30 days, when a long-term
18 care nursing facility may enter a lock-down phase for the <--
19 purpose of establishing safety measures for residents of the
20 long-term care nursing facility and essential caregivers. <--

21 (b) Additional safety requirements.--

22 (1) A long-term care nursing facility may establish <--
23 additional safety requirements to protect the residents of
24 the long-term care nursing facility if the requirements meet <--
25 all of the following criteria:

26 (i) The requirements are directly linked to a
27 declaration of disaster emergency.

28 (ii) The requirements are not so burdensome and
29 onerous as to substantially prevent an essential
30 caregiver from being able to physically or emotionally

1 support a resident of the long-term care facility in
2 person.

3 ~~(2) After a replacement essential caregiver has been~~ <--
4 ~~named by a resident of a long term care nursing facility, a~~
5 ~~long term care nursing facility may suspend access to the~~
6 ~~long term care nursing facility for an essential caregiver~~
7 ~~who violates the protocols established under subsection (a).~~

8 (2) A LONG-TERM CARE FACILITY MAY SUSPEND ACCESS TO THE <--
9 LONG-TERM CARE FACILITY FOR AN ESSENTIAL CAREGIVER WHO
10 VIOLATES THE PROTOCOLS ESTABLISHED UNDER SUBSECTION (A), AND
11 THE LONG-TERM CARE FACILITY SHALL ALLOW THE RESIDENT, OR AN
12 INDIVIDUAL WITH DECISION-MAKING AUTHORITY FOR THE RESIDENT,
13 TO IMMEDIATELY DESIGNATE A REPLACEMENT ESSENTIAL CAREGIVER.

14 (c) Personal protective equipment.--A long-term care nursing <--
15 facility may require an essential caregiver to provide personal
16 protective equipment for himself or herself or assume the cost
17 of the personal protective equipment provided by the facility to
18 allow the essential caregiver to provide in-person physical or
19 emotional support.

20 (d) Applicability.--This section shall apply for the period
21 commencing 15 days after a declaration of disaster emergency and
22 60 days after the termination or expiration of the declaration
23 of disaster emergency by executive order, proclamation or
24 operation of law.

25 (e) Definitions.--As used in this section, the following
26 words and phrases shall have the meanings given to them in this
27 subsection unless the context clearly indicates otherwise:

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

1 "Essential caregiver." An individual, whether a family
2 member or friend of a resident of a long-term care ~~nursing~~ <--
3 facility, who is designated by the resident or appointed by an
4 individual with decision-making authority for the resident to
5 provide physical or emotional support to the resident during a
6 declaration of disaster emergency.

7 "LONG-TERM CARE FACILITY." A FACILITY LICENSED BY THE <--
8 DEPARTMENT OR THE DEPARTMENT OF HUMAN SERVICES, INCLUDING A
9 LONG-TERM CARE NURSING FACILITY, A SKILLED NURSING FACILITY, AN
10 ASSISTED LIVING FACILITY, A PERSONAL CARE HOME OR AN OLDER ADULT
11 DAILY LIVING CENTER.

12 Section 2. This act shall take effect in 60 days.