

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1198 Session of 2022

INTRODUCED BY BROOKS AND J. WARD, APRIL 26, 2022

REFERRED TO HEALTH AND HUMAN SERVICES, APRIL 26, 2022

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," in departmental powers and
4 duties as to licensing, providing for prelicensure waiver of
5 physical site requirements and further providing for
6 regulations and for rules and regulations for personal care
7 home and assisted living residences.

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

10 Section 1. The act of June 13, 1967 (P.L.31, No.21), known
11 as the Human Services Code, is amended by adding a section to
12 read:

13 Section 1010. Prelicensure Waiver of Physical Site
14 Requirements.--(a) Each waiver submitted by an entity
15 interested in assisted living residence licensure shall be
16 considered on a case-by-case basis based on the specific merits.
17 In evaluating a physical site waiver request, the department
18 shall consider the following:

19 (1) The commensurate benefit to the consumers if the waiver
20 is approved.

21 (2) Whether the entity will meet the needs of the residents

1 as their acuity and care needs increase.

2 (3) Consumer choice as it relates to the waiver request.

3 (4) Appropriate policies and procedures the entity has or
4 will put in place to ensure an equivalent level of health,
5 safety and well-being for the protection of the residents.

6 (5) Up to three years of compliance history of the entity
7 making the waiver request, if available.

8 (b) A physical site waiver shall remain valid until such
9 time as the assisted living residence completes a structural
10 renovation project impacting the existing waiver. If the
11 assisted living residence undergoes a change of ownership, the
12 existing physical site waiver shall remain valid and be
13 transferred to the new owner. If the new owner completes a
14 structural renovation project impacting the existing waiver, the
15 waiver shall be deemed invalid.

16 (c) Physical site waiver requests include, but are not
17 limited to, requests relating to:

18 (1) Living unit square footage.

19 (2) Living units that share a bathroom.

20 (3) Other physical site components.

21 (d) A copy of the approved waiver request and the
22 department's written decision shall be posted in a conspicuous
23 and public place within the assisted living residence.

24 Section 2. Section 1021(a)(2)(iv) and (v) of the act are
25 amended and the subsection is amended by adding a paragraph to
26 read:

27 Section 1021. Regulations.--(a) * * *

28 (2) Regulations for assisted living residences shall:

29 * * *

30 (iv) Require that each living unit contain a private

1 bathroom, living and bedroom space, kitchen capacity, which may
2 mean electrical outlets to have small appliances such as a
3 microwave and refrigerator, closets and adequate space for
4 storage and a door with a lock, except where a lock or
5 appliances in a unit under special care designation would pose a
6 risk or be unsafe. A living unit shall not be required to have a
7 bathtub or shower in the bathroom, but an assisted living
8 residence shall maintain adequate bathing facilities to
9 accommodate all residents residing in the assisted living
10 residence with at least one bathtub or shower for every ten
11 residents. Bathing facilities shall allow for resident privacy
12 and independence.

13 (v) Establish minimum square footage requirements for
14 individual living units [which excludes bathrooms and closet
15 space]. Exceptions to the size of the living unit may be made at
16 the discretion of the department.

17 * * *

18 (3) Within sixty days of the effective date of this
19 paragraph, the department shall take all necessary actions,
20 including the submission of required documents to the Centers
21 for Medicare and Medicaid Services, to include assisted living
22 services and supplemental health care services as covered
23 medical assistance services in the Community HealthChoices
24 Program and to allow licensed assisted living residences to be
25 certified as a medical assistance provider for these services.

26 * * *

27 Section 3. Section 1057.3(a)(12), (e)(5) and (g)(1), (4),
28 (5), (6), (7) and (8) of the act are amended to read:

29 Section 1057.3. Rules and Regulations for Personal Care Home
30 and Assisted Living Residences.--(a) The rules and regulations

1 for the licensing of personal care homes and assisted living
2 residences promulgated by the department shall require that:

3 * * *

4 (12) Each assisted living residence demonstrate the ability
5 to provide supplemental health care services in a manner duly
6 protective of the health, safety and well-being of its residents
7 utilizing employes or other qualified individuals certified
8 pursuant to subsection (f), independent contractors or
9 contractual arrangements with other health care facilities or
10 practitioners licensed, registered or certified to the extent
11 required by law to provide such service. To the extent
12 prominently disclosed in a written admission agreement, an
13 assisted living residence may require residents to use providers
14 of supplemental health care services designated by the assisted
15 living residence.

16 * * *

17 (e) An assisted living residence may not admit, retain or
18 serve a consumer with any of the following conditions or health
19 care needs unless an exception, upon the written request of the
20 assisted living residence, is granted by the department:

21 * * *

22 [(5) Nasogastric tubes.]

23 * * *

24 (g) An assisted living residence may admit, retain or serve
25 a consumer for whom a determination is made by the department,
26 upon the written request of the assisted living residence, that
27 the consumer's specific health care needs can be met by a
28 provider of assisted living services or within an assisted
29 living residence, in conformity with standards set by the
30 department through regulation, including a consumer requiring:

1 (1) gastric tubes, except that a determination shall not be
2 required if the consumer is capable of self-care of the gastric
3 tube or a licensed health care professional or other qualified
4 individual certified pursuant to subsection (f) cares for the
5 gastric tube;

6 * * *

7 [(4) a sliding scale insulin administration, except that a
8 determination shall not be required if the consumer is capable
9 of self-administration or a licensed health care professional or
10 other qualified individual administers the insulin;

11 (5) intermittent intravenous therapy, except that a
12 determination shall not be required if a licensed health care
13 professional manages the therapy;

14 (6) insertions, sterile irrigation and replacement of a
15 catheter, except that a determination shall not be required for
16 routine maintenance of a urinary catheter if the consumer is
17 capable of self-administration or a licensed health care
18 professional administers the catheter;

19 (7) oxygen, except a determination shall not be required if
20 the consumer is capable of self-administration or a licensed
21 health care professional or other qualified individual
22 administers the oxygen;

23 (8) inhalation therapy, except that a determination shall
24 not be required if the consumer is capable of self-
25 administration or a licensed health care professional or other
26 qualified individual administers the therapy;]

27 * * *

28 Section 4. This act shall take effect immediately.