
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1583 Session of
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PRESTON, SHIMKUS, SIPTROTH, THOMAS, WALKO, YOUNGBLOOD AND
YUDICHAK, JUNE 20, 2007

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
JUNE 20, 2007

AN ACT

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

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

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

8 PART VI

9 REGULATED ENTITIES

10 Chapter

11 81. Assisted Living Residences

12 CHAPTER 81

13 ASSISTED LIVING RESIDENCES

14 Sec.

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12 § 8101. Scope.

13 This chapter relates to assisted living residence licensure.

14 § 8102. Definitions.

15 The following words and phrases when used in this chapter
16 shall have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

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

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

28 "Area agency on aging." The local agency designated by the
29 Department of Aging as defined in section 2202-A of the act of
30 April 9, 1929 (P.L.177, No.175), known as The Administrative

1 Code of 1929.

2 "Assisted living." A program based on the individual's
3 autonomy and self-direction, involvement with family and the
4 community, and participation in decisions emphasizing choice,
5 dignity, privacy, individuality and independence in a homelike
6 environment.

7 "Assisted living residence." As follows:

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

10 (i) which meets the requirements of this chapter;

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

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

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

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

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

26 (i) A personal care home.

27 (ii) A domiciliary care home.

28 (iii) Publicly financed housing.

29 (iv) A housing unit in a continuing care retirement
30 community certified by the Insurance Department.

1 "Assisted living services." Services designed to support
2 assisted living, including personal care services, assistive
3 technology and health-related services, cognitive support
4 services or a combination of these services which respond to an
5 individual resident's needs. The term does not include cognitive
6 support services.

7 "Assistive technology." Devices which:

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

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

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

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

26 "Direct care staff." An individual who:

27 (1) is employed by an assisted living residence;

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

30 (3) provides for the safety and well-being of residents.

1 "Discharge." Termination of an individual's residency in an
2 assisted living residence.

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

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

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

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

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

30 "License." The license required to be obtained by an

1 assisted living residence under this chapter in accordance with
2 the act of July 19, 1979 (P.L.130, No.48), known as the Health
3 Care Facilities Act, and regulations promulgated under the act.

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

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

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

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

17 (i) at least 60 years of age; and

18 (ii) a consumer of long-term care services; and

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

20 (i) is made by a provider of long-term care
21 services, a public agency or a social service agency or a
22 representative of that provider or agency; and

23 (ii) may adversely affect the health, safety, well-
24 being or rights of an individual under paragraph (1).

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

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

30 (2) identifies how to balance a resident's choices and

1 capabilities with the possibility that those choices will
2 place the resident or other residents at risk of harm.

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

9 "Personal care home." A facility licensed by the Department
10 of Public Welfare pursuant to the act of June 13, 1967 (P.L.31,
11 No.21), known as the Public Welfare Code.

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

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

17 (1) licensed, registered or certified in this
18 Commonwealth; and

19 (2) chosen by a resident to provide personal physical or
20 behavioral health care, medical care or medication services.

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

24 (1) has an identified acute or chronic medical problem;
25 or

26 (2) is deemed to need nursing overview or supervision on
27 a 24-hour basis.

28 "Representative." A responsible individual designated by the
29 resident or a person authorized by law to take certain action on
30 behalf of a resident. The term includes legal counsel; a court-

1 appointed guardian; an attorney-in-fact under a durable power of
2 attorney or a durable power of attorney for health care; the
3 long-term care ombudsman if the resident designates; and, with
4 respect to payment of resident funds, a designated fiscal
5 intermediary under section 3504 of the Internal Revenue Code of
6 1986 (Public Law 99-514, 26 U.S.C. § 3504).

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

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

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

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

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

26 "Special care designation." A licensed assisted living
27 residence, or a distinct part of the residence, which is
28 specifically designated by the department as capable of
29 providing cognitive support services to residents with severe
30 cognitive impairments such as dementia or Alzheimer's disease in

1 the least restrictive manner to ensure the safety of the
2 resident and others in the residence while maintaining the
3 resident's ability to age in place.

4 "Third-party provider." A person that:

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

7 (2) is not related to or affiliated with, either
8 directly or indirectly, the assisted living residence or any
9 owner, director or officer of the assisted living residence.

10 The term includes physicians and home care providers.

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

14 § 8103. Licensure.

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

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

28 (c) Term of license.--Licenses shall be valid for a period
29 of two years unless the department takes action pursuant to its
30 authority under the Health Care Facilities Act to shorten the

1 period.

2 (d) Reporting and other requirements.--Every licensee shall
3 report to the department and otherwise meet requirements
4 applicable to health care facilities under 28 Pa. Code Pt. IV
5 Subpt. A (relating to general provisions).

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

10 § 8104. Initial interview.

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

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

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

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

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

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

30 (6) The availability of health care and social services

1 not provided at the assisted living residence but which are
2 available in the community, such as hospice care, home health
3 care, transportation and similar services to support a
4 resident who is aging in place.

5 (7) Any additional information required by the
6 department.

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

12 (1) Contact information for:

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

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

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

22 (2) A delineation of resident rights.

23 (3) The following additional information:

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

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

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

30 (iv) Information on transfer and discharge policies.

1 (v) Copies of all charge schedules and rates,
2 including those separate charges for each of the
3 following:

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

9 (B) assisted living services and cognitive
10 support services.

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

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

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

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

29 (d) Exceptions.--Notwithstanding the provisions of
30 subsection (c), a resident of an assisted living residence may

1 remain in the residence to age in place even where the resident
2 develops a terminal illness or a need for equipment, treatment
3 or care as listed in subsection (c)(2) so long as:

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

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

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

10 § 8105. Agreements and charges.

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

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

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

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

27 (ii) Except for the services of a personal health
28 care provider, no resident shall contract directly for
29 services with any outside vendor unless the assisted
30 living residence does not offer the service, either

1 directly or through a third-party provider.

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

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

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

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

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

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

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

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

28 (4) The following statements by the licensee:

29 (i) A description of all services offered with
30 charges for each, including any packaged services and

1 tiers.

2 (ii) Individualized itemization of services that
3 will be provided to the resident and costs of the
4 services, separating housing costs from service costs.

5 (iii) Policies regarding residents.

6 (iv) Description of an internal dispute resolution
7 process.

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

13 § 8106. Evaluation and services plan.

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

21 (1) Personal history.

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

25 (3) Mobility and cognitive functioning.

26 (4) Informal supports available to the individual.

27 (5) Environmental factors affecting the individual.

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

1 those needs; and

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

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

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

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

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

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

29 (iv) The licensee shall provide those services
30 identified in the services plan which it is able to

1 provide directly or through a third-party provider,
2 except for any services provided by the resident's
3 personal health care provider. Services a licensee is not
4 able to provide may be contracted for directly by the
5 resident.

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

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

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

27 § 8107. Transfer and discharge.

28 (a) Involuntary transfer or discharge.--A licensee shall not
29 initiate an involuntary discharge because a resident's choice
30 might pose a risk if the resident is competent and the choice is

1 informed and poses a danger or risk only to the resident. A
2 licensee shall only transfer or discharge a resident
3 involuntarily under the following circumstances:

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

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

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

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

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

20 (6) The assisted living residence ceases to operate.

21 (b) Transfer or discharge to be safe and appropriate.--

22 Unless the discharge is initiated by the resident or the
23 resident's representative, a licensee shall ensure that a
24 transfer or discharge is safe and orderly and that the transfer
25 or discharge is appropriate to meet the resident's needs. If
26 there is no appropriate place to which the resident may be
27 transferred, the residence shall contact the department working
28 in conjunction with the appropriate local agencies for
29 assistance and coordination.

30 (c) Transfer to hospital or nursing facility.--Before an

1 assisted living residence transfers a resident to a hospital or
2 nursing facility, the assisted living residence must provide
3 written notification to the resident and the resident's
4 representative that specifies the assisted living residence's
5 policies regarding the resident's right to return to the
6 resident's own living unit at the assisted living residence. At
7 a minimum, the assisted living residence must hold the
8 resident's living unit for a period of 15 days. In the absence
9 of specific arrangements between the assisted living residence
10 and the resident to hold the living unit for a period beyond the
11 required 15 days, the assisted living residence must permit the
12 resident to return to the assisted living residence immediately
13 upon the first availability of a living unit.

14 § 8108. Informed consent process.

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

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

28 (c) Resident's involvement.--The resident shall be entitled
29 to involve his representative and physician, and any other
30 individual the resident wants involved, to assist in developing

1 a satisfactory informed consent that balances the resident's
2 choices and capabilities with the possibility that the choices
3 will place the resident or other residents at risk of harm.

4 (d) Informed consent.--

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

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

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

29 (f) Unsuccessful negotiation.--If the parties do not agree,
30 the licensee shall notify the resident and the resident's

1 representative and shall include information on the local
2 ombudsman or the appropriate advocacy organization for
3 assistance as to the disposition and whether the licensee will
4 issue a notice of discharge.

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

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

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

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

1 other residents.

2 § 8109. Notices.

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

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

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

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

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

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

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

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

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

30 (4) A statement that the resident has the right to

1 appeal to the department.

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

4 § 8110. Disputes and appeals.

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

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

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

27 § 8111. Resident's rights.

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

30 (1) Participate in assisted living voluntarily.

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

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

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

11 (5) Manage the resident's financial affairs.

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

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

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

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

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

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

27 (b) No waiver.--A resident may not waive the rights provided
28 for in this section. Any such waiver shall be void.

29 § 8112. Additional requirements.

30 (a) General requirements.--A licensee shall provide living

1 units within a homelike setting that respect the privacy and
2 individuality of the resident and shall offer and coordinate a
3 range of supportive personal and health-related services
4 available on a 24-hour basis to meet the needs and preferences
5 of residents even as needs change so that residents can remain
6 in a familiar environment, minimizing the need for residents to
7 move and maximizing the ability of the individual to age in
8 place.

9 (b) Rates and charges.--

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

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

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

23 (i) For personal care services, a licensee may
24 charge on a basis that includes a minimum level of
25 services for any resident requiring the services and must
26 offer weekly or monthly rates. A licensee may further
27 offer tiers of personal care services, charging different
28 rates for each tier that will provide different levels of
29 services to meet different levels of need of residents.

30 The licensee may not establish tiers of service based

1 upon resident ability to pay. Any differences in rates
2 shall be clearly specified and capable of understanding
3 by the resident.

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

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

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

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

25 (c) Staffing.--

26 (1) The department shall establish minimum direct care
27 staffing levels for assisted living residences and for
28 special care designations. Staffing levels shall be based
29 upon the residence population, mobility and cognitive
30 impairment of residents and shall be adequate to ensure 24-

1 hour-a-day-awake direct care staff to meet the scheduled and
2 unscheduled needs of residents.

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

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

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

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

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

29 (d) Living units.--

30 (1) A licensee shall provide a resident with the

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

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

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

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

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

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

28 (e) Facility requirements.--

29 (1) Each assisted living residence shall meet Department
30 of Labor and Industry building and fire and safety

1 requirements, unless the department by regulation designates
2 a different standard.

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

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

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

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

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

24 (1) Unexplained absences of residents.

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

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

30 (4) The informed consent agreement process.

1 (g) Quality improvement.--A licensee shall do all of the
2 following:

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

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

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

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

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

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

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

29 (j) Medical assistance providers.--A licensee intending to
30 enroll as a medical assistance provider shall apply for and

1 receive prior approval from the Department of Public Welfare
2 with respect to the units approved for occupancy by a medical
3 assistance recipient and may not discharge any resident due to a
4 change in payor source.

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

7 § 8113. Regulations.

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

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

18 Section 2. This act shall take effect as follows:

19 (1) The following provisions shall take effect
20 immediately:

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

22 (ii) This section.

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