

**ACT NO. 56 OF 2007**

**Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An act to consolidate, editorially revise, and codify the public welfare laws of the Commonwealth," further providing for STATE PLAN FOR REGULATING AND LICENSING PERSONAL CARE HOMES, FOR Intra-Governmental Council on Long-Term Care and for rules and regulations for personal care homes and assisted living residences.**

**The general assembly finds and declares as follows:**

- (1) Assisted living residences are a significant long-term care alternative nationwide.**
- (2) Assisted living residences are a combination of housing and supportive services, as needed. They are widely accepted by the general public because they allow people to 14 age in place, maintain their independence and exercise decision making and personal choice.**
- (3) It is in the best interest of all Pennsylvanians that a system of licensure and regulation be established for assisted living residences in order to ensure accountability and a balance of availability between institutional and home-based and community-based long-term care for adults who need such care.**

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

*62 P.S. § 211*  
PENNSYLVANIA STATUTES  
TITLE 62. POOR PERSONS AND PUBLIC WELFARE  
CHAPTER 1. PUBLIC WELFARE CODE  
ARTICLE II. GENERAL POWERS AND DUTIES OF THE DEPARTMENT OF PUBLIC WELFARE

**§ 211. State plan for regulating and licensing personal care homes and assisted living residences**

(a) In accordance with the statutory authority and responsibility vested in the department to regulate nonprofit homes for adults which provide personal care and services and to license for profit personal care homes for adults, pursuant to Articles IX and X, the department shall develop and implement a State plan for regulating and licensing said facilities as defined by section 1001 of this act.

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

(1) Distinguish between personal care homes serving less than eight persons and personal care homes serving more than eight persons.

(2) By July 1, 1981 adopt rules relating to the conduct of owners and employees of personal care homes relative to the endorsement or delivery of public or private welfare, pension or insurance checks by a resident of a personal care home.

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

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

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

(1) Coordination of the department's statutory responsibilities with those of other State and local agencies having statutory responsibilities relating to personal care homes, with particular attention given to the Department of Labor and Industry, the Department of Environmental Resources, the Department of Aging and the Pennsylvania Human Relations Commission. The Department of Labor and Industry shall promulgate rules and regulations applicable to personal care homes on a Statewide basis consistent with size distinctions set forth in subsection (b) pertaining to construction and means of egress.

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

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

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

(iii) Delegate to other State and local agencies responsibility for visitations, inspections, referral, placement and protection of adults residing in personal care homes.

(iv) Evaluate the State's fire and panic laws as applied to personal care homes.

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

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

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

(6) Number of personnel at the State, regional and county level required to inspect personal care homes and monitor and enforce final rules and regulations adopted by the department.

(7) Process for relocating residents of personal care homes whose health and safety are in imminent danger.

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

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

(g) The final plan shall include the information required in the preliminary plan and, in addition, the cost to operators of personal care homes for compliance with the regulations.

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

(i) The State plan shall not apply to any facility operated by a religious organization for the care of clergymen or other persons in a religious profession.

(j) Prior to January 1, 1985, department regulations shall not apply to personal care homes in which services are integrated with, are under the same management as, and on the same grounds as a skilled nursing or intermediate care facility licensed for more than twenty-five beds and having an average daily occupancy of more than fifteen beds. Prior to January 1, 1985 the department may require registration of such facilities and may visit such facilities for the purpose of assisting residents and securing information regarding facilities of this nature.

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

**(l) The Department shall annually conduct at least one onsite unannounced inspection of each personal care home and each assisted living residence. Additional announced or unannounced inspections may be conducted by the Department as the Department deems necessary. When developing regulations under this act, the Department may provide for an abbreviated annual licensure visit when a residence has established a history of exemplary compliance.**

(m) Regulations specifically related to personal care homes or personal care home services adopted prior to the effective date of this act shall remain in effect until superseded by a final plan adopted in accordance with this section.

*62 P.S. § 212*  
PENNSYLVANIA STATUTES  
TITLE 62. POOR PERSONS AND PUBLIC WELFARE  
CHAPTER 1. PUBLIC WELFARE CODE  
ARTICLE II. GENERAL POWERS AND DUTIES OF THE DEPARTMENT OF PUBLIC WELFARE

§ 212. Intra-Governmental Council on Long-Term Care

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

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

(1) The Secretary of Aging.

(2) The Secretary of Community Affairs.

(3) The Secretary of Health.

(4) The Secretary of Public Welfare.

(5) The Insurance Commissioner.

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

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

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

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

**(9.1) Two representatives of the assisted living residence community, one of whom shall be an owner or administrator of a licensed assisted living residence and one of whom shall be a consumer of a licensed assisted living residence.**

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

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

(d) (1) The terms of the Secretary of Aging, the Secretary of Community Affairs, the Secretary

of Health, the Secretary of Public Welfare and the Insurance Commissioner shall be concurrent with their holding of public office.

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

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

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

(1) To consult with the department and make recommendations on regulations, licensure and any other responsibilities of the department relating to personal care homes.

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

(f) The department, in developing rules and regulations for licensure of personal care homes, shall take into consideration the recommendations of the Intra-Governmental Council on Long-Term Care.

62 P.S. § 213  
PENNSYLVANIA STATUTES  
TITLE 62. POOR PERSONS AND PUBLIC WELFARE  
CHAPTER 1. PUBLIC WELFARE CODE  
ARTICLE II. GENERAL POWERS AND DUTIES OF THE DEPARTMENT OF PUBLIC WELFARE

§ 213. Personal care home and Assisted Living Residence Administrators

(a) After December 31, 1990, all personal care homes shall identify and appoint a personal care home administrator or administrators who meet the qualifications provided in this section.

**(a.1) All assisted living residences shall identify and appoint an administrator or administrators who meet the qualifications provided in this section for personal care home administrators and any additional standards pertaining to the operations of assisted living residences as the Department may establish by regulation.**

(b) A personal care home administrator shall:

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

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

(i) fire prevention and emergency planning;

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

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

(iv) nutrition, food handling and sanitation;

(v) recreation;

(vi) mental illness and gerontology;

(vii) community resources and social services; and

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

(3) be a licensed nursing home administrator. The department may establish separate standards of knowledge and training for licensed nursing home administrators who wish to operate a personal care home.

**(c) The Department shall promulgate regulations requiring orientation and training for all direct care staff and regulations requiring qualifications for administrators in a personal care home or assisted living residence. Such regulations for assisted living direct care staff and administrators shall meet or exceed the requirements for direct service staff and administrators in a personal care home.**

(d) By June 1, 1989, the department shall by regulation develop such standards for knowledge, education or training to meet the standards of this section.

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

*62 P.S. § 1001*  
PENNSYLVANIA STATUTES  
TITLE 62. POOR PERSONS AND PUBLIC WELFARE  
CHAPTER 1. PUBLIC WELFARE CODE  
ARTICLE X. DEPARTMENTAL POWERS AND DUTIES AS TO LICENSING  
(A) LICENSING PROVISIONS

NOTICE: As to repeal of this section where inconsistent with Act 1978, June 20, P.L. 477, No. 70, which created the Department of Aging, see § 13(b) of said act; where it relates to health care facilities as defined in Chapter 8 of the Health Care Facilities Act, see Act 1980, July 12, P.L. 655, No. 136, § 10(a); where inconsistent with Act 1990, July 11, P.L. 499, No. 118, see § 21 of said act; and where inconsistent with Act 1992, Dec. 18, P.L. , No. 179, where it relates to health care facilities as defined in Chapter 8, see § 25 of said act.

As to suspension of this article where in conflict with Reorganization Plan No. 3 of 1975 and No. 2 of 1977, see section 7 of [71 P.S. § 751-23](#) and [71 P.S. § 751-25](#).

As to suspension of this section where in conflict with the provision of the Reorganization Plan No. 2 of 1973 and Reorganization Plan No. 1 of 1980, see section 3 of [71 P.S. § 751-14](#) and § 751-27.

§ 1001. Definitions

As used in this article—

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

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

**"AGE IN PLACE" and "AGING IN PLACE" means receiving care and services at a licensed assisted living residence to accommodate changing needs and preferences in order to remain in the assisted living residence.**

**"ASSISTED LIVING RESIDENCE" means any premises in which food, shelter, personal care, assistance or supervision and supplemental health care services are provided for a period exceeding twenty-four hours for four or more adults who are not relatives of the operator, who require assistance or supervision in such matters as dressing, bathing, diet, financial management, evacuation from the residence in the event of an emergency or medication prescribed for self-administration.**

**"ASSISTED LIVING RESIDENCE ADMINISTRATOR" means an individual who is charged with the general administration of an assisted living residence, whether or not such**

**individual has an ownership interest in the residence or his function and duties are shared with other individuals.**

"BOARDING HOME FOR CHILDREN" means any premises operated for profit in which care is provided for a period exceeding twenty-four hours for any child or children under sixteen years of age, who are not relatives of the operator and who are not accompanied by parent, individual standing in loco parentis or legal guardian. The term shall not be construed to include any such premises selected for care of such child or children by a parent, individual standing in loco parentis or legal guardian for a period of thirty days or less, nor any such premises conducted under social service auspices.

"CHILD DAY CARE" means care in lieu of parental care given for part of the twenty-four hour day to children under sixteen years of age, away from their own homes, but does not include child day care furnished in places of worship during religious services.

"CHILD DAY CARE CENTER" means any premises operated for profit in which child day care is provided simultaneously for seven or more children who are not relatives of the operator, except such centers operated under social service auspices.

**"COGNITIVE SUPPORT SERVICES" means services provided to an individual who has memory impairments and other cognitive problems which significantly interfere with their ability to carry out activities of daily living without assistance and who require that supervision, monitoring and programming be available to them 24 hours per day, seven days per week, in order for them to reside safely in the setting of their choice. The term includes assessment, health support services and a full range of dementia-capable activity programming and crisis management.**

"DIRECT CARE STAFF" means a person who directly assists residents with activities of daily living; provides services; or is otherwise responsible for the health, safety and welfare of the residents.

"FACILITY" means an adult day care center, child day care center, family day care home, boarding home for children, mental health establishment, personal care home, **assisted living residence**, nursing home, hospital or maternity home, as defined herein, **except to the extent that such a facility is operated by the State or Federal governments or those supervised by the department licensed pursuant to the Act of July 19, 1979 (P.L. 130, No. 48), known as the "Health Care Facilities Act"**.

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

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

**"INFORMED CONSENT AGREEMENT" means a formal, mutually agreed upon, written understanding which:**

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

**(2) identifies how to balance the assisted living residence's responsibilities to the individuals they serve with a resident's choices and capabilities with the possibility that those choices will place the resident or other residents at risk of harm.**

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

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

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

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

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

"PERSONAL CARE HOME ADMINISTRATOR" means an individual who is charged with the general administration of a personal care home, whether or not such individual has an ownership interest in the home or his functions and duties are shared with other individuals

"RELATIVE" means parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half brother, half sister, aunt, uncle, niece, nephew.

"SOCIAL SERVICE AUSPICES" means any nonprofit agency regularly engaged in the affording of child or adult care.

**"SPECIAL CARE DESIGNATION" means 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, including, but not limited to, 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.**

**"SUPPLEMENTAL HEALTH CARE SERVICES" means the provision by an assisted living residence of any type of health care service, either directly or through contractors, subcontractors, agents or designated providers, except for any service that is required by law to be provided by a health care facility pursuant to the act of July 19, 1979 (P.L.130, No.48), known as the "Health Care Facilities Act."**

*62 P.S. § 1021*  
PENNSYLVANIA STATUTES  
TITLE 62. POOR PERSONS AND PUBLIC WELFARE  
CHAPTER 1. PUBLIC WELFARE CODE  
ARTICLE X. DEPARTMENTAL POWERS AND DUTIES AS TO LICENSING  
(A) LICENSING PROVISIONS

NOTICE: As to repeal of this section where inconsistent with Act 1978, June 20, P.L. 477, No. 70, which created the Department of Aging, see § 13(b) of said act; where it relates to health care facilities as defined in Chapter 8 of the Health Care Facilities Act, see Act 1980, July 12, P.L. 655, No. 136, § 10(a); where inconsistent with Act 1990, July 11, P.L. 499, No. 118, see § 21 of said act; and where inconsistent with Act 1992, Dec. 18, P.L. , No. 179, where it relates to health care facilities as defined in Chapter 8, see § 25 of said act.

As to suspension of this article where in conflict with Reorganization Plan No. 3 of 1975 and No. 2 of 1977, see section 7 of [71 P.S. § 751-23](#) and [71 P.S. § 751-25](#).

As to suspension of this section where in conflict with the provision of the Reorganization Plan No. 2 of 1973 and Reorganization Plan No. 1 of 1980, see section 3 of [71 P.S. § 751-14](#) and § 751-27.

§ 1021. Regulations

**(a) (1)** The department **shall** adopt regulations establishing minimum standards for building, equipment, operation, care, program and services, **training and staffing** and for the issuance of licenses.

**(2) regulations for assisted living residences shall:**

**(i) Meet or exceed standards established in 55 Pa. Code §2600 (relating to personal care homes). Residents' rights in those or subsequent regulations shall not be subject to waiver.**

**(ii) Require an assisted living residence to provide a resident with the resident's own living unit. 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.**

**(iii) Provide that supplemental health care services shall be packaged, contracted and priced separately from the resident agreement.**

**(iv) Require that each living unit contain a private bathroom, living and bedroom space, kitchen capacity, which may mean electrical outlets to have small appliances such as a microwave and refrigerator, closets and adequate space for storage and a door with a lock, except where a lock or appliances in a unit under special care designation would pose a risk or be unsafe.**

**(v) Establish minimum square footage requirements for individual living units, which excludes bathrooms and closet space. Exceptions to the size of the living unit may be made at the discretion of the Department.**

**(vi) Establish a special care designation for assisted living residences and units that require specialized staff training, service planning, activity programming and security measures for residents receiving cognitive support services.**

**(vii) Create standards for informed consent agreements that promote aging in place which includes written acknowledgment of the risks that residents assume while directing their own care and which releases the facility from liability for adverse outcomes resulting from actions consistent with the terms of the informed consent agreement. Such informed consent agreements shall only be entered into upon the mutual agreement of the resident and the assisted living residence.**

**(viii) Create standards for transfer and discharge that require the assisted living residence to make a reasonable accommodation for aging in place that may include services from outside providers.**

**(b) The Department shall, by regulation, set fees for application for assisted living residence licensure and licensure renewal. Fees received by the Department shall augment the Department's funding for quality assurance and shall be used for the purposes of this Article.**

**(c) The Department shall have enforcement and licensure staff dedicated solely to assisted living residences. All inspections of residences dually licensed as assisted living residences and personal care homes shall be conducted by a team of surveyors comprised of both personal care home and assisted living residence surveyors.**

**(d) The Department shall develop regulations under this Article in collaboration consultation with industry stakeholders, consumers and other interested parties.**

*62 P.S. § 1051*  
PENNSYLVANIA STATUTES  
TITLE 62. POOR PERSONS AND PUBLIC WELFARE  
CHAPTER 1. PUBLIC WELFARE CODE  
ARTICLE X. DEPARTMENTAL POWERS AND DUTIES AS TO LICENSING  
(B) INJUNCTIONS AGAINST UNLICENSED ACTIVITIES; PROCEDURES

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As to suspension of this section where in conflict with the provision of the Reorganization Plan No. 2 of 1973 and Reorganization Plan No. 1 of 1980, see section 3 of [71 P.S. § 751-14](#) and § 751-27.

§ 1051. Definition

As used in this subarticle—

"PRIVATE INSTITUTION" means any of the following facilities by whatever term known and irrespective of the age group served: Mental hospital, institution for the mentally defective, day care center, nursing home, hospital, personal care home, **assisted living residence**, and other similar institution which is operated for profit and which requires a license issued by the department.

*62 P.S. § 1057.1*  
PENNSYLVANIA STATUTES  
TITLE 62. POOR PERSONS AND PUBLIC WELFARE  
CHAPTER 1. PUBLIC WELFARE CODE  
ARTICLE X. DEPARTMENTAL POWERS AND DUTIES AS TO LICENSING  
(B) INJUNCTIONS AGAINST UNLICENSED ACTIVITIES; PROCEDURES

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§ 1057.1. Appeals

(a) **(1)** An appeal from the decision of the department relating to the licensure or revocation of a personal care home shall not act as a supersedeas but, upon cause shown and where circumstances require it, the reviewing authority shall have the power to grant a supersedeas.

**(2) An appeal from the decision of the Department relating to revocation of an assisted living residence license shall not act as a supersedeas but, upon cause shown and where circumstances require it, the reviewing authority shall have the power to grant a supersedeas.**

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

*62 P.S. § 1057.2*  
PENNSYLVANIA STATUTES  
TITLE 62. POOR PERSONS AND PUBLIC WELFARE  
CHAPTER 1. PUBLIC WELFARE CODE  
ARTICLE X. DEPARTMENTAL POWERS AND DUTIES AS TO LICENSING  
(B) INJUNCTIONS AGAINST UNLICENSED ACTIVITIES; PROCEDURES

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§ 1057.2. Relocation

(a) The department, in conjunction with appropriate local authorities, shall relocate residents from a personal care home **or assisted living residence** if any of the following conditions exist:

(1) The home **or residence** is operating without a license.

(2) The licensee is voluntarily closing a home **or residence** and relocation is necessary for the health and welfare of the resident or residents.

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

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

*62 P.S. § 1057.3*  
PENNSYLVANIA STATUTES  
TITLE 62. POOR PERSONS AND PUBLIC WELFARE  
CHAPTER 1. PUBLIC WELFARE CODE  
ARTICLE X. DEPARTMENTAL POWERS AND DUTIES AS TO LICENSING  
(B) INJUNCTIONS AGAINST UNLICENSED ACTIVITIES; PROCEDURES

NOTICE: As to repeal of this section where inconsistent with Act 1990, July 11, P.L. 499, No. 118, see § 21 of said act; and where inconsistent with Act 1992, Dec. 18, P.L. , No. 179, where it relates to health care facilities as defined in Chapter 8, see § 25 of said act.

§ 1057.3. Rules and regulations for personal care home **and assisted living residences**

(a) The rules and regulations for the licensing of personal care homes **or assisted living residences** promulgated by the department shall require that:

(1) **(I)** Prior to a resident's admission to a personal care home **or assisted living residence**, an initial standardized screening instrument be completed for that resident by the personal care home provider or a human service agency. Such standardized screening instrument shall be developed by the department.

**(II)** For a personal care home screening will be done to determine that the potential resident does not require the services in or of a long-term care facility **and** whether the potential resident requires **the services of a personal care home** and, if so, the nature of the services and supervision necessary.

**(III)** For an assisted living residence, the screening will be done to determine whether the potential resident requires the services provided by an assisted living residence. A resident who currently does not require assistance in obtaining supplemental health care services, but who may require such services in the future or who wishes to obtain assistance in obtaining such services or reside in a facility in which such services are available, may be admitted to the assisted living residence, provided the resident is only provided service required or requested by the resident. Where services are required, the assisted living residence shall develop a support plan as defined in 55 Pa. Code § 2600 (relating to personal care homes) and any other regulation applicable to assisted living residences.

**(IV)** An initial screening shall not be required to commence supplemental health care services to a resident of an assisted living facility residence who was not receiving such services at the time of the resident's admission; to transfer a resident from a portion of an assisted living residence that does not provide supplemental health care services to a portion of the residence that provides such service; or to transfer a resident from a personal care home to an assisted living residence licensed by the same operator.

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

(3) A personal care **home or assisted living residence** administrator refer an applicant whose needs cannot be met by **the home or residence** to an appropriate assessment agency.

**(3.1) Prospective or current residents for whom placement in a skilled nursing facility is imminent shall be given priority for assisted living residence services funded through a home and community-based waiver.**

**(3.2) All individuals receiving services under the home- and community-based waivers shall have a comprehensive assessment of their needs using an instrument that provides comparable data elements and at comparable time intervals as specified by the state for medicaid for nursing facilities.**

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

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

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

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

(8) A personal care home **or assisted living residence** not seek or accept from a resident who is eligible for Supplemental Security Income (SSI) benefits any payment from any funds received as lump sum awards, gifts or inheritances, gains from the sale of property, or retroactive government benefits: Provided, however, That an owner or operator may seek and accept payments from funds received as retroactive awards of Social Security or Supplemental Security Income (SSI) benefits, but only to the extent that the retroactive awards cover periods of time during which the resident actually resided in the personal care home **or assisted living residence**.

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

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

(11) Personal care home **and assisted living residence** owners, administrators or **employees** be prohibited from being assigned power of attorney or guardianship for any resident.

(12) **Each assisted living residence demonstrate the ability to provide supplemental health care services in a manner duly protective of the health, safety and well-being of its residents utilizing employees, independent contractors or contractual arrangements with other health care facilities or practitioners licensed, registered or certified to the extent required by law to provide such service. To the extent prominently disclosed in a written admission agreement, an assisted living residence may require residents to use providers of supplemental health care services designated by the assisted living residence.**

(13) **A personal care home not provide supplemental health care services to residents, provided, however, that a personal care home may assist residents in obtaining health care services in the manner provided by 55 Pa. Code §§ 2600.29 (relating to hospice care and services), 2600.142 (relating to assistance with health care) and 2600.181 (relating to self-administration) through 2600.191 (relating to medications) or as otherwise provided by regulations adopted by the Department not inconsistent with the requirements of this section.**

(b) **Subject to subsection (a) (13), the Department shall not prohibit immobile persons who do not require the services of a licensed long-term care facility, but who require personal care services, from residing in a personal care home, provided that appropriate personal care services and health care services are available to the resident and the design, construction, staffing or operation of the personal care home allows for safe emergency evacuation. Persons requiring the services of a licensed long-term care facility, including immobile persons, may reside in an assisted living residence, provided that appropriate supplemental health care services are provided such residents and the design, construction, staffing and operation of the assisted living residence allows for their safe emergency evacuation.**

(c) **For consumers with Alzheimer's Disease or dementia or where the assisted living residence holds itself out to the public as providing services or housing for consumers with cognitive impairments, assisted living residences shall disclose to consumers and provide:**

(1) **The residence's written statement of its philosophy and mission which reflects the needs of consumers with cognitive impairments.**

(2) **A description of the residence's physical environment and design features to support the functioning of consumers with cognitive impairments.**

(3) **A description of the frequency and types of individual and group activities designed specifically to meet the needs of consumers with cognitive impairments.**

(4) **A description of security measures provided by the residence.**

(5) **A description of training provided to staff regarding provision of care to consumers with cognitive impairments.**

**(6) a description of availability of family support programs and family involvement.**

**(7) The process used for assessment and establishment of a plan of services for the consumer, including methods by which the plan of services will remain responsive to changes in the consumer's condition.**

**(d) Cognitive Support Services.—**

**(1) An assisted living residence shall provide to consumers with cognitive impairments cognitive support services, including dementia-specific activity programming.**

**(2) Assisted living residences shall identify measures to address consumers with cognitive impairments who have tendencies to wander.**

**(3) If national accreditation of secured assisted living residences for persons in need of cognitive support services becomes available, the Department may deem all assisted living residences accredited by accrediting bodies that have standards that equal or exceed those in this act and regulations as meeting the special care designation under this Act.**

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

**(1) Ventilator dependency.**

**(2) Stage III and IV decubiti and vascular ulcers that are not in a healing stage.**

**(3) Continuous intravenous fluids.**

**(4) Reportable infectious diseases, such as tuberculosis, in a communicable state that require isolation of the consumer or require special precautions by a caretaker to prevent transmission of the disease unless the Department of Health directs that isolation be established within the assisted living residence.**

**(5) Nasogastric tubes.**

**(6) Physical restraints.**

**(7) Continuous skilled nursing care twenty-four hours a day.**

**(f) Any of the following individuals may certify that a consumer may not be admitted or retained in an assisted living residence and the department shall by regulation establish the standards required for the certification:**

**(1) The assisted living residence administrator acting in consultation with supplemental health care providers.**

**(2) A consumer's physician or certified registered nurse practitioner.**

**(3) The medical director of the assisted living residence.**

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

**(1) Gastric tubes, except that a determination shall not be required if the consumer is capable of self-care of the gastric tube or a licensed health care professional or other qualified individual cares for the gastric tube;**

**(2) Tracheostomy, except that a determination shall not be required if the consumer is independently capable of self-care of the tracheostomy;**

**(3) Skilled nursing care twenty-four hours a day, except that a determination shall not be required if the skilled nursing care is provided on a temporary or intermittent basis;**

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

**(5) Intermittent intravenous therapy, except that a determination shall not be required if a licensed health care professional manages the therapy;**

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

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

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

**(9) Other types of supplemental health care services that an assisted living residence administrator, acting in consultation with supplemental health care providers, determines can be provided in a safe and effective manner by the assisted living residence; or**

**(10) Other types of care that can be provided in a safe and effective manner in an assisted living residence as determined by regulations adopted by the Department.**

**(h) (i) Subject to subsection (a)(12), an assisted living residence may admit or retain a resident who does not require supplemental health care services or who, subject to any restrictions provided in the written resident agreement, makes alternative arrangements for such services.**

**(ii) Portions or sections of an assisted living residence may be designated for use by residents not requiring supplemental health care services, or a an assisted living residence may provide services both to residents receiving supplemental health care services and to residents not receiving such service within the same portions or sections of the assisted living residence.**

**(i) 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.**

*62 P.S. § 1085*  
PENNSYLVANIA STATUTES  
TITLE 62. POOR PERSONS AND PUBLIC WELFARE  
CHAPTER 1. PUBLIC WELFARE CODE  
ARTICLE X. DEPARTMENTAL POWERS AND DUTIES AS TO LICENSING  
(D) PERSONAL CARE HOME

NOTICE: As to repeal of this section where inconsistent with Act 1990, July 11, P.L. 499, No. 118, see § 21 of said act; and where inconsistent with Act 1992, Dec. 18, P.L. , No. 179, where it relates to health care facilities as defined in Chapter 8, see § 25 of said act.

§ 1085. Classification of violations

The Department shall classify each violation of its regulations **by personal care homes or assisted living residences** into one of the following categories:

- (1) Class I. A violation which indicates a substantial probability that death or serious mental or physical harm to any resident may result.
- (2) Class II. A violation which has a substantial adverse effect upon the health, safety or well-being of any resident.
- (3) Class III. A minor violation which has an adverse effect upon the health, safety or well-being of any resident.

*62 P.S. § 1086*  
PENNSYLVANIA STATUTES  
TITLE 62. POOR PERSONS AND PUBLIC WELFARE  
CHAPTER 1. PUBLIC WELFARE CODE  
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§ 1086. Penalties

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

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

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

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

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

(f) Any provider charged with violation of this act shall have thirty days to pay the assessed penalty in full, or, if the provider wishes to contest either the amount of the penalty or the fact of the violation, the party shall forward the assessed penalty, not to exceed five hundred dollars (\$ 500), to the Secretary of Public Welfare for placement in an escrow account with the State Treasurer. If, through administrative hearing or judicial review of the proposed penalty, it is determined that no violation occurred or that the amount of the penalty shall be reduced, the secretary shall within thirty days remit the appropriate amount to the provider with any interest accumulated by the escrow deposit. Failure to forward the payment to the secretary within thirty

days shall result in a waiver of rights to contest the fact of the violation or the amount of the penalty. The amount assessed after administrative hearing or a waiver of the administrative hearing shall be payable to the Commonwealth of Pennsylvania and shall be collectible in any manner provided by law for the collection of debts. If any provider liable to pay such penalty neglects or refuses to pay the same after demand, such failure to pay shall constitute a judgment in favor of the Commonwealth in the amount of the penalty, together with the interest and any costs that may accrue.

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

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

*62 P.S. § 1087*  
TITLE 62. POOR PERSONS AND PUBLIC WELFARE  
CHAPTER 1. PUBLIC WELFARE CODE  
ARTICLE X. DEPARTMENTAL POWERS AND DUTIES AS TO LICENSING  
(D) PERSONAL CARE HOME

NOTICE: As to repeal of this section where inconsistent with Act 1990, July 11, P.L. 499, No. 118, see § 21 of said act; and where inconsistent with Act 1992, Dec. 18, P.L. , No. 179, where it relates to health care facilities as defined in Chapter 8, see § 25 of said act.

§ 1087. Revocation or nonrenewal of license

(a)(1) The department shall temporarily revoke the license of a personal care home **or assisted living residence** if, without good cause, one or more Class I violations remain uncorrected twenty-four hours after the **operator** has been cited for such violation or if, without good cause, one or more Class II violations remain uncorrected fifteen days after being cited for such violation.

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

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

(4) If, after three months, the department does not issue a new license for a personal care home **or assisted living residence** license revoked pursuant to this section:

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

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

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

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

**Except to the extent inconsistent with this Act, a reference in another statute to a personal care home, a personal care boarding home, personal care housing or a personal care home administrator shall be construed to also include an assisted living residence or an assisted living residence administrator, including, but not limited to, the use of such terms in:**

- (1) The definition of "caretaker" in 18 Pa.C.S. 17 § 2713;**
- (2) The definition of "health care provider" in 42 Pa.C.S. § 5101.1;**
- (3) The definition of "health center" in 53 Pa.C.S. § 5602;**
- (4) The authorization to conduct studies and evaluations and to develop community housing options by the Department of Aging as provided by section 2203-A of the Act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929;**
- (5) the authorization to develop community-based service and housing options for impaired and chronically ill older persons provided to area agencies on aging by section 2207-A of The Administrative Code of 1929;**
- (6) The term "residence" in section 2201-A of the Act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code;**
- (7) The authorization to provide tax exempt bond allocations pursuant to Chapter 27 of the Act of 6 June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act;**
- (8) The definition of "exempt facility" in section 2702 of the Job Enhancement Act;**
- (9) The definition of "facility" in section 103 of the Act of November 6, 1987 (P.L.381, No.79), known as the Older Adults Protective Services Act;**
- (10) Establishing the qualifications for a pediatric extended care center administrator pursuant to section 15(b)(2) of the Act of November 24, 1999 (P.L.884, No.54), known as the Prescribed Pediatric Extended Care Centers Act;**
- (11) The definition of "health care provider" in section 503 of the Act of March 20, 2002 (P.L.154, 20 No.13), known as the Medical Care Availability and 21 Reduction of Error (Mcare) Act;**
- (12) The definition of "facility" in section 2 of the Act of December 9, 2002 (P.L.1388, No.171), known as the Elder Care Payment Restitution Act;**
- (13) The list of facilities required to make refunds pursuant to section 3 of the Elder Care Payment Restitution Act; or**

**(14) The definition of "family" as excluding persons residing in a personal care boarding home in section 3 of the Act of November 30, 2004 (P.L.1561, No.198), known as the Family Support for Persons with Disabilities Act.**

**Within nine months after the effective date of this section, the Legislative Budget and Finance Committee shall report to the General Assembly on existing federal and other States' initiatives and programs that provide financial assistance for assisted living. This study shall include information on other federal or State assisted living programs that are effectively administered and may be considered a model. Within six months after receipt of the report, a joint legislative task force consisting of selected members of the Aging and Youth Committee of the Senate and the Aging and Older Adult Services Committee of the House of Representatives shall review the report and any recommendations contained therein and shall report back to the full committees with a proposal for a funding mechanism for assisted living in this Commonwealth. The Chairman of the Aging and Youth Committee of the Senate and the Chairman of the Aging and Older Adult Services Committee of the House of Representatives shall select three members from the majority party and three members from the minority party and the Secretary of Aging shall serve as Chairperson of the task force.**

**Nothing in this Act shall be construed to alter existing statutory or regulatory requirements pertaining to personal care homes until the regulations required by this Act are published by the Department of Public Welfare in the Pennsylvania Bulletin.**

**The Department of Public Welfare shall not issue any assisted living residence licenses until final regulations are published by the Department of Public Welfare in the Pennsylvania Bulletin.**

**This Act shall take effect in 90 days.**