

Act 56 of 2007

Approved by the Governor, July 25, 2007
Act No. 56

SENATE BILL

No. 704 Session of 2007

INTRODUCED BY VANCE, WASHINGTON, BAKER, BROWNE, EARLL,
ERICKSON,
FOLMER, FUMO, KITCHEN, MELLOW, MUSTO, O'PAKE, ORIE, PICCOLA,
PIPPY, PUNT, RAFFERTY, STACK, STOUT, TOMLINSON, WAUGH,
D. WHITE, M. WHITE, C. WILLIAMS, WONDERLING, WOZNIAK,
SCARNATI, REGOLA, RHOADES, MADIGAN AND McILHINNEY,
MARCH 29, 2007

AS REPORTED FROM COMMITTEE ON AGING AND OLDER ADULT SERVICES,
HOUSE OF REPRESENTATIVES, AS AMENDED, JULY 1, 2007

AN ACT

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

8 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:
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9 (1) ASSISTED LIVING RESIDENCES ARE A SIGNIFICANT LONG-
10 TERM CARE ALTERNATIVE NATIONWIDE.

11 (2) ASSISTED LIVING RESIDENCES ARE A COMBINATION OF
12 HOUSING AND SUPPORTIVE SERVICES, AS NEEDED. THEY ARE WIDELY
13 ACCEPTED BY THE GENERAL PUBLIC BECAUSE THEY ALLOW PEOPLE TO
14 AGE IN PLACE, MAINTAIN THEIR INDEPENDENCE AND EXERCISE
15 DECISION MAKING AND PERSONAL CHOICE.

16 (3) IT IS IN THE BEST INTEREST OF ALL PENNSYLVANIANS
17 THAT A SYSTEM OF LICENSURE AND REGULATION BE ESTABLISHED FOR

1 ASSISTED LIVING RESIDENCES IN ORDER TO ENSURE ACCOUNTABILITY

2 AND A BALANCE OF AVAILABILITY BETWEEN INSTITUTIONAL AND
HOME-
3 BASED AND COMMUNITY-BASED LONG-TERM CARE FOR ADULTS WHO NEED
4 SUCH CARE.
5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:
7 Section 1. Section 212(b) of the act of June 13, 1967
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8 (P.L.31, No.21), known as the Public Welfare Code, is amended
by
9 adding a paragraph to read:
10 SECTION 1. SECTION 211 HEADING AND (L) OF THE ACT OF JUNE
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11 13, 1967 (P.L.31, NO.21), KNOWN AS THE PUBLIC WELFARE CODE,
12 AMENDED DECEMBER 21, 1988 (P.L.1883, NO.185), ARE AMENDED TO
13 READ:
14 SECTION 211. STATE PLAN FOR REGULATING AND LICENSING
15 PERSONAL CARE HOMES AND ASSISTED LIVING RESIDENCES.--* * *
16 (L) [AFTER INITIAL APPROVAL, PERSONAL CARE HOMES NEED NOT
BE
17 VISITED OR INSPECTED ANNUALLY; PROVIDED THAT THE DEPARTMENT
18 SHALL SCHEDULE INSPECTIONS IN ACCORDANCE WITH A PLAN THAT
19 PROVIDES FOR THE COVERAGE OF AT LEAST SEVENTY-FIVE PERCENT OF
20 THE LICENSED PERSONAL CARE HOMES EVERY TWO YEARS AND ALL HOMES
21 SHALL BE INSPECTED AT LEAST ONCE EVERY THREE YEARS.] THE
22 DEPARTMENT SHALL ANNUALLY CONDUCT AT LEAST ONE ONSITE
23 UNANNOUNCED INSPECTION OF EACH PERSONAL CARE HOME AND EACH
24 ASSISTED LIVING RESIDENCE. ADDITIONAL ANNOUNCED OR UNANNOUNCED
25 INSPECTIONS MAY BE CONDUCTED BY THE DEPARTMENT AS THE
DEPARTMENT
26 DEEMS NECESSARY. WHEN DEVELOPING REGULATIONS UNDER THIS ACT,
THE
27 DEPARTMENT MAY PROVIDE FOR AN ABBREVIATED ANNUAL LICENSURE
VISIT
28 WHEN A RESIDENCE HAS ESTABLISHED A HISTORY OF EXEMPLARY
29 COMPLIANCE.
30 * * *
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1 SECTION 2. SECTION 212(B) OF THE ACT IS AMENDED BY ADDING A
2 PARAGRAPH TO READ:
3 Section 212. Intra-Governmental Council on Long-Term Care.-
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4 * * *
5 (b) The Intra-Governmental Council on Long-Term Care shall
6 be composed of and appointed in accordance with the following:
7 * * *
8 (9.1) Two representatives of the assisted living residence
9 community, one of whom shall be an owner or administrator of a
10 licensed assisted living residence and one of whom shall be a
11 consumer of a licensed assisted living residence.
12 * * *
13 Section 1.1 3. Section 213 heading and (c) of the act,
added <--
14 December 21, 1988 (P.L.1883, No.185), are amended and the
15 section is amended by adding a subsection to read:

16 Section 213. Personal Care Home [Administrator] and
Assisted
17 Living Residence Administrators.--* * *
18 (a.1) All assisted living residences shall identify and
19 appoint an administrator or administrators who meet the
20 qualifications provided in this section for personal care home
21 administrators and any additional standards pertaining to the
22 operations of assisted living residences as the department may
23 establish by regulation.
24 * * *
25 (c) [The department may promulgate regulations requiring
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26 orientation and training for all direct care staff in a
personal
27 care home or assisted living residence. CARE HOME.] THE
<--
28 DEPARTMENT SHALL PROMULGATE REGULATIONS REQUIRING ORIENTATION
29 AND TRAINING FOR ALL DIRECT CARE STAFF AND REGULATIONS
REQUIRING
30 QUALIFICATIONS FOR ADMINISTRATORS IN A PERSONAL CARE HOME OR
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1 ASSISTED LIVING RESIDENCE. SUCH REGULATIONS FOR ASSISTED LIVING
2 DIRECT CARE STAFF AND ADMINISTRATORS SHALL MEET OR EXCEED THE
3 REQUIREMENTS FOR DIRECT SERVICE STAFF AND ADMINISTRATORS IN A
4 PERSONAL CARE HOME.
5 * * *
6 Section 2 4. The definition of "facility" in section 1001
of <--
7 the act, amended December 21, 1988 (P.L.1883, No.185), is
8 amended and the section is amended by adding definitions to
9 read:
10 Section 1001. Definitions.--As used in this article--
11 * * *
12 "AGE IN PLACE" AND "AGING IN PLACE" MEANS RECEIVING CARE AND
<--
13 SERVICES AT A LICENSED ASSISTED LIVING RESIDENCE TO ACCOMMODATE
14 CHANGING NEEDS AND PREFERENCES IN ORDER TO REMAIN IN THE
15 ASSISTED LIVING RESIDENCE.
16 "Assisted living residence" means any premises in which
food,
17 shelter, personal care, assistance or supervision and
18 supplemental health care services are provided for a period
19 exceeding twenty-four hours for four or more adults who are not
20 relatives of the operator, who require assistance or
supervision
21 in such matters as dressing, bathing, diet, financial
22 management, evacuation from the residence in the event of an
23 emergency or medication prescribed for self-administration.
24 "Assisted living residence administrator" means an
individual
25 who is charged with the general administration of an assisted
26 living residence, whether or not such individual has an
27 ownership interest in the residence or his function and duties
28 are shared with other individuals.
29 * * *

30 "COGNITIVE SUPPORT SERVICES" MEANS SERVICES PROVIDED TO AN
<--
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1 INDIVIDUAL WHO HAS MEMORY IMPAIRMENTS AND OTHER COGNITIVE
2 PROBLEMS WHICH SIGNIFICANTLY INTERFERE WITH THEIR ABILITY TO
3 CARRY OUT ACTIVITIES OF DAILY LIVING WITHOUT ASSISTANCE AND WHO
4 REQUIRE THAT SUPERVISION, MONITORING AND PROGRAMMING BE
5 AVAILABLE TO THEM 24 HOURS PER DAY, SEVEN DAYS PER WEEK, IN
6 ORDER FOR THEM TO RESIDE SAFELY IN THE SETTING OF THEIR CHOICE.
7 THE TERM INCLUDES ASSESSMENT, HEALTH SUPPORT SERVICES AND A

FULL

8 RANGE OF DEMENTIA-CAPABLE ACTIVITY PROGRAMMING AND CRISIS
9 MANAGEMENT.

10 * * *

11 "Facility" means an adult day care center, child day care
12 center, family day care home, boarding home for children,

mental

13 health establishment, personal care home, assisted living
14 residence, nursing home, hospital or maternity home, as defined
15 herein, [and shall not include those] except to the extent that
16 such a facility is operated by the State or Federal governments
17 or those supervised by the department[.], or licensed pursuant
18 to the act of July 19, 1979 (P.L.130, No.48), known as the
19 "Health Care Facilities Act."

20 * * *

21 "INFORMED CONSENT AGREEMENT" MEANS A FORMAL, MUTUALLY AGREED

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22 UPON, WRITTEN UNDERSTANDING WHICH:

23 (1) RESULTS AFTER THOROUGH DISCUSSION AMONG THE ASSISTED
24 LIVING RESIDENCE STAFF, THE RESIDENT AND ANY INDIVIDUALS THE
25 RESIDENT WANTS TO BE INVOLVED; AND

26 (2) IDENTIFIES HOW TO BALANCE THE ASSISTED LIVING
27 RESIDENCE'S RESPONSIBILITIES TO THE INDIVIDUALS THEY SERVE WITH
28 A RESIDENT'S CHOICES AND CAPABILITIES WITH THE POSSIBILITY THAT
29 THOSE CHOICES WILL PLACE THE RESIDENT OR OTHER RESIDENTS AT

RISK

30 OF HARM.

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1 * * *

2 "SPECIAL CARE DESIGNATION" MEANS A LICENSED ASSISTED LIVING
3 RESIDENCE OR A DISTINCT PART OF THE RESIDENCE WHICH IS
4 SPECIFICALLY DESIGNATED BY THE DEPARTMENT AS CAPABLE OF
5 PROVIDING COGNITIVE SUPPORT SERVICES TO RESIDENTS WITH SEVERE
6 COGNITIVE IMPAIRMENTS, INCLUDING, BUT NOT LIMITED TO, DEMENTIA
7 OR ALZHEIMER'S DISEASE, IN THE LEAST RESTRICTIVE MANNER TO
8 ENSURE THE SAFETY OF THE RESIDENT AND OTHERS IN THE RESIDENCE
9 WHILE MAINTAINING THE RESIDENT'S ABILITY TO AGE IN PLACE.

10 * * *

11 "Supplemental health care services" means the provision by

an

12 assisted living residence of any type of health care service,
13 either directly or through contractors, subcontractors, agents
14 or designated providers, except for any service that is

required

15 by law to be provided by a health care facility pursuant to the
16 act of July 19, 1979 (P.L.130, No.48), known as the "Health
Care
17 Facilities Act."
18 Section 3 5. Section 1021 of the act is amended to read:
<--
<-- 19 Section 1021. Regulations.--(a) (1) The department [is
<--
<-- 20 hereby authorized and empowered to] SHALL adopt regulations
<--
21 establishing minimum standards for building, equipment,
22 operation, care, program and services, TRAINING AND STAFFING
and <--
23 for the issuance of licenses.
24 (2) REGULATIONS FOR ASSISTED LIVING RESIDENCES SHALL:
<--
25 (I) MEET OR EXCEED STANDARDS ESTABLISHED IN 55 PA. CODE §
26 2600 (RELATING TO PERSONAL CARE HOMES). RESIDENTS' RIGHTS IN
27 THOSE OR SUBSEQUENT REGULATIONS SHALL NOT BE SUBJECT TO WAIVER.
28 (II) REQUIRE AN ASSISTED LIVING RESIDENCE TO PROVIDE A
29 RESIDENT WITH THE RESIDENT'S OWN LIVING UNIT. TWO RESIDENTS MAY
30 VOLUNTARILY AGREE TO SHARE ONE UNIT PROVIDED THAT THE AGREEMENT
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1 IS IN WRITING AND CONTAINED IN EACH OF THE RESIDENCY AGREEMENTS
2 OF THOSE RESIDENTS. A LICENSEE SHALL NOT REQUIRE RESIDENTS TO
3 SHARE A UNIT.
4 (III) PROVIDE THAT SUPPLEMENTAL HEALTH CARE SERVICES SHALL
5 BE PACKAGED, CONTRACTED AND PRICED SEPARATELY FROM THE RESIDENT
6 AGREEMENT.
7 (IV) REQUIRE THAT EACH LIVING UNIT CONTAIN A PRIVATE
8 BATHROOM, LIVING AND BEDROOM SPACE, KITCHEN CAPACITY, WHICH MAY
9 MEAN ELECTRICAL OUTLETS TO HAVE SMALL APPLIANCES SUCH AS A
10 MICROWAVE AND REFRIGERATOR, CLOSETS AND ADEQUATE SPACE FOR
11 STORAGE AND A DOOR WITH A LOCK, EXCEPT WHERE A LOCK OR
12 APPLIANCES IN A UNIT UNDER SPECIAL CARE DESIGNATION WOULD POSE
A
13 RISK OR BE UNSAFE.
14 (V) ESTABLISH MINIMUM SQUARE FOOTAGE REQUIREMENTS FOR
15 INDIVIDUAL LIVING UNITS, WHICH EXCLUDES BATHROOMS AND CLOSET
16 SPACE. EXCEPTIONS TO THE SIZE OF THE LIVING UNIT MAY BE MADE AT
17 THE DISCRETION OF THE DEPARTMENT.
18 (VI) ESTABLISH A SPECIAL CARE DESIGNATION FOR ASSISTED
19 LIVING RESIDENCES AND UNITS THAT REQUIRE SPECIALIZED STAFF
20 TRAINING, SERVICE PLANNING, ACTIVITY PROGRAMMING AND SECURITY
21 MEASURES FOR RESIDENTS RECEIVING COGNITIVE SUPPORT SERVICES.
22 (VII) CREATE STANDARDS FOR INFORMED CONSENT AGREEMENTS THAT
23 PROMOTE AGING IN PLACE WHICH INCLUDES WRITTEN ACKNOWLEDGMENT OF
24 THE RISKS THAT RESIDENTS ASSUME WHILE DIRECTING THEIR OWN CARE
25 AND WHICH RELEASES THE FACILITY FROM LIABILITY FOR ADVERSE
26 OUTCOMES RESULTING FROM ACTIONS CONSISTENT WITH THE TERMS OF
THE
27 INFORMED CONSENT AGREEMENT. SUCH INFORMED CONSENT AGREEMENTS
28 SHALL ONLY BE ENTERED INTO UPON THE MUTUAL AGREEMENT OF THE
29 RESIDENT AND THE ASSISTED LIVING RESIDENCE.
30 (VIII) CREATE STANDARDS FOR TRANSFER AND DISCHARGE THAT

1 REQUIRE THE ASSISTED LIVING RESIDENCE TO MAKE A REASONABLE
2 ACCOMMODATION FOR AGING IN PLACE THAT MAY INCLUDE SERVICES FROM
3 OUTSIDE PROVIDERS.
4 (b) The department shall, by regulation, set fees for
5 application for assisted living residence licensure and
6 licensure renewal. Fees received by the department shall
augment
7 the department's funding for quality assurance and shall be
used
8 for the purposes of this article.
9 (C) THE DEPARTMENT SHALL HAVE ENFORCEMENT AND LICENSURE
<--
10 STAFF DEDICATED SOLELY TO ASSISTED LIVING RESIDENCES. ALL
11 INSPECTIONS OF RESIDENCES DUALY LICENSED AS ASSISTED LIVING
12 RESIDENCES AND PERSONAL CARE HOMES SHALL BE CONDUCTED BY A TEAM
13 OF SURVEYORS COMPRISED OF BOTH PERSONAL CARE HOME AND ASSISTED
14 LIVING RESIDENCE SURVEYORS.
15 (c) (D) The department shall develop regulations under this
<--
16 article in collaboration CONSULTATION with industry
<--
17 stakeholders, consumers and other interested parties.
18 Section 4 6. The definition of "private institution" in
<--
19 section 1051 of the act, amended December 21, 1988 (P.L.1883,
20 No.185), is amended to read:
21 Section 1051. Definition.--As used in this subarticle--
22 "Private institution" means any of the following facilities
23 by whatever term known and irrespective of the age group
served:
24 Mental hospital, institution for the mentally defective, day
25 care center, nursing home, hospital, personal care home,
26 assisted living residence and other similar institution which
is
27 operated for profit and which requires a license issued by the
28 department.
29 Section 5 7. Sections 1057.1, 1057.2(a), 1057.3, 1085
<--
30 introductory paragraph, 1086(e) and 1087 of the act, added
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1 December 21, 1988 (P.L.1883, No.185), are amended to read:
2 Section 1057.1. Appeals.--(a) (1) An appeal from the
<--
3 decision of the department relating to the licensure or
4 revocation of a personal care home or assisted living residence
<--
5 shall not act as a supersedeas but, upon cause shown and where
6 circumstances require it, the reviewing authority shall have
the
7 power to grant a supersedeas.
8 (2) AN APPEAL FROM THE DECISION OF THE DEPARTMENT RELATING
<--
9 TO REVOCATION OF AN ASSISTED LIVING RESIDENCE LICENSE SHALL NOT

10 ACT AS A SUPERSEDEAS BUT, UPON CAUSE SHOWN AND WHERE
11 CIRCUMSTANCES REQUIRE IT, THE REVIEWING AUTHORITY SHALL HAVE
THE
12 POWER TO GRANT A SUPERSEDEAS.
13 (b) If, without good cause, one or more Class I or Class II
14 violations remain uncorrected or when the home or residence has
15 demonstrated a pattern of episodes of noncompliance alternating
16 with compliance over a period of at least two years such as
17 would convince a reasonable person that any correction of
18 violations would be unlikely to be maintained, the department
19 may petition the court to appoint a master designated as
20 qualified by the department to assume operation of the home or
21 residence at the [home's] operator's expense for a specified
22 period of time or until all violations are corrected and all
23 applicable laws and regulations are complied with.
24 Section 1057.2. Relocation.--(a) The department, in
25 conjunction with appropriate local authorities, shall relocate
26 residents from a personal care home or assisted living
residence
27 if any of the following conditions exist:
28 (1) The home or residence is operating without a license.
29 (2) The licensee is voluntarily closing a home or residence
30 and relocation is necessary for the health and welfare of the
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1 resident or residents.
2 * * *
3 Section 1057.3. Rules and Regulations for Personal Care
Home
4 and Assisted Living Residences.--(a) The rules and regulations
5 for the licensing of personal care homes and assisted living
6 residences promulgated by the department shall require that:
7 (1) (I) Prior to a resident's admission to a personal care
<--
8 home or assisted living residence, an initial standardized
9 screening instrument be completed for that resident by the
10 [personal care home] provider or a human service agency. Such
11 standardized screening instrument shall be developed by the
12 department. [This]
13 (i) (II) For a personal care home, the screening will be
<--
14 done to determine that the potential resident does not require
15 the services in or of a long-term care facility [or] and
whether
16 the potential resident requires the services of a personal care
17 [services] home and, if so, the nature of the services and
18 supervision necessary.
19 (ii) (III) For an assisted living residence, the screening
<--
20 will be done to determine whether the potential resident
21 requires the services provided by an assisted living residence.
22 A resident who currently does not require assistance in
23 obtaining supplemental health care services, but who may
require
24 such services in the future or who wishes to obtain assistance

25 in obtaining such services or reside in a facility in which
such
26 services are available, may be admitted to the assisted living
27 residence, provided the resident is only provided service
28 required or requested by the resident. WHERE SERVICES ARE
<--
29 REQUIRED, THE ASSISTED LIVING RESIDENCE SHALL DEVELOP A SUPPORT
30 PLAN AS DEFINED IN 55 PA. CODE § 2600 (RELATING TO PERSONAL
CARE
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1 HOMES) AND ANY OTHER REGULATIONS APPLICABLE TO ASSISTED LIVING
2 RESIDENCES.
3 (iii) (IV) An initial screening shall not be required to
<--
4 commence supplemental health care services to a resident of an
5 assisted living facility RESIDENCE who was not receiving such
<--
6 services at the time of the resident's admission; to transfer a
7 resident from a portion of an assisted living residence that
8 does not provide supplemental health care services to a portion
9 of the residence that provides such service; or to transfer a
10 resident from a personal care home to an assisted living
11 residence licensed by the same operator.
12 (2) In addition to the screening, each resident receive a
13 complete medical examination by a physician prior to, or within
14 thirty days of, admission and that, once admitted, each
resident
15 receive a screening and medical evaluation at least annually.
16 (3) A personal care home or assisted living residence
17 administrator refer an applicant whose needs cannot be met by
[a
18 personal care home] the home or residence to an appropriate
19 assessment agency.
20 (3.1) Priority for Medicaid-funded home and community-based
<--
21 waiver services shall be given to prospective or current
22 residents of assisted living residences for whom placement in a
23 skilled nursing facility is imminent absent access to said
24 waiver.
25 (3.1) PROSPECTIVE OR CURRENT RESIDENTS FOR WHOM PLACEMENT
IN <--
26 A SKILLED NURSING FACILITY IS IMMINENT SHALL BE GIVEN PRIORITY
27 FOR ASSISTED LIVING RESIDENCE SERVICES FUNDED THROUGH A HOME-
28 AND COMMUNITY-BASED WAIVER.
29 (3.2) ALL INDIVIDUALS RECEIVING SERVICES UNDER THE HOME-
AND
30 COMMUNITY-BASED WAIVERS SHALL HAVE A COMPREHENSIVE ASSESSMENT
OF
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1 THEIR NEEDS USING AN INSTRUMENT THAT PROVIDES COMPARABLE DATA
2 ELEMENTS AND AT COMPARABLE TIME INTERVALS AS SPECIFIED BY THE
3 STATE FOR MEDICAID FOR NURSING FACILITIES.
4 (4) Each resident be provided by the administrator with
5 notice of any Class I or Class II violations uncorrected after

6 five days.
7 (5) All residents sign a standard written admission
8 agreement which shall include the disclosure to each resident
of
9 the actual rent and other charges for services provided by the
10 personal care home or assisted living residence.
11 (6) For residents eligible for Supplemental Security Income
12 (SSI) benefits, actual rent and other charges not exceed the
13 resident's actual current monthly income reduced by a personal
14 needs allowance for the resident in an amount to be determined
15 by the department, but not less than twenty-five dollars (\$25).
16 (7) A personal care home or assisted living residence not
17 seek or accept any payments from a resident who is a
18 Supplemental Security Income (SSI) recipient in excess of one-
19 half of any funds received by the resident under the act of
20 March 11, 1971 (P.L.104, No.3), known as the "Senior Citizens
21 Rebate and Assistance Act."
22 (8) A personal care home or assisted living residence not
23 seek or accept from a resident who is eligible for Supplemental
24 Security Income (SSI) benefits any payment from any funds
25 received as lump sum awards, gifts or inheritances, gains from
26 the sale of property, or retroactive government benefits:
27 Provided, however, That an owner or operator may seek and
accept
28 payments from funds received as retroactive awards of Social
29 Security or Supplemental Security Income (SSI) benefits, but
30 only to the extent that the retroactive awards cover periods of
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1 time during which the resident actually resided in the personal
2 care home or assisted living residence.
3 (9) Each resident who is a recipient of, or an eligible
4 applicant for, Supplemental Security Income (SSI) benefits be
5 provided, at no additional charge to the resident, necessary
6 personal hygiene items and personal laundry services. This
7 requirement does not include cosmetic items.
8 (10) All residents may leave and return to [the] a personal
9 care home or assisted living residence, receive visitors, have
10 access to a telephone and mail and participate in religious
11 activities.
12 (11) Personal care home and assisted living residence
13 owners, administrators or [employees] EMPLOYEES be prohibited
<--
14 from being assigned power of attorney or guardianship for any
15 resident.
16 (12) Each assisted living residence demonstrate the ability
17 to provide supplemental health care services in a manner duly
18 protective of the health, safety and well-being of its
residents
19 utilizing employes, independent contractors or contractual
20 arrangements with other health care facilities or practitioners
21 licensed, registered or certified to the extent required by law
22 to provide such service. To the extent prominently disclosed in
23 a written admission agreement, an assisted living residence may
24 require residents to use providers of supplemental health care

25 services designated by the facility ASSISTED LIVING RESIDENCE.
<--
26 (13) A personal care home not provide supplemental health
27 care services to residents, provided, however, that a personal
28 care home may assist residents in obtaining health care
services
29 in the manner provided by 55 Pa. Code §§ 2600.29 (relating to
30 hospice care and services), 2600.142 (relating to assistance
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1 with health care) and 2600.181 (relating to self-
administration)
2 through 2600.191 (relating to medications) or as otherwise
3 provided by regulations adopted by the department not
4 inconsistent with the requirements of this section.
5 (b) [The] Subject to subsection (a)(13), the department
6 shall not prohibit immobile persons who do not require the
7 services of a licensed long-term care facility[, but who
require
8 personal care services,] from residing in a personal care home,
9 provided that appropriate personal care services and health
care
10 services are available to the resident and the design,
11 construction, staffing or operation of the personal care home
12 allows for safe emergency evacuation. Persons requiring the
13 services of a licensed long-term care facility, including
14 immobile persons, may reside in an assisted living residence,
15 provided that appropriate supplemental health care services are
16 provided such residents and the design, construction, staffing
17 and operation of the assisted living residence allows for their
18 safe emergency evacuation.

19 (C) FOR CONSUMERS WITH ALZHEIMER'S DISEASE OR DEMENTIA OR
<--
20 WHERE THE ASSISTED LIVING RESIDENCE HOLDS ITSELF OUT TO THE
21 PUBLIC AS PROVIDING SERVICES OR HOUSING FOR CONSUMERS WITH
22 COGNITIVE IMPAIRMENTS, ASSISTED LIVING RESIDENCES SHALL
DISCLOSE
23 TO CONSUMERS AND PROVIDE:
24 (1) THE RESIDENCE'S WRITTEN STATEMENT OF ITS PHILOSOPHY AND
25 MISSION WHICH REFLECTS THE NEEDS OF CONSUMERS WITH COGNITIVE
26 IMPAIRMENTS.
27 (2) A DESCRIPTION OF THE RESIDENCE'S PHYSICAL ENVIRONMENT
28 AND DESIGN FEATURES TO SUPPORT THE FUNCTIONING OF CONSUMERS
WITH
29 COGNITIVE IMPAIRMENTS.
30 (3) A DESCRIPTION OF THE FREQUENCY AND TYPES OF INDIVIDUAL
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1 AND GROUP ACTIVITIES DESIGNED SPECIFICALLY TO MEET THE NEEDS OF
2 CONSUMERS WITH COGNITIVE IMPAIRMENTS.
3 (4) A DESCRIPTION OF SECURITY MEASURES PROVIDED BY THE
4 RESIDENCE.
5 (5) A DESCRIPTION OF TRAINING PROVIDED TO STAFF REGARDING
6 PROVISION OF CARE TO CONSUMERS WITH COGNITIVE IMPAIRMENTS.
7 (6) A DESCRIPTION OF AVAILABILITY OF FAMILY SUPPORT
PROGRAMS

8 AND FAMILY INVOLVEMENT.
9 (7) THE PROCESS USED FOR ASSESSMENT AND ESTABLISHMENT OF A
10 PLAN OF SERVICES FOR THE CONSUMER, INCLUDING METHODS BY WHICH
11 THE PLAN OF SERVICES WILL REMAIN RESPONSIVE TO CHANGES IN THE
12 CONSUMER'S CONDITION.
13 (D) COGNITIVE SUPPORT SERVICES.--
14 (1) AN ASSISTED LIVING RESIDENCE SHALL PROVIDE TO CONSUMERS
15 WITH COGNITIVE IMPAIRMENTS COGNITIVE SUPPORT SERVICES,
INCLUDING
16 DEMENTIA-SPECIFIC ACTIVITY PROGRAMMING.
17 (2) ASSISTED LIVING RESIDENCES SHALL IDENTIFY MEASURES TO
18 ADDRESS CONSUMERS WITH COGNITIVE IMPAIRMENTS WHO HAVE
TENDENCIES
19 TO WANDER.
20 (3) IF NATIONAL ACCREDITATION OF SECURED ASSISTED LIVING
21 RESIDENCES FOR PERSONS IN NEED OF COGNITIVE SUPPORT SERVICES
22 BECOMES AVAILABLE, THE DEPARTMENT MAY DEEM ALL ASSISTED LIVING
23 RESIDENCES ACCREDITED BY ACCREDITING BODIES THAT HAVE STANDARDS
24 THAT EQUAL OR EXCEED THOSE IN THIS ACT AND REGULATIONS AS
25 MEETING THE SPECIAL CARE DESIGNATION UNDER THIS ACT.
26 (c) (E) An assisted living residence may not admit, retain
<--
27 or serve a consumer with any of the following conditions or
28 health care needs unless an exception, UPON THE WRITTEN REQUEST
<--
29 OF THE ASSISTED LIVING RESIDENCE, is granted by the department:
30 (1) Ventilator dependency.
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1 (2) Stage III and IV decubiti and vascular ulcers that are
2 not in a healing stage.
3 (3) Continuous intravenous fluids.
4 (4) Reportable infectious diseases, such as tuberculosis,
in
5 a communicable state that require isolation of the consumer or
6 require special precautions by a caretaker to prevent
7 transmission of the disease unless the Department of Health
8 directs that isolation be established within the assisted
living
9 residence.
10 (5) Nasogastric tubes.
11 (6) PHYSICAL RESTRAINTS.
<--
12 (7) CONTINUOUS SKILLED NURSING CARE TWENTY-FOUR HOURS A
DAY.
<--
13 (d) (F) Any of the following individuals may certify that a
<--
14 consumer may not be admitted or retained in an assisted living
15 residence and the department shall BY REGULATION establish the
<--
16 standards required for the certification:
17 (1) The assisted living residence administrator acting in
18 consultation with supplemental health care providers.
19 (2) A consumer's physician or certified registered nurse
20 practitioner.

21 (3) The medical director of the facility ASSISTED LIVING
<--
22 RESIDENCE.
23 (e) (G) An assisted living residence may admit, retain or
<--
24 serve a consumer for whom a determination is made by the
25 department, UPON THE WRITTEN REQUEST OF THE ASSISTED LIVING
<--
26 RESIDENCE, that the consumer's specific health care needs can
be
27 met by a provider of assisted living services or within an
28 assisted living residence, IN CONFORMITY WITH STANDARDS SET BY
<--
29 THE DEPARTMENT THROUGH REGULATION, including a consumer
30 requiring:
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1 (1) gastric tubes, except that a determination shall not be
2 required if the consumer is capable of self-care of the gastric
3 tube or a licensed health care professional or other qualified
4 individual cares for the gastric tube;
5 (2) tracheostomy, except that a determination shall not be
6 required if the consumer is independently capable of self-care
7 of the tracheostomy;
8 (3) skilled nursing care twenty-four hours a day, except
9 that a determination shall not be required if the skilled
10 nursing care is provided on a temporary or intermittent basis;
11 (4) a sliding scale insulin administration, except that a
12 determination shall not be required if the consumer is capable
13 of self-administration or a licensed health care professional
or
14 other qualified individual administers the insulin;
15 (5) intermittent intravenous therapy, except that a
16 determination shall not be required if a licensed health care
17 professional manages the therapy;
18 (6) insertions, sterile irrigation and replacement of a
19 catheter, except that a determination shall not be required for
20 routine maintenance of a urinary catheter, if the consumer is
21 capable of self-administration or a licensed health care
22 professional administers the catheter;
23 (7) oxygen, except a determination shall not be required if
24 the consumer is capable of self-administration or a licensed
25 health care professional or other qualified individual
26 administers the oxygen;
27 (8) inhalation therapy, except that a determination shall
28 not be required if the consumer is capable of self-
29 administration or a licensed health care professional or other
30 qualified individual administers the therapy;
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1 (9) other types of supplemental health care services that
an
2 assisted living residence administrator, acting in consultation
3 with supplemental health care providers, determines can be
4 provided in a safe and effective manner by the assisted living
5 residence; or

6 (10) other types of care that can be provided in a safe and
7 effective manner in an assisted living residence as determined
8 by regulations adopted by the department.
9 (f) (H) (i) Subject to subsection (a) (12), an assisted
<--
10 living residence may admit or retain a resident who does not
11 require supplemental health care services or who, subject to
any
12 restrictions provided in the written resident agreement, makes
13 alternative arrangements for such services.
14 (ii) Portions or sections of an assisted living residence
15 may be designated for use by residents not requiring
16 supplemental health care services, or a facility AN ASSISTED
<--
17 LIVING RESIDENCE may provide services both to residents
18 receiving supplemental health care services and to residents
not
19 receiving such service within the same portions or sections of
20 its residence THE ASSISTED LIVING RESIDENCE.
<--
21 (G) NO PERSON, ORGANIZATION OR PROGRAM SHALL USE THE TERM
<--
22 "ASSISTED LIVING" IN ANY NAME OR WRITTEN MATERIAL, EXCEPT AS A
23 LICENSEE IN ACCORDANCE WITH THIS CHAPTER.
24 Section 1085. Classification of Violations.--The department
25 shall classify each violation of its regulations [on] by
26 personal care homes or assisted living residences into one of
27 the following categories:
28 * * *
29 Section 1086. Penalties.--* * *
30 (e) A personal care home or assisted living residence found
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1 to be operating without a license shall be assessed a penalty
of
2 five hundred dollars (\$500). If, after fourteen days, a
provider
3 [of a personal care home] cited for operating without a license
4 fails to file an application for a license, the department
shall
5 assess an additional twenty dollars (\$20) for each resident for
6 each day in which the home or residence fails to make such
7 application.
8 * * *
9 Section 1087. Revocation or Nonrenewal of License.--(a)
(1)
10 The department shall temporarily revoke the license of a
11 personal care home or assisted living residence if, without
good
12 cause, one or more Class I violations remain uncorrected
twenty-
13 four hours after the [personal care home] operator has been
14 cited for such violation or if, without good cause, one or more
15 Class II violations remain uncorrected fifteen days after being
16 cited for such violation.
17 (2) Upon the revocation of a license pursuant to this

18 subsection, all residents shall be relocated.
19 (3) The revocation may terminate upon the department's
20 determination that its violation is corrected.
21 (4) If, after three months, the department does not issue a
22 new license for a personal care home or assisted living
23 residence license revoked pursuant to this section:
24 (i) Such revocation or nonrenewal pursuant to this section
25 shall be for a minimum period of five years.
26 (ii) No provider of a personal care home or assisted living
27 residence who has had a license revoked or not renewed pursuant
28 to this section shall be allowed to operate or staff or hold an
29 interest in a home or residence that applies for a license for

a

30 period of five years after such revocation or nonrenewal.
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1 (b) The department shall revoke or refuse to renew the
2 license of a personal care home or assisted living residence
if,
3 during any two-year period, the home or residence, without good
4 cause, on two or more separate occasions, has been found to
have
5 violated a regulation of the department which has been
6 categorized as Class I.

7 (c) The power of the department to revoke or refuse to
renew
8 or issue a license pursuant to this section is in addition to
9 the powers and duties of the department pursuant to section
10 1026.

11 Section 6. The following transitional provisions shall

<--

12 apply:
13 (1) A facility licensed as a personal care home upon
the
14 effective date of this section shall not provide
supplemental
15 health care services to its residents until the facility
16 submits an application to the department to operate an
17 assisted living residence and the department issues a
license

18 to the facility to operate as an assisted living residence.
19 (2) Prior to the issuance of application forms and the
20 adoption of regulations pertaining to assisted living
21 residences, the department shall issue licenses to operators
22 of personal care homes to operate assisted living residences
23 based upon the review of plans submitted by the operator
24 demonstrating the ability of a facility to safely and
25 effectively operate as an assisted living residence pursuant
26 to the requirements of this act.

27 (3) Unless the department, pursuant to section 213(a.1)
28 of the act, promulgates final regulations establishing
29 additional qualifications for assisted living residence
30 administrators, a personal care home administrator may serve
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1 as an assisted living residence administrator, and unless
the 2 department, pursuant to section 213(a.1) of the act,
3 promulgates final regulations establishing additional
4 orientation or training requirements for direct care staff
in 5 an assisted living residence, direct care staff who have
6 received orientation and training required for a personal
7 care home may serve as direct care staff in an assisted
8 living residence.
9 (4) SECTION 8. Except to the extent inconsistent with
<--
10 this act, a reference in another statute to a personal care
11 home, a personal care boarding home, personal care housing
or
12 a personal care home administrator shall be construed to
also
13 include an assisted living residence or an assistant
ASSISTED <--
14 living residence administrator, including, but not limited
15 to, the use of such terms in:
16 (i) (1) the definition of "caretaker" in 18 Pa.C.S.
<--
17 § 2713;
18 (ii) (2) the definition of "health care provider"
in <--
19 42 Pa.C.S. § 5101.1;
20 (iii) (3) the definition of "health center" in 53
<--
21 Pa.C.S. § 5602;
22 (iv) (4) the authorization to conduct studies and
<--
23 evaluations and to develop community housing options by
24 the Department of Aging as provided by section 2203-A of
25 the act of April 9, 1929 (P.L.177, No.175), known as The
26 Administrative Code of 1929;
27 (v) (5) the authorization to develop community-
based <--
28 service and housing options for impaired and chronically
29 ill older persons provided to area agencies on aging by
30 section 2207-A of The Administrative Code of 1929;
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1 (vi) (6) the term "residence" in section 2201-A of
<--
2 the act of July 28, 1953 (P.L.723, No.230), known as the
3 Second Class County Code,
4 (vii) (7) the authorization to provide tax exempt
<--
5 bond allocations pursuant to Chapter 27 of the act of
6 June 29, 1996 (P.L.434, No.67), known as the Job
7 Enhancement Act;
8 (viii) (8) the definition of "exempt facility" in
<--
9 section 2702 of the Job Enhancement Act;

10 (ix) (9) the definition of "facility" in section
103 <--
11 of the act of November 6, 1987 (P.L.381, No.79), known
as
12 the Older Adults Protective Services Act;
13 (x) (10) establishing the qualifications for a
<--
14 pediatric extended care center administrator pursuant to
15 section 15(b) (2) of the act of November 24, 1999
16 (P.L.884, No.54), known as the Prescribed Pediatric
17 Extended Care Centers Act;
18 (xi) (11) the definition of "health care provider"
<--
19 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;
22 (xii) (12) the definition of "facility" in section
2 <--
23 of the act of December 9, 2002 (P.L.1388, No.171), known
24 as the Elder Care Payment Restitution Act;
25 (xiii) (13) the list of facilities required to make
<--
26 refunds pursuant to section 3 of the Elder Care Payment
27 Restitution Act; or
28 (xiv) (14) the definition of "family" as excluding
<--
29 persons residing in a personal care boarding home in
30 section 3 of the act of November 30, 2004 (P.L.1561,
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1 No.198), known as the Family Support for Persons with
2 Disabilities Act.
3 Section 7. This act shall take effect January 1, 2009.
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4 SECTION 9. WITHIN NINE MONTHS AFTER THE EFFECTIVE DATE OF
<--
5 THIS SECTION, THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE
SHALL
6 REPORT TO THE GENERAL ASSEMBLY ON EXISTING FEDERAL AND OTHER
7 STATES' INITIATIVES AND PROGRAMS THAT PROVIDE FINANCIAL
8 ASSISTANCE FOR ASSISTED LIVING. THIS STUDY SHALL INCLUDE
9 INFORMATION ON OTHER FEDERAL OR STATE ASSISTED LIVING PROGRAMS
10 THAT ARE EFFECTIVELY ADMINISTERED AND MAY BE CONSIDERED A
MODEL.
11 WITHIN SIX MONTHS AFTER RECEIPT OF THE REPORT, A JOINT
12 LEGISLATIVE TASK FORCE CONSISTING OF SELECTED MEMBERS OF THE
13 AGING AND YOUTH COMMITTEE OF THE SENATE AND THE AGING AND OLDER
14 ADULT SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES SHALL
15 REVIEW THE REPORT AND ANY RECOMMENDATIONS CONTAINED THEREIN AND
16 SHALL REPORT BACK TO THE FULL COMMITTEES WITH A PROPOSAL FOR A
17 FUNDING MECHANISM FOR ASSISTED LIVING IN THIS COMMONWEALTH. THE
18 CHAIRMAN OF THE AGING AND YOUTH COMMITTEE OF THE SENATE AND THE
19 CHAIRMAN OF THE AGING AND OLDER ADULT SERVICES COMMITTEE OF THE
20 HOUSE OF REPRESENTATIVES SHALL SELECT THREE MEMBERS FROM THE
21 MAJORITY PARTY AND THREE MEMBERS FROM THE MINORITY PARTY AND
THE

22 SECRETARY OF AGING SHALL SERVE AS CHAIRPERSON OF THE TASK
FORCE.

23 SECTION 10. NOTHING IN THIS ACT SHALL BE CONSTRUED TO ALTER
24 EXISTING STATUTORY OR REGULATORY REQUIREMENTS PERTAINING TO
25 PERSONAL CARE HOMES UNTIL THE REGULATIONS REQUIRED BY THIS ACT
26 ARE PUBLISHED BY THE DEPARTMENT OF PUBLIC WELFARE IN THE
27 PENNSYLVANIA BULLETIN.

28 SECTION 11. THE DEPARTMENT OF PUBLIC WELFARE SHALL NOT
ISSUE

29 ANY ASSISTED LIVING RESIDENCE LICENSES UNTIL FINAL REGULATIONS
30 ARE PUBLISHED BY THE DEPARTMENT OF PUBLIC WELFARE IN THE
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1 PENNSYLVANIA BULLETIN.

2 SECTION 12. THIS ACT SHALL TAKE EFFECT IN 90 DAYS.