

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1702 Session of 2013

INTRODUCED BY ROSS, HENNESSEY, DAVIS, WATSON, PASHINSKI, CLYMER, HAGGERTY, ROCK, COHEN, GODSHALL, BROWNLEE, FRANKEL, GINGRICH, READSHAW, MURT, QUINN, KULA AND MENTZER, SEPTEMBER 25, 2013

AS RE-REPORTED FROM COMMITTEE ON AGING AND OLDER ADULT SERIVCES, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 12, 2014

AN ACT

1 Authorizing the Department of Aging to license and inspect
2 community ADULT respite services programs; DEFINING <--
3 "COMMUNITY ADULT RESPITE SERVICE PROVIDERS"; and imposing
4 additional powers and duties on the Department of Aging.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Community- <--
9 PENNSYLVANIA COMMUNITY ADULT Respite Services Program Act. <--

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "ACTIVITIES OF DAILY LIVING" OR "ADL." THE TERM INCLUDES <--
15 EATING, DRINKING, AMBULATING, TRANSFERRING IN AND OUT OF BED OR
16 CHAIR, TOILETING, BLADDER AND BOWEL MANAGEMENT, PERSONAL HYGIENE
17 AND PROPER TURNING AND POSITIONING IN A BED OR CHAIR.

18 "APPLICANT." AN INDIVIDUAL, AGENCY, PARTNERSHIP,

1 ASSOCIATION, ORGANIZATION OR CORPORATE ENTITY APPLYING FOR A
2 LICENSE TO PROVIDE COMMUNITY ADULT RESPITE SERVICES.

3 "Area Agency on Aging" or "AAA." The single local agency
4 designated by the department within each planning and service
5 area to administer the delivery of a comprehensive and
6 coordinated plan of social and other services and activities.

7 ~~"Client." An individual who receives community respite~~ <--
8 ~~services in a community respite services program.~~

9 ~~"Community respite services." Services provided or arranged~~

10 "ASSISTED LIVING RESIDENCE." AN ASSISTED LIVING RESIDENCE AS <--
11 DEFINED IN SECTION 1001 OF THE ACT OF JUNE 13, 1967 (P.L.31,
12 NO.21), KNOWN AS THE PUBLIC WELFARE CODE.

13 "COMMUNITY ADULT RESPITE SERVICES." FOR PURPOSES OF THIS
14 ACT, SERVICES PROVIDED OR ARRANGED for part of a 24-hour day in
15 a community ADULT respite services program to support <--
16 independence of ~~individuals 60 years of age or older who:~~ <--

17 ~~(1) Are independent in ambulation or able to~~
18 ~~independently use an assistive device for ambulation.~~

19 ~~(2) Are independent in dressing, toileting and eating~~
20 ~~and drinking skills.~~

21 ~~(3) May need assistance with simple meal tasks such as~~
22 ~~cutting food.~~

23 ~~(4) Do not require medication administration.~~

24 ~~(5) May need reminders or gentle redirection.~~ ADULTS. <--

25 "COMMUNITY ADULT RESPITE SERVICES PARTICIPANT" OR

26 "PARTICIPANT." A RESIDENT OF THIS COMMONWEALTH WHO:

27 (1) IS 60 YEARS OF AGE OR OLDER.

28 (2) CAN ACTIVELY OR PASSIVELY ENGAGE IN SOCIAL AND
29 LEISURE ACTIVITIES WITH OTHERS.

30 (3) MAY DEMONSTRATE SYMPTOMS OF MILD COGNITIVE

1 IMPAIRMENT.

2 (4) DOES NOT NEED ASSISTANCE, OTHER THAN CUEING, OR IS
3 ABLE TO DIRECT CARE FOR ACTIVITIES OF DAILY LIVING.

4 (5) DOES NOT DEMONSTRATE BEHAVIORS THAT MAY COMPROMISE
5 PERSONAL SAFETY OR THE SAFETY OF OTHERS.

6 "Community ADULT respite services program" or "program." An ~~entity licensed by the department to provide community respite~~ <--
7 ~~services in a setting approved by the department.~~ A PROGRAM <--
8 WHICH PROVIDES COMMUNITY ADULT RESPITE SERVICES FOR PART OF A
9 24-HOUR DAY.
10

11 "COMMUNITY ADULT RESPITE SERVICES PROVIDER" OR "PROVIDER."
12 AN INDIVIDUAL, AGENCY, PARTNERSHIP, ASSOCIATION, ORGANIZATION OR
13 CORPORATE ENTITY THAT OPERATES A COMMUNITY ADULT RESPITE
14 SERVICES PROGRAM IN A SETTING APPROVED BY THE DEPARTMENT.

15 "COMMUNITY SENIOR CENTER." FOR THE PURPOSES OF THIS ACT, A
16 FACILITY DEVELOPED AND OPERATED IN ACCORDANCE WITH PROVISIONS OF
17 ARTICLE XXII-A OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175),
18 KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

19 "CONTINUING-CARE PROVIDER." A FACILITY LICENSED BY THE
20 INSURANCE DEPARTMENT UNDER THE ACT OF JUNE 18, 1984 (P.L.391,
21 NO.82), KNOWN AS THE CONTINUING-CARE PROVIDER REGISTRATION AND
22 DISCLOSURE ACT.

23 "CUEING." VERBAL OR WRITTEN ASSISTANCE OR PROMPTS THROUGHOUT
24 AN ACTIVITY TO ASSURE ITS COMPLETION.

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

26 "Designated person." An individual who ~~may be~~ IS chosen by a ~~client and documented in the client's record~~ <--
27 PARTICIPANT, to be ~~notified in case of an emergency, termination of service~~ <--
28 <--
29 COMMUNITY ADULT RESPITE SERVICES, program closure or other <--
30 situations as indicated by the ~~client~~ PARTICIPANT or as required <--

1 by this act. The term includes a ~~client's~~ PARTICIPANT'S legal <--
2 representative.

3 "LICENSED LONG-TERM CARE SERVICE PROVIDER." THE TERM SHALL <--
4 INCLUDE:

- 5 (1) AN ASSISTED LIVING RESIDENCE.
- 6 (2) A CONTINUING-CARE PROVIDER.
- 7 (3) A LIFE PROGRAM.
- 8 (4) A LONG-TERM CARE NURSING FACILITY.
- 9 (5) AN OLDER ADULT DAILY LIVING CENTER.
- 10 (6) A PERSONAL CARE HOME.

11 "LIFE PROGRAM." THE PROGRAM OF MEDICAL AND SUPPORTIVE
12 SERVICES KNOWN AS LIVING INDEPENDENTLY FOR ELDERS.

13 "LOCAL PROGRAM ADMINISTRATOR." THE DEPARTMENT OR THE AREA
14 AGENCY ON AGING ON BEHALF OF THE DEPARTMENT.

15 "LONG-TERM CARE NURSING FACILITY." A LONG-TERM CARE NURSING
16 FACILITY AS DEFINED IN SECTION 802.1 OF THE ACT OF JULY 19, 1979
17 (P.L.130, NO.48), KNOWN AS THE HEALTH CARE FACILITIES ACT.

18 "MILD COGNITIVE IMPAIRMENT." COGNITIVE CHANGES THAT ARE NOT
19 SEVERE ENOUGH TO INTERFERE WITH DAILY LIFE OR INDEPENDENT
20 FUNCTION.

21 "OLDER ADULT DAILY LIVING CENTER." PREMISES OPERATED FOR
22 PROFIT OR NOT-FOR-PROFIT IN WHICH OLDER ADULT DAILY LIVING
23 SERVICES ARE SIMULTANEOUSLY PROVIDED FOR FOUR OR MORE ADULTS WHO
24 ARE NOT RELATIVES OF THE OPERATOR FOR PART OF A 24-HOUR DAY AND
25 WHICH PREMISES ARE SUBJECT TO LICENSING UNDER THE ACT OF JULY
26 11, 1990 (P.L.499, NO.118), KNOWN AS THE OLDER ADULT DAILY
27 LIVING CENTERS LICENSING ACT.

28 "PERSONAL CARE HOME." A PERSONAL CARE HOME AS DEFINED IN
29 SECTION 1001 OF THE ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN
30 AS THE PUBLIC WELFARE CODE.

1 "PROGRAM COORDINATOR." THE INDIVIDUAL DESIGNATED BY A
2 PROVIDER TO OVERSEE AND MANAGE THE DAILY ACTIVITIES AND
3 OPERATIONS OF A COMMUNITY ADULT RESPITE SERVICES PROGRAM.

4 Section 3. Legislative findings and declaration.

5 The General Assembly finds that:

6 (1) This Commonwealth is rich in its diverse culture and
7 demographic configuration.

8 (2) Geographically, Pennsylvania's older adults live in
9 a variety of settings and it is essential that every possible
10 effort is made to help ensure that Pennsylvanians age and
11 live well and that communities will be places to help them
12 age and live well.

13 (3) It is in the best interest of all Pennsylvanians to
14 support policies that help older individuals maintain
15 independence and dignity in their homes and communities,
16 while also providing assurance to their loved ones that they
17 are safe and afforded access to care and services at the
18 right time, in the right setting and at the right intensity.

19 (4) It is in the best interest of the Commonwealth to
20 establish community ADULT respite services programs that <--
21 provide programming designed to support independence of
22 individuals, while also providing peace of mind to their
23 loved ones who may have concerns that leaving them alone may
24 jeopardize their health, safety and well-being.

25 Section 4. ~~Program operation and maintenance without license~~ <--
26 ~~prohibited.~~

27 ~~No person may maintain, operate or conduct a community~~
28 ~~respite services program without having a license issued by the~~
29 ~~department.~~

30 Section 5. ~~License term and content.~~ OFFERED BY LICENSED LONG- <--

1 TERM CARE SERVICE PROVIDERS.

2 NOTWITHSTANDING ANY OTHER ACT TO THE CONTRARY, AN INDIVIDUAL,
3 AGENCY, PARTNERSHIP, ASSOCIATION, ORGANIZATION OR CORPORATE
4 ENTITY LICENSED AS A LONG-TERM CARE SERVICE PROVIDER SHALL NOT
5 BE REQUIRED TO OBTAIN A SEPARATE LICENSE TO MAINTAIN, OPERATE OR
6 CONDUCT A COMMUNITY ADULT RESPITE SERVICES PROGRAM IN ACCORDANCE
7 WITH THE PROVISIONS OF THIS ACT, PROVIDED THAT THE INDIVIDUAL,
8 AGENCY, PARTNERSHIP, ASSOCIATION, ORGANIZATION OR CORPORATE
9 ENTITY SO LICENSED NOTIFIES THE DEPARTMENT BY LETTER OF ITS
10 INTENT TO ESTABLISH AND OPERATE A COMMUNITY ADULT RESPITE
11 SERVICES PROGRAM, IN ACCORDANCE WITH THE PROVISIONS OF THIS ACT.

12 SECTION 5. LICENSE APPLICANT LETTER OF INTENT REQUIRED.

13 IN ORDER TO OBTAIN A LICENSE TO MAINTAIN, OPERATE OR CONDUCT
14 A COMMUNITY ADULT RESPITE SERVICES PROGRAM IN ACCORDANCE WITH
15 THIS ACT, THE APPLICANT MUST NOTIFY THE DEPARTMENT BY LETTER OF
16 ITS INTENT TO APPLY FOR A LICENSE TO ESTABLISH AND OPERATE A
17 COMMUNITY ADULT RESPITE SERVICES PROGRAM.

18 SECTION 6. PROGRAM OPERATION AND MAINTENANCE WITHOUT LICENSE
19 PROHIBITED.

20 EXCEPT FOR LICENSED LONG-TERM CARE SERVICE PROVIDERS THAT
21 FALL WITHIN THE PROVISIONS OF SECTION 4, NO INDIVIDUAL, AGENCY,
22 PARTNERSHIP, ASSOCIATION, ORGANIZATION OR CORPORATE ENTITY MAY
23 MAINTAIN, OPERATE, CONDUCT OR HOLD ITSELF OUT AS A COMMUNITY
24 ADULT RESPITE SERVICES PROGRAM PROVIDER WITHOUT HAVING A LICENSE
25 ISSUED BY THE DEPARTMENT.

26 SECTION 7. LICENSE TERM AND CONTENT AND DESIGNATION OF A
27 PROGRAM COORDINATOR.

28 (a) General rule.--The department shall, after an
29 investigation and after a departmental determination that the
30 applicant complies with the provisions of this act, issue to an

1 applicant a license to operate a program.

2 (b) Term and content.--A license shall:

3 (1) Be issued for a specified period of not more than 12
4 months.

5 (2) Be on a form prescribed by the department.

6 (3) Not be transferable.

7 (4) Be issued only to the ~~person~~ ENTITY for the program <--
8 named in the application.

9 (c) Interim license.--The department shall have the power to
10 issue an interim license in accordance with department
11 regulations.

12 (d) Recordkeeping.--The department shall keep a record of
13 all applications and all licenses issued under this act.

14 (E) IDENTIFICATION OF PROGRAM COORDINATOR.--AN APPLICANT <--
15 SHALL IDENTIFY AND DESIGNATE A PROGRAM COORDINATOR WHO SHALL BE
16 ON SITE AND SERVE AS THE OFFICIAL REPRESENTATIVE AND CONTACT FOR
17 A COMMUNITY ADULT RESPITE SERVICES PROGRAM. A PROGRAM
18 COORDINATOR AND ANY EMPLOYEE OF THE PROGRAM ARE PROHIBITED FROM
19 BEING ASSIGNED POWER OF ATTORNEY OR GUARDIANSHIP FOR ANY
20 PARTICIPANT.

21 (F) RESPONSIBILITY OF PROGRAM COORDINATOR.--THE PROGRAM
22 COORDINATOR SHALL BE RESPONSIBLE FOR THE INTAKE AND ENROLLMENT
23 OF COMMUNITY ADULT RESPITE SERVICES PARTICIPANTS THROUGH A
24 PROCESS THAT ENSURES THE ELIGIBILITY OF THE PARTICIPANTS IN THE
25 PROGRAM.

26 ~~Section 6. Local program administration and designation of a~~ <--
27 ~~program coordinator.~~

28 ~~(a) Determination by AAA.~~

29 ~~(1) Prior to implementation of this act, the AAA in each~~
30 ~~planned services area shall make a determination of whether~~

1 ~~it will assume monitoring and oversight of programs, in~~
2 ~~accordance with department regulations.~~

3 ~~(2) If an AAA determines to assume monitoring and~~
4 ~~oversight responsibility, the AAA may require plans of~~
5 ~~correction and require other action to bring a program into~~
6 ~~compliance.~~

7 ~~(3) If an AAA determines not to assume monitoring and~~
8 ~~oversight of a program, the department shall assume~~
9 ~~monitoring and oversight responsibilities.~~

10 ~~(b) Identification of program coordinator. Each program~~
11 ~~shall identify and designate a program coordinator who shall be~~
12 ~~onsite and serve as the official representative and contact for~~
13 ~~a community respite services program.~~

14 Section 7 8. Right to enter and inspect. <--

15 ~~The local program administrator as established in accordance~~ <--

16 ~~with section 6~~ (A) GENERAL RULE.--SUBJECT TO SECTION 7, THE <--

17 DEPARTMENT may enter, visit and inspect any program licensed or
18 requiring a license under this act. In accordance with

19 applicable regulatory authority, the ~~monitoring and oversight~~ <--

20 ~~entity~~ DEPARTMENT shall have full and free access to the records <--

21 of a community ADULT respite services program and to the ~~clients~~ <--

22 ~~and full opportunity to interview, inspect or examine such~~

23 ~~clients~~ PARTICIPANTS TO INTERVIEW AND EVALUATE SUCH <--

24 PARTICIPANTS.

25 (B) LOCAL AAAS AS AGENTS.--AT THE DEPARTMENT'S DISCRETION,

26 REPRESENTATIVES OF THE LOCAL AAAS MAY ACT AS AGENTS OF THE

27 DEPARTMENT, AS SPECIFIED IN SUBSECTION (A).

28 Section 8 9. Determination of eligibility. <--

29 (a) General rule.--The department shall work in cooperation
30 with the AAA to develop a standard application packet for

1 prospective ~~clients~~ PARTICIPANTS. <--

2 (b) Ongoing monitoring.--The program shall include a process
3 whereby ~~clients~~ PARTICIPANTS shall be monitored regularly to <--
4 ensure that they ~~do not become ineligible for community respite~~ <--
5 ~~services. The process shall be overseen by either the AAA or the~~
6 ~~department, in accordance with section 6 and with applicable~~
7 ~~regulations of the department. DO NOT BECOME INELIGIBLE FOR~~ <--
8 COMMUNITY ADULT RESPITE SERVICES.

9 Section ~~9~~ 10. Conditions of ineligibility. <--

10 ~~(a) General rule. No individual may receive community~~ <--
11 ~~respite services if the individual:~~

12 ~~(1) presents with a history or risk of wandering, beyond~~
13 ~~gentle redirection;~~

14 ~~(2) requires medication assistance;~~

15 ~~(3) requires assistance with personal care, as defined~~
16 ~~in 55 Pa. Code Ch. 2600 (relating to personal care homes); or~~

17 ~~(4) is unable to express critical needs.~~

18 (A) GENERAL RULE.--AN ENROLLED PARTICIPANT WHO NO LONGER <--
19 MEETS THE DEFINITION OF A COMMUNITY ADULT RESPITE SERVICES
20 PARTICIPANT MUST BE DISENROLLED FROM THE PROGRAM IN ACCORDANCE
21 WITH THE PROVISIONS OF SUBSECTION (B).

22 (b) Determination of ineligibility.--In the event that a
23 ~~client~~ PARTICIPANT is determined ineligible for community ADULT <--
24 respite services, the program coordinator of a program shall:

25 ~~(1) Immediately notify the monitoring and oversight~~ <--
26 ~~entity and the designated person for the client and shall~~
27 ~~follow procedures outlined in regulation for program~~
28 ~~disenrollment.~~

29 ~~(2) Provide the designated person with written notice of~~
30 ~~ineligibility and a list of community resources that may be~~

1 ~~available.~~

2 (1) PROVIDE THE PARTICIPANT OR DESIGNATED PERSON WITH <--
3 WRITTEN NOTICE OF INELIGIBILITY AND A LIST OF COMMUNITY
4 RESOURCES THAT MAY BE AVAILABLE.

5 (2) WORK WITH THE PARTICIPANT OR DESIGNATED PERSON AND
6 LOCAL PROGRAM ADMINISTRATOR TO DEVELOP A TRANSITION PLAN
7 BEFORE THE PARTICIPANT IS DISENROLLED FROM THE COMMUNITY
8 ADULT RESPITE SERVICES PROGRAM.

9 (C) AAA ELIGIBILITY ASSESSMENT REQUIRED.--WHEN A PARTICIPANT
10 IS DETERMINED TO BE INELIGIBLE FOR COMMUNITY ADULT RESPITE
11 SERVICES WHILE IN A PROGRAM, THE PROGRAM COORDINATOR SHALL
12 CONTACT THE AAA TO REQUEST AN ELIGIBILITY ASSESSMENT.

13 Section ~~10. Regulations.~~ 11. REGULATIONS AND STATEMENTS OF <--
14 POLICY.

15 (a) General rule.--The department shall work in cooperation
16 with the AAAs, representatives of ~~the adult day community~~ <--
17 LICENSED LONG-TERM CARE SERVICE PROVIDERS and ~~representatives of~~ <--
18 ~~the senior centers to promulgate regulations~~ REPRESENTATIVES OF <--
19 COMMUNITY SENIOR CENTERS TO PROMULGATE GUIDANCE SUCH AS
20 REGULATIONS OR STATEMENTS OF POLICY governing community ADULT <--
21 respite services programs, no later than one year after the
22 effective date of this section. The regulations shall establish
23 minimum standards, including, but not limited to:

24 (1) Building, equipment, operation, care and assessment
25 processes for functional and cognitive status of clients.

26 (2) Staff credentials and staffing requirements,
27 including ~~staff to client~~ STAFF-TO-PARTICIPANT ratios. <--

28 (3) Programs and services in order to implement a
29 process for issuance of licenses and interim licenses.

30 (4) ~~To establish a~~ A licensing appeal process, and to <--

1 establish and collect fees to offset the cost of issuing
2 licenses.

3 (5) A REFERRAL SYSTEM FOR PARTICIPANTS WHO ARE <--
4 DETERMINED TO BE INELIGIBLE TO ENTER A COMMUNITY ADULT
5 RESPITE SERVICES PROGRAM.

6 (6) ENFORCEMENT PROVISIONS.

7 (b) Procedure.--Regulations shall be promulgated in
8 accordance with the provisions of the act of June 25, 1982
9 (P.L.633, No.181), known as the Regulatory Review Act.

10 Section ~~11~~ 12. Construction. <--

11 Nothing in this act shall be construed to preclude continued
12 participation by individuals under 60 years of age who are
13 participating in a community ADULT respite services program on <--
14 the effective date of this ~~act~~ SECTION. <--

15 Section ~~12~~ 13. Effective date. <--

16 This act shall take effect in 180 days.