

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 520 Session of 2023

INTRODUCED BY BROOKS, J. WARD AND BREWSTER, MARCH 28, 2023

SENATOR BROOKS, HEALTH AND HUMAN SERVICES, AS AMENDED, JUNE 6, 2023

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," in departmental powers and
4 duties as to licensing, providing for prelicensure waiver of
5 physical site requirements and further providing for
6 regulations and for rules and regulations for personal care
7 home and assisted living residences.

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

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

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

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

1 (2) Whether the entity will meet the needs of the residents  
2 as their acuity and care needs increase.

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

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

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

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

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

19 (1) Living unit square footage.

20 (2) Living units that share a bathroom.

21 (3) Other physical site components.

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

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

28 Section 1021. Regulations.--(a) \* \* \*

29 (2) Regulations for assisted living residences shall:

30 \* \* \*

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

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 \* \* \*

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

27 \* \* \*

28 Section 3. Section 1057.3(a)(12), (e)(5) and (g)(1), (4),  
29 (5), (6), (7) and (8) of the act are amended to read:

30 Section 1057.3. Rules and Regulations for Personal Care Home

1 and Assisted Living Residences.--(a) The rules and regulations  
2 for the licensing of personal care homes and assisted living  
3 residences promulgated by the department shall require that:

4 \* \* \*

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

17 \* \* \*

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

22 \* \* \*

23 [(5) Nasogastric tubes.]

24 \* \* \*

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

1 department through regulation, including a consumer requiring:

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

7 \* \* \*

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

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

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

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

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

28 \* \* \*

29 Section 4. This act shall take effect immediately.