

No. 2014-166

AN ACT

HB 1702

Authorizing the Department of Aging to license and inspect community adult respite services programs; defining "community adult respite service providers;" and imposing additional powers and duties on the Department of Aging.

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

Section 1. Short title.

This act shall be known and may be cited as the Pennsylvania Community Adult Respite Services Program Act.

Section 2. Definitions.

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

"Activities of daily living" or "ADL." The term includes eating, drinking, ambulating, transferring in and out of bed or chair, toileting, bladder and bowel management, personal hygiene and proper turning and positioning in a bed or chair.

"Applicant." An individual, agency, partnership, association, organization or corporate entity applying for a license to provide community adult respite services.

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

"Assisted living residence." An assisted living residence as defined in section 1001 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

"Community adult respite services." For purposes of this act, services provided or arranged for part of a 24-hour day in a community adult respite services program to support independence of participants.

"Community adult respite services participant" or "participant." A resident of this Commonwealth who:

- (1) Is 60 years of age or older.
- (2) Can actively or passively engage in social and leisure activities with others.
- (3) May demonstrate symptoms of mild cognitive impairment.
- (4) Does not need assistance, other than cueing, or is able to direct care for activities of daily living.
- (5) Does not demonstrate behaviors that may compromise personal safety or the safety of others.

"Community adult respite services program" or "program." A program which provides community adult respite services for part of a 24-hour day.

"Community adult respite services provider" or "provider." An individual, agency, partnership, association, organization or corporate entity

that operates a community adult respite services program in a setting approved by the department.

"Community senior center." For the purposes of this act, a facility developed and operated in accordance with provisions of Article XXII-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

"Continuing-care provider." A facility licensed by the Insurance Department under the act of June 18, 1984 (P.L.391, No.82), known as the Continuing-Care Provider Registration and Disclosure Act.

"Cueing." Verbal or written assistance or prompts throughout an activity to assure its completion.

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

"Designated person." An individual who is chosen by a participant, to be notified in case of an emergency, termination of community adult respite services, program closure or other situations as indicated by the participant or as required by this act. The term includes a participant's legal representative.

"Licensed long-term care service provider." The term shall include:

- (1) An assisted living residence.
- (2) A continuing-care provider.
- (3) A LIFE program.
- (4) A long-term care nursing facility.
- (5) An older adult daily living center.
- (6) A personal care home.

"LIFE program." The program of medical and supportive services known as Living Independently for Elders under 42 CFR Pt. 460 (relating to programs of all-inclusive care for the elderly (PACE)).

"Local program administrator." The department or the area agency on aging on behalf of the department.

"Long-term care nursing facility." A long-term care nursing facility as defined in section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Mild cognitive impairment." Cognitive changes that are not severe enough to interfere with daily life or independent function.

"Older adult daily living center." Premises operated for profit or not-for-profit in which older adult daily living services are simultaneously provided for four or more adults who are not relatives of the operator for part of a 24-hour day and which premises are subject to licensing under the act of July 11, 1990 (P.L.499, No.118), known as the Older Adult Daily Living Centers Licensing Act.

"Personal care home." A personal care home as defined in section 1001 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

"Program coordinator." The individual designated by a provider to oversee and manage the daily activities and operations of a community adult respite services program.

Section 3. Program offered by licensed long-term care service providers.

Notwithstanding any other act to the contrary, an individual, agency, partnership, association, organization or corporate entity licensed as a long-

term care service provider shall not be required to obtain a separate license to maintain, operate or conduct a community adult respite services program in accordance with the provisions of this act, provided that the individual, agency, partnership, association, organization or corporate entity so licensed notifies the department by letter of its intent to establish and operate a community adult respite services program, in accordance with the provisions of this act.

Section 4. License applicant letter of intent required.

In order to obtain a license to maintain, operate or conduct a community adult respite services program in accordance with this act, the applicant must notify the department by letter of its intent to apply for a license to establish and operate a community adult respite services program.

Section 5. Program operation and maintenance without license prohibited.

Except for licensed long-term care service providers that fall within the provisions of section 3, no individual, agency, partnership, association, organization or corporate entity may maintain, operate, conduct or hold itself out as a community adult respite services program provider without having a license issued by the department.

Section 6. License term and content and designation of a program coordinator.

(a) General rule.—The department shall, after an investigation and after a departmental determination that the applicant complies with the provisions of this act, issue to an applicant a license to operate a program.

(b) Term and content.—A license shall:

- (1) Be issued for a specified period of not more than 12 months.
- (2) Be on a form prescribed by the department.
- (3) Not be transferable.
- (4) Be issued only to the entity for the program named in the application.

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

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

(e) Identification of program coordinator.—An applicant shall identify and designate a program coordinator who shall be on site and serve as the official representative and contact for a community adult respite services program. A program coordinator and any employee of the program are prohibited from being assigned power of attorney or guardianship for any participant.

(f) Responsibility of program coordinator.—The program coordinator shall be responsible for the intake and enrollment of community adult respite services participants through a process that ensures the eligibility of the participants in the program.

Section 7. Right to enter and inspect.

(a) General rule.—Subject to section 6, the department may enter, visit and inspect any program licensed or requiring a license under this act. In accordance with applicable regulatory authority, the department shall have full and free access to the records of a community adult respite services program and to the participants to interview and evaluate such participants.

(b) Local AAAs as agents.—At the department's discretion, representatives of the local AAAs may act as agents of the department, as specified in subsection (a).

Section 8. Determination of eligibility.

(a) General rule.—The department shall work in cooperation with the AAA to develop a standard application packet for prospective participants.

(b) Ongoing monitoring.—The program shall include a process whereby participants shall be monitored regularly to ensure that they do not become ineligible for community adult respite services.

Section 9. Conditions of ineligibility.

(a) General rule.—An enrolled participant who no longer meets the definition of a community adult respite services participant must be disenrolled from the program in accordance with the provisions of subsection (b).

(b) Determination of ineligibility.—In the event that a participant is determined ineligible for community adult respite services, the program coordinator of a program shall:

(1) Provide the participant or designated person with written notice of ineligibility and a list of community resources that may be available.

(2) Work with the participant or designated person and local program administrator to develop a transition plan before the participant is disenrolled from the community adult respite services program.

(3) With¹ the consent of the participant or designated person, make a referral to the area agency on aging to assess eligibility for and access to other appropriate long-term care services.

(c) Appeals.—The participant has the right to appeal the ineligibility determination. The department shall promulgate regulations and issue statements of policy establishing a formal appeals process.

(d) Emergency situations.—The department shall promulgate regulations and issue statements of policy regarding emergency situations, where an immediate change in settings is needed for a participant to address an imminent threat or health or safety issue.

Section 10. Regulations and statements of policy.

(a) General rule.—The department shall work in cooperation with the AAAs, representatives of licensed long-term care service providers and representatives of community senior centers to promulgate regulations and issue statements of policy as necessary or appropriate governing community adult respite services programs no later than one year after the effective date of this section. The regulations shall establish minimum standards, including, but not limited to:

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

(2) Staff credentials and staffing requirements, including staff-to-participant ratios.

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

¹The program coordinator, with" in enrolled bill.

(4) A licensing appeal process, and to establish and collect fees to offset the cost of issuing licenses.

(5) A referral system for participants who are determined to be ineligible to enter a community adult respite services program.

(6) Enforcement provisions.

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

Section 11. Construction.

Nothing in this act shall be construed to preclude continued participation by individuals under 60 years of age who are participating in a community adult respite services program on the effective date of this section.

Section 12. Effective date.

This act shall take effect in 180 days.

APPROVED—The 22nd day of October, A.D. 2014

TOM CORBETT