

PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CHS. 2600 AND 2620]

Personal Care Homes

Statutory Authority

The Department of Public Welfare (Department), under the authority of section 211 and Articles IX and X of the Public Welfare Code (62 P.S. §§ 211, 901—922 and 1001—1087) proposes to adopt amendments to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

This proposed rulemaking will add a new Chapter 2600 (relating to personal care homes) to replace the existing personal care home licensing regulations in Chapter 2620 (relating to personal care home licensing). Personal care homes are a vital and important component of the continuum of community-based residential long-term care services available to the residents of this Commonwealth. This proposed rulemaking will strengthen health and safety requirements based on public input and research.

Background

The development of this proposed rulemaking began in Fall 1999 as part of the Adult Residential Regulations Project (project), a Privatize, Retain, Innovate, Modify and Eliminate (PRIME) initiative to improve existing human service licensing functions within State government by strengthening health and safety protections and reducing duplication within the licensing process. PRIME is the Commonwealth's initiative to make State government more customer-centered, cost-efficient and competitive.

The Department's Office of Licensing and Regulatory Management leads the project. The project will encompass nine chapters under the authorities of the Department and the Department of Health. The goal of the regulatory consolidation is to improve services and protections to consumers by focusing provider effort on compliance with fundamental health and safety regulations. To allow for dialogue and to obtain specific feedback from those most directly affected by this project, the Department solicited ongoing and active consultation and involvement with many providers, provider associations, residents, family members and advocacy organizations.

The Department convened initial briefing meetings with numerous Statewide external stakeholders organizations from Fall 1999 to Spring 2000. In February 2001, the Department convened a Statewide briefing meeting to present information regarding the scope and content of the project. The Department invited legislators, Statewide external stakeholders, educators, field licensing staff, providers, consumers and advocates to attend. The Department posted the first informal draft of the project regulations on the Department's website in April 2001, and mailed copies to interested persons without Internet access. In May 2001, the Department convened a 3-day meeting to obtain input on major issues of particular concern to all stakeholders. The Department also extended the comment period on the first informal draft of the regulations for an additional 2 weeks, to provide additional time for public input. The Department received

comments from over 950 interested individuals regarding the first informal draft of the proposed project regulations, with the majority of the comments from the personal care home industry.

In June 2001, after reviewing and considering the comments received, the Department and the Departments of Health and Aging decided to cluster and phase in the promulgation of the project regulations. The personal care home regulations were prioritized due to the tremendous growth in the personal care home population, and the changing nature and complexity of needs and services required by these residents. In June 2001, the Department mailed all providers a letter to inform them of this decision.

In preparation of this proposed rulemaking for personal care homes, the Department met with its Personal Care Home Advisory Committee and external stakeholder groups. Department staff also toured personal care homes across this Commonwealth to discuss the development of the proposed rulemaking with personal care home administrators, residents, family members and staff. The Department reviewed and considered all comments, and then developed a preview draft of the proposed personal care home rulemaking.

In March 2002, the Department posted the preview of the draft personal care home regulations on its website, and invited interested persons to provide comments. Comments received were reviewed and considered in developing this proposed rulemaking. The Department will continue to meet with personal care home stakeholders.

Throughout this public input process, the Department received many valuable comments and suggestions from many external stakeholders who participated in the process. The Department values the comments submitted and has incorporated many of the suggested changes in the proposed rulemaking.

Significant Provisions

Reportable Incidents

In § 2600.16 (relating to reportable incidents), the Department proposes enhanced reporting of incidents, beyond those listed in the current regulations, which will serve to protect the health, safety and rights of residents in the home.

Waivers

The proposed provisions in § 2600.19 (relating to waivers) are intended to ensure that waivers of regulatory standards do not have a negative impact on residents. The section is designed to ensure that residents are informed about waiver requests and approved waiver requests in the home in which they live. In addition, the residents are given an opportunity to provide input into the home's waiver request.

Resident-Home Contract

The proposed provisions in § 2600.26 (relating to resident-home contract: information on resident rights) are expanded to provide full disclosure of the contract to be signed and the resident rights. This requirement will promote good business practices, and protect the resident, the resident's family and the facility. The additional regulatory protections include a 72-hour right of rescission of the contract, a requirement that

resident's service needs are to be addressed 365 days a year, and a mandate to list the actual amount of allowable resident charges for each service item.

Resident Rights

The proposed provisions in § 2600.42 (relating to specific rights) offer additional regulatory protections for the resident, listing 28 specific resident rights. An appeal procedure is proposed in § 2600.41 (relating to notification of rights and complaint procedures) to allow the resident or the resident's family to file a complaint if they believe a resident's right has been violated.

Staffing

The proposed provisions in § 2600.56 (relating to staffing) maintain the current level of personal care service hours per resident, based on the resident's mobility or immobility needs. This section also proposes that if a resident's personal care needs exceed the current minimum level of personal care hours, the home shall provide a sufficient number of direct care staff to provide the necessary level of care required by the resident.

Administrator Training and Orientation

The Department proposes in § 2600.57 (relating to administrator training and orientation) to provide for greater training and competency requirements for administrators than current regulations require. Training requirements cover additional essential areas such as special populations with dementia, care of residents with mental illness and cognitive impairments and gerontology. Demonstrated competency in the training material is required. Enhanced training will provide additional health and safety protection of residents by ensuring that administrators gain knowledge and competency through training. This section proposes to expand the scope and length of the administrator training program, and also requires new administrators to successfully complete a competency-based internship in a licensed home under a Department-trained administrator. A licensed nursing home administrator hired after the effective date of this rulemaking will be required to pass a competency-based training test, or attend a shortened administrator-training course and achieve a passing grade.

Staff Training and Orientation

Section 2600.58 (relating to staff training and orientation) proposes to mandate greater training and competency requirements for direct care staff. The Department proposes that annual training for all staff is 24 hours and must be related to their job duties. The health and safety of residents will be enhanced by ensuring that staff gain knowledge and competency through training.

Bedrooms

The Department proposes in § 2600.101 (relating to resident bedrooms) that residents with physical disabilities will have larger bedrooms to allow for easy passage and comfortable use of assistive devices.

Safe Management Techniques

A resident's health and safety is most at risk during a time of crisis behavior. The Department reviewed the literature and spoke with experts regarding this topic, and considered other regulations that are being applied to similar services. The positive intervention techniques proposed in § 2600.201 (relating to safe management techniques) applied by staff are designed to assist a resident to return to safe and stable functioning.

Initial Assessment and Annual Assessment

Section 2600.225 (relating to initial assessment and the annual assessment) proposes enhanced screening and

assessments of residents, to ensure accurate evaluation of resident needs and to prevent a resident from being inappropriately placed in a home. The proposed provisions require that the resident be comprehensively assessed within 72 hours of admission, to identify the resident's current needs, and to ensure that the facility can meet the resident's needs.

Development of the Support Plan

After the resident's needs are assessed, the Department proposes in § 2600.226 (relating to development of the support plan), the development of a support plan, which is a written document for each resident describing the resident's assessed care, service or treatment needs, and how those needs will be met and by whom. The support plan sets out clearly the care and responsibilities of the facility or outside entities in providing the services that the resident needs. In addition, the facility is required to inform the resident, the resident's family or advocate of the right to have other persons involved in the development of the support plan.

Secured Unit Requirements

Section 2600.231—2600.241 (relating to secured unit requirements) proposes that a home that chooses to operate a secured unit for persons with dementia may open this unit without submitting a waiver for the Department's review and approval. To operate a secured unit, a facility shall comply with all regulations relating to secured units set forth in this sections.

Medications Administration

The Department received numerous comments on previous drafts of proposed §§ 2600.181—2600.188 (relating to medications), concerning who may directly administer medications to residents. Currently, homes are only permitted to provide assistance with medications prescribed for self-administration. Current provisions require that only a licensed physician, nurse or dentist, as appropriate, may administer medications not prescribed for self-administration. The current provisions are retained in the proposed rulemaking. The Department received recommendations to expand the types of persons allowed to directly administer medications not prescribed for self-administration to include trained personal care home staff. As part of this recommendation, commentators recommended creating a specific medical technician training and certification program for personal care home staff. Because of State practice law and regulations, the issue of expanding persons able to directly administer medications not prescribed for self-administration requires review in more detail with the General Assembly, the State Board of Medicine and the State Board of Nursing. The Department will review this recommendation independently from this rulemaking and, if feasible, consider a separate rulemaking in the future.

Affected Individuals, Groups and Organizations

Personal care homes shall comply with these requirements to operate. The Department's survey indicates that there are 1,786 licensed personal care homes in this Commonwealth, with a licensed capacity of approximately 80,000 beds. Of this total, approximately 1,400 homes are operated for profit, and almost 400 homes are operated as nonprofit. Of the over 53,000 residents in personal care homes, over 10,500 residents receive Supplemental Security Income (SSI) benefits which are accepted as full payment towards the residents' monthly care. There are approximately 370 homes with four to eight beds, approximately 370 homes with 9 to 20 beds, approximately 535 homes with 21 to 50 beds, over 300 homes with 50 to

100 beds and over 300 homes with over 100 beds. The residents receiving care and services in these licensed facilities are directly affected by this proposed rulemaking since they are the consumers that the proposed rulemaking aims to protect. Families of the residents receiving care and services are affected in their interest to assure the health, safety and well-being of their loved ones.

Accomplishments/Benefits

This proposed rulemaking offers standards to improve the operation of all personal care homes in this Commonwealth, such as enhanced consumer protections, strengthened training and competency requirements for administrators and direct care staff, safe management techniques, improved screening and assessments of residents to ensure that the home can meet resident needs, expanded incident reporting, and the development of a support plan to ensure the resident's needs will be met by the facility.

Private Sector

Personal Care Home Providers

In drafting the proposed rulemaking, the Department gave careful consideration to the effect the regulations will have on the cost of providing or receiving services. The issues that will have most potential to influence the cost of implementing Chapter 2600 are the following:

1. Mandatory costs for all personal care homes:

(a) Printing costs for policies and procedures, personnel management, quality management and other necessary documents.

(b) Reimbursement of residents' personal needs allowance within 1 week of discharge.

(c) Annual furnace inspection.

(d) Additional annual training costs due to additional required hours of training for administrators and staff.

2. Optional or possible costs for all personal care homes:

(a) A home with possible fire-safety violations will incur additional costs to correct the violations.

(b) Certification as a new personal care home administrator will require upgraded credentials, which may require additional salary. Training and competency-based testing.

(c) A facility with multiple buildings on the premises, that house four or more residents in each building, will need to meet new staffing requirements.

(d) Physical site modifications to serve residents with physical disabilities.

(e) Coliform water testing for homes not connected to a public water system.

3. Individual choice to assume cost:

(a) Those applying to be personal care home administrators for the first time must meet new educational requirements, obtain hands-on experience, and complete and pass competency based testing prior to becoming an administrator.

(b) Those applying to be personal care home administrators for the first time must meet increased certification hours (from 40 hours to 60 hours).

(c) Those applying to be personal care home administrators for the first time must pay cost associated with competency-based testing for new personal care home administrators.

General Public

There will be no costs to the general public as a result of this proposed rulemaking.

Public Sector

Commonwealth

The Department anticipates that this proposed rulemaking will have no impact on State revenues. Personal care home residents who meet eligibility requirements can use government funds to pay to live in a personal care home. Approximately 10,000 low-income residents over 65 years of age, disabled or blind receive monthly payments from the SSI Program. In addition, the Commonwealth provides a supplement to SSI recipients. This supplement was increased by 20% (or \$15 million in State dollars) for fiscal year 2001-2002.

Local Government

This proposed rulemaking will not impact local government.

Paperwork Requirements

The proposed rulemaking affects the paperwork requirements for the Commonwealth and the general public because additional paperwork is required. However, there is no reasonable alternative to the increased paperwork. Departmental forms required by the regulation, such as the intake assessment and the annual assessment forms, will be developed with input from external stakeholders prior to implementation.

Effective Date

This proposed rulemaking will become effective immediately upon publication of a final-form rulemaking except for § 2600.58(a)—(c), which will take effect 1 year after publication of final-form rulemaking.

Sunset Date

A sunset date is not anticipated because the underlying statute is permanent.

Public Hearings

Public hearings concerning the proposed rulemaking are not planned.

Public Comment Period

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Department of Public Welfare, Office of Licensing and Regulatory Management, Teleta Nevius, Director, Room 316 Health and Welfare Building, P. O. Box 2675, Harrisburg, PA 17120, (717) 705-0383 within 30 days of the date of publication of this notice in the *Pennsylvania Bulletin*. Comments received within 30-calendar days will be reviewed and considered in the preparation of the final-form rulemaking. Comments after the 30-day comment period will be considered for any subsequent revisions of this regulation.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Regulatory Review Act

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 23, 2002, the Department submitted a copy of the proposed rulemaking to

the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Health and Human Services Committee and the Senate Public Health and Welfare Committee. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the expiration of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the review of objections raised, prior to final publication of the regulation, by the Department, the General Assembly and the Governor.

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-475. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

PART IV. ADULT SERVICES MANUAL

Subpart E. RESIDENTIAL AGENCIES/FACILITIES/SERVICES

CHAPTER 2600. PERSONAL CARE HOMES

Subchapter A. GENERAL ADMINISTRATIVE REQUIREMENTS

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GENERAL PROVISIONS

§ 2600.1. Purpose.

The purpose of this chapter is to assure that personal care homes provide safe, humane, comfortable and supportive residential settings for dependent adults who

require assistance beyond basic necessities of food and shelter but who do not need hospitalization or skilled or intermediate nursing care. Residents who live in personal care homes meeting the standards in this chapter will receive the encouragement and assistance they need to develop and maintain maximum independence and self-determination.

§ 2600.2. Scope.

(a) This chapter applies to personal care homes as defined in this chapter, and contains the minimum requirements that shall be met to obtain a license to operate a personal care home.

(b) This chapter does not apply to commercial boarding homes or to facilities operated by a religious organization for the care of clergy or other persons in a religious profession.

§ 2600.3. Inspections and licenses or certificates of compliance.

(a) An authorized agent of the Department will conduct onsite inspections of personal care homes.

(b) A certificate of compliance will be issued to the legal entity by the Department if, after an investigation by an authorized agent of the Department, the requirements for a certificate of compliance are met.

(c) The personal care home shall post the current certificate of compliance in a public place in the personal care home.

§ 2600.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

ADL—Activities of daily living—The term includes bathing, dressing and undressing, grooming, eating, transferring in out of bed or chair, toileting, bladder management, bowel management and additional personal care activities such as nail care and hair care.

Abuse—One or more of the following acts:

(i) The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain, or mental anguish.

(ii) The willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health.

(iii) Sexual harassment, rape or abuse, as defined in the Older Adult Protective Services Act (35 P. S. §§ 10225.101—10225.502), 6 Pa. Code Chapter 15 (relating to protective services for older adults) and 23 Pa.C.S. Chapter 61 (relating to protection from abuse).

(iv) Exploitation by an act or a course of conduct, including misrepresentation or failure to obtain informed consent which results in monetary, personal or other benefit, gain or profit for the perpetrator, or monetary or personal loss to the resident.

(v) Neglect of the resident, which results in physical harm, pain or mental anguish.

(vi) Abandonment or desertion by a caretaker.

Adult—A person who is 18 years of age or older.

Ancillary staff—A person who provides services for the personal care home but does not provide the services provided by direct care staff.

Agent—A person authorized by the Department or other State agency to enter, visit inspect or conduct an investigation of a personal care home.

Appropriate assessment agency or agent—An organization serving the aged or disabled population, such as a county mental health/mental retardation agency, a drug and alcohol agency, an area agency on aging or another human service agency or an individual in an occupation maintaining contact with the aged and disabled, such as medicine, nursing or rehabilitative therapies.

CAM—Complementary and alternative medications—Practices, substances and ideas used to prevent or treat illness or promote health and well-being outside the realm of modern conventional medicine. Alternative medicine is used alone or instead of conventional medicine. Complementary medicine is used along with or in addition to conventional medicine.

Commercial boarding home—A type of residential living facility providing only food and shelter, or other services normally provided by a hotel, for payment, for persons who require no services beyond food, shelter and other services usually found in hotel or apartment rental.

Complaint—A written or verbal criticism, dispute, or objection presented by or on behalf of a resident regarding the care, operations or management policies of a personal care home.

Department—The Department of Public Welfare of the Commonwealth.

Designee—The person authorized to act in the absence or in capacity of another. The authorization shall be documented in the resident's records when it concerns a resident's designee, and documented in the personnel records when it concerns the administrator's designee.

Direct care staff—

(i) A person who assists residents with activities of daily living, provides services or is otherwise responsible for the health, safety and welfare of the residents.

(ii) The term includes full and part time employees, temporary employees and volunteers.

Emergency medical plan—A plan that ensures immediate and direct access to medical care and treatment for serious injury, or illness, or both.

Financial management—

(i) A personal care service provided whenever the administrator serves as representative payee (or as guardian or power of attorney assigned prior to December 21, 1988) for a resident, or when a resident receives assistance in budgeting and spending of the personal needs allowance.

(ii) The term does not include storing funds in a safe place as a convenience for a resident.

Fire safety expert—A member of a local fire department, fire protection engineer, Commonwealth-certified fire protection instructor, college instructor in fire science, county or Commonwealth fire school, volunteer trained and certified by a county or Commonwealth fire school or an insurance company loss control representative.

IADL—Instrumental activities of daily living—The term includes the following:

(i) Doing laundry.

(ii) Shopping.

(iii) Using transportation.

(iv) Managing money.

(v) Using a telephone.

Immobile resident—

(i) An individual who is unable to move from one location to another, or has difficulty in understanding and carrying out instructions without the continual and 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.

(ii) The term does not mean that an immobile resident is incapable of self-administering medications.

Legal entity—A person, society, corporation, governing authority or partnership legally responsible for the administration and operation of a personal care home.

License—A certificate of compliance document issued by the Department permitting the operation of a personal care home, at a given location, for a specific period of time, for a specified capacity, according to appropriate Departmental program licensure or approval regulations.

Life care contract/guarantee—An agreement between the licensee and the resident that the licensee will provide care to the resident for the duration of the resident's life.

Long-term care nursing facility—A facility licensed by the Department of Health under the Health Care Facilities Act (35 P.S. §§ 448.101—448.904) that provides skilled or intermediate nursing care or both levels of care to two or more patients, who are unrelated to the nursing home administrator, for a period exceeding 24 hours.

Long-term care ombudsman—An agent of the Department of Aging who investigates and seeks to resolve complaints made by or on behalf of older individuals who are consumers of long-term care services. These complaints may relate to action, inaction or decisions of providers of long-term care services, of public agencies, of social service agencies or their representatives, which may adversely affect the health, safety, welfare or rights of these consumers.

Manual restraint—Any physical means that restricts, immobilizes or reduces a resident's ability to move his arms, legs, head or other body parts freely except that prompting, escorting or guiding a resident to assist in the activities of daily living will not be construed as a manual restraint.

Mobile resident—

(i) A resident who is physically and mentally capable of vacating the personal care home on the resident's own power or with limited assistance in the case of an emergency, including the capability to ascend or descend stairs if present on the exit path. Limited physical assistance means assistance in getting to one's feet, into a wheelchair, walker or prosthetic device. Verbal assistance means giving instructions to assist the resident in vacating the personal care home.

(ii) The term includes a person who is able to effectively operate a device required for moving from one place to another, and able to understand and carry out instructions for vacating the personal care home.

Neglect—The failure to provide for oneself or the failure of a caretaker to provide goods or services essential to avoid a clear and serious threat to physical or mental health. An adult who does not consent to the provision of protective services will not be found to be neglected solely on the grounds of environmental factors which are beyond

the control of the adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.

OTC—Over the counter.

Personal care home or *home*—A premise in which food, shelter and personal assistance or supervision are provided for a period exceeding 24 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 matters such as dressing, bathing, diet, financial management, evacuation of a home in the event of an emergency or medication prescribed for self-administration.

Personal care home administrator or *administrator*—An individual who is charged with the general administration of a personal care home, whether or not the individual has an ownership interest in the personal care home, and whether or not functions and duties are shared with other individuals.

Personal care resident or *resident*—A person, unrelated to the licensee, who resides in a personal care home and who may require and receive personal care services but does not require the level of care provided by a hospital or long-term care facility.

Personal care services—Assistance or supervision in matters, such as dressing, bathing, diet, financial management, evacuation of a resident in the event of an emergency or medication prescribed for self-administration.

Premises—The grounds and buildings on the same grounds, in proximity, used for providing personal care services.

Referral agent—An agency or individual who arranges for or assists, or both, with placement of a resident into a personal care home.

Relative—A spouse, parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece or nephew.

Restraint—

(i) A chemical or mechanical device used to restrict the movement or normal function of an individual or a portion of the individual's body. Mechanical devices used to restrain include geriatric chairs; posey; chest, waist, wrist or ankle restraints; locked restraints; and locked doors to prevent egress.

(ii) The term does not include devices used to provide support for the achievement of functional body position or proper balance as long as the resident can easily remove the device.

(A) Chemical restraint is the use of drugs or chemicals for the specific and exclusive purpose of controlling acute or episodic aggressive behavior.

(B) Drugs administered on a regular basis, as prescribed by a physician for the purposes of treating the symptoms of mental, emotional or behavioral disorders and for assisting the resident in gaining self-control over impulses, are not to be considered chemical restraints.

SP—Support plan—A written document for each resident describing the resident's care, service or treatment needs, and when the care, service or treatment will be provided, and by whom.

State agency—Any executive agency or independent agency as defined in 2 Pa.C.S. § 101 (relating to definitions).

Volunteer—A person who, of his own free will, and without monetary compensation, provides services for residents in the personal care home.

(i) Volunteers who perform direct care services shall meet the minimum qualifications and training of staff persons.

(ii) Residents receiving personal care services who voluntarily perform tasks in the personal care home are not to be considered volunteers for the purpose of determining compliance with the staffing requirements of this chapter.

§ 2600.5. Access requirements.

(a) The Department has the right to enter, visit and inspect any personal care home licensed or requiring a license and shall have full and free access to the records of the personal care home and to the residents therein and full opportunity to interview, inspect or examine the residents.

(b) The administrator and staff shall provide, upon request, immediate access to the personal care home, the residents, and the residents' records to:

- (1) Agents of the Department or other State agencies.
- (2) Representatives of the Department of Aging's Older Adults Protective Services Program.
- (3) The Long-Term Ombudsman Program.

(c) The administrator shall permit a resident's relatives, community service organizations and representatives of community legal services programs to have access to the personal care home during the personal care home's visitation hours or by appointment for the purpose of visiting, assisting or informing the residents of the availability of services and assistance.

GENERAL REQUIREMENTS

§ 2600.11. Procedural requirements for licensure or approval of personal care homes.

(a) Except for §§ 20.31 and 20.32 (relating to annual inspection; and announced inspections), the requirements in Chapter 20 (relating to licensure or approval of facilities and agencies) apply to personal care homes.

(b) Personal care homes shall be inspected as often as required by section 211(l) of the Public Welfare Code (62 P. S. § 211(l)), and more often as necessary. After initial approval, homes need not be visited or inspected annually except that the Department will schedule inspections in accordance with a plan that provides for the coverage of at least 75% of the licensed personal care homes every 2 years and all homes shall be inspected at least once every 3 years.

§ 2600.12. Appeals.

Appeals related to the licensure or approval of the personal care home shall be made in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

§ 2600.13. Maximum capacity.

(a) The licensed capacity is the total number of residents who are permitted to reside in the personal care section of the personal care home at any time. A request to increase the capacity shall be submitted to the Department and other applicable authorities and approved prior to the admission of additional residents. The licensed capacity is limited by physical plant space, zoning and other applicable statutes and regulations.

(b) The maximum capacity specified on the license or certificate of compliance may not be exceeded.

§ 2600.14. Fire safety approval.

(a) Except in the cities of Scranton, Pittsburgh and Philadelphia, a personal care home shall have written fire safety approval prior to issuance of a certificate of compliance. Written fire safety approval shall be from either the Department of Labor and Industry or the Department of Health. In the cities of Scranton, Pittsburgh and Philadelphia, a personal care home shall have written fire safety approval prior to issuance of a certificate of compliance from the appropriate department of public safety. When fire safety approval is not required by these agencies, a valid written fire safety approval from a fire safety expert is required.

(b) If the fire safety approval is withdrawn or restricted, the personal care home shall notify the Department orally within 24 hours and in writing within 48 hours of the withdrawal or restriction.

(c) If a building is structurally renovated or altered after the initial fire safety approval is issued, the personal care home shall submit the new fire safety approval, or written certification that a new fire safety approval is not required, from the appropriate fire safety authority. This documentation shall be submitted to the Department within 30 days of the completion of the renovation or alteration.

(d) Authorized agents of the Department will request additional fire safety inspections by the appropriate agency if, during an inspection, an authorized agent observes possible fire safety violations.

(e) A personal care home shall be in compliance with applicable Federal, State and local statutes, ordinances, and regulations, including those statutes or regulations pertaining to fire and panic.

§ 2600.15. Abuse reporting covered by statute.

(a) The personal care home shall immediately report suspected abuse of a resident served in the home in accordance with the Older Adult Protective Services Act (35 P. S. §§ 10225.701–10225.707) and 6 Pa. Code § 15.21–15.27 (relating to reporting suspected abuse).

(b) If there is an allegation of abuse of a resident involving the home's staff, the home shall immediately implement a plan of supervision or suspension of the staff person and shall submit to the personal care home regional field licensing office a plan of supervision or notice of suspension of the affected staff person.

§ 2600.16. Reportable incidents.

(a) A reportable incident includes the following:

(1) The death of a resident due to accident, abuse, neglect, homicide, suicide, malnutrition, dehydration or other unusual circumstances.

(2) Attempted suicide by a resident.

(3) A serious physical bodily injury, trauma or medication error requiring treatment at a hospital or medical facility. This does not include minor injuries such as sprains or minor cuts.

(4) A violation of a resident's rights in §§ 2600.41–2600.43 (relating to resident rights).

(5) An unexplained absence of a resident for 24 hours or more, or when the support plan so provides, a period of less than 24 hours.

(6) Misuse of a resident's funds by the personal care home staff or legal entity.

(7) An outbreak of a serious communicable disease as defined in 28 Pa. Code § 27.2 (relating to reportable diseases).

(8) Food poisoning of residents.

(9) A physical assault by or against a resident.

(10) Fire or structural damage to the personal care home.

(11) An incident requiring the services of an emergency management agency, fire department or law enforcement agency.

(12) A condition that results in an unscheduled closure of the personal care home or the relocation of the residents for more than 1 day of operation.

(13) A complaint of resident abuse, suspected abuse, referral of a complaint of resident abuse to a local authority for an investigation or the results of any investigation conducted by the personal care home of possible resident abuse.

(14) Any disasters under § 2600.107 (relating to internal and external disasters).

(15) A situation in which there are no staff to supervise the personal care home.

(16) Bankruptcy filed by the personal care home or its legal entity.

(17) Criminal convictions against the legal entity, administrator or staff that are subsequent to the reporting on the criminal history checks under § 2600.51 (relating to resident abuse and criminal history checks).

(18) A termination notice from a utility.

(b) The personal care home shall develop and implement written policies and procedures on the prevention, reporting, notification, investigation and management of reportable incidents.

(c) The personal care home shall immediately report the incident to the home regional field licensing office or a designee in a manner designated by the Department. Abuse reporting shall also follow the guidelines in § 2600.15 (relating to abuse reporting covered by statute).

(d) A preliminary written notification of incidents, on a form prescribed by the Department, shall be sent to the personal care home regional field licensing office within 5 days of the occurrence. Abuse reporting shall also follow the requirements in § 2600.15.

(e) The personal care home shall submit a final report, on a form prescribed by the Department, to the regional field licensing office immediately following the conclusion of the investigation.

(f) The personal care home shall keep a copy of the incident report on file as required by § 2600.243 (b) (relating to record retention and disposal).

§ 2600.17. Confidentiality of records.

Resident records shall be confidential, and, except in emergencies, may not be open to anyone other than the resident, the resident's designee, if any, agents of the Department and the long-term care ombudsman unless the resident, or a designee, consents, or a court orders disclosure.

§ 2600.18. Applicable health and safety laws.

A personal care home shall comply with applicable Federal, State and local statutes, ordinances and regulations, especially those statutes or regulations pertaining to fire and panic, public health, civil rights and protective services.

§ 2600.19. Waivers.

(a) A licensed personal care home may submit a written request for a waiver of a specific requirement contained in this chapter. The waiver request shall be on a form prescribed by the Department. The Department may grant a waiver of a specific section of this chapter if the following conditions are met:

- (1) There is no jeopardy to the residents of the home.
- (2) There is an alternative for providing an equivalent level of health, safety and well-being protection of the residents of the home.
- (3) Residents will benefit from the waiver of the requirement.
- (b) The scope, definitions, applicability or residents' rights under this chapter may not be waived.
- (c) Thirty days prior to the submission of the completed written waiver request to the Department, the personal care home shall provide a copy of the completed written waiver request to the residents of the home to allow the residents the opportunity to submit comments to the Department. The personal care home shall also provide the residents with the name, address and phone number of the personal care home field licensing field office to submit their comments. The home shall interview affected residents as appropriate.
- (d) A personal care home seeking a waiver shall submit a written request for a waiver to the appropriate personal care home licensing field office. A waiver granted by the Department will be in writing, also be part of the home's permanent record and shall be maintained on file in the home's records.
- (e) The personal care home shall notify the residents of the approval or denial of the waiver request. A copy of the waiver request shall be posted in a conspicuous public place within the home.
- (f) Waivers are subject to a periodic review by the Department to determine whether acceptable conditions exist for renewal of the waiver. The Department reserves the right to revoke the waiver if the conditions required by the waiver are not met.

(g) A structural waiver will not be granted to a new facility, new construction or renovations begun after _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*) Upon request, the Department will review building plans to assure compliance with the this chapter.

§ 2600.20. Resident funds.

(a) If the personal care home assumes the responsibility of maintaining a resident's financial resources, the following records shall be maintained for each resident:

- (1) A separate record of financial resources, including the dates, amounts of deposits, amounts of withdrawals and the current balance.
- (2) Deposits and expenditures shall be documented with written receipts. Disbursement of funds to the resident shall be documented and the resident shall acknowledge the receipt of funds in writing. Accounts

shall clearly reflect deposits, receipt of funds, disbursal of funds and the current balance.

(3) A record of gifts or other funds received by or deposited with the home on behalf of the resident.

(b) If the personal care home assumes the responsibility of maintaining a resident's financial resources, the following requirements shall be met:

- (1) There shall be documentation of counseling sessions, concerning the use of funds and property, if requested by the resident.
- (2) The home may not prohibit the resident's right to manage his own finances.
- (3) Resident funds and property shall only be used for the resident's benefit.
- (4) The resident shall be given funds requested within 24 hours if available, and immediately if the request is for \$10 or less. This service shall be offered on a daily basis.
- (5) The home shall obtain a written receipt from the resident for cash disbursements.
- (6) There may be no commingling of the resident's personal needs allowance with the home's or staff person's funds or the home's operating accounts.
- (7) If a home is holding funds in excess of \$200 for more than 2-consecutive months, the administrator shall notify the resident and offer assistance in establishing an interest-bearing account in the resident's name at a local Federally-insured financial institution. This does not include security deposits.

(8) The owners of the home, its administrators and employees are prohibited from being assigned power of attorney or guardianship of a resident.

(9) The home shall give the resident an annual written account of financial transactions made on the resident's behalf. The home shall provide the resident the opportunity to review his own financial record upon request during normal working hours. A copy shall be placed in the resident's record.

(10) Upon the death of a resident, the administrator shall surrender to the resident's estate funds and valuables of that resident which were entrusted to the administrator or left in the home. In addition, an itemized written account of the resident's funds and valuables, which were entrusted to the administrator, shall be surrendered, and a signed receipt shall be obtained and retained by the administrator.

(11) Within 30 days of either the termination of service by the home or the resident's decision to leave the home, the resident shall receive an itemized written account of funds, including notification of funds still owed the home by the resident or a refund owed the resident by the home.

(12) Upon discharge or transfer of the resident, the administrator shall immediately return the resident's funds being managed or being stored by the home to the resident.

§ 2600.21. Offsite services.

If services or activities are provided by the home at a location other than the premises, the home shall ensure that the residents' support plans are followed and that the health and safety needs are met for all of the residents.

§ 2600.22. Legal entity.

The legal entity shall operate the home in accordance with this chapter.

§ 2600.23. Personnel management.

The personal care home shall:

(1) Establish a work schedule and maintain copies for a year or until all litigation or audits are resolved, whichever is later.

(2) Establish and maintain written job descriptions for all positions that include:

(i) Job title.

(ii) Tasks, responsibilities and essential functions of the job.

(iii) Qualifications.

(3) Provide each staff member with a copy of the job description at the time of hire and whenever the job description is changed. This shall be documented.

§ 2600.24. Tasks of daily living.

A home shall provide residents with assistance with tasks of daily living as indicated in their support plan and assessment, including one or more of the following:

- (1) Securing transportation.
- (2) Shopping.
- (3) Making and keeping appointments.
- (4) Care of personal possessions.
- (5) Use of the telephone.
- (6) Correspondence.
- (7) Personal laundry.
- (8) Social and leisure activities.
- (9) Securing health care.
- (10) Ambulation.
- (11) Use of prosthetic devices.
- (12) Eating.

§ 2600.25. Personal hygiene.

A personal care home shall provide residents with assistance with personal hygiene as indicated in the support plan and assessment, including one or more of the following:

- (1) Bathing.
- (2) Oral hygiene.
- (3) Hair grooming and shampooing.
- (4) Dressing and care of clothes.
- (5) Shaving.

§ 2600.26. Resident-home contract: information on resident rights.

(a) Prior to, or within 24 hours after admission, a written admission contract between the resident and the personal care home shall be in place. The administrator or a designee is responsible for completing this contract and shall review and explain its contents to the resident and the resident's designee, if any, prior to signature.

(1) The contract shall be signed by the administrator or a designee, and the resident and the payer, if different from the resident, and cosigned by the resident's designee, if any, if the resident agrees. At a minimum, the contract shall specify the following:

(i) Each resident shall retain, at a minimum, the current personal needs allowance as the resident's own funds for personal expenditure. A contract to the contrary is not valid.

(ii) The actual amount of allowable resident charges for each service or item. The actual amount of the periodic—for example, monthly—charge for food, shelter, services and additional charges, and how, when and by whom payment is to be made.

(iii) An explanation of the annual screening, medical evaluation, and support plan requirements and procedures, which shall be followed if either the screening or the medical evaluation indicates the need of another and more appropriate level of care.

(iv) The party responsible for payment.

(v) The method for payment of charges for long distance telephone calls.

(vi) The conditions under which refunds will be made, including the refund of admission fees and refunds upon a resident's death.

(vii) The financial arrangements if assistance with financial management is to be provided.

(viii) The home's rules and requirements related to home services, including whether the home is designated as a smoking or nonsmoking home.

(ix) The conditions under which the agreement may be terminated including home closure as specified in § 2600.228 (relating to notification of termination).

(x) A statement that the resident is entitled to at least 30 days' advance notice, in writing, of the home's intent to change the contract.

(xi) A list of personal care services and their costs to be provided to the resident based on the outcome of the resident's support plan.

(xii) Additional services and their costs that shall be billed to the resident for the cost of services or items not included in the cost of care.

(xiii) Written information on the resident's rights and grievance procedures as specified in § 2600.41 (relating to notification of rights and complaint procedures).

(xiv) Charges to the resident for holding a bed during hospitalization or other extended absence from the home shall be specified.

(2) A personal care home may not seek or accept payments from a resident in excess of one-half of any funds received by the resident under the Senior Citizens Rebate and Assistance Act (72 P. S. §§ 4751-1—4751-12). If the personal care home will be assisting the resident to manage a portion of the rent rebate, the requirements of § 2600.20 (relating to resident funds) may apply. There may be no charge for filling out this paperwork.

(3) The resident, or a designee, has the right to rescind the contract for up to 72 hours after the initial dated signature of the contract. Rescission of the contract shall be in writing addressed to the home.

(b) The personal care home may not require or permit a resident to assign assets to the home in return for a life care contract/guarantee. Continuing care communities that have obtained a Certificate of Authority from the Insurance Department are required to provide a copy of the certificate to the Department and will then be exempt from this requirement.

(c) A copy of the signed admission contract shall be given to the resident and a copy shall be filed in the resident's record.

(d) The service needs addressed in the resident's support plan shall be available to the resident 365 days a year.

§ 2600.27. Quality management.

(a) The personal care home shall establish and implement quality assessment and management plans.

(b) At minimum, the following shall be addressed in the plan review:

- (1) Incident reports.
- (2) Complaint procedures.
- (3) Staff training.
- (4) Monitoring licensing data and plans of correction, if applicable.
- (5) Resident or family councils, or both.

(c) If the personal care home fails to establish and implement quality assessment and management plans, the Department reserves the right to create the criteria that the home will utilize in establishing those plans.

§ 2600.28. Supplemental Security Income (SSI) recipients.

(a) For a resident eligible for SSI benefits, the personal care home charges for actual rent and other services may not exceed the SSI resident's actual current monthly income reduced by the current personal needs allowance.

(b) The administrator may not include funds received as lump sum awards, gifts or inheritances, gains from the sale of property, or retroactive government benefits when calculating payment of rent for an SSI recipient or for a resident eligible for SSI benefits.

(c) An administrator may seek and accept payments from funds received as retroactive awards of 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 and for which full payment has not been received.

(d) An administrator shall provide each resident who is a recipient of SSI, at no charge beyond the amount determined in subsection (a), the following items or services as needed:

- (1) Necessary personal hygiene items, such as a comb, toothbrush, toothpaste, soap and shampoo. Cosmetic items are not included.
- (2) Laundry services, including personal laundry, but not including dry cleaning or other specialized services.
- (3) Personal care services.

(e) Third-party payments made on behalf of an SSI recipient and paid directly to the home are permitted. These payments may not be used for food, clothing or shelter because to do so would reduce SSI payments. See 20 CFR 416.1100 and 416.1102 (relating to income and SSI eligibility; and what is income). These payments may be used to purchase items or services which are not food, clothing or shelter.

§ 2600.29. Refunds.

(a) If, after the personal care home gives notice of discharge or transfer in accordance with § 2600.26 (relating to requirements for resident/home contract; information on resident rights), and the resident moves out of the

home before the 30 days are over, the home shall give the resident a refund equal to the previously paid charges for rent and personal care services for the remainder of the 30-day time period. The refund shall be issued within 30 days of discharge. The resident's personal needs allowance shall be refunded within 1 week of discharge or transfer.

(b) After a resident gives notice of the intent to leave in accordance with § 2600.26, and if the resident moves out of the home before expiration of the required 30 days, the resident owes the home the charges for rent and personal care services for the entire length of the 30-day time period for which payment has not been made.

(c) If no notice is required, as set forth in subsection (d), the resident is required to pay only for the nights spent in the home.

(d) If the personal care home does not require a written notice prior to a resident's departure, the administrator shall refund the remainder of previously paid charges to the resident within 7 days of the date the resident moved from the home. In the event of a death of a resident, the administrator shall refund the remainder of previously paid charges to the estate of the resident when the room is vacated and within 30 days of death. The home shall keep documentation of the refund in the resident's file.

(e) If a resident is identified as needing a higher level of care and is discharged to another facility, the personal care home shall provide a refund within 7 days from the date of discharge when the room is vacated or within 7 days from notification by the facility.

§ 2600.30. Fees.

After the Department determines that a personal care home meets the requirements for a license, the Department's issuance or renewal of a license to a home is contingent upon receipt by the Department of an application fee based on the number of beds in the home, as follows:

- (1) 0-20 beds—\$15.
- (2) 21-50 beds—\$20.
- (3) 51-100 beds—\$30.
- (4) 101 beds and over—\$50.

RESIDENT RIGHTS

§ 2600.41. Notification of rights and complaint procedures.

(a) Upon admission each resident and, if applicable, the resident's family and advocate, if any, shall be informed of the resident rights and the right to lodge complaints without retaliation, or the fear or threats of retaliation of the home or its staff against the reporter. Retaliation includes discharge or transfer from the home.

(b) The information in subsection (a) shall be communicated in an easily understood manner, and in a language understood by or mode of communication of the resident and, if applicable, the resident's family and advocate, if any.

(c) A copy of the resident's rights and the complaint procedures, shall be posted in a conspicuous place in the home and given to the resident and, if applicable, the resident's family and advocate, if any, upon admission.

(d) A statement signed by the resident and, if applicable, the resident's family and advocate, if any, acknowledging receipt of a copy of the information specified in

subsection (a), or documentation of efforts made to obtain signature, shall be kept in the resident's record.

(e) A resident and, if applicable, the resident's family and advocate, if any, have the right to lodge a complaint with the home for an alleged violation of specific or civil rights without retaliation, or the fear or threats of retaliation.

(f) The personal care home shall ensure investigation and resolution of complaints regarding an alleged violation of a resident's rights. The procedures shall include the timeframes, steps, and the person or persons responsible for determining the outcome of the complaint and appeal procedures.

(g) The personal care home shall render a decision within 14-calendar days upon receipt of the complaint and inform the resident and, if applicable, the resident's family and advocate, if any, of the outcome in writing.

(h) The personal care home shall inform the resident and, if applicable, the resident's family and advocate, if any, about the right to file complaints and appeals beyond the home's internal system. A resident and, if applicable, the resident's family and advocate, if any, may file a complaint with the local ombudsman in the area agency on aging, or in the case of abuse incidents with the local protective services unit of the area agency on aging, law enforcement or the appropriate Departmental licensing office. These phone numbers shall be posted in large print in a conspicuous place in the home.

(i) In addition, the resident and, if applicable, the resident's family and advocate, if any, shall be made aware of the telephone number of the Governor's Action Center Toll Free Line, (800) 932-0784, the personal care home complaint hotline, (800) 254-5164, the local long-term care ombudsman, and other advocacy agencies to which the resident and, if applicable, the resident's family or advocate, if any, may address complaints when the resident and, if applicable, the resident's family or advocate, if any, feels that complaints have not been properly resolved through the home's complaint procedure. The telephone numbers for the Governor's Action Center Toll Free Line, the personal care home complaint hotline and the local long-term care ombudsman shall be posted in large print in a conspicuous place in the home.

(j) The resident has the right to access the public inspection records of the home.

§ 2600.42. Specific rights.

(a) A resident may not be discriminated against because of race, color, religious creed, disability, handicap, ancestry, sexual orientation, national origin, age or sex.

(b) A resident may not be neglected, abused, mistreated or subjected to corporal punishment.

(c) A resident shall be treated with dignity and respect.

(d) A resident shall be informed of the rules of the personal care home and given 30 days' written notice prior to the effective date of a new rule of the home.

(e) A resident shall have private access to a telephone in the personal care home. Local calls shall be without charge.

(f) A resident shall have the right to receive and send mail.

(1) Outgoing mail may not be opened or read by staff persons.

(2) Incoming mail may not be opened or read by staff persons unless upon resident request.

(g) A resident shall have the assurance that personal care homes shall be open 365 days and provide the service needs identified in the resident's support plan.

(h) A resident shall have the right to practice the religion or faith of the resident's choice, or not to practice any religion or faith.

(i) A resident shall receive assistance in accessing medical, behavioral health, rehabilitation services and dental treatment.

(j) A resident shall receive assistance in attaining clean, seasonal clothing that is age and gender appropriate.

(k) A resident and, upon their request, the resident's family and advocate, if any, shall have the right to access, review and request modifications to the resident's record.

(l) A resident shall have the right to purchase, receive and use personal property.

(m) A resident shall have the right to leave and return to the home at reasonable times consistent with the personal care home's rules.

(n) A resident shall have the right to request and receive assistance, from the personal care home, in relocating to another facility.

(o) A resident shall be free to associate and communicate with others privately.

(p) A resident shall be free from restraints.

(q) A resident shall be compensated in accordance with State and Federal labor statutes for labor performed on behalf of the personal care home. Residents shall perform personal housekeeping tasks related directly to the resident's personal space but may not perform tasks in lieu of a staff person who is otherwise required to perform these tasks.

(r) A resident, the resident's family, advocates, if any, community service organizations and legal representatives shall have access to the personal care home during visitation hours or by appointment. A resident shall have the right to receive visitors for a minimum of 8 hours daily, 7 days per week.

(s) A resident shall have the right to privacy of self and possessions.

(t) A resident shall have the right to voice complaints and recommend changes in policies and services of the personal care home without fear of reprisal, intimidation or retaliation.

(u) A resident shall have the right to remain in the personal care home, as long as it is operating with a license, except in the circumstances of:

(1) Nonpayment following a documented effort to obtain payment.

(2) Higher level of care needs.

(3) The resident is a danger to himself or others.

(v) A resident shall have the right to receive services contracted for in the resident's agreement.

(w) A resident shall have the right to appeal discharge, reductions, changes or denials of services originally contracted. The personal care home shall have written resident appeal policies and procedures. The resident shall receive an answer to the appeal within 14-calendar days after submission.

(x) A resident shall have the right to immediate payment by the personal care home to resident's money stolen or mismanaged by the home's staff.

(y) A resident shall have the right to manage personal financial affairs.

(z) A resident shall have the right to be free from excessive medication.

§ 2600.43. Prohibition against deprivation of rights.

(a) A resident may not be deprived of his civil rights.

(b) A resident's rights may not be used as a reward or sanction.

Subchapter B. HEALTH AND SAFETY REQUIREMENTS

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STAFFING

§ 2600.51. Resident abuse and criminal history checks.

Criminal history checks and hiring policies shall be in accordance with the Older Adult Protective Services Act (35 P. S. §§ 10225.101—10225.5102) and 6 Pa. Code Chapter 15 (relating to protective services for older adults).

§ 2600.52. Staff hiring, retention and utilization.

Staff hiring retention and utilization shall be in accordance with the Older Adult Protective Services Act (35 P. S. §§ 10225.101—10225.5102) and 6 Pa. Code Chapter 15 (relating to protective services for older adults) and other applicable regulations.

§ 2600.53. Staff titles and qualifications for administrators.

(a) The administrator shall have one of the following qualifications:

(1) A valid license as a registered nurse from the Commonwealth.

(2) An associate's degree or 60 credit hours from an accredited college or university.

(3) A valid license as a licensed practical nurse from the Commonwealth and 1 year of work experience in a related field.

(4) A valid license as a nursing home administrator, from the Commonwealth.

(b) The administrator shall be 21 years of age or older.

(c) The administrator shall complete at least the minimum training required by the Department.

(d) The administrator shall be responsible for the administration and management of the personal care home, including the safety and protection of the residents, implementation of policies and procedures and compliance with this chapter.

(e) The administrator shall have the ability to provide personal care services, or to supervise or direct the work of others to provide personal care services.

(f) The administrator shall have knowledge of this chapter.

(g) The administrator shall have the ability to conform to applicable statutes, rules and regulations, including this chapter.

(h) The administrator shall have the ability to maintain or supervise the maintenance of financial and other records.

(i) The administrator shall be of good moral character.

(j) The administrator shall be free from a medical condition, including drug or alcohol addiction that would limit the administrator from performing duties with reasonable skill and safety.

§ 2600.54. Staff titles and qualifications for direct care staff.

Direct care staff shall have the following qualifications:

(1) Be 18 years of age or older.

(2) Have a high school diploma or GED.

(3) Be of good moral character.

(4) Be free from a medical condition, including drug or alcohol addiction that would limit the direct care staff from providing necessary personal care services with reasonable skill and safety.

§ 2600.55. Exceptions for staff qualifications.

(a) The staff qualification requirements for administrator and direct care staff do not apply to persons hired or promoted to the specified positions prior to _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal.) as long as the home maintains a current license.

(b) A staff person who transfers to another licensed home, with no more than a 1-year break in service, may work in the same capacity as long as the staff person meets the qualifications outlined in subsection (a).

(c) Notwithstanding § 2600.54 (relating to staff titles and qualifications for direct care staff), a 16 or 17 year old may be employed as a staff person at a personal care home, but may not perform tasks related to medication administration, and the incontinence care or bathing of persons of the opposite sex.

§ 2600.56. Staffing.

(a) A personal care home shall employ a sufficient number of trained staff to ensure the daily provision of the aggregate total of personal care service hours required by the support plans for all residents in the

facility. At minimum, each mobile resident shall receive an average of 1 hour of personal care services per day, and each immobile resident or resident with special needs shall receive an average of 2 hours of personal care services per day.

(b) If a resident's support plan indicates that the resident's personal care service needs exceed the minimum staffing levels in subsection (a), the personal care home shall provide a sufficient number of trained direct care staff to provide the necessary level of care required by the resident's support plan. If a home cannot meet a resident's needs, the resident shall be referred to a local assessment agency or agent under § 2600.225(e) (relating to initial assessment and the annual assessment).

(c) An administrator, or a designee who is 21 years of age or older and meets the qualifications outlined in § 2600.54 (relating to staff titles and qualifications for direct care staff), shall be on the premises on a 24-hour basis. The administrator shall be present in the personal care home an average of at least 20 hours per week, or in the alternative, a designee shall meet all of the qualifications and training for an administrator under § 2600.53 (relating to staff titles and qualifications for administrators).

(d) When one or more residents requiring personal care services is physically present, the personal care home shall maintain a sufficient number of trained direct care staff to provide the necessary level of care required by the residents, and to be physically present to accommodate each resident's needs, as identified in each resident's support plan, and to ensure a safe and efficient evacuation of the home in case of an emergency. At least 75% of the personal care service hours shall be available during waking hours.

(e) A personal care home with multiple buildings that are within 300 feet of one another and have three or fewer residents present per building shall have one direct care staff person who circulates between the buildings every hour, conducting inspections of the building and checking in on the residents. Each building shall maintain an operable two-way communication system to serve residents in buildings where a direct care staff person is not present. Multiple buildings, regardless of footage from other buildings, with four or more residents present, shall provide at least one direct care staff person per building who is on the premises and awake.

(f) A personal care home with 4–15 mobile residents, all of whom are mobile, shall maintain coverage by the administrator, or a designee, or a direct care staff person who is physically present and available on the premises at all times when one or more residents requiring personal care services is physically present.

(g) In a personal care home with 16 or more mobile residents, the administrator, or a designee, shall maintain coverage by direct care staff persons who are awake, physically present and available on the premises during 24 hours of the day.

(h) During sleeping hours, there shall be at least one direct care staff person, who remains awake, available and in each building housing one or more immobile residents.

(i) Additional staffing may be required by the Department, and will be based on safety, the Department's assessment of the amount of care needed by the residents as reflected in their support plans, and the design, construction, staffing or operation of the home.

(j) Additional staff hours, or contractual services, shall be provided as necessary to meet the laundry, food service, housekeeping and maintenance needs of the personal care home.

(k) When regularly scheduled direct care staff persons are absent, the administrator shall arrange for coverage by substitute personnel who meet the direct care staff qualifications and training requirements.

(l) The administrator shall maintain a current list of the names, addresses and telephone numbers of all employees, including substitute personnel.

(m) An administrator may be counted in the staffing ratios if the administrator is scheduled to provide direct care services.

§ 2600.57. Administrator training and orientation.

(a) Prior to initial employment at a personal care home, an administrator shall successfully complete an orientation program approved by the Department and administered by the Department or its approved designee.

(b) Prior to licensure of a personal care home, the legal entity shall appoint an administrator who has successfully completed and passed a Department-approved competency-based training that includes 60 hours of Department-approved competency-based training, and has successfully completed and passed 80 hours of competency-based internship in a licensed home under the supervision of a Department-trained administrator.

(c) The 60 hours of Department-approved competency-based training shall include the following:

- (1) Fire prevention and emergency planning.
- (2) First aid training, medications, medical terminology and personal hygiene, which shall include:
 - (i) Medication procedures.
 - (ii) Cardio-pulmonary resuscitation (CPR) certification.
 - (iii) Obstructed airway techniques certification.
- (3) Local, State and Federal laws and regulations pertaining to the operation of a home.
- (4) Nutrition, food handling and sanitation.
- (5) Recreation.
- (6) Mental illness and gerontology, which shall include:
 - (i) Resident rights.
 - (ii) Care for persons with dementia and cognitive impairments.
 - (iii) Care for persons with mental retardation.
- (7) Community resources and social services.
- (8) Staff supervision, budgeting, financial recordkeeping and training, which includes the following:

(i) Writing, completing and implementing pre-admission screening tools, initial assessments, annual assessments and support plans.

(ii) Resident-home contracts.

(iii) Development of orientation and training guidelines for staff.

(d) The 80 hours of competency-based internship in a licensed personal care home under the supervision of a Department-trained administrator shall include the following:

(1) Staff supervision, budgeting, financial record keeping and training, which shall include the following:

(i) Writing, completing and implementing preadmission screening tools, initial assessments, annual assessments and support plans.

(ii) Resident-home contracts.

(iii) Staff management.

(iv) Marketing.

(2) Community resources and social services.

(3) Nutrition, food handling and sanitation, which includes the following:

(i) Housekeeping.

(ii) Dietary needs.

(iii) Laundry.

(iv) Maintenance.

(v) Safety.

(4) Medications, medical terminology and personal hygiene.

(5) Mental illness and gerontology, which includes the following:

(i) Resident rights.

(ii) Care for persons with dementia and cognitive impairments.

(iii) Care for persons with mental retardation.

(6) Local, State and Federal laws and regulations pertaining to the operation of a home.

(e) An administrator shall have at least 24 hours of annual training relating to the job duties, which includes the following:

(1) Current training in first aid, certification in obstructed airway techniques and certification in cardiopulmonary resuscitation that is appropriate for the population served. Training in first aid, obstructed airway techniques and cardiopulmonary resuscitation shall be provided by an individual certified as a trainer by a hospital or other recognized health care organization. Registered nurses, licensed practical nurses, certified registered nurse practitioners, emergency medical technicians, paramedics, physician's assistants or licensed physicians are exempt from the requirement for annual first aid training.

(2) Personal care service needs of the resident.

(3) Fire prevention and emergency planning.

(4) Medications, medical terminology and personal hygiene, which includes the following:

(i) Medication procedures.

(ii) Medication self-administration.

(iii) Infection control and general principles of cleanliness and hygiene, and areas associated with immobility such as prevention of decubitus ulcers, incontinence, malnutrition and dehydration.

(5) Staff supervision, budgeting, financial recordkeeping and training, which includes the following:

(i) Writing, completing and implementing preadmission screening tools, initial assessments, annual assessments and support plans.

(ii) Resident-home contracts.

(iii) Development of orientation and training guidelines for staff.

(6) Local, State and Federal laws and regulations pertaining to the operation of a home.

(7) Nutrition, food handling and sanitation.

(8) Recreation.

(9) Mental illness and gerontology, which includes the following:

(i) Resident rights.

(ii) Care for persons with dementia and cognitive impairments.

(iii) Care for persons with mental retardation.

(iv) Safe management technique training, which includes positive interventions such as:

(A) Improving communications.

(B) Reinforcing appropriate behaviors.

(C) Redirection.

(D) Conflict resolution.

(E) Violence prevention.

(F) Verbal praise.

(G) Deescalation techniques.

(H) Alternatives and techniques to identify depression.

(I) Methods to identify and diffuse potential emergency safety situations.

(J) Managing medical emergencies.

(10) Community resources and social services.

(11) Staff supervision, budgeting, financial recordkeeping and training, which includes the following:

(i) Writing and completing preadmission screening tools, initial intake assessments, annual assessments and support plans.

(ii) Resident-home contracts.

(iii) Development of orientation and training guidelines for staff.

(f) An administrator who has successfully completed the training in subsections (a)—(e) shall provide written verification of successful completion to the appropriate personal care home regional field licensing office designated by the Department.

(g) A licensed nursing home administrator who is employed as a personal care home administrator prior to _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal.) is exempt from the training and educational requirements of this chapter if the administrator continues to meet the requirements of the State Board of Nursing Home Administrators. A licensed nursing home administrator hired as a personal care home administrator after _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal.) shall pass the 40-hour personal care home administrators competency-based training test. A licensed nursing home administrator who fails to pass the test shall attend the required 40-hour personal care home administrators training, and retake the competency test, until a passing grade is achieved.

(h) A record of training including the person trained, date, source, content, length of each course and copies of any certificates received, shall be kept by the personal care home.

§ 2600.58. Staff training and orientation.

(a) Prior to working with residents, all staff including temporary staff, part-time staff and volunteers shall have an orientation that includes the following:

(1) General fire safety including:

(i) Evacuation procedures.

(ii) Responsibilities during fire drills.

(iii) The designated meeting place outside the building or within the fire-safe area in the event of an actual fire.

(iv) Smoking safety procedures and location of smoking areas, if applicable.

(v) The placement and use of fire extinguishers.

(vi) Smoke detectors and fire alarms.

(vii) Phone use and notification of the local fire or police departments, or both.

(2) Resident rights.

(3) Emergency medical plan.

(4) Personnel policies and procedures.

(5) General operation of the personal care home.

(b) Ancillary staff shall have a general orientation to their specific job functions as it relates to their position prior to working in that capacity.

(c) Training of direct care staff hired after _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal.) shall include a demonstration of job duties, followed by guided practice, then proven competency before newly-hired direct care staff may provide unsupervised direct care in any particular area. Prior to direct contact with residents, all direct care staff shall successfully complete and pass the following competency-based training including the following specific job duties and responsibilities:

(1) Resident care.

(2) ADL's.

(3) Medication procedures, medical terminology and personal hygiene.

(4) Care of residents with mental illness and cognitive impairments.

(5) Personal care services.

(6) Implementation of the initial assessment, annual assessment and support plan.

(7) Nutrition, food handling and sanitation.

(8) Recreation.

(9) Gerontology.

(10) Staff supervision, if applicable.

(11) Needs of residents with special emphasis on the residents being served in the personal care home.

(12) Safety management and prevention.

(13) Use of medications, purposes and side effects of medications, and use of universal precautions.

(14) Policies and procedures of the home, including the following:

(i) Reportable incidents.

(ii) Implementation of support plans.

(d) Ancillary staff shall have a general orientation to their specific job functions as it relates to their position

prior to working in that capacity. Ancillary staff shall receive training specific to their job function.

(e) Direct care home staff shall have at least 24 hours of annual training relating to their job duties. Staff orientation shall be included in the 24 hours of training for the first year of employment. On the job training for direct care staff may count for 12 out of the 24 training hours required annually.

(f) Training topics for the required annual training for direct care staff shall include the following:

(1) Current training in first aid, certification in obstructed airway techniques and certification in cardiopulmonary resuscitation that is appropriate for the residents served, and shall be completed by an individual certified as a trainer by a hospital or other recognized health care organization. Registered nurses, licensed practical nurses, certified registered nurse practitioners, emergency medical technicians, paramedics, physician's assistants or licensed physicians are exempt from the requirement for annual first aid training.

(2) Medication self-administration training.

(3) Understanding, locating and implementing preadmission screening tools, initial assessments, annual assessments and support plans.

(4) Care for persons with dementia and cognitive impairments.

(5) Infection control and general principles of cleanliness and hygiene and areas associated with immobility, such as prevention of decubitus ulcers, incontinence, malnutrition and dehydration.

(6) Personal care service needs of the resident.

(7) Safe management technique training, which shall include positive interventions such as:

(i) Improving communications.

(ii) Reinforcing appropriate behaviors.

(iii) Redirection.

(iv) Conflict resolution.

(v) Violence prevention.

(vi) Verbal praise.

(vii) Deescalation techniques.

(viii) Alternatives and techniques to identify depression.

(ix) Methods to identify and diffuse potential emergency safety situation.

(x) Managing medical emergencies.

(8) Care for persons with mental illness or mental retardation, or both, if the population is served in the home.

(g) Full-time, part-time and temporary staff persons and volunteers shall be trained annually on:

(1) Fire safety. Training in fire safety shall be completed by a fire safety expert or, in personal care homes serving 20 or fewer residents, by a staff person trained by a fire safety expert. Videotapes/DVD's prepared by a fire safety expert are acceptable for the training if accompanied by an onsite staff person trained by a fire safety expert.

(2) Disaster plans and recognition and response to crises and emergency situations.

(3) Resident rights.

(4) The Older Adult Protective Services Act (35 P. S. §§ 10225.101—10225.5102).

(5) Falls and accident prevention.

(6) New personnel policies and procedures of the home.

(7) New population groups that are being served at the home that were not previously served, if applicable.

(h) If a staff person has completed any of the required training identified in this section prior to the staff person's date of hire, the requirement for training in this section does not apply if the staff person provides written verification of completion of the training.

(i) If volunteers are used in the home as staff persons to provide direct personal care services, they shall meet the same requirements as staff provided for in this chapter.

(j) A record of training including the person trained, date, source, content, length of each course and copies of any certificates received, shall be kept on file at the home.

§ 2600.59. Staff training plan.

The administrator shall ensure that a comprehensive staff-training plan is developed and conducted annually for the development and improvement of the skills of the home's direct care staff. The staff training plan shall include the personal care home's policies and procedures for developing and conducting the staff training plan, indicating who is responsible and the time frames for completion of the following components:

(1) An annual assessment of staff training needs shall include questionnaires completed by all staff with data compiled, or a narrative summarizing group discussion of needs.

(2) An overall plan for addressing the needs identified in paragraph (1). This plan shall be based on the assessment of staff training needs, and shall indicate training content, trainers and proposed dates of training.

(3) A mechanism to collect written feedback on completed training.

(4) An annual evaluation of the staff-training plan, including the extent to which implementing the plan met the identified training needs.

§ 2600.60. Individual staff training plan.

A written individual staff training plan for each employee, appropriate to that employee's skill level, shall be developed annually with input from both the employee and the employee's supervisor. The individual training plan shall identify the subject areas and potential resources for training which meet the requirements for the employee's position and which relate to the employee's skill level and interest.

(1) The plan shall be based upon an employee's previous education, experience, current job functions and job performance.

(2) The employee shall complete the minimum training hours as listed in § 2600.58(d) (relating to staff training and orientation) with the subject selections being based upon the needs identified in the training plan.

(3) Annual documentation of the required training in the individual staff-training plan shall be maintained for all staff.

PHYSICAL SITE**§ 2600.81. Physical accommodations and equipment.**

The home shall provide or arrange for physical site accommodations and equipment necessary to meet the health and safety needs of a resident with a disability and to allow safe movement within and exiting the home.

§ 2600.82. Poisons.

(a) Poisonous materials shall be stored in their original, labeled containers.

(b) Poisonous materials shall be stored separately from food, food preparation surfaces and dining surfaces.

(c) Poisonous materials shall be kept locked and inaccessible to residents unless all of the residents living in the home are able to safely use or avoid poisonous materials.

§ 2600.83. Temperature.

(a) The indoor temperature shall be at least 70°F when residents are present in the home.

(b) If a home does not provide air conditioning, fans shall be made available to residents when the indoor temperature exceeds 80°F.

§ 2600.84. Heat sources.

Heat sources, such as steam and hot heating pipes, water pipes, fixed space heaters, hot water heaters, and radiators, exceeding 120°F that are accessible to the resident, shall be equipped with protective guards or insulation to prevent the resident from coming in contact with the heat source and being burned or otherwise harmed.

§ 2600.85. Sanitation.

(a) Sanitary conditions shall be maintained in the home.

(b) There may be no evidence of infestation of insects, rodents or other animals in the home.

(c) Trash shall be removed from the premises at least once a week.

(d) Trash in kitchens and bathrooms shall be kept in covered trash receptacles that prevent the penetration of insects and rodents.

(e) Trash outside the home shall be kept in closed receptacles that prevent the penetration of insects and rodents.

(f) A home that is not connected to a public sewer system shall have a written sanitation approval for its sewage system by the sewage enforcement official of the municipality in which the home is located.

§ 2600.86. Ventilation.

All areas of the home that are used by the resident shall be ventilated. Ventilation shall include an operable window, air conditioner, fan or mechanical ventilation that ensures airflow.

§ 2600.87. Lighting.

The home's rooms, hallways, interior stairs, outside steps, outside doorways, porches, ramps, evacuation routes, outside walkways and fire escapes shall have operable and sufficient lighting to ensure safe evacuation of all persons in the home.

§ 2600.88. Surfaces.

(a) Floors, walls, ceilings, windows, doors and other surfaces shall be clean, in good repair and free of hazards.

(b) The home may not use asbestos products for renovations or new construction.

§ 2600.89. Water.

(a) The home shall have hot and cold water under pressure in each bathroom, kitchen and laundry area to accommodate the needs of the residents in the home.

(b) Hot water temperature in areas accessible to the resident may not exceed 120°F.

(c) A home that is not connected to a public water system shall have a coliform water test at least every 3 months, by a Department of Environmental Protection-certified laboratory, stating that the water is safe for drinking. A public water system is a system that provides water to the public for human consumption, which has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

(d) If the water is deemed unsafe for drinking, the home shall conduct remediation activity in accordance with the recommendations of the Department of Environmental Protection.

(e) The home shall keep documentation of the laboratory certification, in addition to the results and corrections made to ensure safe water for drinking.

§ 2600.90. Communication system.

(a) The home shall have a working, noncoin operated, telephone with an outside line that is accessible in emergencies and accessible to persons with disabilities.

(b) The home shall have a system or method of communication that enables staff persons to contact other staff persons in the home for assistance in an emergency.

§ 2600.91. Emergency telephone numbers.

Telephone numbers for the nearest hospital, police department, fire department, ambulance, poison control and personal care home hotline number shall be posted on or by each telephone with an outside line.

§ 2600.92. Screens.

Windows, including windows in doors, shall be in good repair and securely screened when doors or windows are open.

§ 2600.93. Handrails and railings.

(a) Each ramp, interior stairway and outside steps exceeding two steps shall have a well-secured handrail.

(b) Each porch that has over a 30-inch drop shall have a well-secured railing.

§ 2600.94. Landings and stairs.

(a) Interior and exterior doors that open directly into a stairway and are used for exit doors, resident areas, and fire exits shall have a landing, which is a minimum of 3 feet by 3 feet.

(b) Interior stairs, exterior steps, walkways and ramps shall have nonskid surfaces.

§ 2600.95. Furniture and equipment.

Furniture and equipment shall be in good repair, clean and free of hazards.

§ 2600.96. First aid supplies.

(a) The home shall have at a minimum, in each building, a first aid manual, nonporous disposable gloves, antiseptic, adhesive bandages, gauze pads, thermometer, tape, scissors, breathing shield, eye coverings and syrup of ipecac. These items shall be stored together in a first aid kit.

(b) The staff shall be made aware of the location of the first aid kit.

(c) The first aid kit shall be in a location that is easily accessible to the staff.

§ 2600.97. Elevators and stair glides.

Each elevator and stair glide shall have a valid certificate of operation from the Department of Labor and Industry.

§ 2600.98. Indoor activity space.

(a) The home shall have indoor activity space for activities such as reading, recreation and group activities.

(b) The home shall have at least one furnished living room or lounge for the use of residents, their families and visitors. The combined living room or lounge areas shall be sufficient to accommodate all residents at one time. These rooms shall contain a sufficient number of tables, chairs and lighting to accommodate the residents, their families and visitors.

(c) The administrator of the home shall develop and ensure that the activities program is designed and implemented to promote each resident's active involvement with other residents, the resident's family and the community.

(d) The program shall provide social, physical, intellectual and recreational activities in a planned, coordinated and structured manner.

(e) A current weekly activity calendar shall be posted in a conspicuous place in the home that residents can access easily.

(f) The home shall have a working television and radio made available to residents in a living room or lounge area. If more than one living room or lounge area is available in the home, the largest of these shall have a working television. Large homes are encouraged to provide more than one television to allow residents an option to watch different programs. The Department will grant a waiver of this subsection if enforcement of this requirement would interfere with religious beliefs or doctrines of the residents, the home, or both. To obtain a waiver, the home's resident home contract shall contain a statement that a radio or television will not be provided by the home.

§ 2600.99. Recreation space.

The home shall provide regular access to outdoor and indoor recreation space and recreational items, including books, magazines, puzzles, games, cards, gliders, paper, markers and the like.

§ 2600.100. Exterior conditions.

(a) The exterior of the building and the building grounds or yard shall be in good repair and free of hazards.

(b) The home shall ensure that ice, snow and obstructions are removed from outside walkways, ramps, steps, recreational areas and exterior fire escapes.

§ 2600.101. Resident bedrooms.

(a) Each single bedroom shall have at least 80 square feet of floor space per resident measured wall to wall, including space occupied by furniture.

(b) Each shared bedroom shall have at least 60 square feet of floor space per resident measured wall to wall, including space occupied by furniture.

(c) Each bedroom for a resident with a physical immobility shall have 100 square feet per resident, or allow for easy passage between beds and other furniture, and for comfortable use of a resident's assistive devices, including wheelchairs, walkers, special furniture or oxygen equipment. This requirement does not apply if there is a medical order from the attending physician that states the resident can maneuver without the necessity of the additional space.

(d) No more than four residents may share a bedroom.

(e) Ceiling height in each bedroom shall be at least 7 feet for new homes licensed after _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal.).

(f) Each bedroom shall have an operable window with a source of natural light. This window shall be able to be opened by the resident without the use of tools and shall be screened.

(g) A resident's bedroom shall be only for the occupying resident's individual use and not for activities common to other residents.

(h) A resident shall be able to access toilet, hand washing and bathing facilities without having to pass through another resident's bedroom.

(i) Bedrooms shall be equipped to ensure the resident's privacy.

(j) A resident shall have access to the resident's bedroom at all times.

(k) Each resident shall have the following in the bedroom:

(1) A bed with a solid foundation and fire retardant mattress that is in good repair, clean and supports the resident.

(2) A mattress that is plastic-covered if supplied by the home.

(3) Pillows and bedding that is clean and in good repair.

(4) A storage area for clothing that shall include a chest of drawers and a closet or wardrobe space with clothing racks or shelves accessible to the resident.

(l) Cots and portable beds are prohibited.

(m) Bunk beds are prohibited.

(n) A bedroom may not be used as a means of egress from or used as a passageway to another part of the home unless in an emergency situation.

(o) A resident may not be required to share a bedroom with a person of the opposite sex.

(p) The bedrooms shall have walls, floors and ceilings, which are finished, clean and in good repair.

(q) There shall be doors on the bedrooms.

(r) There shall be a minimum of one comfortable chair per resident per bedroom. The resident shall determine what type of chair is comfortable.

(s) There shall be a minimum of one operable ceiling light per bedroom or a minimum of one operable lamp per resident.

(t) There shall be drapes, shades, curtains, blinds or shutters on the bedroom windows, which are clean, in good repair, provide privacy, and are sufficient to cover the entire window when drawn.

§ 2600.102. Bathrooms.

(a) There shall be at least one functioning flush toilet for every six or less users, including residents, family and personnel.

(b) There shall be at least one sink and wall mirror for every six or less users, including residents, family and personnel.

(c) There shall be at least one bathtub or shower for every 15 or less users, including residents, family and personnel.

(d) There shall be slip-resistant surfaces in all bathtubs and showers.

(e) Privacy shall be provided for toilets, showers and bathtubs by partitions or doors.

(f) An individual towel, washcloth and soap shall be provided for each resident.

(g) Individual toiletry items including toothpaste, toothbrush, shampoo, deodorant, comb and hairbrush shall be made available.

(h) Toilet paper shall be provided for every toilet.

(i) A dispenser with soap shall be provided in all of the bathrooms. Bar soap is not permitted unless there is a separate bar clearly labeled for each resident.

(j) Toiletries and linens shall be in the possession of the resident in the resident's living space.

§ 2600.103. Kitchen areas.

(a) A home shall have an operable kitchen area with a refrigerator, sink, stove, oven, cooking equipment and cabinets for storage.

(b) Kitchen surfaces shall be of a nonporous material and cleaned and sanitized after each meal.

(c) Food shall be protected from contamination while being stored, prepared, transported and served.

(d) Food shall be stored off the floor or the lowest shelf shall be sealed to the floor.

(e) Food shall be labeled, dated, rotated and inventoried weekly.

(f) Food requiring refrigeration shall be stored at or below 40°F. Frozen food shall be kept at or below 0°F. Thermometers shall be required in refrigerators and freezers.

(g) Food shall be stored in closed or sealed containers.

(h) Food shall be thawed either in the refrigerator, microwave, under cool water or as part of the cooking process.

(i) Food shall be served with the holding temperature of 140°F for hot items; cold items shall have a holding temperature of 40°F or less.

(j) Eating, drinking and cooking utensils shall be washed, rinsed and sanitized after each use by a mechanical dishwasher or by a method approved by the Department of Agriculture.

(k) Garbage shall be stored in covered containers.

(l) Animals are not permitted in the kitchen or other food service areas when meals are being prepared, served or consumed.

§ 2600.104. Dining room.

(a) A dining room area shall be equipped with tables and chairs and able to accommodate the maximum number of residents scheduled for meals at any one time.

(b) Dishes, glassware and utensils shall be provided for eating, drinking, preparing and serving food. These utensils shall be clean, and free of chips or cracks. There may not be regular use of plastic/paper plates, utensils and cups for meals.

(c) Condiments shall be available at the dining table.

(d) Special provisions shall be made and adaptive equipment shall be provided, when necessary, to assist residents in eating at the table.

(e) Animals are not permitted in the dining room when meals are being prepared, served or consumed. Guide or support animals assisting a person due to blindness, deafness or physical disability or who are under the supervision of a handler or trainer of these animals are exempt from this prohibition.

(f) Midday and evening meals shall be served to residents in a dining room or dining area, except that service in the resident's room shall be available when the resident is unable to come to the dining room due to temporary illness.

(g) Breakfast shall be served to residents in a dining room or dining area except in the following situations:

(1) Service in the resident's room shall be available at no additional charge when the resident is unable to come to the dining room due to temporary illness.

(2) When room service is available in a home, a resident shall make an individual choice to have breakfast served in the resident's room. This service shall be provided at the resident's request, and may not replace daily meals in a dining area.

§ 2600.105. Laundry.

(a) Laundry service for bed linens, towels and personal clothing shall be provided by the home, at no additional charge, to residents who are recipients of or eligible applicants for Supplemental Security Income (SSI) benefits. This service shall also be made available to all residents who are unable to perform these tasks independently. Laundry service does not include dry cleaning.

(b) Laundry service for bed linens, towels and personal clothing for the residents who are not recipients of SSI shall be provided by the home unless otherwise indicated in the written agreement.

(c) The supply of linen and towels shall be sufficient to ensure a complete change of bed linen and towels at least once per week.

(d) Bed linens and towels shall be changed at least once every week

(e) Clean linens and towels shall be stored in an area separate from soiled linen and clothing.

(f) The administrator and staff shall implement reasonable measures to ensure that residents' clothing are not lost or misplaced in the process of laundering or cleaning.

(g) To reduce the risks of fire hazards, the home shall ensure all lint is removed from all clothes.

§ 2600.106. Swimming areas.

If a home operates a swimming area, it shall abide by the following requirements:

(1) The home shall operate swimming areas in conformity with applicable laws and regulations.

(2) The home shall develop, utilize and implement policy and procedures that protect the health and safety of all of the residents in the home.

§ 2600.107. Internal and external disasters.

(a) The home shall have written emergency procedures that shall be developed and approved by qualified fire, safety and local emergency management offices.

(b) The written emergency procedures shall be reviewed and updated annually by the administrator, qualified fire, safety and local emergency management offices.

(c) Disaster plans shall include at a minimum:

(1) Contact names.

(2) Contact phone numbers of emergency management agencies and local resources for the housing and emergency care of residents affected.

(3) Alternate means of supply of utilities shall be identified and secured.

(4) The home shall maintain at least a 3-day supply of nonperishable food and drinking water for all residents and personnel.

(5) The home shall maintain at least a 3-day supply of all resident medications.

§ 2600.108. General health and safety.

Conditions at the home may not pose a threat to the health or safety of the residents.

§ 2600.109. Firearms and weapons.

Firearms, weapons and ammunition shall be permitted on the licensed premises of a home only when the following conditions are met:

(1) Firearms and weapons shall be contained in a locked cabinet located in a place other than the residents' room or in a common living area.

(2) Ammunition shall be contained in a locked area separate from firearms and weapons, and located in a place other than the residents' room or in a common living area.

(3) The key to the locked cabinet containing the firearms, weapons and ammunition shall be in the possession of the administrator or a designee.

(4) The administrator or a designee shall be the only person permitted to open the locked cabinet containing the firearms and weapons and the locked area containing the ammunition.

(5) If a firearm, weapon or ammunition is the property of at least one resident, the personal care home shall have written policies regarding safety and access of firearms, weapons and ammunition. A resident may not take a firearm, weapon or ammunition out of the locked cabinet or area into living areas of the personal care home.

FIRE SAFETY**§ 2600.121. Unobstructed egress.**

(a) Stairways, hallways, doorways, passageways and egress routes from rooms and from the building shall be unlocked and unobstructed, unless the fire safety ap-

proval specified in § 2600.14 (relating to fire safety approval) permits locking of certain means of egress as specified in writing.

(b) Doors used for egress routes from rooms and from the building may not be equipped with key-locking devices, electronic card operated systems or other devices which prevent immediate egress of residents from the building.

§ 2600.122. Exits.

Unless otherwise regulated by the Department of Labor and Industry, all buildings shall have at least two independent and accessible exits from every floor, each arranged to reduce the possibility that both will be blocked in an emergency situation.

§ 2600.123. Emergency evacuation.

(a) In homes housing five or more immobile residents, the fire alarm system shall be directly connected to the local fire department or 24-hour monitoring service that has been approved by the local fire department.

(b) Evacuation routes shall be well lighted and clear of obstructions at all times.

(c) Exit doors shall be equipped so that they can be easily opened by residents from the inside without the use of a key.

(d) Copies of an emergency evacuation plan as specified in § 2600.107 (relating to internal and external disasters) shall be prepared by the administrator, in conjunction with fire, safety or local emergency management offices. The plan shall be posted throughout the home and a copy shall be kept in the administrator's records.

(e) A diagram of each floor showing corridors, line of travel, exit doors and location of the fire extinguishers and pull signals shall be posted on each floor in view of residents and personnel.

§ 2600.124. Notification of local fire officials.

The home shall notify local fire officials in writing of the address of the home, location of the bedrooms, and the assistance needed to evacuate in an emergency. Documentation of notification shall be kept.

§ 2600.125. Flammable and combustible materials.

(a) Combustible materials may not be located near heat sources and hot water heaters.

(b) Flammable materials shall be used safely and stored away from heat sources and hot water heaters.

(c) The materials described in subsections (a) and (b) shall be inaccessible to residents.

§ 2600.126. Furnaces.

(a) A professional furnace cleaning company or trained maintenance staff persons shall inspect furnaces at least annually. Documentation of the inspection shall be kept.

(b) Furnaces shall be cleaned according to the manufacturer's instructions. Documentation of the cleaning shall be kept.

§ 2600.127. Space heaters.

Portable space heaters are prohibited. Nonportable space heaters shall be adequately vented and installed with permanent connections and protectors.

§ 2600.128. Supplemental heating sources.

(a) The use of kerosene burning heaters is prohibited.

(b) Wood and coal burning stoves shall be used only if a local fire department or other municipal fire safety authority inspects them annually. Wood and coal burning stoves shall be cleaned every year. Documentation of these inspections and cleanings shall be maintained.

§ 2600.129. Fireplaces.

(a) A fireplace shall be securely screened or equipped with protective guards while in use.

(b) A fireplace chimney and flue shall be inspected at least once a year. Written documentation of the inspection shall be kept on file.

(c) A resident shall only be permitted to tend to the fire under staff supervision.

§ 2600.130. Smoke detectors and fire alarms.

(a) There shall be an operable automatic smoke detector located within 15 feet of each bedroom door.

(b) The smoke detectors specified in subsection (a) shall be located in common areas or hallways.

(c) Smoke detectors and fire alarms shall be of a type approved by the Department of Labor and Industry or local fire authority, or listed by Underwriters Laboratories.

(d) If the home serves four or more residents or if the home has three or more stories including the basement and attic, there shall be at least one smoke detector on each floor interconnected and audible throughout the home or an automatic fire alarm system that is audible throughout the home.

(e) If one or more residents or staff persons are not able to hear the smoke detector or fire alarm system, all smoke detectors and fire alarms shall be equipped so that each person with a hearing impairment will be alerted in the event of a fire.

(f) All smoke detectors and fire alarms shall be tested for operability at least once monthly. A written record of the monthly testing shall be kept.

(g) If a smoke detector or fire alarm becomes inoperative, repair shall be completed within 48 hours of the time the detector or alarm was found to be inoperative.

(h) The home's fire safety procedures shall indicate the emergency procedures that will be immediately implemented until the smoke detector or fire alarms are operable.

(i) In homes housing five or more immobile residents, the fire alarm system shall be directly connected to the local fire department or 24-hour monitoring service approved by the local fire department.

§ 2600.131. Fire extinguishers.

(a) There shall be at least one operable fire extinguisher with a minimum 2-A rating for each floor, including the basement and attic.

(b) If the indoor floor area on a floor including the basement or attic is more than 3,000 square feet, there shall be an additional fire extinguisher with a minimum 2-A rating for each additional 3,000 square feet of indoor floor space.

(c) A fire extinguisher with a minimum 2A-10BC rating shall be located in each kitchen. The kitchen extinguisher meets the requirements for one floor as required in subsection (a).

(d) Fire extinguishers shall be listed by Underwriters Laboratories or approved by Factory Mutual Systems.

(e) Fire extinguishers shall be accessible to staff persons. Fire extinguishers shall be kept locked if access to the extinguisher by a resident could cause a safety risk to the resident. If fire extinguishers are kept locked, each staff person shall be able to immediately unlock the fire extinguisher in the event of a fire emergency.

(f) Fire extinguishers shall be inspected and approved annually by a fire safety expert. The date of the inspection shall be on the extinguisher.

§ 2600.132. Fire drills.

(a) An unannounced fire drill shall be held at least once a month.

(b) There shall be a documented annual fire safety inspection and fire drill conducted by a fire safety expert. The administrator shall keep documentation of this drill and inspection.

(c) A written fire drill record shall be kept of the date, time, the amount of time it took for evacuation, the exit route used, the number of residents in the home at the time of the drill, the number of residents evacuated, the number of staff evacuated, problems encountered and whether the fire alarm or smoke detector was operative.

(d) Residents shall be able to evacuate the entire building into a public thoroughfare, or to a fire-safe area designated in writing within the past year by a fire safety expert, within 2 1/2 minutes or within the period of time specified in writing within the past year by a fire safety expert. The fire safety expert may not be an employee of the home.

(e) A fire drill shall be held during sleeping hours once every 6 months.

(f) Alternate exit routes shall be used during fire drills.

(g) Fire drills shall be held on different days of the week, at different times of the day and night, on different and normal staffing shifts, not routinely held when additional staff persons are present, and not routinely held at times when resident attendance is low.

(h) Residents shall evacuate to a designated meeting place outside the building or within the fire-safe area during each fire drill.

(i) A fire alarm or smoke detector shall be set off during each fire drill.

(j) Elevators may not be used during a fire drill or a fire.

§ 2600.133. Exit signs.

(a) Signs bearing the word "EXIT" in plain legible letters shall be placed at all exits.

(b) If the exit or way to reach the exit is not immediately visible, access to exits shall be marked with readily visible signs indicating the direction to travel.

(c) Exit sign letters shall be at least 6 inches in height with the principal strokes of letters at least 3/4 inch wide.

RESIDENT HEALTH

§ 2600.141. Resident health exam and medical care.

(a) A resident shall have a health examination that is documented on standardized forms provided by the Department within 60 days prior to admission or within 30 days after admission. The resident health examination shall be completed annually thereafter. The exam shall include the following:

(1) A general physical examination by a licensed physician, physician's assistant or nurse practitioner.

(2) Medical diagnosis including physical or mental disabilities of the resident, if any.

(3) Medical information pertinent to diagnosis and treatment in case of an emergency.

(4) Special health or dietary needs of the resident.

(5) Allergies.

(6) Immunization history.

(7) Medication regimen, contraindicated medications and medication side effects.

(8) Body positioning and movement stimulation for residents, if appropriate.

(9) Health status with required written consent in accordance with applicable laws.

(10) Specific precautions to be taken if the resident has a communicable disease, to prevent spread of the disease to other residents.

(11) Annually updated mobility assessment or at the Department's request.

(b) Residents shall have access to medical care. If a resident needs assistance obtaining this care, the home shall make the arrangements for the resident.

§ 2600.142. Physical and behavioral health.

(a) Each home shall address in the resident's support plan the dental, vision, hearing, mental health or other behavioral care services that will be made available to the resident, or referrals for the resident to outside services if deemed necessary by the health exam. This requirement does not mandate a home to pay for the cost of these medical and behavioral care services.

(b) If a resident refuses routine medical or dental examination or treatment, the refusal and the continued attempts to train the resident about the need for health care shall be documented in the resident's record.

(c) If a resident has a serious medical or dental condition, reasonable efforts shall be made to obtain consent for treatment, from the resident or a designee, in accordance with applicable laws.

§ 2600.143. Emergency medical plan.

(a) The home shall have a written emergency medical plan that ensures immediate and direct access to emergency medical care and treatment. If a resident becomes ill or injured and is unable to secure necessary care, the administrator or a designee shall secure necessary assistance or care. Arrangements shall be made in advance between the administrator or a designee and the resident regarding the physician or dentist and designated person or community agency to be contacted, in case of illness or injury, and those persons shall be contacted.

(b) If admission to a hospital is necessary, the resident shall be transported to the hospital of the resident's choice, if possible.

(c) The emergency medical plan shall include the following:

(1) The hospital or source of health care that will be used in an emergency.

(2) The method of transportation to be used.

(3) An emergency-staffing plan.

(d) Current emergency medical and health information shall be made available at all times for each resident in case the resident requires emergency medical attention.

The following information shall accompany the resident when the resident needs emergency medical attention:

(1) The resident's name, age and birth date.

(2) The resident's Social Security number.

(3) The resident's medical diagnosis.

(4) The resident's physician's name and telephone number.

(5) Current medication, including the dosage and frequency.

(6) A list of allergies.

(7) Other relevant medical conditions to make available in case of a medical emergency.

(8) Insurance or third party payer and identification number.

(9) A power of attorney.

(10) A designated contact person with a current address and telephone numbers.

(11) Personal information and related instructions from the resident regarding advanced directives, do not resuscitate orders or organ donation if the resident has executed the documents.

(12) The home shall develop an individualized plan to contact the resident's family or designated emergency contact person, if applicable. The support plan shall be part of the resident record and staff shall be able to access the support plan in an emergency.

(e) If the resident's medical condition, as determined by a physician, indicates the need for a transfer to a hospital or long term care facility, the administrator shall notify the resident's designated emergency contact person or family member, or both, as appropriate, and shall provide whatever assistance is necessary in making arrangements for the resident's transfer to an appropriate facility.

§ 2600.144. Use of tobacco and tobacco-related products.

(a) A home may permit smoking tobacco and using tobacco-related products in designated areas of the personal care home.

(b) If a home permits smoking in designated areas, the home shall ensure that proper safeguards are taken at all times to:

(1) Prevent fire hazards involved in smoking, including providing ashtrays, outside ventilation, smoke detectors, fire retardant furniture and fire extinguishers in designated smoking areas.

(2) Ensure the protection of the rights of nonsmoking residents.

(c) The designated smoking area shall be in an area that is a safe distance from heat sources, hot water heaters and areas containing combustible or flammable materials.

(d) Smoking tobacco and using tobacco-related products during the transportation of a resident, which is provided by the home, is prohibited.

(e) Smoking in resident bedrooms is prohibited.

(f) If a home has a designated smoking area, the home's written fire safety procedures shall include the designated smoking area.

(g) Written fire safety procedures shall be followed.

§ 2600.145. Supervised care.

Personal care services shall be provided by trained, qualified staff persons and with ongoing oversight and general supervision of the resident's care by the administrator. A resident in need of services that are beyond services available in the home in which the resident resides shall be referred to the appropriate assessment agency.

NUTRITION**§ 2600.161. Nutritional adequacy.**

(a) Meals shall be offered which meet the nutritional needs of the resident in accordance with the Recommended Daily Allowance (RDA) of the Food and Nutrition Board of the National Research Council of the National Academy of Science.

(b) At least three nutritionally well-balanced meals shall be provided daily to the resident. Each meal shall include an alternative food and drink item from which the resident may choose.

(c) Additional portions of meals and beverages at meal-times shall be available for the resident.

(d) Each meal shall contain at least one item from the dairy, protein, fruits and vegetables, and grain food groups, unless otherwise prescribed in writing by a licensed physician or certified nurse practitioner for a specific resident.

(e) Dietary alternatives shall be available for a resident who has special health needs, religious beliefs regarding dietary restrictions or vegetarian preferences.

(f) Therapeutic diets as prescribed by a physician or certified nurse practitioner, shall be followed. Documentation shall be retained in the resident's record.

(g) Drinking water shall be available to the residents at all times. Other beverages shall be available and offered to the resident at least every 2 hours.

§ 2600.162. Meal preparation.

(a) Foods shall be prepared in a consistency designed to meet the needs of the resident.

(b) Uneaten food from a person's dish may not be served again or used in the preparation of other dishes.

(c) There may not be more than 14-16 hours between the evening meal and the first meal of the next day, unless a resident's physician has prescribed otherwise, and there may not be more than 4-6 hours between breakfast and lunch, and between lunch and supper.

(d) Food shall be procured from sources approved or considered satisfactory by Federal, State or local authorities. Outdated or spoiled food or severely dented cans may not be used.

(e) When a resident misses a meal, food adequate to meet daily nutritional requirements shall be available and offered to the resident.

(f) Meals shall include a variety of hot and cold food.

(g) Milk shall be pasteurized.

(h) Adaptive eating equipment or utensils shall be made available and meet the needs of the residents.

(i) If a home contracts for food services, the contractor shall provide meals and snacks that meet the nutritional and dietary recommendations of the Recommended Daily Allowance (RDA) of the Food and Nutrition Board of the National Research Council of the National Academy of Science.

(j) Menus, stating the specific food being served at each meal, shall be prepared for 1 week in advance. Menus shall be posted for the current week and 1 week in advance, and shall be posted in a conspicuous place where the resident can review them.

(k) Past menus of meals that were served, including changes, shall be retained for at least 1 month.

(l) A change to a menu shall be posted and accessible to a resident in advance of the meal.

(m) Food stored, prepared or served shall be clean and safe for human consumption.

§ 2600.163. Personal hygiene for food service workers.

(a) Staff, volunteers or residents involved in the storage, preparation, serving and distributing of food shall wash their hands with hot water and soap prior to working in the kitchen areas or after using the toilet room.

(b) Staff, volunteers or residents shall follow sanitary practices while working in the kitchen areas.

(c) Staff, volunteers or residents involved with the storage, preparation, serving and distributing of food shall be in good health.

(d) Staff, volunteers or residents who have a discharging or infected wound, sore, lesion on hands, arms or any exposed portion of their body may not work in the kitchen areas in any capacity.

§ 2600.164. Withholding or forcing of food prohibited.

(a) A home may not withhold meals, beverages, snacks or desserts as punishment.

(b) A resident may not be forced to eat food.

(c) If a resident refuses to eat consecutively during a 24-hour period, the resident's primary care physician and the resident's designee or a family member shall be immediately notified.

TRANSPORTATION**§ 2600.171. Transportation.**

(a) The following requirements apply whenever staff persons or volunteers of the home provide transportation for the resident. These requirements do not apply if transportation is provided by a source other than the home.

(1) Staff to resident ratios specified in § 2600.56 (relating to staffing) apply.

(2) All vehicle occupants shall be in appropriate a safety restraint at all times the vehicle is in motion.

(3) The driver of a vehicle shall be 18 years of age or older and possess a valid driver's license.

(4) The driver of the vehicle cannot be a resident receiving services in the home.

(5) At least one staff member transporting residents has completed the initial new hire direct care staff training.

(6) The vehicle shall have nonporous disposable gloves, antiseptic, adhesive bandages, gauze pads, tape, scissors, and syrup of ipecac that are stored together.

(7) During vehicle operation the driver may only use a hands-free cellular telephone.

(b) The home shall maintain current copies of documentation for the following:

- (1) Vehicle registration.
- (2) Valid driver's license.
- (3) Vehicle insurance.
- (4) Current inspection.
- (5) Commercial Driver's License where applicable.

(c) The home shall assist a resident with the coordination of transportation to and from medical appointments, if requested by resident, or if indicated in the resident's support plan.

MEDICATIONS

§ 2600.181. Self-administration.

(a) A home shall provide residents with assistance, as needed, with medication prescribed for the resident's self-administration. This assistance includes helping the resident to remember the schedule for taking the medication, storing the medication in a secure place and offering the resident the medication at the prescribed times.

(b) Medication not prescribed for the resident's self-administration shall be administered by a licensed physician, licensed dentist, licensed physician's assistant, registered nurse, certified registered nurse practitioner, licensed practical nurse or licensed paramedic, as appropriate.

(c) The resident's support plan shall identify if the resident is able to self-administer medications.

(d) If the resident does not need assistance with medication, medication may be stored in a resident's room for self-administration. The administrator shall take precautions to assure that medications, which are stored in the resident's room, are maintained in a safe and secure manner to protect against contamination, spillage and pilferage.

(e) A resident is capable of self-administering medications if the resident can use the medication as prescribed in the manner prescribed. The resident shall be able to recognize and distinguish the medication and know the condition or illness for which the medication is prescribed, the correct dosage and when the medication is to be taken. Examples include being capable of placing medication in the resident's own mouth and swallowing completely, applying topical medications and not disturbing the application site, properly placing drops in eyes, correctly inhaling inhalants and properly snorting nasal therapies.

§ 2600.182. Storage and disposal of medications and medical supplies.

(a) Prescription, OTC and CAMs shall be kept in their original labeled containers and may not be removed more than 2 hours in advance of the scheduled administration. Assistance with injections and sterile liquids shall be provided immediately upon removal of the medication from its container.

(b) Prescription, OTC, CAM and syringes shall be kept in an area or container that is locked.

(c) Prescription, OTC and CAM stored in a refrigerator shall be kept in a separate locked container.

(d) Prescription, OTC and CAM shall be stored separately.

(e) Prescription, OTC and CAM shall be stored under proper conditions of sanitation, temperature, moisture and light comply with the manufacturer's instructions.

(f) Prescription, OTC and CAM, discontinued and expired medications, and prescription medications for residents who are no longer served at home shall be destroyed in a safe manner according to the Department of Environmental Protection and all Federal and State regulations. When a resident permanently leaves the home, the resident's medications shall be given to the resident, the designated person, if any, or the person or entity taking responsibility for the new placement on the day of departure from the home.

(g) Antiseptics and medicines for external use shall be stored separately from oral and injectable medicines.

(h) Prescription, OTC, CAM and syringes shall be stored in accordance with Federal and State regulations.

§ 2600.183. Labeling of medications.

(a) The original container for prescription medications shall be labeled with a pharmacy label.

(b) OTC, CAM and sample medications shall be labeled with the original label.

(c) If the OTC and CAM belong to the resident, they shall be identified with the resident's name.

(d) Sample medications shall be identified to the particular resident's use and accompanied by a physician's order.

§ 2600.184. Accountability of medication and controlled substances.

(a) The home shall develop and implement policy and procedures addressing the methods to ensure the safe-keeping of medications.

(b) At a minimum, the policy and procedures shall have:

(1) Documentation of the receipt and administration of controlled substances and prescription medications.

(2) A process that will be followed to investigate and account for missing medications and medications omissions.

(3) Limited access to medication storage areas.

§ 2600.185. Use of medications.

(a) Prescription, OTC, CAM and sample medications shall be clearly marked for whom the medication was prescribed or approved.

(b) If the home helps with self-administration, then the only prescription, OTC and CAM medications that are allowed to be given are those prescribed, approved or ordered by a licensed physician, certified registered nurse practitioner, licensed dentist or physician's assistant within its scope of practice.

(c) Verbal changes in medication may only be made by the prescriber and shall be documented in writing in the resident's record and the medication record as soon as the home is notified of the change.

§ 2600.186. Medication records.

(a) If a resident stores medication for self-administration in the resident's room, a current list of prescribed medications taken by a resident as reported to the home shall be maintained in that resident's record.

(b) If the home helps the resident with self-administration, a medication record shall be kept to include the following for each resident's prescription, OTC and CAM:

- (1) The prescribed dosage.
- (2) Possible side effects.
- (3) Contraindicated medications.
- (4) Specific administration instructions.
- (5) The name of the prescribing physician.
- (6) Drug allergies.
- (7) Dosage, date, time and the name of the person who helped with the self-administration of the medication.

(c) The information in subsection (b)(7) shall be recorded at the same time each dosage of medication is self-administered.

(d) If a resident refuses to take a medication, the refusal shall be documented in the resident's record and reported to the physician by the end of the shift. Subsequent refusals to take a prescribed medication shall be reported as required by the physician.

§ 2600.187. Medication errors.

(a) Documentation of medication errors shall be kept in the medication record. Medication errors include the failure to self-administer medication, self-administering the incorrect medication, self-administering the correct medication in an incorrect dosage, failure to document the self-administration of the medication, self-administering the correct medication at the incorrect time or medication taken by the wrong resident. A medication error shall be reported to the physician immediately.

(b) The home shall evaluate medication errors to include the following:

- (1) There shall be a system in place to identify and document medication errors and the home's pattern of error.
- (2) There shall be documentation of the follow-up action that was taken to prevent future medication errors.

§ 2600.188. Adverse reaction.

If a resident has a suspected adverse reaction to a medication, the home shall immediately consult a physician. The resident's family shall be notified, if applicable. The home shall document adverse reactions, the physician's response and any action taken in the resident's record.

SAFE MANAGEMENT TECHNIQUES

§ 2600.201. Safe management techniques.

(a) The home shall use positive interventions to modify or eliminate a behavior that endangers residents, staff or others. Positive interventions include improving communications, reinforcing appropriate behavior, redirection, conflict resolution, violence prevention, verbal praise, deescalation techniques and alternatives, techniques or methods to identify and defuse potential emergency situations.

(b) A home shall incorporate a quality improvement program designed to continuously review, assess, and analyze the home's ongoing steps to positively intervene when a resident demonstrates a behavior that endangers residents, staff or others.

§ 2600.202. Prohibition on the use of seclusion and restraints.

(a) The following procedures are prohibited in the homes:

(1) Seclusion, defined as involuntary confinement of a resident in a room from which the resident is physically prevented from leaving.

(2) The use of aversive conditioning, defined as the application of startling, painful or noxious stimuli.

(3) Pressure point techniques, defined as the application of pain for the purpose of achieving compliance.

(4) A chemical restraint, defined as use of any medication or biological for the purpose of immobilizing the resident, inducing a state of sleep or unconsciousness, or reducing the ability to move freely.

(i) When a physician orders a drug that is part of the resident's ongoing support plan, and has documented as such for treating the symptoms of mental, emotional, or behavioral condition, the drug is not considered as a chemical restraint.

(ii) A drug ordered by a licensed physician or dentist as part of ongoing medical treatment, or as pretreatment prior to a medical or dental examination or treatment, is not a chemical restraint.

(5) A mechanical restraint, defined as a device that restricts the movement or function of a resident or portion of a resident's body.

(i) Examples of mechanical restraints include handcuffs, anklets, wristlets, camisoles, helmet with fasteners, muffs and mitts with fasteners, poseys, waist straps, head straps, papoose boards, restraining sheets and similar devices.

(ii) A mechanical restraint does not include assistive devices, such as orthopedically prescribed appliances, surgical dressings and bandages, protective helmets, supportive body bands, and supports utilized for the achievement of functional body position or proper balance that have been prescribed by a medical professional.

(6) A manual restraint, as defined in § 2600.4 (relating to definitions).

SERVICES

§ 2600.221. Activities program.

The administrator shall develop a program of activities designed to promote each resident's active involvement with other residents, the resident's family and the community. The program shall provide social, physical, intellectual and recreational activities in a planned, coordinated and structured manner. A current weekly activity calendar shall be posted in a conspicuous place in the home.

§ 2600.222. Community social services.

The administrator shall encourage and assist residents to use social services in the community which may benefit the resident, including a county mental health and mental retardation program, a drug and alcohol program, a senior citizens center, an area agency on aging or a home health care agency.

§ 2600.223. Description of services.

(a) The home shall have a written description of services and activities that the home provides to include the following:

(1) The scope and general description of the services provided by the home.

(2) The criteria for admission and discharge.

(3) Specific services provided by the home.

(b) The home shall develop written procedures for the delivery and management of services from admission to discharge.

§ 2600.224. Preadmission screening tool.

(a) A determination shall be made, prior to admission, and documented on the standardized preadmission screening tool in conjunction with the resident-home contract that the needs of the resident can be met by the services provided by the home.

(b) An applicant whose personal care service needs cannot be met by the home shall be referred to a local appropriate assessment agency or agent.

§ 2600.225. Initial assessment and the annual assessment.

(a) A resident shall have a written initial assessment that is documented on standardized forms provided by the Commonwealth, within 72 hours of admission or within 72 hours prior to admission. The personal care home administrator or a designee, or a human service agency may complete the initial assessment.

(b) The resident's initial assessment and annual assessment shall include the following areas:

(1) Background information.

(2) Medical assessment.

(3) Social assessment.

(4) Mobility assessment.

(5) ADL assessment.

(6) IADL assessment.

(7) Medication assessment.

(8) Psychological assessment.

(c) A home may use its own assessment forms, if its forms include the same information in subsection (b).

(d) In addition to the initial assessment at admission, the resident shall have additional assessments as follows:

(1) Annually within 30 days before or 30 days after the resident's anniversary date of admission.

(2) If the condition of the resident materially changes prior to the annual assessment, the review shall be completed and updated on the current version.

(3) At the request of the State agency upon cause to believe that an update is required.

(4) At the time of a hospital discharge.

(e) A resident who is referred by a State mental hospital, a State mental retardation center, a county mental health and mental retardation program, a drug and alcohol program or an area agency on aging may not be admitted to a home without first obtaining a written assessment of the resident's needs from the referral agent. The assessment shall include an identification of the personal care services required by the resident and shall be used to complete the preadmission screening tool and if admitted the initial intake assessment.

(f) If the resident's physician or local assessment agency determines that the resident requires a higher level of care, a plan for placement shall be made as soon

as possible by the administrator in conjunction with the resident or designated person, or both.

(g) If a resident is determined to be immobile as part of the initial intake or annual assessment, specific requirements relating to the care, health and safety of an immobile resident shall be met immediately. The resident shall be continually assessed for mobility as part of the resident's support plan.

§ 2600.226. Development of the support plan.

(a) A support plan shall be developed and implemented for each resident within 15-calendar days of admission to the home. This plan shall also be revised within 30 days upon completion of the annual assessment or upon changes in the level of functioning of the resident as indicated on the assessment. It shall address all of the needs of the resident's current assessment including the resident's personal care needs.

(b) The resident or the resident's family or advocate, or both, shall be informed of the right to have the following people assist in the development of the resident's support plan:

(1) Case manager from the social service agency when the resident has a case manager.

(2) Other social service entities.

(3) The home staff.

(4) Family or advocates.

(5) Doctors.

(6) Other interested persons designated by the resident.

(c) Documentation of reasonable efforts made to involve the resident's family, with the consent of the resident, shall be kept. If the resident's family declines, this fact shall be documented in the record.

(d) Persons who participated in the development of the support plan shall sign and date the support plan.

(e) If a resident or family member chooses not to sign the support plan, proper documentation of the effort to obtain their signature must be shown.

§ 2600.227. Copies of the support plan.

The home shall make a copy of the support plan available to the resident.

§ 2600.228. Notification of termination.

(a) A resident shall have the right to request and receive assistance in relocating from the home to a facility that meets the needs of the resident.

(b) If the home initiates a discharge or transfer of a resident, or if the legal entity chooses to close the home, the home shall provide a 30-day advance written notice to the resident, the resident's legal representative, and the referral agent citing the reasons for the discharge or transfer. This shall be stipulated in the resident-home contract signed prior to admission to the home. A 30-day advance written notice may not be given if a delay in discharge or transfer would jeopardize the health or safety of the resident or others in the home, as certified by a physician. This shall occur when the resident needs psychiatric or long-term care or is abused in the home, or the Department initiates a closure of the home.

(c) A home shall give the Department written notice of its intent to close the home, not later than 60 days prior to the anticipated date of closing.

(d) A home may not require a resident to leave the home prior to 30 days following the resident's receipt of a written notice from the home regarding the intended closure of the home, except when the Department determines that removal of the resident at an earlier time is necessary for the protection of the health and safety of the resident.

(e) The date and reason for the discharge or transfer, and the destination of the resident, if known, shall be recorded in the resident record.

(f) If the legal entity chooses to voluntarily close the home, the Department working in conjunction with appropriate local authorities, shall offer relocation assistance to the residents. Each resident shall participate in planning the transfer, except in the case of an emergency and shall have the right to choose among the available alternatives after an opportunity to visit the alternative homes except in the case of an emergency. These procedures shall apply even if the resident is placed in a temporary living situation.

(g) Within 30 days of the home's closure, the legal entity shall return the license to the personal care home regional field licensing office.

(h) The only grounds for discharge or transfer of a resident from a home are for the following conditions:

- (1) If a resident is a danger to himself or others.
- (2) If the legal entity chooses to voluntarily close the home.
- (3) If a resident's functional level has advanced or declined so that the resident's needs cannot be met in the facility even with supplemental services provided by outside providers. In this situation, a plan for other placement shall be made as soon as possible by the administrator in conjunction with the resident or designated person, if any, or both. If assistance with relocation is needed, the administrator shall contact appropriate local agencies, such as the area agency on aging, county mental health/mental retardation program or drug and alcohol program, for assistance. The administrator shall also contact the appropriate personal care home regional field licensing office.

(4) If the resident's needs would require a fundamental alteration in facility program or building site.

(5) If the resident has failed to pay or cooperate with efforts to obtain public funding.

(6) If closure of the home is initiated by the Department.

SECURED UNIT REQUIREMENTS

§ 2600.231. Doors, locks and alarms.

Doors locked by using an electronic or magnetic system to prevent egress are considered mechanical device restraints and are permitted in licensed homes for specialized secured units so long as the following safety standards are met:

- (1) If the building meets current Labor and Industry occupancy certification for a small or large personal care home, the secured unit shall be located at grade level of home with an outside enclosed area such as a porch or patio located on same grade level adjacent to the secured unit.
- (2) If the building exceeds current Labor and Industry occupancy certification for a small or large home, and meets C-1 or better Life Safety or BOCA/IBC Code for

Institutional or higher rating, an above-grade unit may be approved if the other stipulations in this section are met.

(3) A mechanical device, such as a key, deadbolt or sliding bolt lock may not lock exit doors.

(4) Doors that open into the enclosed areas may not be operated by an electronic or magnetic locking system, or similar device.

(5) Residents shall have free and easy access to the enclosed areas year round, except after dusk and during inclement weather.

(6) Doors that open onto areas such as parking lots, or other open, potentially unsafe areas, shall be permitted to be locked by an electronic or magnetic system.

(7) Facilities shall provide a statement from the manufacturer, specific to that home, verifying that the electronic or magnetic system will shut down when the fire alarm system is activated, and that all doors will open easily and immediately.

(8) Written approval or a variance shall be obtained from the Department of Labor and Industry, or from the Department of Health for C-1 or Better Life Safety or BOCA/IBC or the appropriate fire safety authority in the cities of Scranton, Pittsburgh and Philadelphia.

(9) Fire alarm systems shall be interconnected to the local fire department, where available, or a 24-hour monitoring/security service approved by the local fire department.

(10) The home shall provide for even illumination and appropriate levels of light to maximize vision.

(11) The home shall minimize hazards and risk of falls through the provision of sturdy furniture, ramps and removal of clutter.

§ 2600.232. Environmental standards.

Environmental standards include the following:

- (1) The home shall provide adequate exercise space, both indoor and outdoor.
- (2) The home shall ensure that no more than two residents are housed in a bedroom regardless of its size to help the resident live as comfortably as possible in a secured unit.
- (3) Space shall be provided for privacy and for common activities.
- (4) The home shall provide a full description of the environmental cues and way-finding assistance to be utilized for the resident population.

§ 2600.233. Admission standards.

Admission standards include the following:

- (1) A complete medical and cognitive assessment, which documents the need for the resident to be placed into a secured unit, shall be completed for each resident prior to admission to a home which provides a secured unit.
- (2) A licensed physician, or a geriatric assessment team shall complete these assessments for the resident requiring the secured unit.
- (3) A complete medical and cognitive assessment is not required for the spouse or relative of the resident requiring the secured unit, if the spouse or relative does not have a diagnosis requiring the secured unit but expresses a desire to live with the resident.

(4) Each resident record shall have documentation that the resident or the resident's legal representative has consented to the resident's admission or transfer to the secured unit.

(5) The home shall maintain a written agreement containing a full disclosure of services, admission and discharge criteria, change in condition policies, services, special programming and cost and fees pertaining to the resident.

§ 2600.234. Care standards.

Care standards include the following:

(1) The home shall maintain the current assessment of the resident to confirm the diagnosis of the dementia and the assessment of other co-occurring health conditions.

(2) Within 72 hours of the admission or within 72 hours prior to the resident's admission to the secured unit, a support plan shall be developed, implemented and documented in the resident record and shall identify the resident's physical, medical, social, cognitive and safety needs, who will address these needs and the responsible person.

(3) These plans shall be reviewed at least annually or as the resident's condition changes.

(4) The resident or the resident's legal representative, or both, shall be involved in the development and review of the support plan.

§ 2600.235. Discharge standards.

Discharge standards which shall provide that if the home initiates a discharge or transfer of a resident, or the legal entity chooses to close the home, the administrator shall give a 60-day advance written notice to the resident, the resident's legal representative and the referral agent citing the reasons for the discharge or transfer. This requirement shall be stipulated in the resident-home contract signed prior to admission to the secured unit.

§ 2600.236. Administrator training.

Administrator training includes the following:

(1) In addition to the training requirements found in § 2600.57 (relating to administrator training and orientation), the administrator of the home with a secured unit shall complete orientation related to dementia, secured unit management and staff training.

(2) Ongoing education shall be competency-tested training including the following content areas specific to the stage of dementia and addressing issues particular to the resident:

- (i) Psychosocial issues.
- (ii) Specific cultural issues.
- (iii) Psychological changes.
- (iv) Functional consequences of other age-related diseases.
- (v) Interpersonal skills in communications and team building.
- (vi) Care-giving strategies.
- (vii) Sexuality issues.
- (viii) Nutrition issues.
- (ix) Communication issues with residents and family and therapeutic activities, techniques and strategies.
- (x) Medication use, effects and side effects.

(xi) Abuse prevention and resident rights consistent with the Older Adult Protective Services Act (35 P. S. §§ 10225.101—10225.5102).

§ 2600.237. Staff training on dementia.

In addition to the training requirements in § 2600.58 (relating to staff training and orientation), all staff of a secured unit shall receive and successfully pass competency-based training related to dementia, to include the following:

(1) The normal aging-cognitive, psychological and functional abilities of older persons.

(2) The definition and diagnosis of dementia, description of reversible and irreversible causes, and an explanation of differences between dementia, delirium and depression.

(3) The definition of dementia and related disorders, progression, stages and individual variability.

(4) Communication techniques.

(5) The description of behavioral symptoms of dementia and how to manage resident behaviors.

(6) The role of personality, culture and environmental factors in behavioral symptoms and dementia care.

(7) The home's philosophy of dementia care, including mission statement, goals, policies and procedures.

(8) Working with family members.

(9) Resources for residents with dementia and their families.

(10) Team building and stress reduction for the staff.

(11) The Older Adult Protective Services Act (35 P. S. §§ 10225.701—10225.707).

§ 2600.238. Additional staffing.

Residents of secured units are considered to be mentally immobile. In addition to the requirements of § 2600.56 (relating to staffing), the Department will exercise its option to require additional staffing when necessary.

§ 2600.239. Programming standards.

Programming standards include the following:

(1) Activity programming in the secured unit, which shall maximize independence while focusing on strengths and abilities.

(2) General activity programming, which shall be offered with a frequency that meets the individual needs of the resident.

(3) Resident participation in general activity programming, which shall:

(i) Have a purpose that the resident can appreciate and endorses.

(ii) Be done voluntarily.

(iii) Respect the resident's age and social status.

(iv) Take advantage of the resident's retained abilities.

§ 2600.240. Notification to Department.

Notification to the Department is required as follows:

(1) Sixty days prior to the secured unit becoming operational for the first time, the legal entity of the home shall notify the appropriate Department regional office in writing of the home's need or desire to implement a secured unit within the home.

(2) If the home makes changes to the current secured unit with respect to increase or decrease of resident capacity, change in locking system, additional doors to be locked or floor plan changes, the legal entity of the home shall notify the appropriate regional field licensing office in writing, 60 days prior to completion of these changes.

(3) The following documents shall be included in the written notification:

- (i) The name, address and legal entity of the home.
- (ii) The name of the administrator of the home.
- (iii) The total resident population of the home.
- (iv) The total resident population of the secured unit.
- (v) A building description and general information.
- (vi) A unit description.
- (vii) The type of locking system.
- (viii) Emergency egress.
- (ix) A sample of a 2-week staffing schedule.
- (x) Verification of completion of additional training requirements.
- (xi) The operational description of the secured unit locking system of all doors.
- (xii) The manufacturer's statement regarding the secured unit locking system.
- (xiii) A written approval or a variance from the Department of Labor and Industry, or the appropriate fire safety authority in the cities of Scranton, Pittsburgh and Philadelphia.
- (xiv) The name of the municipality or 24-hour monitoring service maintaining the interconnection with the home's fire alarm system.
- (xv) A statement from the local fire and building code authorities of meeting all applicable fire safety and building code requirements.
- (xvi) A sample plan of care and service for the resident addressing the physical, medical, social, cognitive and safety needs, who will address these needs and the responsible person
- (xvii) The activity standards to be followed.
- (xviii) A sample of the complete medical and cognitive preadmission assessment, which is completed upon admission and reviewed and updated annually.
- (xix) A sample consent form from the resident, or the resident's legal representative agreeing to the resident's placement in the secured unit.
- (xx) A sample of the written agreement containing full disclosure of services, admission and discharge criteria, change in condition policies, services, special programming and cost and fees.
- (xxi) A description of environmental cues being utilized.
- (xxii) A general floor plan of the entire home.
- (xxiii) A specific floor plan of the secured unit, outside enclosed area and exercise space.

§ 2600.241. Mobility standards.

(a) An immobile person who does not require the services in or of a long-term care facility, but who does require personal care services, may be admitted to a home as a resident.

(b) If a resident is determined to be immobile as part of the initial or annual standardized screening instrument

including mobility assessment, specific requirements relating to the care, health and safety of an immobile resident shall be met immediately.

(c) The administrator shall notify the appropriate regional field licensing office within 30 days when an immobile person is admitted to the home or the date when a resident becomes immobile in order for field office staff to evaluate compliance of the home with staffing requirements for homes housing immobile residents.

RESIDENT RECORDS

§ 2600.251. Resident records.

- (a) A separate record shall be kept for each resident.
- (b) The entries in a resident's record shall be permanent legible, dated and signed by the person making the entry.
- (c) The home shall maintain resident records on standardized forms utilized by the home.
- (d) The administrator shall maintain individual resident records on the premises where the resident lives. Resident records shall be made available to residents during normal working hours.
- (e) The home shall comply with § 2600.17 (relating to confidentiality of records).

§ 2600.252. Content of records.

- (a) Each resident's record shall include personal information such as:
 - (1) The name, gender, admission date, birth date and Social Security number.
 - (2) The race, height, weight, color of hair, color of eyes and identifying marks.
 - (3) A current photograph of the resident that is no more than 2 years old.
 - (4) Language or means of communication spoken or used by the resident.
- (b) Each resident's record shall include emergency information such as:
 - (1) The name, address, telephone number and relationship of a designated person to be contacted in case of an emergency.
 - (2) The name, address and telephone number of the resident's physician or source of health care and health insurance information, if any.
 - (3) The current and previous 2 years' physician's examination reports, including copies of the medical evaluation forms.
 - (4) A list of prescribed medications.
 - (5) Dietary restrictions.
 - (6) A record of incident reports for the individual resident.
 - (7) A list of allergies, if known.
 - (8) The documentation of physician visits and orders, including orders for the services of visiting nurse or home health agencies.
- (c) The emergency information contents and procedures shall accompany residents as specified in § 2600.143 (relating to emergency medical plan).
- (d) Additionally, each resident's record shall include:
 - (1) The initial intake assessment and the most current version of the annual assessment.

- (2) A support plan.
- (3) A court order, if applicable.
- (4) The resident's medical insurance information.
- (5) The date of entrance into the home, relocations and discharges, including the transfer of the resident to other homes owned by the same licensee.
- (6) An inventory of the resident's personal property as voluntarily declared by the resident upon admission and voluntarily updated.
- (7) An inventory of the resident's property entrusted to the administrator for safekeeping.
- (8) The financial records of residents receiving assistance with financial management.
- (9) The reason for termination of services or transfer of the resident, the date of transfer and the destination.
- (10) Copies of transfer and discharge summaries from hospitals, if available.
- (11) If the resident dies in the home, a record of the death of the resident. A copy of the official death certificate shall be retained in the resident's file.
- (12) Signed notification of rights, grievance procedures and applicable consent to treatment protections specified in § 2600.41 (relating to notification of rights and complaint procedures).
- (13) A copy of the resident-home contract
- (14) The individual personal care services to be provided and changes in the services.
- (15) A termination notice, if any.

§ 2600.253. Record retention and disposal.

Each home shall have and utilize a policy and procedures for closure and storage of the original or reprographic reproduction of resident records. The policy and procedure shall include the following:

- (1) The resident's entire record shall be maintained for a minimum of 3 years following the resident's discharge from the home or until any audit or litigation is resolved.
- (2) The resident's record shall be destroyed 4 years after the resident's discharge from the home. The records shall be destroyed in a manner that protects confidentiality.
- (3) The home shall maintain a log of resident records destroyed on or after _____. (*Editor's Note:* The blank refers to the effective date of adoption of the proposal.). This log shall include the resident's name, record number, birth date, admission date and discharge date.

§ 2600.254. Record access and security.

- (a) Records of active and discharged residents shall be maintained in a confidential manner, which prevents unauthorized access.
- (b) Each home shall have and utilize a policy and procedures addressing record accessibility, security, storage, authorized use and release, and who is responsible for the records.
- (c) Resident identifying information shall be stored in locked containers or a secured, enclosed area used solely for record storage and be accessible at all times to the administrator or a designee.

ENFORCEMENT

§ 2600.261. Classification of violations.

(a) The Department will classify each violation of this chapter pertaining to homes into one of three categories as described in paragraphs (1)—(3). A violation identified may be classified as Class I, Class II or Class III, depending upon the severity, duration and the adverse effect on the health and safety of residents.

(1) *Class I.* Class I violations have a substantial probability of resulting in death or serious mental or physical harm to a resident.

(2) *Class II.* Class II violations have a substantial adverse effect upon the health, safety or well being of a resident.

(3) *Class III.* Class III violations are minor violations, which have an adverse effect upon the health, safety or well being of a resident.

(b) The Department's criteria for determining the classification of violations are available from the appropriate personal care home regional field licensing office.

§ 2600.262. Penalties.

(a) The Department will assess a penalty for each violation of this chapter.

(b) Penalties will be assessed on a daily basis from the date on which the citation was issued until the date the violation is corrected, except in the case of Class II violations.

(c) In the case of a Class II violation, assessment of the penalty will be suspended for 5 days from the date of citation to permit sufficient time for the licensee to correct the violation. This time period may be extended for good cause. If the violation has not been corrected within the 5-day period, the fine will be retroactive to the date of citation.

(d) The Department will assess a penalty of \$20 per resident per day for each Class I violation. Each Class I violation shall be corrected within 24 hours.

(e) The Department will assess a minimum penalty of \$5 per resident per day, up to a maximum penalty of \$15 per resident per day, for each Class II violation.

(f) There is no monetary penalty for Class III violations unless the home fails to correct the violation within 15 days.

(g) Failure to correct a Class III violation within 15 days may result in a penalty assessment of up to \$3 per resident per day for each Class III violation retroactive to the date of the citation.

(h) If a home is found to be operating without a license, a penalty of \$500 will be assessed. After 14 days, if the home operator cited for operating without a license fails to file an application for a license, the Department will assess an additional \$20 for each resident for each day during which the home operator fails to apply.

(i) A home charged with a violation of this chapter or Chapter 20 (relating to licensure or approval of facilities and agencies) has 30 days to pay the assessed penalty in full.

(j) If the home wishes to contest the amount of the penalty or the fact of the violation, the home shall forward the assessed penalty, not to exceed \$500, to the Secretary of Public Welfare (Secretary) for placement in an escrow account with the State Treasurer. A letter

stating the wish to appeal the citation or penalty shall be submitted with the assessed penalty. This process constitutes an appeal.

(1) If, through an 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 will, within 30 days, remit the appropriate amount to the licensee together with interest accumulated on these funds in the escrow deposit.

(2) Failure to forward payment of the assessed penalty to the Secretary of Public Welfare within 30 days will result in a waiver of the right to contest the fact of the violation or the amount of the penalty.

(3) After an administrative hearing or a waiver of the administrative hearing, the assessed penalty amount will be made payable to the "Commonwealth of Pennsylvania." It will be collectible in a manner provided by law for the collection of debts.

(4) If a home liable to pay the penalty neglects or refuses to pay the penalty upon demand, the failure to pay will constitute a judgment in favor of the Commonwealth in the amount of the penalty, together with the interest and costs that may accrue on these funds.

(5) Money collected by the Department under this section will be placed in a special restricted receipt account and will be used first to defray the expenses incurred by residents relocated under this chapter or Chapter 20. The Department each year will use money remaining in this account to assist with paying for enforcement of this chapter relating to licensing. Fines collected will not be subject to 42 Pa.C.S. § 3733 (relating to deposits into account).

(6) The Department will review the determinations of Class II and Class III violations made by the personal care home regional field licensing offices. This will be done on a monthly basis to ensure the uniformity and consistency of the classification process.

(7) Semiannually, the Department will review the standard criteria for the classification of violations and evaluate the use of these guidelines. This review is to ensure the uniformity and consistency of the classification process.

§ 2600.263. Revocation or nonrenewal of licenses.

(a) The Department will temporarily revoke the license of a personal care home if, without good cause, one or more Class I violations remain uncorrected 24 hours after the personal care home has been cited for the violation.

(b) The Department will temporarily revoke the license of a personal care home if, without good cause, one or more Class II violations remain uncorrected 15 days after the citation.

(c) Upon the revocation of a license in the instances described in subsections (a) and (b), or if the personal care home continues to operate without applying for a

license as described in § 2600.262(h) (relating to penalties), residents shall be relocated.

(1) If the relocation of residents is due to the failure of the personal care home to apply for a license, the Department will offer relocation assistance to the residents. This assistance will include each resident's involvement in planning the relocation, except in the case of an emergency. Each resident shall have the right to choose among the available alternatives after an opportunity to visit the alternative personal care homes. These procedures will occur even if the residents are placed in a temporary living situation.

(2) A resident will not be relocated if the Secretary of Public Welfare determines in writing that the relocation is not in the best interest of the resident.

(d) The revocation of a license may terminate upon the Department's determination that its violation is corrected.

(e) If, after 3 months, the Department has cause to refuse or to deny a new license for a personal care home, the prior license is revoked under this section.

(1) Revocation or nonrenewal under this section will be for a minimum of 5 years.

(2) A personal care home, which has had a license revoked or not renewed under this section, will not be allowed to operate, staff or hold an interest in a personal care home which applies for a license for 5 years after the revocation or nonrenewal.

(f) If a personal care home has been found to have Class I violations on two or more separate occasions during a 2-year period without justification, the Department will revoke or refuse to renew the license of the personal care home.

(g) The power of the Department to revoke or refuse to renew or issue a license under this section is in addition to the powers and duties of the Department under section 1026 of the Public Welfare Code (62 P. S. § 1026).

§ 2600.264. Policies, plans and procedures of the personal care home.

Policies, plans and procedures, which the personal care home is required by this chapter to develop, shall be implemented and followed by the personal care home.

CHAPTER 2620. (Reserved)

(Editor's Note: The Department is proposing to delete Chapter 2620 as it currently appears in the Pennsylvania Code, pages 2620-1 to 2620-40 (serial pages (242443) to (242450), (257369) to (257372), (242455) to (242458), (257373) to (257378) and (242465) to (242482).)

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