

# RULES AND REGULATIONS

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

#### [55 PA. CODE CHS. 2600 AND 2620]

#### Personal Care Homes

##### *Statutory Authority*

The Department of Public Welfare (Department) adopts Chapter 2600 (relating to personal care homes) and rescinds Chapter 2620 to read as set forth in Annex A 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).

Notice of proposed rulemaking was published at 32 Pa.B. 4939 (October 5, 2002).

##### *Purpose of the Final-Form Rulemaking*

The purpose of this final-form rulemaking is to protect the health, safety and well-being of personal care home residents. Personal care homes are designed to provide safe, humane, comfortable and supportive residential settings for adults who do not require the services in or of a licensed long-term care facility, but who do require assistance or supervision with activities of daily living (ADL) or instrumental activities of daily living (IADL), or both. Residents who live in personal care homes that meet the requirements in this chapter will receive the encouragement and assistance they need to develop and maintain maximum independence and self-determination.

This final-form rulemaking is needed to protect the health, safety and well-being of adults who receive services in personal care homes away from their families and advocates. The final-form rulemaking strengthens health and safety protections based on current information and research and incorporates state-of-art program concepts. The final-form rulemaking addresses the increasing complexity of the needs and services of the personal care home residents. Due to this Commonwealth's rapidly growing population of older adults, as well as the desire of many consumers to stay out of nursing homes, the demand for residential care options is increasing.

##### *Background*

During the public comment period, the Department received a total of 776 letters, faxes and e-mails submitting recommendations for changes to the proposed rulemaking. The Department prepared and distributed a summary of the major commentator issues to personal care homes and other interested persons. Five workgroups were formed to review the sections of the regulations with the most disparate comments. The five work groups included: medications, resident rights, small homes versus large homes, staffing and assessments/support plans. The work groups were co-chaired by personal care home stakeholders and Department staff, and reported to the Department's Personal Care Home Advisory Committee (Committee), which is comprised of personal care home residents, providers, provider associations, advocates and advocacy associations. The goal of each workgroup was to recommend guidelines for the final-form rulemaking relating to the workgroup's specific topic of interest.

The Department considered the 776 public comments, the Committee workgroup recommendations, comments

from other State agencies, Departmental research, comments from legislators and recommendations of the Independent Regulatory Review Commission (IRRC) in developing the final-form rulemaking.

Throughout the regulatory process, including the various public forums and the public comment period, many valuable comments and suggestions were received from the external stakeholders who participated in the process. The Department has carefully reviewed and considered each comment and incorporated many of the recommendations into the final-form rulemaking. The Department appreciates the time and expertise external stakeholders have given to make the final-form rulemaking an effective regulatory tool to protect the vulnerable adults served in personal care homes.

##### *Affected Organizations and Individuals*

The residents receiving care and services in these licensed facilities are directly affected by this final-form rulemaking since they are the consumers that the final-form rulemaking aims to protect. Families and friends of the residents receiving care and services are affected in their interest to protect the health, safety and well-being of their loved ones.

Personal care homes must comply with this final-form rulemaking to operate in this Commonwealth. This final-form rulemaking applies equally to profit and nonprofit facilities. As of October 2004, there are 1,689 licensed personal care homes in this Commonwealth, with a resident capacity of 75,958. Of this total, 1,293 homes (77%) are operated for profit and 396 homes (23%) are operated as nonprofit. There are 317 homes serving 8 or fewer residents (19%), with 1,372 homes serving 9 or more residents (81%). Of the 53,240 residents in personal care homes, a total of 10,425 residents (19.6%) receive Supplemental Security Income (SSI) benefits that are accepted as full payment towards the residents' monthly care.

##### *Accomplishments and Benefits*

The final-form rulemaking benefits 53,240 residents served in licensed personal care homes in this Commonwealth by providing comprehensive health, safety and well-being protections, while requiring that a resident's needs be met on an individualized basis. The final-form rulemaking supports resident-centered care, resident choice and resident privacy.

The final-form rulemaking includes many new and strengthened requirements from the current regulations, including unannounced Departmental inspections, fire safety protections, reportable incidents and conditions, resident-home contract, quality management, refunds, resident rights, complaint procedures, administrator qualifications, administrator and staff training, approval of training courses and instructors, emergency preparedness, emergency medical plan, smoking safety, medications, medication administration training, safe management techniques, preadmission screening tool, initial and annual assessment, support plan, notification of termination, secured dementia care and enforcement.

Families and friends of the residents also benefit by this final-form rulemaking in their interest to assure the health, safety and well-being of their friends and family members.

*Fiscal Impact*

IRRC and many commentators recommended that the Department consider the fiscal impact of the final-form rulemaking on smaller personal care homes and reassess its cost estimates for the final-form rulemaking. In drafting the final-form rulemaking, the Department carefully researched and considered the effect the new requirements will have on the cost of providing or receiving services. The following requirements will have most influence on the cost of implementing the final-form rulemaking. A discussion of new costs, as well as fiscal relief for small homes, is addressed.

1. *Small versus large homes.*

In accordance with section 211(b)(1) of the Public Welfare Code, the Department added several exemptions for small personal care homes serving eight or fewer residents. The Public Welfare Code requires that the Department distinguish between the requirements for homes serving nine or more residents versus homes serving eight or fewer residents.

The exemptions for small homes are based on existing residential licensing regulations for community homes (§§ 6400.231—6400.245 (relating to homes serving nine or more residents)) and child residential facilities (§§ 3800.251—3800.257 (relating to secure care)) and the cost impact for small homes. The exemptions for small homes include the requirements regarding administrator qualifications (§ 2600.53(a)(5) (relating to qualifications and responsibilities of administrators)), sewage system approval (§ 2600.85(f) (relating to sanitation)), communication systems (§ 2600.90(b) (relating to communication system)), posting of emergency evacuation diagrams (§ 2600.123(d) (relating to emergency evacuation)), interconnected fire alarms (§ 2600.130(d) (relating to smoke detectors and fire alarms)) and exit signs (§ 2600.133 (relating to exit signs)). These requirements were proposed to apply to all homes regardless of size.

These exemptions respond to IRRC and the public comments requesting fiscal relief for small homes and support a more “home-like” setting for the smaller homes, again in response to public comment.

2. *Physical site.*

Many public comments were received regarding the costs of some of the new physical site requirements. Some homes will incur reasonable and necessary additional costs to meet new health and safety protections such as water safety testing (§ 2600.89(c) (relating to water)), a communication system (§ 2600.90) and safe landings at stairwells (§ 2600.94 (relating to landings and stairs)).

The new requirement for water safety testing in § 2600.89(c) applies only to a home that is not connected to a public water system, but instead has a private water source such as a well. These homes will need to test their well water every 3 months for coliforms to be certain that the water does not contain contaminants and is safe to drink. The quarterly cost for coliform testing at a Department of Environmental Protection (DEP) certified laboratory is only \$30 per test. The benefit of assuring that residents have safe drinking water and are not exposed to harmful contaminants outweighs this reasonable cost.

The new requirement for an internal communication system in § 2600.90 applies only to a home serving nine or more residents. In a large home, it is critical that staff persons be able to quickly and efficiently contact other staff persons in the event of an emergency or if they need assistance with a resident. The cost of installing a

communication system will vary greatly based on the size and lay out of the home. If a home is physically structured so that staff persons can call out for assistance and be heard throughout the home, a system is not required. Many large homes already have internal communication systems in place and will not incur additional costs. Types of communication systems that may be used include walkie-talkies, pagers, cell phones and intercom systems. The Department estimates that a two-way walkie-talkie system for two staff persons will cost between \$20 and \$100. The benefit of being able to contact other staff persons in the event of an emergency outweighs this reasonable cost for a large home.

The new requirement for safe landings at stairwells in § 2600.94 will be a one-time cost for an existing home that does not currently have a safe landing at the top of a stairwell. The requirement applies to a home that has a downward stairwell with a door that opens into the stairwell with no landing at the top as the door is opened. This requirement is a major safety protection to prevent accidents and injuries and is intended to prevent a resident from falling down a stairwell. Many homes already meet this requirement and no changes to the home will be needed. Often this requirement can be met by reversing the door swing so that a resident must step back to open the door before proceeding down the stairwell. Since there could be many physical lay out variations to a home and the risks may vary, the Department will entertain a waiver request if the home believes that a particular stairwell is safe. The cost to comply with this requirement will vary depending on the physical site correction that is required. The benefit of preventing serious injuries due to falls outweighs the cost.

The new requirement for nonskid surfaces on stairs, steps and ramps in § 2600.94 will be a one time cost for a home that has surfaces that are likely to cause slips, falls and resulting injuries to the residents. Most homes already have acceptable nonskid surface coverings such as carpet on interior stairs, rubber coverings or strips on ramps and textured concrete on outside steps. The estimated average cost per foot for installing a nonskid strip on a stairs or ramp is \$4 per yard. The benefit of preventing falls and injuries outweighs this reasonable cost.

3. *Fire safety.*

Many public comments were received regarding the costs of some of the new fire safety requirements. Some homes will incur reasonable and necessary additional costs to meet new fire protections such as fire safety exits (§ 2600.122 (relating to exits)), fire alarms for residents and staff persons with a hearing impairment (§ 2600.130(e)), fire alarms connected to the local fire department (§ 2600.130(i)), exit signs for large homes (§ 2600.133) and smoking safety (§ 2600.144 (relating to use of tobacco)).

The new requirement for two independent and accessible fire safety exits per floor in § 2600.122 will be a one-time cost for an existing home that does not have two exits. The Department has a delayed implementation of this requirement. Existing homes will be required to have two exits from each floor of the home within 18 months after the effective date of the final-form rulemaking. This requirement is critical to provide for safe evacuation in the event of a fire. In many cases of an actual fire, an interior stairwell may be blocked by fire or smoke making egress impossible. A second exit is often necessary to escape the fire. The second exit may be an interior stairwell. Installation of a fire escape may be required for

a multistory home. The fire escape may be of any sturdy construction material including wood. The cost of installing a new fire door and fire escape is estimated at \$5,000. The benefit of providing an alternate escape route for resident in the event of a fire outweighs the cost.

There is a new requirement in § 2600.130(e) requiring that an individual or staff person with a hearing impairment must be alerted in the event of a fire. This applies to all homes regardless of size. The estimated cost of installing a full strobe light and bed vibrator system is \$170 per person. The bed vibrator system would be required only for a resident with a hearing impairment. A personal body device, estimated to cost \$100, that is portable and the possession of the individual is also an option. The benefit of providing equal fire protection for a person with a hearing impairment outweighs this cost.

The current requirement in § 2620.55(j) (relating to fire protection and safety) requires the home's fire alarm system to be directly connected to the local fire department, or maintain a 24-hour monitoring service, if the home serves ten or more residents with mobility needs. The Department has strengthened this fire safety protection to lower the threshold of application to a home serving five or more residents with mobility needs in § 2600.130(i). This is a new requirement only for a home serving more than four but less than ten residents with mobility needs. By immediately alerting the fire department, the risk of injury and death in the event of a fire in a home serving five or more residents with mobility needs is reduced. The estimated annual cost of a digital communicator or a monitoring service is \$500. The benefit of this strengthened fire protection outweighs the costs.

The requirement in § 2600.133 requires exit signs for a large home. This is necessary to mark the path of egress in the event of a fire or other emergency. Many homes already have exit signs. The cost of installing exits signs is reasonable compared to the benefit of providing increased fire safety protections.

The new requirements regarding smoking safety in § 2600.144 requires that if smoking occurs on the premises, the smoking room inside the home or the exterior area where smoking occurs will be fire safe. There have been several recent fires in personal care homes caused by careless smoking practices. These smoking safety requirements are necessary to prevent fires and associated fire injuries and deaths, as well as to protect the health of nonsmokers from second-hand smoke. However, this new requirement is optional by the home. A home may choose to have a nonsmoking policy in the home and avoid these potential costs. The benefits of providing the increased fire and health protections and the protection of residents from second-hand smoke outweighs the costs.

#### 4. Staffing.

There are increased qualifications for an administrator in § 2600.53 that will apply to a new home. There is no cost to existing homes since they are exempt from the new qualification requirements. There is also a special qualification option for a small home to permit a person to qualify as an administrator with a high school diploma or general education development (GED) diploma. Increased qualifications for a new home are essential to assure that qualified persons are in the top management position to provide the increasingly complex services provided by a person care home. There are no costs to existing homes or to small homes.

Staff training has been increased both in the number of hours required for administrators and direct care staff

and in the types of training required. Strengthening of the training requirements is necessary to provide better health and safety protections for the residents as well as improved care and services based on the needs of the individual resident. Costs to provide the training will vary across this Commonwealth and for each staff person, but are estimated at \$180 per year per administrator. The benefit of providing the improved training outweighs the costs.

#### 5. Services.

There are new costs for the development of the resident assessment in § 2600.225 (relating to initial and annual assessment) and support plan in § 2600.227 (relating to development of the support plan). The Department will provide forms for ease of administration by the home. The assessment is necessary to determine if the individual's needs can be met by the home. The support plan is necessary for the resident to receive the individual services specific to his needs such as behavioral health care, vision care or dental care. There will be minimal costs and paper work for the home since the functions can be absorbed by existing staff persons. The benefit to residents of providing services based on an individual assessment and support plan outweighs the costs.

#### 6. Administration.

There are a few new costs associated with administrative requirements required by the final-form rulemaking, such as the development of policies and procedures, incident reporting and quality management. The Department will develop model policies and procedures so that the impact on the home will be negligible. The benefit of providing effective administrative policies for areas such as incident reporting and quality management outweighs the costs.

The Department anticipates that this final-form 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. A total of 10,425 low-income residents over 65 years of age, who have a disability or are blind, receive monthly payments from the SSI Program. In addition, the Commonwealth provides a supplement to recipients of SSI.

There will be no costs to the general public or to local government as a result of this final-form rulemaking.

#### *Paperwork Requirements*

The final-form rulemaking does require some additional paperwork by the Commonwealth and personal care homes. However, there is no reasonable alternative to the increased paperwork.

The homes will not be required to develop their own forms, but rather the Department will develop the forms in cooperation with the providers. The preadmission screening tool and assessment form were developed with stakeholder input prior to the final-form rulemaking. Additional Departmental forms that are required, such as the reportable incident and condition form, will be shared in draft form with external stakeholders for review and comment prior to implementation. With respect to the annual assessment form (§ 2600.225) and the support plan (§ 2600.227), the home may use its own form as long as all the required information in the Department's standard form is included. The Department will also work with stakeholders to develop sample policies and procedures, to assist all personal care homes to comply with the final-form rulemaking.

In response to public comment, the paperwork requirements have been reduced from the proposed rulemaking. Paperwork reductions include the elimination of requirements for some policies and procedures such as independent audits, hiring practices, personnel records and job descriptions.

#### *Public Comment*

Written comments, suggestions and objections regarding the proposed rulemaking were requested within a 30-day period following publication of the proposed rulemaking. As mentioned previously, a total of 776 comment letters, including e-mails and faxes, were received by the Department in response to the proposed rulemaking. The Department received comments from every sector of the community that will be affected by the final-form rulemaking including consumers, family members, advocates, personal care home employees, service providers, trade associations, local government and other State agencies, as well as from IRRC and the majority and minority chairpersons and members of the Senate Public Health and Welfare Committee and House Health and Human Services Committee. Of the 776 comment letters, 323 were form letters of 32 differing varieties.

#### *Discussion of Major Comments and Major Changes*

Following is a summary of the major comments received within the public comment period following publication of proposed rulemaking and the Department's responses to the comments. A summary of the major changes from the proposed rulemaking is also included.

#### *General—Services and Quality of Care*

IRRC and several commentators raised concern that homes may divert staff persons from direct care to administrative functions to complete the development of forms and procedures such as emergency management and incident reporting.

#### *Response*

The Department will continue to work with the Committee and other interested parties in developing standardized forms and model policies and procedures to assist all personal care homes to comply with the final-form rulemaking.

#### *General—Cost*

Many commentators suggested that the rulemaking will create a significant financial burden on providers of service, particularly related to staff training and physical site changes. Some commentators suggested that the regulations are cost-prohibitive for small homes and that they will be forced out of business.

#### *Response*

While there are some additional requirements regarding staffing, physical site and fire safety, many providers are already meeting higher standards than currently required. The cost of meeting the new final-form rulemaking is outweighed by the benefits to the residents. The Fiscal Impact section of this preamble provides a detailed fiscal review and discussion.

### **GENERAL PROVISIONS**

#### *§ 2600.1. Purpose*

One commentator suggested deleting the reference to skilled or intermediate nursing care. Two commentators proposed that the regulation does not assure a supportive residential setting and that the regulation is moving toward a medical versus a homelike model of care. Several commentators suggested retention of current

§ 2620.1 (relating to introduction) that addresses unnecessary deinstitutionalization and the use of placement services of local assessment agencies. Two commentators commended the Department for using "dependent adults" versus the terms "aged, blind and disabled."

#### *Response*

The Department deleted the reference to skilled or intermediate nursing care and clarified the scope of care and services in a personal care home. Commonwealth law prohibits a personal care home from housing and serving residents whose care needs would qualify them for nursing facility care. This distinction is made in the statutory definition of "personal care home" in section 1001 of the Public Welfare Code (62 P.S. § 1001), which provides that an individual who needs the level of care of a long-term care facility, or nursing home, cannot be served in a personal care home. Personal care homes serve adults who require assistance beyond the basic necessities of food and shelter, but who do not require the services in or of a nursing care facility.

The Department disagrees that the regulation is moving toward a medical model of care. A homelike, or social, model of care focuses on supporting the wellness of the whole individual, not only their physical condition, but also their emotions and intellect. The individual's choices, unique differences, privacy and social support system are paramount. The physical setting compares to living in the comfort of a family home. This model of care can positively affect both residents and staff.

A medical model focuses on disease and providing treatment. Individuals are in a passive, receptive role. Physical site is arranged to ensure efficient, sanitary and even mobile care. Individuals are likely housed according to treatment needs, with staff and equipment resources assigned accordingly. The individual's support system of family and friends is de-emphasized.

The final-form rulemaking provides new and enhanced requirements that seek to assure a supportive, community-based environment for the resident to be fully informed and involved in making decisions about his care and services. These requirements include new provisions such as reportable incidents and conditions, waivers, resident-home contract, resident rights, complaint procedures, direct care staff training, administrator training, emergency preparedness, medication administration training, safe management techniques, preadmission screening tool, initial assessment and the annual assessment and support plan. The final-form rulemaking supports resident-centered care, choice and privacy.

Personal care homes are not licensed as medical facilities and are not required to hire licensed, certified or registered medical professionals. Although some personal care homes employ doctors, registered nurses, certified nursing assistants, certified registered nurse practitioners and licensed practical nurses to assist in service provision for the residents, this is not mandated.

The requirements in current § 2620.1 are addressed in other sections of the final-form rulemaking. Section 2600.224 (relating to preadmission screening tool) requires a determination within 30 calendar days prior to admission that the resident's needs can be met by the services provided by the personal care home and referral of an applicant whose personal care service needs cannot be met to a local appropriate assessment agency. Section 2600.225 requires a comprehensive written assessment of a resident within 5 calendar days of admission and annually thereafter.

The Department deleted the term “dependent” since the revised description of the residents’ needs for assistance and supervision is sufficient and more appropriate than the label of “dependent.”

*§ 2600.2(b). Scope*

Two commentators suggested clarifying that the exemption for facilities operated by a religious organization for the care of clergy or other persons in the religious profession only applies if they provide care solely for that group.

*Response*

In response to public comment, this clarification was made.

*§ 2600.3. Inspections and licenses or certificates of compliance (redesignated as Inspections and licenses)*

One commentator requested clarification about the use of the two terms “license” and “certificate of compliance.” Two commentators objected to the issuance of a license as a result of an acceptable plan of correction. Eight commentators suggested that annual inspections should be required. One commentator did not support the requirement for annual inspections, stating that this might allow the Department to focus resources on personal care homes that require the most supervision. One commentator noted the potential conflict with the proposed requirement to conduct inspections in 75% of the homes every 2 years as proposed in § 2600.11 (relating to procedural requirements for licensure or approval of personal care homes). In response to proposed § 2600.11, the Department received many comments for and against unannounced inspections. Nineteen commentators supported unannounced inspections, while 17 commentators supported announced inspections. IRRC requested clarification of whether the Department’s inspections will be announced or unannounced.

*Response*

The final-form rulemaking was changed to use only the term “license” since it is the term used in Article X of the Public Welfare Code. When the Department finds a regulatory violation, Chapter 20 (relating to licensure or approval of facilities and agencies) requires the legal entity to submit an acceptable written plan of correction, including timeframes, to correct each regulatory violation and assure compliance. Upon submission of an acceptable written plan of correction, a provisional license may be issued.

The Department revised this section to require an annual inspection of each home. Proposed § 2600.11 was revised to eliminate the conflict regarding the frequency of the Department’s inspections.

The Department added a requirement for its annual inspections to be unannounced. Beginning with the effective date of this final-form rulemaking, a personal care home will not be notified in advance of the date of the annual inspection. The Department finds that unannounced inspections give a truer picture of the status of the home’s compliance with the regulations. Section 2600.2 (relating to scope) requires personal care homes to be in regulatory compliance at all times. This is a change in the inspection process. Under Chapter 2620, annual inspections were announced and scheduled in advance of the inspection.

In 2001, the National Association for Regulatory Administration conducted a survey of 150 licensing agencies of the United States and Canada. Four licensing areas

were surveyed: assisted living, child care, developmental disability and child residential. The results were published and entitled “A Comparative Report on the Frequency and Types of Human Service Licensing Inspections.” Survey results showed that while the majority of state licensing agencies across all four program types conduct announced inspections for new facilities, over 60% conduct unannounced renewal inspections.

The Department added the requirement to post the home’s license inspection summary and a copy of this final-form rulemaking so that residents, families and advocates have the information available to assist in the monitoring of the home.

*§ 2600.4. Definitions—ADL and IADL*

IRRC requested clarification of whether “securing health care” should be added as an IADL. One commentator expressed concern that use of this term depicts a nursing home perspective. One commentator recommended retaining the term “tasks of daily living” and using ADL to reference basic hygiene and care functions. Another commentator commended the Department for use of the terms “ADL” and “IADL.”

*Response*

Securing health care, managing health care, personal hygiene, self-administering medications and proper turning and positioning were added to ADL as critical self-care tasks of everyday life. In a personal care home, these functions can be performed independently or with supervision or assistance.

The terms “ADL” and “IADL” are widely used in the health care field. Additionally, both ADL and IADL are used by the Department of Aging in regulations for older adult daily living centers in 6 Pa. Code Chapter 11 (relating to older adult daily living centers) and ADL is used in regulations for protective services for older adults in 6 Pa. Code Chapter 15 (relating to protective services for older adults). The term “IADL” was expanded to add additional support functions.

*§ 2600.4. Definitions—Abuse*

Two commentators asked for further clarification of “abuse.” One commentator asked for clarification of “informed consent.” Another commentator suggested that a resident’s informed consent is often invalid because of his cognitive abilities. Thirteen comments suggested consideration of the employee’s intent to harm the resident, the weight of the resident’s statements in determining the outcome of the investigation and the personal care home’s burden of proof.

*Response*

The definition of “abuse” was modified only slightly to clarify the meaning of “caretaker.” As to the comments regarding informed consent and whether it is valid when the resident is cognitively impaired, those issues go beyond the scope of the definition. The home will have to make determinations about whether, and to what extent, a resident is capable of giving informed consent. Substantive issues are not appropriately included in the definitions section. The definition of “sexual harassment, rape or abuse” in paragraph (iii) of the definition was revised to strike the reference to the Older Adult Protective Services Act (OAPSA) (35 P. S. §§ 10225.101—10225.5102). The inclusion of the reference to the OAPSA was unnecessary because the OAPSA definition incorporates by reference the 23 Pa.C.S. Chapter 61 (relating to protection from abuse) definition of the term in 23 Pa.C.S. § 6102 (relating to definitions). Thus, only the reference

to 23 Pa.C.S. Chapter 61 remains. As to the issues of the intent of the employee, the weight to be given the resident's statements and the home's burden of proof, these issues are substantive and not appropriate for inclusion in the definition of "abuse."

*§ 2600.4. Definitions—Agent*

One commentator requested a more specific definition and another commentator suggested that only one agency hold a personal care home accountable.

*Response*

The definition was revised to include only individuals authorized to act on behalf of the Department.

*§ 2600.4. Definitions—Advocate, designee, designated contact person, designated person and responsible person*

IRRC and six commentators recommended defining these terms. IRRC asked about the legal authority for these individuals.

*Response*

The definitions of the terms "designee" and "designated person" have been added to the final-form rulemaking. The terms "designated contact person" and "responsible person" are no longer used in the final-form rulemaking and therefore are not defined. The term "advocate" has not been defined since it is used once in the definition of "designated person."

The legal authority for the designated person is based on the relationship to the resident. The legal authority for the designee is the same as the administrator under this chapter.

*§ 2600.4. Definitions—Ancillary staff person*

IRRC and two commentators requested clarification of whether ancillary staff may assist with IADLs, but not provide assistance with ADLs. Four commentators suggested expanding this definition. One commentator supported the separate categories of "ancillary staff" and "direct care staff."

*Response*

This clarification was made. Ancillary staff may provide assistance with IADL, but not ADL.

*§ 2600.4. Definition—Complaint*

Two commentators suggested including to whom the complaint must be submitted.

*Response*

The definition was clarified to provide that the complaint should be submitted to the Department.

*§ 2600.4. Definitions—Day and Dementia*

The Department added definitions of "day" and "dementia."

*§ 2600.4. Definitions—Direct care staff persons*

IRRC requested clarification of whether direct care staff may assist with IADL. Seven commentators asked for a clearer definition. One commentator suggested that this is a term used in nursing homes. Another suggested that direct care staff perform assistance with all ADL activities. Eight commentators disagreed with the inclusion of volunteers, due to training requirements or because volunteers do not conduct staff responsibilities. One commentator disagreed with the inclusion of temporary employees, due to training requirements. Several commentators expressed concern that if volunteers were required to meet direct care staff training requirements,

homes would lose volunteers who engage in social activities with residents. Direct care staff, whether employed on a temporary, full-time or part-time basis, must meet the applicable requirements for direct care staff.

*Response*

The definition was clarified to add IADLs and it no longer includes volunteers.

*§ 2600.4. Definitions—Emergency medical plan*

Two commentators suggested a more complete definition of emergency medical plan.

*Response*

Emergency medical plan was further clarified in § 2600.143 (relating to emergency medical plan).

*§ 2600.4. Definitions—Financial management*

Two commentators requested clarification of the definition of "financial management." Two others suggested that this definition needs to be consistent with personal care services being provided.

*Response*

The definition was clarified so it does not include solely storing funds in a safe place as a convenience for a resident. The personal care home provides this optional service for residents who may not be able to manage their finances without assistance. Financial management is included in the definition of "IADL—instrumental activities of daily living." This ensures proper safeguards to prevent improper handling of resident funds. Residents who need financial management services are often those least able to oversee the handling of their funds, providing the potential for fraud and exploitation.

For SSI recipients, a State supplement (SSP) is available to help pay for their care. The SSI check, as well as the SSP, is turned over to the personal care home. The recipient is entitled to receive \$60 per month for personal needs, as well as half of the rent rebate issued annually from the Commonwealth.

*§ 2600.4. Definitions—Fire safety expert*

One commentator recommended removal of local volunteer fire company members from this definition, as often the members differ on what action is appropriate, causing confusion for providers and residents.

*Response*

Department of Labor and Industry building code inspectors and construction code officials were added to the list of options in the definition of fire safety expert to offer the personal care home flexibility to choose its fire safety expert. With a more expansive list, a home may elect not to use a member of a local volunteer fire company as a fire safety expert. However, the Department supports the use of volunteer fire companies as a viable option.

*§ 2600.4. Definitions—Immobile resident (redesignated as Resident with mobility needs)*

Five comments were received. One commentator indicated that the definition implies that an individual with mobility needs must be accompanied by a staff person or nurse 24 hours a day. Others suggested that the definition is overly broad.

*Response*

The reference to medication administration was deleted. The term was redesignated as "resident with mobility needs" to reflect a more person-centered descrip-

tion of the resident's needs. Since the definition is based on the statutory definition of "immobile person" in section 1001 of the Public Welfare Code, the Department is unable to narrow its scope. The Department amended this definition to use the word "continued" rather than "continual and" to coincide with section 1001 of the Public Welfare Code.

*§ 2600.4. Definitions—Life care contract/guarantee*

One commentator suggested adding clarifying language that lifetime care will be provided subject to certain terms and conditions stated in the agreement.

*Response*

This definition was relocated to § 2600.25(f) (relating to resident-home contract) since it is the only section that refers to a life care contract/guarantee. Life care contract refers to a long-term legal agreement between a consumer and a continuing care retirement community, which generally secures housing, services and nursing care, usually all in one location. Continuing care communities are licensed and regulated by the Insurance Department, which examines the financial books and records of a continuing care provider at least once every 5 years to monitor the financial status of the facilities. In addition, the Insurance Commissioner is empowered to take steps to protect the interests of the residents.

*§ 2600.4. Definitions—Long term care nursing facility*

This definition was deleted. The term used in the final-form rulemaking is "licensed long-term care facility" based upon section 1001 of the Public Welfare Code. As used in this chapter, a definition is not necessary.

*§ 2600.4. Definitions—Long-term care ombudsman*

IRRC noted that some commentators suggested replacing "older individuals" with "residents," since ombudsmen serve anyone in certain categories of need, regardless of age. One commentator also suggested limiting the role of the ombudsman to the resolution of complaints, allowing the ombudsman access to the home only if invited by the resident or a representative of the home and having the Department handle all complaint investigations.

*Response*

The change to replace "older individuals" with "residents" was not made. This definition is similar to the definition in 6 Pa. Code § 11.3 (relating to definitions) of the Department of Aging's regulation for older adult daily living centers. The Department clarified that the scope of the ombudsman responsibility is for adults who are 60 years of age or older. The Office of the State Long-Term Care Ombudsman, established by the Older Americans Act of 1965 (42 U.S.C.A. §§ 3001—3057g), is charged with the Statewide reporting and investigative system for complaints made by or on behalf of adults who age 60 years of age or older and who are consumers of a long-term care service. The Department of Aging designates the local area agencies on aging to be the local providers of ombudsman services, and coordinates the efforts of all area agencies on aging statewide. Ombudsmen may enter a facility at any time as necessary to advocate on behalf of a resident, must obtain consent from the consumer/complainant before proceeding with the investigation and must work with all parties such as facility staff, family members and regulatory agencies in seeking a resolution to verified complaints.

*§ 2600.4. Definitions—Mobile resident*

One commentator recommended adding that a mobile resident must be able to exit to point of safety.

*Response*

Evacuation of the building is addressed in more detail in the fire safety section.

*§ 2600.4. Definitions—Neglect*

IRRC suggested referencing the definition of "neglect" in section 103 of the OAPSA (35 P. S. § 10225.103) rather than copying it verbatim. Seven commentators suggested revising or clarifying this statutory definition, with most recommending that the definition fit into the context of a personal care home and explain further what constitutes neglect.

*Response*

The Department retained the statutory definition of "neglect" in section 103 of the OAPSA. The statutory language was kept in this chapter to make this information readily accessible to the home. The Department clarified that neglect includes the failure or omission to provide care, supervision or services and that neglect may be repeated conduct or a single incident.

*§ 2600.4. Definitions—Personal care home*

IRRC requested consistent use of one term of "personal care home." IRRC requested clarification of the entity responsible, rather than a global reference to the "home," by using the specific actor, such as "legal entity" or "direct care staff." One commentator expressed concern that the definition of "personal care home" does not permit individuals in need of a licensed long-term care facility, which eliminates consumer choice and negotiated risk for those individuals who wish to age in place and not reside in a nursing home.

*Response*

The Department uses the term "home" to emphasize the place where the residents live. Where it was necessary to name a specific responsible party, this was done. Where it was not necessary to name a specific responsible party, this was not done, to give the home flexibility in facility management. The definition of "personal care home" is established in section 1001 of the Public Welfare Code and precludes the admission of individuals who require the services in or of a licensed long-term care facility.

The Department also clarified that a premises in which four or more adults who need personal care services but who are not receiving such services, reside is a personal care home under this chapter.

*§ 2600.4. Definitions—Personal care resident (redesignated as Resident)*

Three commentators indicated that many personal care home residents are independent and fully capable of self-care and recommended deleting these individuals from the definition by deleting the word "may."

*Response*

This change was made. The definition is intended to apply to individuals who require personal care services.

*§ 2600.4. Definitions—Personal care services*

Three commentators recommended adding the terms "ADL—activities of daily living" and "IADL—instrumental activities of daily living" to this definition.

*Response*

In response to public comment, this change was made.

*§ 2600.4. Definitions—Protective services unit*

The Department added a definition of "protective services unit."

*§ 2600.4. Definitions—Relative*

One commentator recommended adding the word “cousin” to this definition.

*Response*

This change was not made. This statutory definition in section 1001 of the Public Welfare Code does not include the word “cousin.”

*§ 2600.4. Definitions—Restraint and manual restraint*

IRRC and one commentator recommended compatibility between §§ 2600.4 and 2600.202 (relating to definitions; and prohibitions). IRRC and two commentators asked for consideration that a resident may have an assistive device that he cannot remove independently, and that the resident may have moved to the personal care home to obtain assistance with removal of the device. Three commentators asked for clarification in the definition of chemical restraint, to exclude drugs prescribed by a physician for a psychiatric condition or episodic behavior. One commentator asked for clarification in the definition of restraint, so that locked exit doors are not considered to be a form of restraint.

*Response*

The definition of restraint was revised to include only a broad definition and not details about the specific types of restraints. The definitions of specific types of restraints were removed from the definition section and appropriately placed in the section on safe management techniques in § 2600.202. Personal care homes may not use restraints, due to the health, safety and emotional risks to the residents. The negative behavioral effects and health and safety risks of restraint usage are supported by research. Use of restraints is so dangerous that hospitals require stringent safety measures and physician oversight when restraints are used. It is unlikely that any personal care home can offer comparable medical oversight. The use of restraints for chronic conditions has been discredited among knowledgeable medical professionals, because they often result in serious injury or death even when properly applied, and when improperly applied, the risk of a serious adverse outcome, including death, escalates.

In response to comments, the definition of “chemical restraint” was clarified in § 2600.202.

Only a secured dementia care unit may have locked exit doors, and only through the use of an electronic or magnetic system (see § 2600.233 (relating to doors, locks and alarms)). Locking of exit doors under any other conditions is considered to be a restraint and is prohibited.

*§ 2600.4. Definitions—Support plan*

Two commentators expressed concern about the timeliness of securing a visiting nurse to conduct an assessment and develop a support plan. Two commentators recommended requiring development and implementation of support plans for only the most frail residents.

*Response*

These changes were not made. Editorial changes were made in the definition to ensure the support plan will be based on the assessment of the individual. Preparation of accurate resident assessments and support plans help to assure quality service and care for all residents. Ongoing assessments of each resident’s service and care needs and updating each resident’s support plan when service and care needs change is essential to providing continuous care. A support plan identifies the resident’s needs and

preferences and outlines how they will be achieved. The plan is developed by the home in collaboration with the resident and the resident’s designated person. The goal of the support plan is to promote positive outcomes for the resident.

The assessment is conducted annually, upon significant change in the resident’s condition and upon the Department’s request. After each assessment of a resident, the support plan is updated to ensure that services being provided are adequate to meet the resident’s needs. The support plan includes both the services provided by or contracted by the personal care home and also identifies services arranged by the resident or designated person from outside agencies, health care providers or family members.

*§ 2600.4. Definitions—Staff person*

The Department added a definition of “staff person” to clarify that individuals who work under contract are included.

*§ 2600.4. Definitions—Volunteer*

IRRC recommended placing subparagraphs (i) and (ii) in the Staffing section. A commentator asked for clarification of whether volunteers and temporary staff who serve 1 day per year must receive the same training as full-time staff persons. Another commentator suggested that requiring training for volunteers who perform the duties of direct care staff persons will prohibit residents from being entertained by volunteers.

*Response*

The change requested by IRRC was made. The definition of “volunteer” was revised to exclude individuals who provide nondirect services or occasional entertainment. Section 2600.54 (relating to qualifications for direct care staff persons) clarifies that volunteers used in the home as staff persons shall meet staff qualifications and training requirements, as they would perform the same duties, whether they receive compensation or not.

*§ 2600.5—Access requirements (redesignated as Access)*

IRRC and three commentators asked the Department’s intent as to the time of day it will conduct its inspections. Four commentators recommended that the Department should have free and full access at any time of the day without notice. IRRC asked the Department to clarify its intent to inspect the personal space and property of residents and if residents have the right to object. IRRC questioned the Department’s statutory authority to conduct administrative inspections without time, place and scope restrictions. IRRC questioned who will provide access to the records if the staff person responsible for the records in § 2600.254(b) (relating to record access and security) is not available.

*Response*

The Department eliminated proposed subsection (a) regarding the Department’s free and full access to the home. The proposed requirement simply restated the Department’s existing statutory authority in section 1016 of the Public Welfare Code (62 P. S. § 1016) and therefore it is not necessary to repeat it in this chapter.

The Department received questions from IRRC and other commentators regarding the Department’s intent as to the time of day during which it will conduct its inspections and the Department’s authority for full and free access under the Fourth Amendment to the United States Constitution, which prohibits unreasonable searches and seizures. In particular, IRRC questioned



whether there are time, place, and scope restrictions on the Department's access to the home consistent with *New York v. Burger*, 482 U. S. 691 (1987).

As with any Fourth Amendment issue, the Department's inspections will be governed by a general reasonableness standard. The Department will apply section 1016 of the Public Welfare Code and conduct its inspections in a manner consistent with the constitutional reasonableness requirement. The Department has a substantial interest in the inspection of the home in order to protect the health, safety and well-being of the residents and periodic inspections are necessary to serve this interest. Inspections will be conducted within the constitutional boundaries regarding time, place and scope. Inspections will normally be conducted during waking hours. However, if warranted by an emergency, complaint or suspected jeopardy to the residents' health, safety or well-being, an inspection may occur during sleeping hours only as necessary to address the emergency, complaint or jeopardy. The place of the inspection includes the entire licensed premises. The scope of the inspection may require review and inspection of the premises as well as the records and interviews with the staff persons and the residents who live in the home in order to assess compliance with this chapter and Article X of the Public Welfare Code. The inspection may cover any area relating to regulatory and statutory compliance or a situation affecting the residents' health, safety or well-being.

The Department will continue its current practice of requesting permission of the resident before inspecting a resident's bedroom or property, if the resident is available and able to provide permission. Because the inspection of a resident's bedroom or property is sometimes necessary to protect the resident or other residents in accordance with the requirements of this chapter, there may be rare occasions where an inspection of a resident's bedroom or property may be necessary without the express permission of the resident. If a resident expressly denies access to the Department, in no case will the Department enter and inspect a resident's bedroom or property.

Section 2600.254 requires the home to have a policy addressing access to records. The administrator or designee must always be available to provide access, as specified in § 2600.57(a) (relating to direct care staffing).

§ 2600.5(b). *Access requirements (redesignated as Access)*

IRRC questioned the authority for the Department of Aging and other State agencies to have access to the home and stated this violates the resident's right to confidentiality. Two commentators clarified that Pennsylvania Protection and Advocacy has Federal statutory authority to investigate complaints in homes where residents with disabilities reside. One commentator suggested providing access to local mental health and mental retardation agencies. Four commentators opposed Department access to confidential personnel records.

#### *Response*

The Department has amended the section to eliminate the broad authority for other State agencies to have access to the home. The Department has, however, maintained access to the Department of Aging's Older Adults Protective Services Program and the Long-Term Care Ombudsman Program based on its authority under section 304 of the OAPSA (35 P. S. § 10225.304), section 711 of the Older Americans Act of 1965 (42 U.S.C.A. § 3058f) and section 2203-A(24.2) of The Administrative Code of 1929 (71 P. S. § 581-3(24.2)). This authority exists in the current regulation as well in § 2620.62 (relating to access

requirements) and has been applied effectively and without incident for over a decade. This authority provides protection from abuse to adults who are older, which the Department does not intend to limit or curtail. Section 306 of the OAPSA (35 P. S. § 10225.306) mandates the protection of the resident's right to confidentiality.

The Department agrees with the commentators that Pennsylvania Protection and Advocacy has Federal authority to investigate complaints in homes where residents with disabilities reside. The specific citations of the Federal authority have been added to the final-form rulemaking.

The Department agrees that county mental health and mental retardation agencies have the right to access homes to provide protection to individuals with mental illness or mental retardation in accordance with section 205(7) of the Mental Health and Mental Retardation Act of 1966 (50 P. S. § 4305(7)). These particular agencies are not listed specifically in the final-form rulemaking since they have long-standing independent authority and their jurisdiction only reaches those homes providing services to individuals with these specific needs.

The Department has authority to inspect staff personnel records at the home to determine compliance with the requirements of this chapter in accordance with section 1016 of the Public Welfare Code. The Department maintains strict confidentiality of all information contained in the personnel records.

Clarification was added to state that a resident may decline the services of the community service organization or community legal services.

#### *GENERAL REQUIREMENTS*

§ 2600.11(b). *Procedural requirements for licensure or approval of personal care homes*

The Department added a requirement that the Department will reinspect each new home within 3 months of the date of the initial inspection to assure compliance with the regulations for new homes.

The Department relocated proposed § 2600.30 (relating to fees) to this section.

§ 2600.13(a). *Maximum capacity*

Two commentators requested clarification of the personal care section.

#### *Response*

The Department clarified that maximum capacity applies to the entire home, meaning all the areas of the building used as a personal care home. If the home provides services in addition to personal care, such as nursing care, or if parts of the home are used by the operator for private use, this section applies only to the areas of the home in which personal care home services are provided.

The Department eliminated the proposed requirement regarding the limitation of capacity based on local zoning requirements, since zoning is not a health and safety protection for the residents and it is not the scope of this final-form rulemaking. The enforcement of local zoning ordinances is the responsibility of local municipalities.

§ 2600.14(a). *Fire safety approval*

Nine commentators recommended deletion of this subsection, citing that the Department of Labor and Industry has fire safety standards. Three commentators recommended that local fire safety authorities provide a written fire safety approval.

*Response*

The Department clarified applicability of the Pennsylvania Construction Code Act (35 P.S. §§ 7210.101—7210.1103) that established the Uniform Construction Code (UCC) as the Statewide building code for this Commonwealth. The final UCC administration and enforcement regulation was published at 34 Pa.B. 319 (January 10, 2004). Under the UCC, occupancy permits are issued by the appropriate enforcement agency, whether the Department of Labor and Industry or the local building authority.

Fire safety is a major health and safety concern, as many residents have died in fires in personal care homes. From 1983 to 2003, there were 275 fires in personal care homes Statewide, resulting in 55 deaths. The causal agents for the fires included careless smoking by residents (79 fires and 32 deaths), arson caused by outside person (5 fires and 0 deaths), arson caused by resident (33 fires and 11 deaths), dryer fire (41 fires and 1 death), other electrical fire (50 fires and 1 death), undetermined cause (20 fires and 10 deaths), kitchen fires (24 fires and 0 deaths) and accidental (23 fires and 0 deaths).

All fire safety protections required in this final-form rulemaking must be in effect at all times to protect residents, especially those who require significant assistance for evacuation, in the event of a fire. Fire safety is a key concern for all residents, as many residents require significant assistance for evacuation due to frailty, medical vulnerability, cognitive limitations and the use of assistive devices for purposes of mobility. A home operating without the required fire safety approval places the residents at grave risk of harm or possible death.

*§ 2600.14(b). Fire safety approval*

Four commentators recommended the inclusion of actions that the Department will take if a personal care home's fire safety approval is withdrawn or restricted.

*Response*

The Department's actions regarding regulatory violations can be found in the responses to comments for the enforcement section (§§ 2600.261—2600.270). Oral notification within 24 hours was changed to "immediately," clarifying any question of possible delay in the oral notification process.

*§ 2600.14(c). Fire safety approval*

Five commentators asked for clarification of what constitutes a reportable structural renovation or alteration and suggested shortening the 30-day reporting time frame.

*Response*

The Department's intent is to ensure that any structural renovation or alteration to a building in which a personal care home operates meets the approval of the appropriate building authority. The new Statewide UCC requires that the appropriate building authority approve structural changes and renovations, unless cosmetic in nature. Questions about what specific structural change or renovation requires approval should be referred to the appropriate building authority for the municipality in which the personal care home is located.

In response to public comment, the time frame for reporting structural renovations or alterations to a building was shortened to 15 calendar days.

*§ 2600.14(d). Fire safety approval*

One commentator expressed concern that individuals who are not the Department's representatives can require a personal care home to have additional fire safety inspections.

*Response*

The Department's intent is to assure that personal care homes are housed in buildings that comply with fire safety protections to safeguard all residents in the event of a fire. This subsection was revised to add that the Department's representatives will request additional fire safety inspections from the appropriate fire safety agency if possible fire safety violations are observed during an inspection.

*§ 2600.15. Abuse reporting covered by statute (redesignated as Abuse reporting covered by law)*

Seventeen commentators recommended inclusion of a specific timeframe for reporting. One commentator requested definitions for "suspected abuse" and "allegation of abuse." Seven commentators suggested the addition of "neglect." Fifteen commentators suggested specifying penalties for failure to report abuse and neglect. Nine commentators suggested requirements regarding the suspension of the perpetrator. One commentator suggested providing the reports to both residents and designated persons.

*Response*

In response to public comments, several changes were made. The Department added clarification in the definition of neglect in § 2600.4. The Department added a new requirement for immediate notification of the resident and the resident's designated person of a report of suspected abuse or neglect involving the resident. The Department added a subsection regarding section 704 of the OAPSA (35 P.S. § 10225.704), regarding restrictions on employees, that requires the personal care home to immediately submit to the Department's personal care home regional office a plan of supervision or, when appropriate, notice of suspension, if there is an allegation of abuse involving the home's staff persons.

The remaining recommendations were not added, as they fall under the auspices of the OAPSA and its regulation in 6 Pa. Code Chapter 15 (relating to protective services for older adults), which addresses the administration and provision of protective services for older adults, mandatory reporting of abuse and required criminal history record information reports for applicants, employees and administrators of facilities. The terms "suspected abuse" and "allegation of abuse" are not further defined in the OAPSA or its regulation.

Employees and administrators of personal care homes, nursing homes, domiciliary care homes, adult day care centers and home health care are mandated by the OAPSA to immediately report to the area agency on aging any suspected abuse of an individual of any age who receives care, services or treatment from these facilities. If the abuse involves serious injury, sexual abuse or suspicious death, mandated reporters must also call the police and the Department of Aging at (717) 783-6207. In addition, the reporter may also call the personal care home complaint hotline at (800) 254-5164.

Failure of a mandated reporter to make a report can result in administrative or criminal penalties, see section 706 of the OAPSA (35 P.S. § 10225.706), regarding penalties, and the Department of Aging's regulation for protective services for older adults in 6 Pa. Code § 15.158

(relating to penalties). This section specifies that violations and penalties for failure to comply or for obstructing compliance shall be determined by the Commonwealth agency that regulates the facility, and may include civil and criminal penalties. The civil penalty includes a fine of not more than \$2,500. The criminal penalty may include a third degree misdemeanor, which upon conviction, may result in a fine of up to \$2,500, imprisonment for not more than 1 year, or both.

*§ 2600.16(a). Reportable incidents (redesignated as Reportable incidents and conditions)*

Many public comments were received asking for both an expansion of the list of reportable incidents and conditions and a reduction of the list. IRRC asked if a resident's designee or responsible person will be notified of reportable incidents and if an individual other than the Department's representatives will be notified in the event of certain incidents. IRRC noted that some advocates contend that certain third parties, such as the area agencies on aging, should be notified. IRRC asked whether the Department will conduct investigations of reportable incidents and under what circumstances. Twelve commentators suggested providing the reports to both residents and designated persons and mandating that receipt of a report triggers an immediate on-site investigation by the Department.

Ten commentators suggested adding injury of unknown origin, lawsuits, sexual contact between staff and residents and refusal of resident to eat or drink for 48 hours. IRRC noted that some advocates contend that a resident's death, regardless of the reason, should be reported, because a requirement such as this would eliminate the need for an administrator to judge whether the death resulted from unusual circumstances. Four commentators requested clarification of "attempted suicide." Ten commentators suggested a change to report only a serious injury which requires hospitalization.

IRRC questioned whether elopement from a secured unit for any period of time should be added to the list of reportable incidents, as recommended by four commentators. One commentator suggested adding the misuse of a resident's funds to the list of reportable incidents. Ten commentators suggested clarifying that assault must be significant or willful to be reportable. Three commentators proposed excluding false alarms.

Seven commentators suggested reporting of neglect and exploitation, as defined by the OAPSA. Four commentators advocated adding the reporting of inadequate staff to supervise or provide care in the home. Six commentators recommended reporting only a final termination notice from a utility.

*Response*

The primary goal of an incident management system is to ensure that when an incident occurs, the investigation and corrective action will protect the health, safety and well-being of the resident. The Department will review all reportable incidents and conditions and investigate as appropriate. The final-form rulemaking also requires personal care homes to develop and implement written policies and procedures for reportable incidents and conditions.

Reportable incidents and conditions that the Department determines to be regulatory violations will be classified as required by section 1085 of the Public Welfare Code (62 P. S. § 1085) and assessed a penalty as required by section 1086 of the Public Welfare Code (62 P. S. § 1086). The final-form rulemaking also requires

notification of the resident's designated person and the Department's personal care home regional office or the personal care home complaint hotline in a manner designated by the Department.

The Department added the following to the list of incidents and conditions: complaints of abuse, sexual assault, the use of emergency procedures, the unscheduled closure of the home and a violation of health and safety laws. Refusal of a resident to eat or drink over a 24-hour period is covered in § 2600.164(c) (relating to withholding or forcing of food prohibited), which requires reporting to the resident's primary care physician and designated person or family member. The suggested change to report all resident deaths was made. As suggested, the Department clarified the meaning of attempted suicide. In response to a suggestion by the State Board of Nursing, the Department added prescription medication errors to the list of reportable incidents and conditions. Reporting of prescription medication errors is critical so the Department can monitor the effectiveness of the new medications administration training program option in § 2600.190 (relating to medication administration training).

The change regarding the limiting reports to only a serious injury that requires hospitalization was not made. The Department must be notified of any bodily injury or trauma requiring treatment at a hospital or medical facility, including outpatient care. Since many significant illnesses and injuries are now treated on an outpatient basis, reporting is necessary to track and monitor incidents.

An absence of a resident from a secured dementia care unit for any period of time was added to the list of reportable incidents and conditions. Residents who live in secured dementia care units may be more vulnerable to existing weather conditions and any absence could result in the resident's health and safety being jeopardized.

Misuse of a resident's funds, whether managed by the home or not, will be reportable. Section 2600.20 (relating to financial management) was included in the reportable incident and conditions section to ensure all misuse of funds be reported. Assault on a resident must be reported, whether it is significant or willful, or not. The Department revised the reporting of fire department call to exclude false alarms.

The addition of reports of neglect and abuse is addressed in § 2600.15 (relating to abuse reporting covered by law). A violation of the staffing requirements of this chapter will be addressed through the enforcement provisions of the final-form rulemaking. The final-form rulemaking requires that any termination notice be reported. It is necessary for the Department to receive reports of a termination notice from a utility to allow time for a proactive response. A home's inability to meet financial obligations, such as utility payments, may be a sign of fiscal distress, which may negatively impact the health, safety and well-being of the residents. If uncorrected, this could lead to resident harm or relocation.

*§ 2600.16(b). Reportable incidents (redesignated as Reportable incidents and conditions)*

IRRC questioned whether the Department is developing a standard procedure that may be used by all homes to report incidents. IRRC suggested that a model would enhance consistency of reporting, give reasonable assurance to providers that they are meeting the Department's objectives and save providers time and money. Fourteen

commentators recommended adding language to reflect that the written policies and procedures are in accordance with applicable State laws.

*Response*

The Department is developing a standard incident and condition reporting form that must be used by all homes. The Department will also develop model procedures that may be used by all personal care homes to provide effective practices for reportable incidents and conditions. The review of reportable incidents and conditions will serve to enhance timely and appropriate corrective actions in response to incidents and conditions, if needed, to prevent recurrence.

Language was not added to require that the written policies and procedures comply with applicable State laws. A personal care home's compliance with applicable Federal, State and local statutes, ordinances and regulations is required in § 2600.18 (relating to applicable health and safety laws).

*§§ 2600.16(c)–(e). Reportable incidents (redesignated as Reportable incidents and conditions)*

IRRC noted the concern of many providers with the addition of burdensome paperwork. IRRC questioned whether the Department considered listing reportable incidents, along with corresponding levels of reporting requirements for each. Eight commentators suggested defining "designee" and adding "to the responsible party or legal representative of the resident." Five commentators suggested changing requirement in § 2600.16(c)–(e) to state "administrator," rather than "home," using language from § 2620.63(a)–(b), and not requiring issuance of three reports for incidents not covered by the OAPSA. Three commentators recommended that the Department provide personal care homes with the necessary training and assistance on conducting investigations.

*Response*

The Department agrees that there should be a balance between reporting, investigation and paperwork requirements. Requiring more reports than are necessary could create a paperwork backlog that does not serve residents. The term "designated person" was added in § 2600.4. A subsection was added requiring the reporting of an incident to the resident and the resident's designated person. The recommended change to designate the "administrator" rather than the "home" was not made. It is not necessary for the Department to dictate these internal reporting procedures, as long as reporting is timely. The Department will provide training and technical assistance to providers on incident and condition reporting and investigation. The Departmental incident and condition report form will be developed with input from external stakeholders prior to implementation.

*§ 2600.17. Confidentiality of records*

IRRC referenced comments for § 2600.5 (relating to access) and noted that this section should be consistent with § 2600.254. Over 20 commentators opposed requiring the home to obtain a written consent to release information when transporting a resident to the emergency room or to a doctor and recommended specifying which staff persons may examine resident records.

*Response*

Resident records are confidential and private. The Department revised the final-form rulemaking to clarify that a home may not release the resident's record to anyone other than the resident, the resident's designated

person, the resident's power of attorney, staff persons for the purposes of providing services, agents of the Department and the long-term care ombudsman. Section 2600.143, regarding emergency medical plan, specifies the information that must accompany a resident who needs emergency medical attention.

*§ 2600.18. Applicable health and safety laws*

Eleven commentators recommended requiring that a personal care home be in compliance with these applicable laws before a license will be granted. IRRC requested that applicable laws be listed in the final-form rulemaking.

*Response*

Compliance with applicable laws is required. At the recommendation of the legislative committees, the Department has not included a list of applicable laws. The list of applicable laws is unnecessary since applicable laws apply independently of this final-form rulemaking.

*§ 2600.19. Waivers*

IRRC suggested alternate language to clarify that the home cannot guarantee the absence of jeopardy. IRRC suggested that subsection (a)(1) and (3) are duplicative. Eleven commentators requested more flexibility in obtaining waivers. Two commentators suggested allowing waivers of scope, definitions, applicability and resident's rights. Six commentators suggested notice of waiver requests to the resident's designated person and the local ombudsman, as well as to the residents as proposed. Five commentators requested that waivers be reviewed annually. IRRC questioned the intent to grandfather existing facilities. Six commentators recommended permanent waivers of existing physical site conditions of existing homes.

*Response*

The Department may, within its discretion and for good cause and sufficient reason, grant a waiver to a specific section. A waiver will be granted only when the health, safety or well-being of the residents are not negatively affected. Waivers are subject to review by the Department at any time to determine compliance with conditions required by the waiver. The Department reserves the right to revoke a waiver if the conditions required by the waiver are not met.

This section is in place to reduce risk and the likelihood of jeopardy. If a home requests a waiver they must show why the waiver of the regulation will not jeopardize the residents. The home must indeed show the absence of jeopardy to receive an exemption from the regulation. Subsection (a)(1) and (3) are not duplicative. The requirement to show an alternative for providing an equivalent level of protection is to assure that by waiving the regulation the resident's are not exposed to added risk. The requirement to show how the residents will benefit from the waiver goes above and beyond the equivalency requirement and is intended to show why it is best to meet the alternate standard rather than the regulation. The standards for granting a waiver are intentionally set at a high, but doable level to protect the residents.

A waiver to the scope, definitions, applicability or resident's rights sections of the final-form rulemaking is not permitted as these are the core foundations for the protection of the resident's health and safety protection. In the case of scope, applicability and definitions, much of these requirements are governed by statute.

Discussion with, and notification of, the resident and the resident's designated person was added in response to

comment. The requirement to review waivers annually was also added in response to public comment.

The Department has provided exemptions or delayed implementation for many of the new requirements such as fire exits, bathrooms, qualifications for staff persons and staff training. The Department deleted the proposed language regarding denial of structural waivers for a new facility, new construction or renovations. An existing home may submit a request for a waiver. All waivers previously granted are void 1 year after the effective date of this final-form. Thereafter, a new waiver request is required.

*§ 2600.20. Resident funds (redesignated as Financial management)*

Nineteen commentators opposed this section, stating that it is not appropriate for the level of financial assistance that a home provides and recommended retaining current § 2620.35 (relating to financial management). IRRC inquired who may access a resident's records and funds if the home assumes responsibility for maintaining a resident's financial resources. IRRC asked whether "maintaining" means the same as "managing," as defined in subparagraph (i) under "financial management" in § 2600.4.

*Response*

The Department revised, but retained, this section. The Department's intent is to ensure accountability and tracking of resident funds and expenditures and prevent theft and exploitation. Access to financial and other resident records is governed by § 2600.254. The Department is unable to respond to IRRC's question about terms, since the term "managing" is not found under the definition of financial management in § 2600.4(i). Subsection (b) was clarified to apply even if a home simply maintains or holds the resident's funds.

*§ 2600.20(a) and (b). Resident funds (redesignated as § 2600.20(b). Financial management)*

Five commentators suggested that a separate record of each resident's financial resources, including the dates, amounts of deposits, amounts of withdrawals and current balance, be kept. Six commentators suggested that withdrawals be documented with dated receipts. Four commentators suggested that the requirement for a home to keep a record of gifts and other funds received by or deposited with the home on behalf of the resident is duplicated.

IRRC contested the requirement for documentation of counseling sessions, concerning the use of funds and property since this goes beyond financial management. Many homes indicated they are not qualified to provide financial counseling. IRRC asked whether a professional financial advisor would conduct this counseling.

Eight commentators suggested deleting the requirement that a home may not prohibit the resident's right to manage their own finances.

IRRC questioned the meaning of "if available," whether it means cash on hand in the personal care home or in the resident's bank account. IRRC indicated concern about the possible need to store large amounts of cash in the home and suggested limiting this service to business hours. IRRC noted that some providers were distressed regarding possible theft and recordkeeping errors and staff handling cash when an administrator is not present. Thirty commentators recommended that money should be available during regular business hours only.

Eight commentators objected to paperwork and suggested that the home maintain receipts only for all expenditures over \$15. Eight commentators suggested requiring interest bearing savings accounts in the residents' names only.

Six commentators requested clarification to prohibit the owners of the home, its administrators and employees from being assigned power of attorney or appointed guardian of resident or resident's estate.

Thirteen commentators suggested that an annual written account be provided only at the request of the resident or designated person.

*Response*

This section was revised and clarified. A record of financial transactions is required in § 2600.20(b)(1). A separate record for each resident is not required since it may be an unnecessary, administrative burden on the home. The requirement for a written receipt of disbursements is found in § 2600.20(b)(3). The Department clarified that disbursement must only be made during business hours. The duplicative requirement regarding gifts and other funds was deleted.

The requirement for financial counseling was deleted. The Department does not intend for a home to secure a professional financial advisor for residents. The requirement regarding the resident's right to manage his own financial affairs was clarified. The suggestion to include receipts for only disbursements of more than \$15 was not made since this lack of documentation could result in theft of resident funds. All deposits and expenditures must be documented with written receipts to ensure accurate accounts of all expenditures. As suggested, interest bearing accounts must be in the resident's name. The clarification was made identifying the legal entity, administrator and staff persons to be prohibited from being assigned power of attorney or guardianship of a resident or a resident's estate.

The Department did not change the requirement for a written account to be provided only upon the request of the resident or designated person. This requirement was changed to quarterly so that the resident's funds may be closely monitored by the resident and his designated person.

The requirement relating to refunds was deleted from this section and clarified in § 2600.28 (relating to refunds).

*§ 2600.22. Legal entity*

The Department deleted this proposed section since it is not necessary. Compliance with the final-form rule-making by the legal entity is required under § 2600.2 and § 2600.3 (relating to inspections and licenses).

*§ 2600.23. Personnel management*

In response to general comments relating to unnecessary paperwork and recordkeeping the Department deleted this proposed section.

*§ 2600.23. Admission (new designation)*

A section on admission was added to clarify the documents necessary upon admission to the home.

*§ 2600.24. Tasks of daily living (redesignated as § 2600.23. Activities)*

Thirteen commentators recommended adding assistance with IADLs to their assessment and support plan.

*Response*

This change was made.

*§ 2600.25. Personal hygiene (redesignated as § 2600.24)*

The Department added undressing, nail care, foot care and skin care to the list of personal hygiene items.

*§ 2600.26. Resident-home contract: information on resident rights (redesignated as § 2600.25. Resident-home contract)*

Twenty-nine commentators requested deletion of this proposed section, as the current contract under the current regulation works well and does not need to be changed.

*Response*

The Department's intent is full disclosure in the contract to give prospective and current residents and family members the key information they need to identify whether a personal care home can meet their individual needs. Searching for a personal care home is difficult for prospective residents and family members, especially when a decision must be made quickly, such as when a person is no longer safe living alone. Because personal care homes vary, it is important that residents and family members understand what specific services a personal care home will provide or arrange, what services cannot be provided, how much it charges, when and how the services and residency in the home can be terminated and the rights and responsibilities of the resident.

This upfront disclosure in the contract serves to avoid or resolve conflicts between a resident and the home. The contract sets forth the agreement between the parties. The contract is the legal basis for the enforcement of the resident's rights.

*§ 2600.26(a). Resident-home contract: information on resident rights (redesignated as § 2600.25(a). Resident-home contract)*

Four commentators suggested requiring the personal care home to complete, review and explain the contract's contents with the resident and the resident's designated person, if any, in a language or mode of communication which they can understand.

*Response*

The home is required to review and explain the contract's content to the resident and the resident's designated person, if any, prior to signature.

*§ 2600.26(a)(1). Resident-home contract: information on resident rights (redesignated as § 2600.25(c). Resident-home contract)*

Three comments received suggested deletion of proposed subparagraphs (ii), (iii), (xi) and (xii) as unnecessary.

*Response*

These changes were not made, because they relate to full disclosure of the services a resident would receive, which will assist a resident and his family to make an informed decision, and clarifies the arrangements between the resident and the home. The Department's intent is full disclosure in the contract.

*§ 2600.26(a)(1). Resident-home contract: information on resident rights (redesignated as § 2600.25(c). Resident-home contract)*

Four commentators recommended prohibiting staff from accepting any portion of the resident's personal needs allowance as a gift or in exchange for providing services.

*Response*

This change was not made. Subsection (c)(1) requires that each resident shall retain, at a minimum, the current personal needs allowance as the resident's own funds for personal expenditure and that a contract to the contrary is not valid. In addition, § 2600.20, regarding financial management, prohibits any commingling of the resident's personal needs allowance with the home's or staff person's funds or the home's operating accounts.

*§ 2600.26(a)(1). Resident-home contract: information on resident rights (redesignated as § 2600.25(c). Resident-home contract)*

IRRC questioned whether, in addition to the "the actual amount of allowable resident charges for each service or item," additional or optional services, which are not included in the basic contract, must be itemized. IRRC questioned whether the list of services included in the contract must be listed, along with the charge to the resident for each of these items. IRRC asked for clarification of whether personal care homes that "bundle" services covered by an agreed-to contract price must list a price for each ADL and IADL. Sixteen commentators offered clarifying language.

*Response*

The intent of the section is to clarify what services the resident will receive and the cost, to assist an individual in need of long-term care to negotiate his care and services. This requirement will also serve providers, by disclosing this information up front.

*§ 2600.26(a)(1). Resident-home contract: information on resident rights (redesignated as § 2600.25(c). Resident-home contract)*

Ten commentators suggested adding information about refunds for a voluntary departure from the home.

*Response*

This change was not made. Refunds as a result of a resident's voluntary departure from the home are covered in § 2600.29.

*§ 2600.26(a)(1). Resident-home contract: information on resident rights (redesignated as § 2600.25(c). Resident-home contract)*

Eleven commentators requested clarifying language for "financial arrangements."

*Response*

"Financial arrangements" relates to the arrangements for the resident's funds if the home provides assistance with financial management. The conditions must be consistent with § 2600.20 and also specify the handling of the rent rebate, if any.

*§ 2600.26(a)(1). Resident-home contract: information on resident rights (redesignated as § 2600.25(c). Resident-home contract)*

IRRC asked how home rules are enforced. In conjunction with §§ 2600.42(u) and 2600.228 (relating to specific rights; and notification of termination), IRRC asked whether a resident's breaking of the rules in the contract constitute a breach of contract, for which the personal care home may discharge the resident. IRRC inquired what the personal care home may do to protect the health and welfare of other residents if one resident continues to smoke in a nonsmoking facility or continually violates the civil rights of other residents. IRRC requested examples of "requirements of home services."

*Response*

The intent of home rules is to facilitate a harmonious living environment in the home. Home rules are incorporated into the resident-home contract. A home is required to inform the resident of the home rules and to give 30 days' written notice prior to the effective date of a new rule. The home rules must specify, for example, whether the home permits pets on the premises. A resident has the right to recommend changes in home rules, without intimidation, retaliation or threat of discharge.

*§ 2600.26(a)(1). Resident-home contract: information on resident rights (redesignated as § 2600.25(c). Resident-home contract)*

IRRC asked what recourse a home has to make immediate changes to the contract if needed for the health and welfare of the resident.

*Response*

Providers may use addenda to the original contract to cover immediate changes in the contract.

*§ 2600.26(a)(1). Resident-home contract: information on resident rights (redesignated as § 2600.25(c). Resident-home contract)*

Fourteen commentators recommended adding "based on needs identified in the assessment" to subsection (a)(1)(xi). Two commentators suggested deleting subsection (a)(1)(xi) and (xii). Three commentators recommended referencing § 2600.42 and requiring an actual list of resident rights as it appears in the proposed regulation.

*Response*

The Department deleted proposed subsection (a)(1)(xii) and added information about charges to the resident for holding a bed.

*§ 2600.26(a)(3). Resident-home contract: information on resident rights (redesignated as § 2600.25(e). Resident-home contract)*

The proposed rulemaking gives a new resident 72 hours to rescind a contract. IRRC questioned whether a similar right-of-rescission should be extended to the personal care home, in the event that further information indicates the placement might be inappropriate. Nineteen commentators suggested permitting the administrator to require a 30-day prior written notice from a resident who chooses to leave the home.

*Response*

This section was clarified to require a resident to pay only for the services he receives. Section 2600.228, regarding notification of termination, requires the home to provide a 30-calendar day advance written notice to the resident, the designated person and the referral agent if the home initiates a discharge or transfer of a resident, or if the legal entity chooses to close the home. A 30-calendar day advance written notice is not required 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 or the Department. This section also requires that a resident may not be made to leave the home prior to 30 calendar 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.

*§ 2600.26(c). Resident-home contract: information on resident rights (redesignated as § 2600.25(g). Resident-home contract)*

Seven commentators suggested adding that the resident, the resident's power of attorney, guardian of estate, guardian of person and party responsible for payment, if applicable, received a copy of the signed admission contract.

*Response*

This change was not made. Those signing the contract are entitled to a copy of it and may share the copy as they choose.

*§ 2600.26(d). Resident-home contract: information on resident rights (redesignated as § 2600.25(h). Resident-home contract)*

Ten commentators suggested that the basic, in-house needs addressed in resident's support plan shall be available to the resident 365 days a year. IRRC asked whether "personal care" or "ADL" should be inserted prior to "service needs," as some optional services and IADLs might be occasionally unavailable, such as on holidays. IRRC suggested that the Department give guidance in addressing the protection of residents from unforeseen changes in the food choices and menus at the personal care home.

*Response*

These changes were not made. Only services necessary for the resident's health, safety and well-being must be provided on a holiday. Section 2600.162 (relating to meals) requires the posting of menu changes in a conspicuous and public place in the home in advance of the meal. Meal substitutions must meet the requirements for nutritional adequacy.

*§ 2600.27. Quality management (redesignated as § 2600.26)*

Three commentators suggested defining quality assessment and management plans and plan review. Commentators also recommended that homes decide their own quality management tasks, based on facility size and levels of care. Two commentators suggested removal of councils and addition of scheduled open door meetings between the resident, his designated person and the administrator or his designee. The commentators noted that open door meetings are a more effective and affordable alternative.

*Response*

This section was revised. Each home will establish and implement a quality plan that reviews and evaluates reportable incident and condition reporting, complaint procedures, staff training, licensing violations and plans of correction and resident or family councils. The quality management plan will include the development and implementation of measures to address the areas in need of improvement.

The Department's intent is to have the home review and resolve systemic issues. A quality review of resident and family councils only applies if the home has one or both. Councils typically provide residents and families the opportunity to periodically meet and discuss concerns about the home's policies and services and to talk with the home management about implementing change. Homes that wish to adhere to a substitute requirement that meets the intent of the regulation may submit a request for a waiver in accordance with § 2600.19 (relating to waivers).

*§ 2600.28(d) and (e). Supplemental Security Income (SSI) recipients (redesignated as § 2600.27 (d) and (e). SSI recipients)*

Six commentators stated that the section prohibits third party billing for personal care services. Eight commentators suggested allowing third party billing for everything. Commentators requested allowing personal care homes to seek private third party payment for a service that is not funded by public dollars.

*Response*

Third-party payments made on behalf of an SSI recipient and paid directly to the home are permitted in § 2600.27 (relating to SSI recipients).

*§ 2600.29. Refunds (redesignated as § 2600.28)*

IRRC questioned how to determine the due date of a refund in the event of the death of a resident when the room is vacated and within 30 days of death. Several commentators suggested refunds in the event of a resident's death be made within 30 working days after the resident's death or upon request of resident's estate. Several commentators requested deletion of this requirement.

*Response*

This section was revised to clarify the time frames for refunds upon the death of a resident. If a resident is under 60 years of age, the refund shall be made within 30 calendar days of the resident's room being cleared of personal property. If the resident is over 60 years of age, the refund shall be made in accordance with the Elder Care Payment Restitution Act (35 P. S. §§ 10226.101—10226.107).

*§ 2600.29(a). Refunds (redesignated as § 2600.28(a))*

Fifteen commentators suggested replacing "discharge" with "upon departure" and replacing "within 1 week" to "upon departure."

*Response*

"Discharge" was not replaced with "upon departure"; however, "within 1 week" was replaced with "2 business days." The refund was not changed to upon departure because the funds may not be available if the discharge or transfer is not on a business day.

*§ 2600.29(e). Refunds. (redesignated as § 2600.28(e))*

Twenty-five commentators suggested a 30-day billing cycle, and stating in the contract that refunds upon death are at the personal care home's discretion.

*Response*

Clarification was made that if the deceased resident is over 60 years of age, Commonwealth law requires the refund to be made in accordance with the Elder Care Payment Restitution Act.

*§ 2600.29. Hospice care and services (new section)*

This section was added to confirm that provisions can be made to allow residents to bring in additional end-of-life care and services as needed, such as hospice, to supplement the services and staff of the home. Hospice provides patient-focused care options, pain and symptom management and a range of psychosocial services to patients and their families through the duration of life-limiting illness.

*RESIDENT RIGHTS*

*§ 2600.41. Notification of rights and complaint procedures*

Commentators noted that some residents do not maintain family ties or that they have no family. IRRC questioned whether "family" was the correct term in subsection (a) and suggested deleting "fear or" in subsections (a) and (e). The Department received 37 comments requesting the addition of a resident's designated person in addition to family members. Three commentators suggested addressing proposed subsections (a)—(d) and (h) within the contract. Several commentators suggested deletion of subsections (a) and (b).

*Response*

Throughout the final-form rulemaking, "family" was replaced with "designated person," as appropriate. Fear of retaliation was deleted since this is subjective and difficult to measure. The items specified on rights remain in this section to clearly delineate the rights of the resident. The resident's rights should be placed in the resident-home contract as well.

*§ 2600.41(c). Notification of rights and complaint procedures*

Six commentators suggested adding resident's power of attorney, guardian of person or estate and designated person, if applicable.

*Response*

The subsection was changed to state that the Department's poster of the list of resident's rights shall be posted in the home. Subsection (d) was changed to state that the rights and complaint procedures shall be given to the resident and their designated person upon admission to the home. Subsection (e) was revised to provide for the resident and the resident's designated person to acknowledge receipt of the information regarding the resident's rights and complaint procedures.

*§ 2600.41(f). Notification of rights and complaint procedures*

Ten commentators requested that subsection (f) address all complaints, not just complaints regarding a violation of resident rights.

*Response*

This subsection was deleted and is addressed in new in § 2600.44 (relating to complaint procedures), which addresses all complaints, as suggested by the commentators.

*§ 2600.41(g). Notification of rights and complaint procedures*

Fourteen commentators requested that the home render a decision within 72 hours upon receipt of a complaint, as opposed to the proposed 14-day period.

*Response*

This subsection was deleted and is addressed in a new § 2600.44(e) and (f). The Department shortened the time period within which a decision on the complaint is rendered to 48 hours for an initial status report and 7 days for a written decision.

*§ 2600.41(h). Notification of rights and complaint procedures*

Four commentators requested informing the resident of his right to file a complaint to Pennsylvania Protection and Advocacy, Inc.



*Response*

This subsection, as well as subsections (i) and (j), were deleted and are addressed in a new § 2600.44. The right to file a complaint with Pennsylvania Protection and Advocacy, Inc. was added as suggested by commentators.

*§ 2600.42(a). Specific rights*

IRRC questioned whether it is considered discrimination if a resident is discharged due to the development of a disability that a home is not equipped to handle, either because of the design of the physical plant or lack of qualified staff. IRRC asked whether the Department considered using the Pennsylvania Human Relations Act (PHRA) (43 P. S. §§ 951—963) as guidance for protected classes.

*Response*

This would depend largely upon the burden on the home that would be necessary to accommodate the resident. If it would be an undue financial burden on the home, or if the resident's protection needs cannot be reasonably met by the home, there would be no discrimination if the home helped the resident to find more appropriate services to meet his individual needs.

As to IRRC's question regarding protected classes under the PHRA, the Department has incorporated the PHRA, as well as the Americans With Disabilities Act of 1990 (42 U.S.C.A. §§ 12101—12213), into the list of applicable laws in § 2600.18.

*§ 2600.42(b). Specific rights*

Five commentators requested including the right to be free from intimidation. One commentator suggested adding that residents may not be disciplined in any way.

*Response*

In response to this comment, the addition of the right to lodge a complaint without intimidation was added in § 2600.41(a) (relating to notification of rights and complaint procedures). The language in § 2600.42(b) was revised to add intimidation, the prohibition of discipline and to clarify that abuse includes both physical and verbal abuse.

*§ 2600.42(e). Specific rights*

IRRC questioned whether requiring free local telephone calls prohibits a home from providing telephone service with pay phones or charging residents for basic telephone service. Fifteen commentators suggested deletion of subsection (e).

*Response*

This subsection was revised to specify that the home must provide residents with free nontoll telephone calls. Charges for toll calls are acceptable.

*§ 2600.42(f). Specific rights*

Three commentators requested clarifying that the residents must pay for postage and mailing costs.

*Response*

This change was not made. This does not imply that the home must pay the resident's postage or mailing costs. The resident's responsibility to pay for their own postage and mailing should be addressed in the resident-home contract.

*§ 2600.42(g). Specific rights*

Fourteen commentators requested deletion of the requirement that the home be open 365 days per year.

*Response*

While the proposed subsection was deleted, § 2600.25(h) requires that requires the service needs addressed in the resident's support plan shall be available every day of the year. Since this is a resident's home and not a public hotel or lodging site it may not be closed during holidays or other times during the year. An exception may be made if all residents in the home choose to leave the home to visit family or for other reasons for a specific period of time.

A new provision was added to this subsection to require the right of the resident to communicate privately with the ombudsman. This is an important right of a resident to protect his right to inquire about services or file a complaint privately.

*§ 2600.42(i) and (j). Specific rights*

IRRC requested clarification of assistance, accessing and attaining, and asked who is responsible to pay for and provide these services. Thirty commentators requested deletion of subsection (i), and retention of § 2620.33 (relating to tasks of daily living). Thirty-nine commentators requested revising subsection (j) to selecting clothing.

*Response*

Subsection (i) was clarified to use the term "health services" rather than list a few specific health services.

In response to public comment, subsection (j) was changed to require assistance in obtaining and keeping clean, seasonal clothing. The home is not responsible for payment of health services or for purchase of a resident's clothing. The Department clarified that the resident's clothing may not be shared with other residents.

The terms "assistance" and "accessing" are not defined since the normal dictionary definitions apply.

*§ 2600.42(l). Specific rights*

IRRC questioned whether the availability of personal storage space may be taken into account with the resident's right to purchase, receive and use personal property.

*Response*

This subsection was changed to clarify that the resident has the right to furnish his room and purchase, receive, use and retain personal clothing and possessions. Personal storage space is addressed in § 2600.101(q) (relating to resident bedrooms).

*§ 2600.42(n). Specific rights*

IRRC asked for clarification of the nature and extent of the assistance that a home must provide if a resident wishes to relocate to another facility.

*Response*

The Department clarified assistance to include the following: helping the resident get information about living arrangements, making telephone calls and transferring records.

*§ 2600.42(o). Specific rights*

The Department clarified that the resident has the right not only to freely associate, but also to organize groups of residents within the home.

*§ 2600.42(q). Specific rights*

IRRC asked if residents are required to perform house-keeping tasks in their personal spaces, if they may

perform volunteer tasks if they choose and who will monitor compliance.

*Response*

This subsection was clarified in response to IRRC's question. The intent is not to require the resident to perform housekeeping tasks in their personal space, but to allow the resident to voluntarily perform tasks. Monitoring of compliance with this requirement, as with all the requirements of this chapter, is the Department's responsibility.

The number of hours the home must be opened to visitors was increased from 8 to 12 hours per day to provide greater opportunity for the resident to entertain family and friends, since this is the resident's home. The Department strongly encourages homes to have an open, 24-hour per day visitation policy, if at all possible.

*§ 2600.42(u). Specific rights*

IRRC questioned that in conjunction with proposed §§ 2600.26(a)(1)(viii) and 2600.228, what course may a personal care home pursue if a resident violates rules agreed to in the contract, such as smoking in a nonsmoking facility or violating the civil rights of other residents.

*Response*

This subsection was amended to include a reference to § 2600.228. In this section, the reasons for discharge were expanded to include documented, repeated noncompliance with the home rules.

*§ 2600.42(w). Specific rights*

IRRC asked to whom the resident appeals a discharge, if the resident remains in the home while his discharge decision is being appealed and if the Department reviews appeal policies and procedures.

*Response*

This subsection was amended to clarify the resident right to use both the home's procedures and external procedures, if any, to appeal involuntary discharge. The placement of the resident during an appeal process depends on the individual circumstances and the safety needs of the resident. The Department will review the home's appeal procedures during its annual inspection of the home.

*§ 2600.42(x). Specific rights*

IRRC questioned the intent and meaning of the term "mismanaged."

*Response*

This subsection was revised to clarify the intent that a resident has the right to a system to safeguard the resident's money or property.

*§ 2600.42(y). Specific rights*

This section was revised to eliminate the right for the resident to manage his own financial affairs since this is addressed § 2600.20. A new right related to the resident's right to choose his own health care providers was added.

*§ 2600.42(z). Specific rights*

IRRC requested clarification of the home's role in protecting a resident's right to be free from excessive medication. Commentators noted that the level of medication is either by the resident's choice or under a physician's supervision.

*Response*

In response to public comment, subsection (z) was deleted. Medication prescription and management is under the purview of the resident's physician and not the home.

*§ 2600.44. Complaint procedures (new section)*

Several commentators requested clarification of the complaint procedures for a resident or a resident's designated person to file a complaint.

*Response*

The Department added a section to address notification of the resident and his designated person of their right to file a complaint and the procedure and timelines for filing and responding to a complaint.

*STAFFING*

*§ 2600.51. Resident abuse and criminal history checks (redesignated as Criminal history checks)*

Three commentators strongly supported this requirement. Four commentators suggested allowing the hiring of convicted felons who have not had an additional felony conviction in the past 5 years.

*Response*

This change was not made. The OAPSA governs the criminal history record checks and hiring procedures.

*§ 2600.53(a). Staff titles and qualifications for administrators (redesignated as § 2600.53. Qualifications and responsibilities of administrators)*

Three commentators strongly supported the proposed administrator qualifications. Some commentators indicated that not all prospective administrators meet the qualifications, yet may do well in that capacity. IRRC and other commentators suggested adding an additional level of qualification for a person who has either graduated from high school or obtained a GED and has a specified amount of direct care experience.

*Response*

The Department agrees that the enhanced qualifications are critical to assure that administrators are equipped to manage the duties and responsibilities of an administrator as required by this section, as well as the increasingly complex needs of residents in personal care homes. However, the Department understands that the duties and responsibilities of an administrator in a small personal home (serving eight or fewer residents) are not as burdensome as in a large home. Therefore, the Department has added a new qualification for a small home to permit a qualification option of a GED or high school diploma and 2 years of direct care or administrative experience in the human services field.

*§ 2600.53(d). Staff titles and qualifications for administrators (redesignated as § 2600.53. Qualifications and responsibilities of administrators)*

Ten commentators suggested allowing the legal entity to assume these administrative and supervisory duties.

*Response*

This change was not made. The function of managing and supervising the administration of personal care services is the primary job of the administrator.

*§ 2600.54. Staff titles and qualifications for direct care staff (redesignated as § 2600.54. Qualifications for direct care staff persons)*

Three commentators strongly supported this section as proposed. Forty-three commentators indicated that re-

quiring qualifications is not appropriate. Forty-one commentators suggested replacing requirement for high school diploma or GED with merit based on training or skill. One commentator suggested replacing requirement for good moral character with the criminal background check under the OAPSA. Forty-three commentators requested allowing the hiring of direct care staff at 16 and 17 years of age, but prohibiting performance of tasks related to medication management. Eleven commentators suggested setting minimum age at 16 years of age.

*Response*

The Department appreciates and carefully considered the numerous comments received. The Department included a "grandfather provision" in § 2600.55 for staff persons hired or promoted prior to the effective date of the final-form rulemaking. The Department added the option for a certified nurse aide to qualify as a direct care staff person if the minimum age and training requirements are met. The minimum educational standard is critical since staff must be able to read and write in the resident's record and read and follow health and safety procedures. The Department will consider a waiver of the educational requirement, in accordance with § 2600.19, if the home demonstrates the staff person's literacy through a standardized testing method or the home provides an alternate means of assuring resident safety. The requirement to measure character was deleted since this is not measurable.

The amendments permit an individual who is 16 or 17 years of age to be a staff person at a home, but does not permit them to perform tasks related to medication administration. A staff person who is 16 or 17 years of age may perform tasks related to incontinence care, bathing or dressing of residents with supervision.

The Department also clarified the role of volunteers. § 2600.55(a). *Exceptions for staff qualifications*

Three commentators strongly supported the proposed section to "grandfather" current administrators. Eleven commentators noted that almost all licensed professionals, such as nursing home administrators, doctors and attorneys, retain their credentials as long as continuing education requirements are met. Thirteen commentators suggested allowing the grandfathering of an administrator even with a break in service of more than 1 year. IRRC questioned whether persons 16 or 17 years of age may work as direct care staff and suggested adding "direct care" in front of "staff" in subsection (c). Nine commentators suggested clarification that persons under 18 years of age may not be the sole direct care staff on duty in the home.

*Response*

The Department kept the grandfathering provision for current administrators, those administrators who have less than a 1 year break in service and direct care staff persons. The requirement for the age of direct care staff persons in § 2600.54(a) and (b) continue to apply for current and new direct care staff persons.

§ 2600.56. *Administrator staffing (new sections added in § 2600.57 (related to direct care staffing); § 2600.58 (related to awake staff persons); § 2600.59 (related to multiple buildings); § 2600.60 (relating to additional staffing based on the needs of the residents); § 2600.61 (relating to substitute personnel); § 2600.62 (relating to list of staff persons) and § 2600.63 (relating to first aid, CPR and obstructed airway training))*

Three commentators strongly supported the proposed staffing requirements. One hundred commentators re-

quested retention of current § 2620.74 (relating to staffing), indicating that the change in staff ratio is not appropriate and that the section should specify only that sufficient staff are required to assure that care and services are provided to meet the needs of all residents. IRRC asked whether the Department intends to require an administrator or his designee to be present at the home 24 hours per day. IRRC suggested a further breakdown of proposed subsections (c) and (d). Ten commentators suggested deletion of the requirement to allow the Department to require additional staff if there is objective data demonstrating that resident needs are not being met. IRRC requested clarification of a resident special needs. Eleven commentators suggested that there is no need to arrange for substitute coverage if a home is still meeting staffing requirements.

*Response*

This section was revised to break out and clarify the requirements for staffing. Specific staffing ratios and requirements are necessary to measure and enforce the minimum staffing requirements for the safe and adequate care of the residents. The enforcement of minimum staffing ratios is absolutely essential to assure that personal care services are provided to residents in a timely and proper manner, that residents are safe and protected from health and safety risks and that all requirements of this chapter are met. The Department clarified the circumstances when an administrator must be present in the home.

In response to IRRC's question about special needs, the Department eliminated the language about a resident's special needs and clarified that the additional staffing hours in § 2600.57(c) are based on the resident's mobility needs.

The Department retained but clarified the requirement for additional staffing based on the needs of the resident as identified in the resident's assessment and support plan in § 2600.60 (relating to additional staffing based on the needs of the residents). This is necessary to address the individual health and safety needs of the residents.

Substitute personnel coverage is essential in the event a staff person calls off sick or cannot make it to work in an emergency. The intent of the requirement for substitute personnel is to ensure staff coverage by qualified individuals at all times, not to require substitute personnel that are not needed.

The Department relocated and revised § 2600.63 (relating to first aid, CPR and obstructed airway training), redesignated from proposed § 2600.57 (final-form § 2600.64) (relating to administrator training and orientation), to require that a staff person trained in first aid, CPR and obstructed airway techniques is present in the home at all times. This is critical so that residents receive proper and immediate emergency treatment in the event of an emergency such as an injury that results in bleeding, a bone fracture, choking or respiratory failure.

§ 2600.57. *Administrator training and orientation (redesignated as § 2600.64)*

Three commentators strongly supported the proposed section. Forty-two commentators requested retention of the current regulation, stating that additional administrator training is not required. Forty-eight commentators requested requiring that the Department-approved training be provided by an appropriately trained person or agency and deleting the requirement for the 80-hour

internship. IRRC asked what constitutes successful completion of the 80 hours of competency-based internship.

Suggestions were received to add additional training components, such as: the requirements of this chapter, ethics, abuse and neglect, accessing health care services, incident reporting and cultural competency.

Nine commentators suggested requiring that certain training be required only if a home serves residents with these needs.

*Response*

Additional training of administrators is needed to ensure they are trained to manage and supervise staff persons to provide personal care services to address the increasingly complex needs of residents. The requirement for the 80-hour internship was deleted. However, the number of training hours was changed from 60 hours to 100 hours. This is a reduction from 140 combined training hours as proposed to 100 combined training hours. Administrators must take and pass a 100-hour standardized Department-approved administrator training course and competency-based training test. A "grandfather" provision was added for administrators hired or promoted prior to the effective date of the final-form rulemaking.

Training in universal precautions, medication effects and side effects, personal care services, gerontology, cultural competency, abuse and neglect prevention and reporting and the requirements of this chapter were added as required administrator training topics to adequately address the needs of residents to protect their health and safety and to properly train an administrator for key duties and responsibilities of his position.

*§ 2600.57. Administrator training and orientation (redesignated as § 2600.64)*

Thirteen commentators suggested deleting either all or portions of this proposed subsection about the internship.

*Response*

In response to public comment, the proposed requirement for an internship was deleted.

*§ 2600.57(e). Administrator training and orientation (redesignated as § 2600.64(c) and(d))*

IRRC asked how the Department determined the 24-hour training requirement and if an administrator must have annual training for each of the subject areas. Sixty-four commentators requested reduction of annual training hours for administrators to 12 hours per year or 24 hours every 2 years. These commentators noted that registered nurses are required to obtain 15 hours of annual training to maintain certification and nursing home administrators are required to obtain 24 hours of continuing education annually.

*Response*

The requirement for an administrator to have 24 hours of annual training was kept. Annual training may be in any subject area related to the administrator's job duties. This allows the administrator to customize his training to the needs of the residents and to his personal level of experience and education. The Department-approved administrator training specified in § 2600.64(a) fulfills the annual training requirement for the first year. Annual training must be provided by Department-approved training sources listed in the Department's personal care home training resource directory or by an accredited college or university. Annual training is required versus 24-month

training to support that training should occur on a regular, ongoing basis and not at the end of a 2-year period.

*§ 2600.57(f). Administrator training and orientation (redesignated as 2600.64(e))*

Ten commentators suggested requiring the Department to conduct random audits, in addition to regulator licensing inspections, to ensure that annual training requirements are met. Two commentators suggested requiring a home to keep a record of training.

*Response*

The Department will assure compliance with these requirements through annual inspections and complaint investigations. In response to comment, subsection (f) was added to require a home to keep a record of training including the person trained, date, source, content, length of each course and copies of any certificates received to provide for easy audit and tracking of training internally by the home, as well as by the Department.

*§ 2600.57(g). Administrator training and orientation (redesignated as § 2600.64(g))*

Fifteen commentators requested clarification that the requirements for a personal care home administrator should not be greater than those for a nursing home administrator.

*Response*

Because a licensed nursing home administrator must meet the ongoing training requirements by the Department of State, they are exempt from the annual training requirements of this chapter.

*§ 2600.58(a). Staff training and orientation (redesignated as § 2600.65(a) and (b). Direct care staff person training and orientation)*

Three commentators strongly supported the proposed requirements for direct care staff person training and orientation. Fourteen commentators opposed the training requirements as unnecessary and cost prohibitive.

Commentators suggested that temporary staff, part-time staff and volunteers do not need to complete the training. Fifty-eight commentators suggested that volunteers be trained appropriate to their roles and functions in the home. Thirty-one commentators requested that training of volunteers be the responsibility of the facility director and include job descriptions for volunteers. Commentators recommended revising subsection (a) to "prior to working with residents unsupervised." Two commentators suggested deletion of training in personnel policies and general home operation.

*Response*

Direct care staff training is essential so that health and safety protections and adequate personal care services are provided to residents. This is especially important given that there are no educational or experience qualifications for direct care staff persons.

Clarification was added that orientation regarding fire safety and emergency preparedness must occur prior to or during the first work day. This initial and immediate orientation training is important for all staff, including volunteers and ancillary staff, so that they can provide emergency assistance.

Subsection (b) clarifies that within 40 scheduled working hours, all staff persons must have an orientation to additional specific training areas such as resident rights, emergency medical treatment, abuse reporting and inci-

dent reporting. The areas of orientation were revised to add the critical areas of abuse and incident reporting for all staff persons, including volunteers and ancillary staff. Orientation to general operation of the home was deleted.

*§ 2600.58(c). Staff training and orientation (redesignated as § 2600.65(d). Direct care staff person training and orientation)*

IRRC suggested adding “unsupervised” before “contact.” Forty commentators suggested 16 hours of shadowing before providing resident care and a 6-month period to accomplish this training. Three commentators requested deletion of training in safety management and prevention. Four commentators requested deletion of training in medications and purpose and side effects of medications.

*Response*

This subsection was clarified to require that direct care staff hired after the effective date of the final-form rulemaking may not provide unsupervised ADL services until completion of training that includes a demonstration of job duties, followed by supervised practice and successful completion and passing the Department-approved training course and competency test.

The Department deleted the requirement for training in medication procedures, medical terminology and the use, purpose and side effects of medications since these areas are addressed in §§ 2600.181—2600.191 (relating to medications). Training in safety management and hazard prevention is essential to protect the health and safety of the residents and this training was not deleted.

The Department added the following training components: safe management techniques; IADLs; dementia; mental retardation; the aging-cognitive, psychological and functional abilities of individuals who are older; socialization; community resources; social services; activities in the community; the requirements of this chapter; infection control and, if applicable, care for individuals with mobility needs. These training components are essential to protect the health, safety and well-being of the residents.

*§ 2600.58(d). Staff training and orientation (redesignated as § 2600.65. Direct care staff person training and orientation)*

Two commentators requested deletion of the requirement for training of ancillary staff.

*Response*

This subsection was revised and relocated to § 2600.65(c). In response to public comment, the requirement for annual training was deleted. The requirement for orientation was retained.

*§ 2600.58(e). Staff training and orientation (redesignated as § 2600.65(e). Direct care staff person training and orientation)*

Commentators indicated that increasing the continuing education requirements to 24 hours annually is unnecessary, excessive and that direct care staff are trained on the job. IRRC indicated that this requirement is more prescriptive than continuing education requirements for hospital nursing staff in the Department of Health regulation in 28 Pa. Code § 109.52 (relating to orientation and continuing education), which does not set a minimum number of hours for continuing education. IRRC recommended that the Department consider reducing the required number of training hours.

*Response*

In response to public and IRRC comments, the annual training requirement for direct care staff persons was reduced from 24 to 12 hours. On the job training may count for 6 of the 12 hours annually.

*§ 2600.58(f). Staff training and orientation (redesignated as § 2600.65(f). Direct care staff person training and orientation)*

Twenty-four commentators suggested keeping all required topics, but requiring only training that pertains to a staff person’s specific job duties. Five commentators suggested that training should be completed within a reasonable time following employment. Four commentators suggested adding “if applicable” to the requirement for training regarding individuals with mobility needs. Four commentators suggested adding a qualification so that training for personal care services and safe management techniques apply only as it applies to the resident population of the home. Two commentators suggested requiring staff education in managing depression.

*Response*

The requirements for training for first aid, obstructed airway techniques and cardio-pulmonary resuscitation was revised and relocated to § 2600.63.

The proposed requirement regarding assessment and support plan training was revised to include the medical evaluation as well.

The requested clarification that not all training is required for all staff persons and all resident populations was not made. Since dementia, cognitive impairments and immobility are common in the older adult population, it is important that all direct care staff persons have annual training in these areas. Training in managing depression was not added since this is a clinical function of behavioral health professionals.

*§ 2600.58(g). Staff training and orientation (redesignated as § 2600.65(g). Direct care staff person training and orientation)*

IRRC asked for clarification as to why volunteers must meet the annual 24-hour training requirement when a volunteer does not perform direct care tasks. Five commentators requested clarification of temporary staff. Three commentators requested a definition of “fire safety expert.” Two commentators requested deletion of the requirement for training in personnel policies.

*Response*

Regularly scheduled volunteers, direct care staff persons, ancillary staff persons and substitute personnel must meet the annual training requirement since these are critical emergency components (such as fire safety, emergency preparedness, resident rights and abuse reporting). In response to comment, the requirement to train temporary staff was removed. Fire safety expert is defined in § 2600.4. In response to comment, the requirement for training in personnel policies was removed.

*§ 2600.58(h) and (i). Staff training and orientation (redesignated as § 2600.65(h) and (i). Direct care staff person training and orientation)*

IRRC asked for clarification regarding the timeframe for completion of training. Five commentators requested requiring the training at another home to be with in the past year. One commentator requested deletion of subsection (i).

*Response*

In response to comment, the Department clarified that the transfer of training from one home to another must have occurred within the past year. Subsection (h) was revised to clarify that only the initial direct care staff training may be transferred. In response to comment, subsection (i) was deleted.

*§ 2600.59. Staff training plan (redesignated as § 2600.66)*

Three commentators strongly supported this section. Fourteen commentators suggested that this section is unnecessary and cost prohibitive. Seventeen commentators suggested retaining current regulation in current § 2620.73(e) (relating to qualifications and training for staff), but adding the training topics from the proposed rulemaking. Forty-eight commentators suggested deleting all the specific requirements of the content of the training plan. The Personal Care Home Advisory Committee Staffing Workgroup and eight commentators recommended deletion of the annual assessment of training needs, the overall plan for addressing needs and the annual evaluation.

*Response*

In response to comment, the Department deleted the specific training plan process and monitoring requirements and instead developed pared-down requirements for an annual staff-training plan that includes training aimed at improving the knowledge and skills of the home's direct care staff in carrying out their job responsibilities. Documentation requirements for the plan are also added.

*§ 2600.60. Individual staff training plan*

Three commentators strongly supported this section. Over 50 commentators found this requirement unnecessary, burdensome, cost prohibitive and already covered in the staff training plan and the annual performance reviews. Eight commentators requested deletion of portions of this requirement. Seventeen commentators suggested retaining the current regulation in current § 2620.73(e). IRRC suggested consideration of the time and fiscal impact.

*Response*

In response to public comment, proposed § 2600.60 was deleted.

*§§ 2600.67 and 2600.68. Training institution registration and Instructor approval (new sections)*

Two sections were added to address the requirements for the staff training program. This is critical to assure proper monitoring of training institutions and the instructor certification process.

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

Twenty-one commentators recommended reference to applicable laws.

*Response*

Although this requirement will be applied by the Department under the guidance of applicable laws, such as the Americans with Disabilities Act of 1990, this is a licensing requirement of this chapter and will be applied and enforced by the Department under this section. A new requirement regarding the condition of ambulation devices was added.

*§ 2600.82(a) and (c). Poisons*

Five commentators requested deletion of the requirement to keep poisons in their original container, as long as poisonous materials are properly labeled and stored. Four commentators requested an exemption for house-keeping substances while in use.

*Response*

Removal of poisons from their original containers is never safe. This practice can lead to misidentification of the substance and unsafe storage in a container not equipped to provide the proper insulation of the substance. If a household cleaning product is in use and supervised by a staff person, this meets the requirement in subsection (c) to be inaccessible to residents.

*§ 2600.83. Temperature*

Several commentators indicated that a constant temperature above 80°F may be too warm for some residents due to their medical conditions or medication regimen. They suggested requiring that air conditioning be required to maintain the temperature at or below 80°F for bedrooms and other living areas. Six commentators suggested that only areas used by the resident need to be at 70°F. IRRC questioned whether the Department should require a maximum indoor temperature.

*Response*

The Department carefully considered adding a requirement that indoor temperature be kept below 80°F through the use of air conditioning. However, due to the high cost of installing air conditioning in each home, the Department decided that the use of fans to circulate air during the summer months is the most cost-effective alternative.

In response to comments, the Department clarified that the requirement regarding heating applies to areas used by the residents.

*§ 2600.85. Sanitation*

This proposed section raised many questions from IRRC and others about the presence of pets in homes. Twelve commentators suggested requiring a pest control program on an as-needed basis. Twenty-nine commentators expressed concern that some elderly persons will not be able to work covered containers. Fourteen commentators requested deletion of the requirement for the sewage system approval since this is often a local requirement.

*Response*

The Department clarified that it did not intend to disallow pets in homes. The requirement for a pest control program was not added since this will not be necessary in most homes.

Covered trash receptacles are an important sanitation protection. There are types of covered trash receptacles that elderly persons are able to operate, such as foot pedal trash receptacle. The staff persons should provide assistance to a resident who needs assistance in opening containers.

Sewage systems are indeed regulated by the local sewage enforcement officer. The Department will look for the required written local approval. This requirement was revised so that it applies only to a large home serving nine or more residents.

*§ 2600.86. Ventilation*

Nine commentators asked for clarification of sufficient ventilation.

*Response*

Acceptable types of ventilation are included in subsection (a). The section was clarified that the requirement for ventilation in subsection (a) applies to bathrooms that do not have an operable, outside window.

*§ 2600.87. Lighting*

Nine commentators asked for clarification of sufficient lighting.

*Response*

In response to comment, this section was clarified to require that the specified areas be lighted and marked to ensure that residents, including those with vision impairments, can safely move through the home and safely evacuate.

*§ 2600.88. Surfaces*

Eleven commentators suggested regulation of the use of asbestos and proper remediation activities.

*Response*

Asbestos is no longer used in home construction or building materials. In some cases, removal of asbestos products from an existing building is more dangerous to residents than covering over the asbestos or keeping it intact. The Department will regulate any unsafe existence or removal of asbestos under § 2600.88 (a) (relating to surfaces). Section 2600.88(b) does not permit the use of asbestos products in renovations or new construction.

*§ 2600.89. Water*

Eight commentators requested deletion of the requirement for quarterly coliform water tests since this is regulated by the DEP. One commentator suggested adding an option to make provisions for a safe supply of drinking water to subsection (d).

*Response*

The Department did not eliminate the requirement for water testing for a home that is not connected to a public water system, since this is not regulated by the DEP. The DEP only regulates public water systems.

At the recommendation of the DEP, the Department clarified that the laboratory will report that water is above or below the maximum contaminant level, rather than that water is safe for drinking.

In response to comment and at the suggestion of the DEP, the Department revised subsection (d) to require that an alternate water source be provided during remediation activities.

The new requirement for water safety testing applies only to a home that is not connected to a public water system, but instead has a private water source, such as a well. The quarterly cost for coliform testing at a DEP-certified laboratory is \$30 per test. The benefit of assuring that residents have safe drinking water and are not exposed to harmful contaminants outweighs this minimal cost.

*§ 2600.90. Communication system*

Fifteen commentators requested deletion of the requirement for an internal communication system. IRRRC recommended clarifying the language to reflect the Department's intention.

*Response*

The Department's intent is to ensure that staff persons can immediately communicate with and summon assistance from one another in the event of an emergency. In

response to comment, the new requirement for an internal communication system will apply only to a home serving nine or more residents. In a large home, it is critical that staff persons be able to quickly and efficiently contact other staff persons in the event of an emergency or if they need assistance with a resident. The cost of installing a communication system will vary greatly based on the size and lay out of the home. If a home is physically structured so that staff persons can call out for assistance and be heard throughout the home, a system is not required. Many large homes already have internal communication systems in place and will not incur additional costs. Types of communication systems that may be used include walkie-talkies, pagers, cellular phones and intercom systems. The Department estimates that a two-way walkie-talkie system for two staff persons will cost between \$20 and \$100. The benefit of being able to contact other staff persons in the event of an emergency outweighs this reasonable cost for a large home.

*§ 2600.91. Emergency telephone numbers*

Twenty-one commentators suggested requiring posting of telephone numbers only for telephones in common areas or for general staff or resident use, not for a resident's personal telephone.

*Response*

This change was not made. It is important to post emergency telephone numbers by all telephones with an outside line so that anyone, including a resident, may call for emergency assistance. The telephone number for the local emergency management agency has also been added.

*§ 2600.93. Handrails and railings*

Several commentators, including a 40-bed personal care home, two provider agencies and two advocacy organizations requested deletion of the exemption for outside steps with one or two steps and for a porch with over a 30-inch drop.

*Response*

In response to public comment, these changes were made. All steps and porches must have a handrail or railing.

*§ 2600.94. Landings and stairs*

Nine commentators requested deletion of the requirement for nonskid surfaces on walkways. Fourteen commentators suggested adding the requirement for contrast strips for those with vision impairments.

*Response*

In response to public comment, the change regarding walkways was made. The new requirement for nonskid surfaces on stairs, steps and ramps will be a one time cost for a home that has surfaces that are likely to cause slips, falls and resulting injuries to the residents. Most homes already have acceptable nonskid surface coverings such as carpet, rubber coverings on ramps and textured concrete on outside steps. The estimated average cost per foot for installing a nonskid strip on a stairs or ramp is \$4 per yard. The benefit of preventing falls and injuries outweighs the minimal cost.

In response to comment, the requirement relating to contrast strips for residents with a vision impairment was added in § 2600.87 (relating to lighting).

*§ 2600.95. Furniture and equipment*

Three commentators suggested adding that furniture must be functional, comfortable and home-like.

*Response*

While the Department supports these concepts, these descriptions are subjective based on the varied individual preferences of the resident and not measurable for purposes of licensing enforcement.

*§ 2600.96. First aid supplies (redesignated as First aid kit)*

Twenty-one commentators suggested requiring one set of first aid supplies on every floor or wing of each building. IRRC indicated that depending on the size of the building, the response time to reach the other side of the building may not be beneficial to aiding the resident in a timely manner. IRRC recommended that the Department consider requiring that a first aid kit be kept on each floor or for a designated number of rooms.

*Response*

Many large homes already have multiple first aid kits so that staff persons can respond quickly to an emergency. However, a first aid kit on each floor of the home is not necessary for many small and medium homes. Since a first aid kit is used to treat only minor injuries, the cost to purchase additional first aid kits outweighs the benefit to the residents.

The Department eliminated syrup of ipecac and added tweezers to remove splinters from the contents of the first aid kit. The use of syrup of ipecac is no longer recommended by the American Academy of Toxicology and the United States Food and Drug Administration in response to the ingestion of a poison.

*§ 2600.97. Elevators and stair glides*

Three commentators suggested requiring completion of repair within 48 hours of the time that the elevator or stair glide was found to be inoperative and development of emergency procedures that will be immediately implemented until the equipment is operable.

*Response*

The Department added a citation to the Department of Labor and Industry regulation of elevators and stair guides in 34 Pa. Code Chapter 405 (relating to elevators and other lifting devices). In the event of temporary inoperability, the Department will apply § 2600.81(a) (relating to physical accommodations and equipment) that requires the home to provide for the safe movement of the resident within the home. The home will need to provide an alternate means of movement during the temporary period of inoperability.

*§ 2600.98. Indoor activity space*

Nine commentators suggested that indoor space should be provided according to the needs of the residents. Fifteen commentators suggested applying the current regulation in § 2620.52(q) (relating to living/sleeping quarters).

IRRC recommended relocating the requirements for program activities and activity calendar to § 2600.221 (relating to activities program). Twenty-eight commentators suggested replacing proposed subsections (c)—(e) with a requirement for an activities program designed to promote residents active involvement with other residents, the residents families and the community.

Twelve commentators suggested requiring that the television viewing room be sufficiently large so residents can enjoy watching television in comfort. IRRC recommended deleting the language in subsection (f), since it is written in nonregulatory language.

*Response*

In response to IRRC and public comment, the program activity and activity calendar requirements were deleted. These areas are addressed sufficiently in § 2600.221. Subsection (f) was deleted, in part based on IRRC's suggestion, as well as because waivers are already addressed in § 2600.19. The other suggested changes were not made since the language is subjective, not measurable and nonregulatory in nature.

*§ 2600.99. Recreation space*

Seventeen commentators suggested adding that equipment and supplies must be suited for physical, mental, artistic, spiritual and social fulfillment.

*Response*

This change was not made as it is subjective and not measurable. The section was reworded to give examples of recreational items instead of specifying the recreational items the home must have available.

*§ 2600.100. Exterior conditions*

Six commentators requested a definition of "hazard" in subsection (a). Five commentators suggested modifying subsection (b) to allow a home to restrict access to the recreational areas when snow and ice are present.

*Response*

The definition of "hazard" as found in the dictionary applies. Although no revision to the section was made, a home may temporarily restrict access to exterior recreational areas when extreme weather conditions prevent the prompt removal of snow and ice.

*§ 2600.101(a)—(d). Resident bedrooms*

Eight commentators supported the flexibility offered by the rulemaking in setting requirements for resident bedrooms. Some commentators indicated that the square footage requirements could hinder their ability to keep some current residents. Twenty-eight commentators requested exempting existing personal care homes from the square footage requirements. IRRC asked for clarification of whether the Department considered grandfathering current facilities.

*Response*

No substantive changes were made to these four subsections. A "grandfather provision" was added in subsection (c) for existing bedrooms serving a resident with mobility needs. The prior allowance for a home licensed as a personal care home before the effective date of this final-form rulemaking to count up to 9 square feet of built-in closet space will be honored.

*§ 2600.101(e)—(g). Resident bedrooms*

Four commentators suggested changing the ceiling height to 8 feet. Four commentators suggested requiring that a window must be able to be opened from inside with normal ease. Two commentators suggested "grandfathering" existing homes in subsection (g).

*Response*

Ceiling height for resident bedrooms in homes licensed after the effective date of this final-form rulemaking was changed to an average of 7 feet, to permit the use of bedrooms with irregular or sloped ceilings or dormer windows. Eight foot ceilings are not required, because the Commonwealth's new Uniform Construction Code requires ceiling height in new buildings to be a minimum of 7 1/2 feet in occupied spaces and corridors and a mini-



mum of 7 feet in bathrooms, toilet rooms, kitchens and storage rooms. Many homes in this Commonwealth do not have 8-foot ceilings.

Clarification was added that windows do not need to be operable to permit the use of buildings that have controlled ventilation systems. Windows are required for the purpose of providing direct lighting and visual exposure and stimulation.

The Department did not grandfather existing homes in subsection (g). The requirement for a resident's bedroom to be used only as a bedroom and not as a common area is critical to assure privacy and dignity, as well as to assure the safety and health of residents. This does not preclude the sharing of bedrooms by more than one resident.

*§ 2600.101(i) and (j). Resident bedrooms*

Thirteen commentators recommended requiring curtains or partitions to insure the resident's privacy. Three commentators suggested deletion of subsection (j) and indicated that resident access to bedrooms cannot be guaranteed at all times.

*Response*

The requirement for privacy within a bedroom was deleted as it was not the Department's intent to require that partitions or curtains be installed in all shared bedrooms. Subsection (j) was not changed, but this requirement will be applied with reason to afford flexibility to assure the privacy of a roommate while the roommate is dressing or completed other private personal hygiene activities.

*§ 2600.101(k). Resident bedrooms (redesignated as § 2600.101(j))*

Forty-six commentators requested deletion of the requirements for a fire retardant and plastic covered mattress, stating that type of mattress should be determined by needs of resident served. IRRC requested the Department's consideration of costs of replacing current mattresses with fire retardant mattresses. IRRC asked if it is necessary for every resident to use a plastic-covered mattress if they are not incontinent. Two commentators suggested adding the requirement for an operable lamp.

*Response*

In response to public and IRRC comment, and based on the cost of replacing mattresses, the requirement for a plastic covered mattress was removed. Existing homes will be exempt from the requirement for a fire-retardant mattress. In response to comment, an addition was made to require each bedroom to have an operable lamp or other source of lighting that can be turned on at bedside. The Department also added the requirement for a bedside table and mirror since these are reasonable and basic bedroom furnishings. The Department clarified that many of the bedroom furnishings may be shared with another resident.

*§ 2600.101(r). Resident bedrooms (redesignated as § 2600.101(q))*

Commentators noted that requiring homes to purchase any chair that the resident deems comfortable will be costly. IRRC questioned who is responsible for determining what is comfortable and who is responsible for supplying the chair.

*Response*

This requirement was revised to require a chair that meets the resident's needs. It was relocated to subsection

(j)(2). In response to comment, the Department added a requirement for storage space for personal property.

*§ 2600.101(t). Resident bedrooms (redesignated as § 2600.101(r))*

Two commentators suggested deleting this requirement indicating that window treatments that cover the entire window may be unnecessary or not desirable for very tall windows, skylights or other similar windows.

*Response*

The Department's intent is to assure the resident's privacy. In the unusual cases mentioned by the two commentators, a home may request a waiver of this requirement in accordance with § 2600.19.

*§ 2600.102(a)–(c). Bathrooms*

Fifty commentators suggested clarification to count only residents or other household members when determining the ratios. Twelve commentators suggested increasing the shower/bathtub ratio from 15 to 6. IRRC requested the Department's rationale for increasing the shower/bathtub ratio from the current 8 to 15.

*Response*

In response to comment, the Department clarified that only the residents, staff persons and other household members who use the bathroom facilities will be counted. This is necessary to assure there are enough toilets for the residents if staff persons and other individuals living in the home also use the toilet. Visitors will not be counted in determining the ratios. The current ratio for showers/bathtubs is one for every 15 or less users in § 2620.52(l)(3). In response to public comment and based on research of other states licensing regulations, the Department increased the number of showers/bathtubs required to one for every ten users. Existing homes are permanently grandfathered from the new shower/bathtub ratio.

*§ 2600.102(d). Bathrooms.*

The Department clarified that in addition to slip-resistant surfaces, toilet and bath areas must have grab bars.

*§ 2600.102(e). Bathrooms*

Three commentators suggested allowing curtains for privacy at toilets and showers/bathtubs.

*Response*

This change was not made. Curtains do not provide privacy.

*§ 2600.102(f) and (g) Bathrooms*

Thirty-three commentators suggested clarifying that the home may charge the resident for these items, unless the resident is on SSI.

*Response*

The Department clarified that the home may charge a resident, who is not an SSI recipient, for individual toiletry items. These charges must be indicated in the resident-home contract. If the resident is a recipient of SSI, toiletry items must be provided in accordance with § 2600.27(d)(1).

*§ 2600.102(h)–(j). Bathrooms*

Three commentators suggested revising subsection (h) to require paper towels and toilet paper for all public toilets in the home. Fifteen commentators suggested rewording subsection (i) to require a soap dispenser in all public or shared bathrooms. Nine commentators sug-

gested revising subsection (j) to require that toiletries and linens shall be made available on request or accessible to the resident.

*Response*

The suggestion to require the stocking of public bathrooms was not added. The purpose of the final-form rulemaking is to protect the health, safety and well-being of the residents and to regulate the resident areas, not the public areas. Subsection (i) was revised to require that the soap dispenser be within reach of each sink. In addition, the Department added clarification that unmarked bar soap is allowed if a resident has a private bathroom. Subsection (j) was amended to allow for towels and washcloths to be stored in a space other than the resident's living space as long as the resident has access to the home's linen supply. The Department clarified that use of a common towel is not allowed. The Department added that shelves or hooks for the resident's towel and clothing must be provided.

*§ 2600.103(b) and (c). Kitchen areas (redesignated as Food service)*

Four commentators stated that it is costly to sanitize a kitchen after every meal. Three commentators suggested deleting the term "transported" in subsection (c), stating that food is carried a few feet from stove to table.

*Response*

Sanitization is important to reduce the spread of disease. This does not have to be a costly expense to the home. Thoroughly washing the area with soap and water or some other type of kitchen cleaner is acceptable. In subsection (c), the term "transported" is intended to mean transported from outside the home such as from another building on the premises or if the kitchen and dining areas are not in close proximity to each other.

Clarification was added to permit the use of a service kitchen in another building on the grounds, as long as there is a kitchen area for storage and preparation of beverages and snacks in each home.

*§ 2600.103(d)—(f). Kitchen areas (redesignated as Food service)*

Five commentators stated that high quality food storage bins designed to sit on the floor should not be excluded in subsection (d). Nineteen commentators suggested deletion of the requirement to date, rotate and inventory foods.

*Response*

In response to public comments, the Department clarified that food must be stored off the floor. The use of quality, tightly sealed, plastic food bins is acceptable. Also in response to comment, the Department deleted the requirement for dating, rotating and inventorying food items. The Department relocated the requirement from proposed § 2600.162(b) to this section.

*§ 2600.103(h)—(j). Kitchen areas (redesignated as Food service)*

Seven commentators suggested deletion of the requirements for holding temperatures and dishwashing, stating that these are nursing home requirements.

*Response*

The requirement for holding temperatures was deleted in response to comment. The dishwashing requirement was retained to assure proper protections during dishwashing. The Department relocated a portion of the requirement from proposed § 2600.162(d) to this section.

*§ 2600.103(k) and (l). Kitchen areas (redesignated as Food service)*

Two commentators requested deletion of subsection (k). Ten commentators suggested deleting subsection (l), stating that personal care homes are residential environments that may include pets.

*Response*

These subsections were deleted in response to public comment. Trash is appropriately regulated in § 2600.85. Pets are permitted in the kitchen and food service areas of the home.

*§ 2600.104(a)—(c). Dining room*

Four commentators suggested replacing "maximum" in subsection (a) with "seating." Seven commentators requested modification of subsection (b) to allow use of nondisposable plastic glasses. Nine commentators suggested deleting "at the dining table" in subsection (c).

*Response*

Subsection (b) was clarified to permit the use of plastic and paper plates, utensils and cups on an irregular basis. The dining room must accommodate all residents.

The requirement to place condiments at the dining table is reasonable.

*§ 2600.104(d)—(g). Dining room*

Nine commentators suggested requiring special provisions, if necessary, to assist residents in eating at the table. Nine commentators suggested permitting pets, stating that a pet can be very important to residents.

*Response*

These changes were made in response to comment.

*§ 2600.105(a) and (b). Laundry*

Twenty-one commentators requested deletion of the second sentence in subsection (a), stating that this is addressed in subsections (b)—(e).

*Response*

This change was made in response to comment.

*§ 2600.105(d), (f) and (g). Laundry*

Three commentators suggested revising subsection (d) to require that clean linens and towels be offered to the resident at least once every week. Three commentators requested clarifying subsection (f) to require that resident clothing is not lost or misplaced in the process of laundering. Thirty-four commentators requested deletion of subsection (g) regarding the cleaning of lint traps and drums. IRRC asked for clarification of subsection (g).

*Response*

The change to subsection (d) was not made. It is important for health and sanitation purposes that linens and towels actually be replaced with clean linens and towels every week and not just offered or available. In fact, due to the needs of many residents, the Department clarified that linens and towels must be changed more often than once a week as needed to maintain sanitary conditions.

A change to subsection (f) was made in response to the concern about resident clothing being lost or misplaced in the process of laundering.

The intent of subsection (g) is that lint be removed not only the lint trap and drum of the clothes dryer after each use, but also from vent duct and ductwork according

to the manufacturer's instructions. This is necessary to prevent a fire hazard. This subsection was clarified.

*§ 2600.106. Swimming areas*

Three commentators suggested deleting this section and deferring to State regulations for swimming pools. Four commentators suggested adding that staff certified as Red Cross life saving staff must be present when residents are using the pool or another body of water and that all pools and ponds shall be fenced and have automatic latched gate.

*Response*

The Department clarified that applicable laws and regulations will govern the construction, safety and sanitation of swimming pools. Specific requirements for life saving staff, fencing and latched gates were not included, but are examples of requirements that may be applied by other State or local authorities.

*§ 2600.107(a) and (b). Internal and external disasters (redesignated as Emergency preparedness)*

IRRC asked whether qualified fire, safety and local emergency management offices were intended to be the same as a fire safety expert. IRRC recommended that the Department describe who is "qualified" to make these judgments. Sixteen commentators suggested requiring approval by qualified local emergency management offices.

*Response*

Subsection (a) was revised to require the home to have a copy and be familiar with the local municipal emergency preparedness plan. Subsection (b) was revised to clarify what is included in the written emergency procedures. In accordance with § 2600.107(d), the emergency plan and procedures must be submitted to the local emergency management agency, instead of having the plans or procedures developed and approved by qualified fire, safety and local emergency management offices. The local emergency management agency supports the community in civil defense, disaster mitigation and preparedness, planning and response to and recovery from man-made or natural disasters.

*§ 2600.107(c). Internal and external disasters (redesignated as Emergency preparedness)*

IRRC asked for clarification of the term "contact names" and whether it is intended to be the resident's designated person. Fourteen commentators requested clarification of the requirement for an alternate means of utilities. Sixteen commentators suggested that the disaster plan include a plan to obtain nonperishable food and drinking water. Four commentators requested deletion the requirement to maintain a supply of medications, since the personal care home does not supply the medication and the availability of medication is determined by the resident's physician, pharmacist and insurance plan. Twenty commentators suggested requiring a plan for emergency medication delivery.

*Response*

This section was revised and clarified based on public comment and relocated to subsection (b). The requirement to maintain a 3-day supply of medications was deleted in response to comment.

*§ 2600.108. General health and safety*

The Department deleted this section as it is not necessary based on all the other requirements of this chapter.

*§ 2600.109. Firearms and weapons (redesignated as § 2600.108)*

Eighteen commentators requested clarification of weapons.

*Response*

The dictionary definition of "weapon" applies.

*§ 2600.109. Pets (new section)*

A section was added to address whether pets are permitted by the home, the health condition of the pet as it relates to the health and safety of the residents and the additional charge for pets, if applicable.

**FIRE SAFETY**

*§ 2600.121. Unobstructed egress*

Seven commentators requested clarification of the purpose and permissibility of locking exit doors, how to provide security for residents if exit doors cannot be locked from the outside and how to provide unimpeded evacuation route in an emergency. Commentators noted that the Department should defer fire safety approval to occupancy and fire safety authorities.

*Response*

Fire safety is a key concern as many residents have died in fires. The intent of the section is to permit residents to quickly exit the building in the event of a fire. Doors may be locked from the outside to provide security to the residents. The Department clarified that a home is permitted to use special emergency locking devices on exit doors if they have a written approval from the Department of Labor and Industry, the Department of Health or the appropriate local building authority. IRRC submitted no comments.

*§ 2600.122. Exits*

Eight commentators noted that the Department should defer fire safety approval to occupancy and fire safety authorities. Commentators suggested requiring this provision only to new construction or significant renovation, or both. Commentators requested clarification of the term "accessible" and expressed concern about the cost of retrofitting personal care homes for exits. IRRC submitted no comments.

*Response*

The Department included a provision in the order to this final-form rulemaking to give existing homes 18 months after the effective date of this final-form rulemaking to comply. The requirement for two independent and accessible fire safety exits per floor is a one-time cost for an existing home that does not have two exits. This requirement is critical to provide for safe evacuation in the event of a fire. In many cases of an actual fire, the interior stairwell may be blocked by fire or smoke making egress impossible. A second exit is often necessary to escape the fire. A second exit may be an interior stairwell. For a multistory home installation of a fire escape may be required. The fire escape may be of any sturdy construction material, including wood. The cost of installing a new fire door and fire escape is estimated at \$5,000. The benefit of providing an alternate escape route for resident in the event of a fire outweighs the cost.

*§ 2600.123. Emergency evacuation*

Commentators suggested requiring this provision only to new construction or significant renovation, or both. Nine commentators noted that occupancy requirements should be the purview of occupancy and fire safety

authorities. Commentators expressed concerns about the cost and availability of 24-hour monitoring systems. Four commentators recommended that all homes be connected to a 24-hour monitoring system or have provide additional staff. One commentator suggested deletion of subsection (b), as it duplicates § 2600.87 and § 2600.121 (relating to unobstructed egress). Four commentators noted that subsection (c) conflicts with section on secured dementia care units. IRRC asked for clarification of the emergency evacuation plan in subsection (d).

*Response*

These requirements are critical for residents and staff persons to be alerted in the event of a fire. Although some of these requirements are regulated by the Department of Labor and Industry or other local fire safety authorities, it is critical that the Department complete an inspection of these requirements during its annual inspection, since fire safety authorities do not conduct regular inspections. An exemption for existing homes was not added since these requirements are critical for the protection of the residents in the event of a fire.

The requirement to have the home's fire system connected to the local fire department was deleted, since it is addressed in § 2600.130(i).

The Department deleted proposed subsection (b) since, as the commentator suggests, it duplicates other requirements of this chapter.

For a secure dementia unit, special locking devices may be used on exit doors if the home has a written approval from the Department of Labor and Industry, the Department of Health or the appropriate local building authority.

The term "emergency evacuation plan" was deleted from subsection (d) and was replaced with emergency procedures which are defined in § 2600.107 (relating to emergency preparedness).

The Department exempted small homes from the requirement to post an emergency evacuation diagram. An emergency diagram is not needed in a small home where exits are well known and visible. The Department added a subsection to clarify that if the home chooses to serve residents with mobility needs above or below the grade level of the home, there must be a fire safe area to which the residents may safely evacuate.

*§ 2600.125. Flammable and combustible materials*

Two commentators requested clarification of combustible materials.

*Response*

The Department clarified the references to flammable and combustible.

*§ 2600.126. Furnaces*

Twelve commentators suggested revising that furnaces be inspected and cleaned annually or as often as recommended by manufacturer. Fourteen commentators expressed concern about cost.

*Response*

This change was not made. The annual furnace inspection and cleaning may be conducted by a trained home maintenance person at no cost to the home. An annual furnace inspection and cleaning is important to prevent fires or other dangerous conditions.

*§ 2600.128. Supplemental heating sources*

The Department clarified language in this section and added that wood and coal burning stoves must be

screened or otherwise equipped so that residents are not burned by contact with the stove.

*§ 2600.129. Fireplaces*

Eight commentators recommended requiring cleaning only of fireplaces that are regularly used, due to cost. Two commentators recommended allowing residents to sit by the fire in subsection (c).

*Response*

Subsection (b) was amended to state that cleanings need to occur when there is an accumulation of creosote. This will reduce the cost to the homes as a cleaning is no longer required annually. Subsection (c) was deleted. Nothing in this section precludes a resident from sitting by the fireplace.

*§ 2600.130(a). Smoke detectors and fire alarms*

Commentators suggested requiring this provision only to new construction or significant renovation, or both. Forty commentators noted that occupancy requirements should be the purview of occupancy and fire safety authorities.

*Response*

This requirement is critical for residents and staff persons to be alerted in the event of a fire. Although the smoke detectors are regulated by the Department of Labor and Industry or other local fire safety authorities, it is critical that the Department complete an inspection of the smoke detectors during its annual inspection, since fire safety authorities do not conduct regular inspections. An exemption for existing homes was not added since this is critical for the protection of the residents in the event of a fire.

*§ 2600.130(d). Smoke detectors and fire alarms*

In response to fiscal concerns of small homes, the Department added an exemption for a small home serving eight or fewer residents. A large home must continue to meet this existing requirement so that residents and staff persons are able to hear the smoke detector or fire alarm no matter where they are in the home. This requirement is already required by the Department of Labor and Industry for a home serving nine or more residents.

*§ 2600.130(e). Smoke detectors and fire alarms*

Commentators suggested requiring this provision only to new construction or significant renovation, or both. Commentators noted that occupancy requirements should be the purview of occupancy and fire safety authorities. Forty-one commentators stated that these requirements are cost prohibitive. IRRC asked whether the Department considered allowing alternatives to subsection (e), such as permitting a home to install a fire alarm for an individual with a hearing impairment only in areas that would be utilized by that person.

*Response*

A resident or staff person with a hearing impairment must be alerted in the event of a fire. This applies to all homes regardless of size. The required signaling device is required only in areas that would be utilized by that individual. The estimated cost of installing a full strobe light and bed vibrator system is \$170 per person. The bed vibrator system would of course be required only for a resident with a hearing impairment. The Department revised this requirement to allow the use of a personal body device that is portable and the possession of the

individual. The benefit of providing equal fire protection for a person with a hearing impairment outweighs the cost.

*§ 2600.130(i). Smoke detectors and fire alarms*

Nine commentators expressed concern about cost for a 24-hour monitoring system. See comments received in § 2600.123.

*Response*

In response to comments, the Department added the clarification that a fire connection service or 24-hour monitoring service is required only if it is available in the community.

*§ 2600.131. Fire extinguishers*

Commentators suggested requiring this provision only to new construction or significant renovation, or both. Commentators noted that occupancy requirements should be the purview of occupancy and fire safety authorities. Six commentators recommended deleting requirement for locked fire extinguishers at subsection (e), which could pose a safety hazard in an emergency.

*Response*

These requirements are critical for residents and staff persons in the event of a fire. Although some of these requirements are regulated by the Department of Labor and Industry or other local fire safety authorities, it is critical that the Department complete an inspection of these requirements during its annual inspection, since fire safety authorities do not conduct regular inspections. An exemption for existing homes was not added since these requirements are critical for the protection of the residents in the event of a fire.

Locking of fire extinguishers is required in subsection (e) only if access to the extinguisher could cause a safety risk to the resident. If extinguishers are locked, staff must be able to open them in an emergency.

*§ 2600.132(a). Fire drills*

Four commentators suggested not requiring unannounced fire drills, as this may upset residents.

*Response*

This change was not made. Unannounced fire drills are necessary to provide a realistic scenario for residents and staff persons to practice how they will respond in the event of an actual fire.

*§ 2600.132(d). Fire drills*

Thirty-five commentators recommended that fire safety authorities should decide evacuation times, based on building construction, fire suppression equipment, staff and evacuation plans. Commentators asked for consideration that sometimes residents are not evacuated from the building, but are evacuated to fire-safe zones within the building. Commentators also noted that evacuating residents completely out of the building in certain weather conditions could also lead to injuries and stress. Commentators suggested different evacuation times for small versus large homes.

IRRC recommended maintaining the current 5-minute standard. IRRC noted that the regulations for fire drills in long-term care facilities in 28 Pa. Code § 209.8 (relating to fire drills) do not require complete evacuation of the facility. IRRC asked for clarification of whether the fire safe area could be a location within the home.

*Response*

The requirement to evacuate the home within 2 1/2 minutes was deleted from the final-form rulemaking. Instead, as suggested by commentators, the evacuation time will be established by a fire safety expert. A fire safe area may be within the home, such as an approved fire tower or area.

A comparison to long-term care nursing facilities is not appropriate since long-term care nursing facilities must comply with a more stringent fire safety occupancy code than most personal care homes.

*§ 2600.132(e). Fire drills*

Thirteen commentators recommended not requiring fire drills at night and to follow simulated fire drills that nursing care facilities conduct for night shift. Commentators recommended requiring fire drills during sleeping hours only once a year.

*Response*

The intent of subsection (e) is to ensure that residents have practiced a fire drill during different times of the day and night, such as at meal time, during various activities and while sleeping. Since most fire deaths occur at night while people are sleeping and since reaction time is slower and people are disoriented when waking abruptly, fire drills during sleeping are critical to protect the residents in the event of an actual fire.

*§ 2600.132(h) and (j). Fire drills*

Seven commentators suggested adding an exemption during inclement weather for resident protection.

*Response*

The home may select a day of each month when the weather is suitable for the fire drill. Even during winter months, there are usually a few days during which evacuation is possible.

*§ 2600.133. Exit signs*

The Department revised this section to exempt small homes since the exit paths in a small home are likely well known and visible.

**RESIDENT HEALTH**

*§ 2600.141(a). Resident health exam and medical care (redesignated as Resident medical evaluation and health care)*

IRRC indicated that the section should identify who is responsible for paying for the health examination. IRRC noted that residents may have health coverage plans that pay for health examinations, and would not want to pay higher rates for a different health care provider or a home's doctor. IRRC notes that section 1057.3(a)(2) of the Public Welfare Code (62 P.S. § 1057.3(a)(2)) allows a 30-day period for obtaining an examination after admission, but does not set a time period for examinations before admission. IRRC requested clarification of the 60-day period for examinations before admission.

Twenty-nine commentators support using a standard form, including the MA-51 form. IRRC asked whether the "standardized form" referenced in subsection (a) is the same as the current MA-51 form, and suggested referencing the specific form. Commentators recommended updating the medical evaluation every 6 months or when there is a significant change in the resident's medical condition.

IRRC noted that commentators recommended deletion of the requirements for body positioning, health status, communicable disease and mobility assessment. IRRC

requested clarification of the need for communicable disease precautions and two commentators expressed concern that this violates resident confidentiality. IRRC and one commentator recommended rewording of subsection (a)(11).

*Response*

The intent of the section is not to make residents or prospective residents have a medical exam by the home's physician. The section does not state that the home determines who conducts the exam. Subsection (a) was reworded to clarify that the exam should be documented on a form specified by the Department. Although the MA-51 form is acceptable, the Department does not want to specify the MA-51 as this form may change or stop being used. The time frame of the 60 calendar days before admission was to give the prospective resident more flexibility in scheduling the medical exam. In addition, if a resident had a medical exam within the 2 months prior to admission this prevents them from paying for a repeat medical exam.

The change to require an updated medical evaluation when there is a significant change in the resident's medical condition was made to subsection (b)(2).

The requirements for body positioning and health status were kept since they are important to provide appropriate medical and personal care services to the resident. The requirement regarding communicable disease was deleted since the home must be trained in and apply universal precautions. As noted by the commentators, confidentiality of some specific types of communicable disease is protected by applicable laws.

The Department made the suggested clarification regarding mobility assessment.

*§ 2600.141(b). Resident health exam and medical care (redesignated as Resident medical evaluation and health care)*

IRRC requested clarification of the intent of this subsection. Sixteen commentators suggested adding that the home should assist residents in accessing medical, dental and psychiatric care. Commentators had concerns that this subsection makes the home responsible for ensuring access to medical, dental and psychiatric care, when the home can only assist in arranging appointments.

*Response*

This subsection is intended to clarify the frequency and conditions under which a new medical evaluation is required. In response to public comment, a change to require an updated medical evaluation when there is a significant change in the resident's medical condition was made.

In response to comment, a requirement was added in § 2600.142(a) (relating to assistance with health care) to require the home to assist the resident in securing access to medical care if the resident's health declines.

*§ 2600.142. Physical and behavioral health (redesignated as Assistance with health care)*

Thirty-three commentators expressed concern about the home's responsibility to convince residents to access medical or dental care. IRRC recommended either moving subsection (a) to § 2600.227 or cross-referencing § 2600.227. IRRC recommended requiring the home to discuss health care services with the resident or the resident's responsible person and documenting the services in the support plan. IRRC recommended that the resident's physician determine the necessity of health

care services. IRRC suggested that the section direct the home to work with the responsible authorities for health care services, such as a case manager from a mental health service provider, to make decisions and referrals.

IRRC suggested identifying the party responsible to educate and inform the resident. IRRC recommended clarifying who is responsible for making reasonable efforts to obtain consent. If the administrator has this responsibility, IRRC suggested requiring documentation of these efforts in the resident's record. IRRC requested clarification of the applicable laws.

*Response*

The home is not responsible to convince a resident to seek medical or dental care, but to educate and inform the resident and to document the refusal.

As suggested, proposed subsection (a) was relocated to § 2600.227. Subsections (a) and (d) were added in response to comments to address the efforts made to obtain care if the resident's health status declines and to obtain preventive medical, dental, vision and behavioral health care.

Documentation of medical services is required in the support plan in § 2600.227. The requirement for the home to discuss health care services with the resident is addressed in subsection (b). The Department clarified that the home must educate and inform the resident about the need for health care. The Department did not require the resident's physician to determine the necessity of health care services or direct the home to work with the responsible authorities for health care services. These duties are beyond the scope of the home's responsibilities.

The Department did not specify the staff person at the home who is responsible to train the resident about the need for health care or to make efforts to obtain consent. This is unnecessary and overly prescriptive. The reference to applicable laws was deleted as unnecessary.

*§ 2600.143(a). Emergency medical plan*

Seventeen commentators recommended requiring staff to be aware of emergency plan and applicable laws for mental health emergencies. IRRC noted that there are many factors beyond the control of a home that affects the availability of emergency care. IRRC requested clarification of the Department's intent or deletion of this subsection.

*Response*

Staff training should include training in the emergency medical plan. This subsection was revised to clarify the intent for the home have a plan to follow if a resident has a health emergency. Specific components of the plan are relocated from subsection (c).

*§ 2600.143(d). Emergency medical plan (redesignated as § 2600.143(b))*

Several commentators suggested that confidentiality of medical information be provided. Four commentators requested deletion of the resident's age. Three commentators suggested adding "and other diagnosis" in subsection (d)(3). Twelve commentators suggested adding health care proxy in subsection (d)(9). IRRC noted commentator suggestions for clarification of subsection (d)(9), including "if applicable" in the event that a resident may not have a designated power of attorney. Two commentators suggested adding "if applicable" in subsection (d)(10). Six commentators recommended adding "if applicable" in subsection (d)(11). IRRC requested clarification of subsection (d)(9), (10) and (12).

*Response*

Confidentiality restrictions at the emergency medical site are the responsibility of the medical treatment facility. The resident's date of birth will be requested upon emergency medical treatment. Medical diagnosis is intended to be broadly interpreted to include behavioral diagnoses. This section was clarified to add "if applicable" at several of the locations suggested. Health care proxy was added. Several paragraphs were revised and clarified as requested.

*§ 2600.143(e). Emergency medical plan*

IRRC and one commentator recommended a review of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191, 110 Stat. 1936) to ensure that subsection (e) does not conflict.

*Response*

Subsection (e) was deleted as it is unnecessary to call out transfer to a long-term care facility for purposes of this section on emergency care.

*§ 2600.144. Use of tobacco and tobacco-related products (redesignated as Use of tobacco).*

IRRC and seven commentators recommended requiring disclosure of smoking policies to prospective residents at admission. IRRC recommended indicating what specific steps a home should implement to protect nonsmoking residents. IRRC requested clarification of the need for subsections (d) and (e).

One commentator requested clarification of subsections (f) and (g). IRRC recommended deleting subsection (g) or incorporating it into subsection (f). IRRC requested clarification of how the designated smoking area is to be addressed in the fire safety procedures in subsection (f).

*Response*

This section was revised to require that the home rules specify whether the home permits smoking on the grounds of the building. Subsection (c) includes provisions to protect nonsmokers from second hand smoke. Subsections (d) and (e) are retained but revised and relocated. These provisions are important to prohibit smoking during transportation and outside of the smoking room. Subsections (f) and (g) are deleted as unclear and unnecessary.

*§ 2600.145. Supervised care (deleted on final-form)*

Commentators suggested including a reference to the resident's physician. IRRC and commentators recommended identifying the types of assessment agencies to which a resident is to be referred. PANPHA noted, for example, that the area agency on aging is the appropriate assessment agency for elderly persons who receive public funding.

*Response*

This section was deleted, as it duplicates information from other sections.

**NUTRITION**

*§ 2600.161(a) and (b). Nutritional adequacy*

Six commentators supported requiring nutritionally balanced meals. Seven commentators recommended allowing for family style meals and requiring at least two daily snacks. IRRC recommended using the word "offered" in subsections (a) and (b) since residents may choose to dine out.

*Response*

This section was clarified by changing subsection (a) to state meals shall meet the recommended dietary allowances established by the United States Department of Agriculture (USDA), as the USDA is National authority on the topic of nutrition. As suggested by IRRC, in subsection (b) "provided" was replaced by "offered." Two daily snacks were not added as this would be cost prohibitive for the home. Family style meals are permitted, but not required.

*§ 2600.161(b)–(d). Nutritional adequacy*

Commentators suggested requiring nutritionally balanced meals, following dietary restrictions and deleting reference to food groups. IRRC requested clarification of the need for subsection (d).

*Response*

As suggested by IRRC and commentators, subsection (d) was deleted since the revised requirement for meals to meet the USDA recommended dietary allowances in subsection (a) is appropriate. Based on comments, the Department added a requirement to ensure that a resident's special dietary needs as prescribed by a physician, physician's assistant, certified registered nurse practitioner or dietitian must be met.

*§ 2600.161(d) and (e). Nutritional adequacy*

Two commentators suggested reasonable accommodation for a resident with personal dietary preferences. Seven commentators requested deletion of the requirement to provide dietary alternatives based on special health needs, religious beliefs and vegetarian preferences, due to cost. IRRC indicated that subsection (e), which requires dietary alternatives, conflicts with subsection (d), which requires items from all four food groups. IRRC noted that many commentators remarked that many homes do not have the resources available to offer alternative diets. IRRC suggested requiring that a home discuss food preferences or dietary requirements with prospective residents and inform them of whether the home can meet their dietary needs.

*Response*

The Department appreciates the cost and food service issues for a home to provide for a variety of food alternatives to meet the preferences of each resident. The Department agrees that the issue of food service should be discussed up front with the resident prior to admission. In response to comment, the Department has revised the section to eliminate the requirement to honor vegetarian preferences and require the home to make available dietary alternatives only for special health needs such as food allergies and religious beliefs.

As discussed previously, subsection (d) was added to ensure that a resident's special dietary needs as prescribed by a physician, physician's assistant, certified registered nurse practitioner or dietitian will be met. If the home cannot accommodate a resident's special dietary needs, the resident will be referred to the appropriate assessment agency or to a more appropriate level of care.

*§ 2600.161(f). Nutritional adequacy*

Twenty commentators requested deleting this requirement as not every home can offer therapeutic diets, due to cost and lack of staff dietitian. IRRC noted that in homes where most residents are SSI recipients, providing therapeutic diets may be cost prohibitive. IRRC recommended deleting subsection (f) or amending to apply only to homes which offer this type of service. IRRC recom-

mended requiring homes that do not offer therapeutic diets to disclose this information to prospective residents, agencies or parties seeking to place an individual at a home.

*Response*

In response to comment, this proposed requirement was deleted.

*§ 2600.161(g). Nutritional adequacy*

Many commentators found this requirement expensive and unnecessary, as many residents are capable of getting their own beverages. Commentators suggested making drinking water available at all times, and making other beverages available upon request during waking hours and at resident cost. IRRC recommended deleting subsection (g) or justifying its need.

*Response*

In response to comment, this proposed requirement was deleted.

*§ 2600.162(a) and (b). Meal preparation (eliminated on final-form)*

One commentator indicated that requiring the preparation of foods in a consistency that meets resident needs would be costly for a home serving SSI recipients. IRRC suggested that the availability or lack of this type of service should be disclosed to prospective residents before they move in and included in the contract.

*Response*

In response to comment, this proposed requirement regarding food consistency was deleted. The requirement in proposed subsection (b) regarding uneaten foods was relocated to § 2600.103(e) (relating to food service).

*§ 2600.162(c). Meal preparation (redesignated as § 2600.162(a). Meals)*

Commentators observed that this requirement would allow a home to serve the evening meal at 8 p.m. and wait until 12 p.m. the next day to serve breakfast. Eight commentators suggested adjusting the time frame to 12 to 14 hours, or requiring an evening snack. IRRC suggested reducing the time period to 14 hours or require a snack be offered between the evening meal and breakfast.

*Response*

In response to comment, this requirement was changed to 15 hours, to allow for a 5 p.m. supper and an 8 a.m. breakfast. The Department also clarified that there may not be more than 6 hours between breakfast and lunch and lunch and supper.

*§ 2600.162(d). Meal preparation (eliminated on final-form)*

Five commentators were concerned that this would prohibit home grown vegetables, and requested clarification of "sources approved or considered satisfactory." IRRC requested clarification of "satisfactory" and which agencies are included in "Federal, state or local authorities."

*Response*

In response to comment, the proposed requirement for Federal, State or local approval was deleted. The requirement regarding spoiled foods was relocated to § 2600.103(i).

*§ 2600.162(e). Meal preparation (redesignated as § 2600.162(b). Meals)*

Commentators indicated this requirement is unreasonable and impractical for many homes. Eleven commenta-

tors recommended adding "when a resident misses a meal for an unavoidable reason" and recommended that resident notify the home if he will be missing meal time. IRRC suggested that instead of mandating substitute food, that all homes be required to inform residents of their policies concerning missed meals.

*Response*

The intent of the subsection is to ensure that a resident who misses a meal is offered food that meets daily nutritional requirements. A resident may miss a meal because of delayed transportation or a lengthy medical appointment. A resident on a low income, such as an SSI recipient, who misses a meal may not be able to afford to use part of his monthly personal needs allowance to buy additional food. A resident with mobility needs may not be able to access a substitute meal. For a resident with health concerns, missing a meal may pose a health risk.

*§ 2600.162(f) and (g). Meal preparation (eliminated on final-form)*

Twelve commentators and IRRC recommended amending proposed subsection (f) to allow menu adjustments for hot and cold foods based on resident preferences.

*Response*

In response to comment, proposed subsection (f) was deleted. The Department also eliminated proposed subsection (g) as unnecessary.

*§ 2600.162(h) and (i). Meal preparation (eliminated on final-form)*

Six commentators recommended deletion of subsection (h) or adding that residents may be charged for adaptive equipment. IRRC found that subsection (h) is duplicative of § 2600.104(d) (relating to dining room). IRRC recommended moving the words "and utensils" to § 2600.104(d) and deleting § 2600.162(h). One commentator recommended deleting subsection (i).

*Response*

In response to comment, the proposed subsections were deleted.

*§ 2600.163. Personal hygiene for food service workers*

Seven commentators requested clarification of the differences between subsections (a) and (b). Thirteen commentators indicated that subsection (d) may be too costly to enforce.

*Response*

Subsection (a) relates to hand washing and (b) relates to sanitary practices, such as not serving food that has dropped on the floor and using a separate, clean cutting surface for the preparation of meats and vegetables. Subsection (d) must be enforced to protect the health of the residents.

*§ 2600.164. Withholding or forcing of food prohibited*

One commentator recommended adding a requirement that if a home has a resident with a cognitive impairment that affects his ability to eat and drink adequate amounts of food and water, the staff must provide proper cueing and feeding techniques. Three commentators recommended requiring appropriate cueing to encourage and remind residents to eat and drink. IRRC indicated that if staff cannot do this, referrals to medical personnel and transfer to an appropriate facility should be done. One commentator suggested allowing that food or drink may be withheld when necessary due to scheduled medical or dental procedures.



One commentator noted that it would be very difficult to verify that all residents in a large independent living facility are eating, because residents are free to come and go, and may go out for meals. Nine commentators requested recognition of the resident's right to fast for religious reasons. Commentators recommended requiring reporting of unexplained weight loss to the resident's physician. IRRC recommended that the Department determine whether it needs to include observations of other symptoms to include situations when the staff is unable to observe a resident at each meal.

*Response*

The allowance to withhold food or drink in accordance with prescribed medical or dental procedures was added at subsection (a). The addition relates to encouraging and reminding a resident to eat and drink was made in new subsection (d). In accordance with subsection (c), if the resident refuses to eat or drink for 24 hours, the home must immediately notify the resident's primary care physician and resident's designated person.

**TRANSPORTATION**

*§ 2600.171. Transportation*

IRRC recommended instructing homes to utilize the Medical Assistance Transportation Program (MATP) for SSI recipients. IRRC also suggested that the Department assist homes in linking SSI recipients with the MATP. IRRC requested clarification of subsection (a)(1). IRRC recommended considering existing staff in subsection (a)(5).

*Response*

This change was not made. The MATP is an entitlement program for eligible residents who do not have other transportation options available to them. Residents should not be required to use the program if they choose not to.

Subsection (a)(1) applies only to transportation provided by staff persons or the home's volunteers.

The suggested change regarding existing staff was not made. If a staff person has completed the required training, this meets the intent of this section.

To assure the safe transportation of the residents, the Department added a requirement for an assistant to be present when necessary.

**MEDICATIONS**

*§ 2600.181(b) and (c). Self-administration*

Eight commentators recommended that the resident's medical exam indicate the ability to self-administer medications. IRRC recommended amending subsection (c) to recognize that the resident's physician determines whether the resident can self-administer medications.

*Response*

Proposed subsection (b) was revised and relocated to § 2600.182 (relating to medication administration). New subsection (b) clarifies that if a resident needs assistance with his medication schedule, staff persons shall remind him of the prescribed schedule.

In response to comment, subsection (c) was revised to require an assessment for self-administration by the resident's physician. Also in response to comment, § 2600.141(a)(7) (relating to resident medical evaluation and health care) was amended to add the requirement for the physician to assess the resident's ability to self-administer medications as part of the medical evaluation.

*§ 2600.181(e). Self-administration*

Fifteen commentators requested deletion of this subsection, as many independent individuals who live alone would not be classified as capable of self-administration of medications under this stringent definition. IRRC requested clarification that the ability of a person to self-administer medication is determined based on the clinical experience, observations and judgment of a health care professional, such as a physician or certified nurse practitioner, not by home staff persons.

*Response*

This section was revised to address the comments and clarify in lay terms the three key components of knowledge for self-administration.

Subsection (f) was added to require a record of all medications for a resident who self-administers his medication.

*§ 2600.182. Medication administration (added on final form)*

Forty-three commentators requested the development of a program to permit, and properly train, personal care home staff persons to administer prescription medications. Many commentators noted the existence of medication administration training programs for staff persons in other Departmental licensed residential settings and suggested that these programs be used as models for a medications training program for personal care home staff. IRRC recommended the development of a medications administration program modeled after programs used in other residential settings. IRRC recommended an amendment to the final-form rulemaking to include medication administration training and certification of home staff persons.

*Response*

In response to overwhelming recommendations from many public commentators and IRRC, the Department added a subsection to address medication administration provided by the home. Medication administration is an optional service that may be provided by the home. If the home does not provide medication administration and a resident develops the need for medication administration, the home must refer the resident to an appropriate assessment agency.

New subsection (b)(4) permits medication administration of oral and topical prescription medications by trained staff persons. The injection of insulin for diabetes and epinephrine for insect bites and other allergies is also permitted by trained staff persons. The new requirement is consistent with the regulations for medications administration training for community homes for individuals with mental retardation under § 6400.168 (relating to medication administration training) and child residential facilities under § 3800.188 (relating to medications administration training). The Department has developed a medications training program similar to the program used in these two residential programs.

The State Board of Nursing regulation in 49 Pa. Code § 21.14 (relating to administration of drugs), published at 33 Pa.B. 6219 (December 20, 2003), no longer limits drug administration to a licensed registered nurse, thereby eliminating any uncertainty about this matter.

Proposed subsection (b), regarding the list of medical professionals who may administer medications, was relocated to this section. In addition to medical personnel

listed in proposed subsection (b), two additional nurse trainee program options were added to subsection (b)(2) and (3).

In subsection (c), the Department has clarified the activities included in medication administration.

*§ 2600.182(a) and (b). Storage and disposal of medications and medical supplies (redesignated as § 2600.183(a) and (b))*

Seven commentators suggested that complementary and alternative medications (CAM) do not need to be kept in their original containers or in locked areas.

*Response*

No change was made to this subsection. Storage of CAM is important since some CAM, if taken improperly, may cause illness or death.

*§ 2600.182(d). Storage and disposal of medications and medical supplies (redesignated as § 2600.183(d))*

Commentators noted that because medications are packaged separately, storing prescription, over the counter (OTC) medications and CAM in separate areas is problematic. Several commentators noted that it is safer and more efficient to store medications for the same resident together.

*Response*

The Department agrees and has deleted this requirement. A new requirement that the home may keep only current medications for individuals living in the home was added.

*§ 2600.182(f). Storage and disposal of medications and medical supplies (redesignated as § 2600.183(f))*

Five commentators requested deleting "medications shall be given to the resident" and inserting "shall be offered their medications upon discharge."

*Response*

This change was not made. The medications belong to the resident and must be returned to the resident upon departure.

*§ 2600.182(g) and (e). Storage and disposal of medications and medical supplies (deleted on final-form)*

Six commentators requested revision of proposed subsection (g), commenting that hospitals and nursing homes do not require storing antiseptics and external use medications separately. Seven commentators suggested requiring storage as directed by a pharmacy.

*Response*

These proposed subsections were deleted. The Department agrees with the commentator that there is no need for separate storage. Subsections (a)—(c) and (e) regulate storage of medications, making subsection (h) unnecessary.

*§ 2600.183. Labeling of medications (redesignated as § 2600.184)*

One commentator asked if the use "bubble packs" provided by pharmacies is allowed. Six commentators suggested deleting the requirement for labeling of CAM and sample medications. Commentators questioned the need to identify sample medications to a particular resident's use and accompany with a physician's order. Commentators noted that many residents receive sample medications from physicians outside of the home, who do not always inform the home of the reasons for these sample medications. IRRC requested clarification of the

application of subsection (d) for residents who administer their own medications and store their medications in their rooms. IRRC suggested taking into consideration that not all residents receive assistance from the home in arranging medical care.

*Response*

Bubble packs are allowed. Bubble packs are considered the same as the original container as long as the bubble pack is labeled in accordance with this section.

The Department clarified the content required on the medication label. These items are consistent with the content found on a pharmacy label.

Proposed subsection (b) was deleted, however the requirement for labeling of CAM remains in § 2600.183(a) (relating to storage and disposal of medications and medical supplies). Proper labeling is necessary since inappropriate use of CAM may cause adverse reaction with the resident's other medications, or may cause medications to be less effective.

The Department clarified that subsection (d) only applies to sample prescription medications. Sample prescription medications must include the items identified in subsection (a) to protect the resident and other residents from misadministration.

*§ 2600.184. Accountability of medication and controlled substances (redesignated as § 2600.185)*

Five commentators suggested requiring homes to obtain medications for residents and to keep an adequate supply of medications on hand at all times. Four commentators requested requiring storage of controlled substances to be locked with limited access.

*Response*

The Department clarified the meaning of "safekeeping" and added reference to medical equipment in subsection (a).

The Department did not require a home to keep a supply of medication on hand since the supply of prescription medication is governed by the resident's physician and pharmacist.

The Department did not add a specific requirement to lock controlled substances, since all medications must be kept locked. In subsection (b)(1), the policies of the home must address the receipt of controlled substances.

The Department added a provision to document the administration of medications for residents who are non-self-administering and for those residents for whom assistance with medications administration is provided.

*§ 2600.185. Use of medications (redesignated as § 2600.186. Prescription medications)*

Three commentators requested deletion of subsection (a) as repetitive. Eight commentators requested clarification in subsection (b) of the word "help" and deletion of "OTC" and "CAM." IRRC asked that the section be amended to allow for flexibility in emergency situations. Three commentators and IRRC asked for an amendment that requires the administration of medication only to the resident for whom the medication was prescribed. Three commentators asked for deletion of subsection (c), as the original prescriber may be unavailable, and common practice is for oral changes to be made by any practitioner licensed to prescribe medications.

*Response*

In response to comment, proposed subsections (a) and (b) were deleted. In response to comment, the Department added that prescription medications must be prescribed by an authorized prescriber and that they be used only by the resident for whom the medication was prescribed. Subsection (c) was revised to allow emergency changes by an alternate prescriber. The Department clarified that a home staff person may not take oral orders from a physician. In accordance with medical practice, only written orders from the prescriber are permitted. Under certain circumstances as regulated by the Department of State, a registered nurse is permitted to take oral orders from a prescriber.

*§ 2600.186. Medication records (redesignated as § 2600.187)*

IRRC asked for clarification of what types of medications are covered in subsection (a), and how subsection (a) is consistent with the storage requirements in proposed § 2600.182. Thirty-eight commentators requested deletion of subsection (b)(2) and (3) and suggested use of a drug reference book instead. Three commentators suggested deletion of subsection (b)(6) because the information is available in the resident file and on the emergency transfer sheet. Nine commentators opposed subsection (b)(7) because it conflicts with the definition of "self-administration." Twenty-four commentators suggested replacing "by the end of the shift" with "within reasonable time" in subsection (d). IRRC questioned whether the home is responsible for the proper storage of medications that a resident keeps in his room.

*Response*

The Department revised subsection (a) to apply only to medications administered by the home and to clarify the content of the medication record. This includes prescription medications, OTC medications and CAM.

In response to comment, proposed subsection (b) was deleted.

In response to comment, the Department deleted "by the end of the shift" to "within 24 hours unless otherwise instructed by the prescriber."

The Department added subsection (d) to require the home to follow the instructions of the prescriber.

In response to IRRC's question, if the resident does not need assistance with medication, medication may be locked in a resident's room for self-administration.

*§ 2600.187. Medication errors (redesignated as § 2600.188)*

Four commentators requested deletion of this section, stating that residents have the right to refuse medication and treatment. Fifteen commentators requested deletion of subsection (a), stating that resident refusal of medication should not be considered a medication error, and suggested that documentation occur at the end of the shift. Eight commentators suggested requiring a system in place to identify and document prescriptions not filled.

*Response*

The Department agrees that a resident has the right to refuse medication and treatment. This provision was added in § 2600.191 (relating to resident education). In accordance with § 2600.187(c) (relating to medication records), refusals will be reported to the prescriber within 24 hours, unless otherwise instructed by the prescriber.

Refusal of medication is not considered a medication error. The Department clarified the definition of "medication error" in subsection (a).

In subsection (b), the Department clarified that a medication error must be immediately reported to the resident, the resident's designated person and the prescriber. New subsection (c) was added to require the home to keep documentation of errors and the prescriber's response.

*§ 2600.190. Medication administration training (new section on final-form)*

Forty-three commentators requested the development of a program to permit, and properly train, personal care home staff persons to administer prescription medications. Many commentators noted the existence of medication administration training programs for staff persons in other Departmental licensed residential settings, and suggested that these programs be used as models for a medications training program for personal care home staff. IRRC recommended the development of a medications administration program modeled after programs used in other residential settings. IRRC recommended an amendment to the final-form rulemaking to include medication administration training and certification of home staff persons.

*Response*

In response to overwhelming recommendations from many public commentators and IRRC, the Department has added a section to address medication administration provided by the home. Medications administration is an optional service that may be provided by the home. If the home does not provide medication administration and a resident develops the need for medication administration, the home must refer the resident to an appropriate assessment agency.

The new section permits medications administration of oral and topical prescription medications by trained staff persons. The injection of insulin for diabetes and epinephrine for insect bites and other allergies is also permitted by trained staff persons. The new requirement is consistent with the regulations for medications administration training for community homes for individuals with mental retardation under § 6400.168 and child residential facilities under § 3800.188. The Department will develop a medications training program similar to the program used in these other two residential programs.

*§ 2600.191. Resident education*

The Department added a requirement regarding resident education and refusal of a medication in response to discussions with the State Board of Nursing.

*SAFE MANAGEMENT TECHNIQUES*

*§ 2600.201. Safe management techniques*

Forty-five commentators requested deletion of this section, stating that residents whose behavior endangers others belong in treatment centers, not personal care homes.

*Response*

The Department concurs that a resident whose behavior endangers himself or others should receive appropriate supports and treatment in a living situation other than a personal care home. This does not negate the need for a home to have effective positive behavior approaches in place to respond appropriately to unanticipated, rare incidents.

*§ 2600.202. Prohibition on the use of seclusion and restraints (redesignated as Prohibitions).*

Four commentators requested deletion of this section, stating that it duplicates resident right that prohibits the use of restraints. Four commentators requested clarification of aversive conditioning. Five commentators suggested that drugs ordered by a physician and part of a resident's ongoing support plan to treat symptoms of a specific mental, emotional or behavioral condition should be construed as a chemical restraint. One commentator requested clarifying the difference between a mechanical and a manual restraint.

*Response*

This section was maintained and clarified. 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. 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. This is necessary to allow a physician to effectively treat behavioral health conditions. The differences between a manual and mechanical restraint was defined.

**SERVICES**

*§ 2600.222. Community social services*

Fifteen commentators suggested defining the role of community social service agencies and describing the services that they offer so homes can encourage and assist residents to use community social services.

*Response*

The Department will provide training to assist homes in community social service options. The intent of this section is for a home to have readily available contacts and phone numbers to assist residents.

*§ 2600.223. Description of services*

Twenty-six commentators requested deletion of the entire section or individual subsections. In subsection (a), six commentators requested reference to the services provided in the resident contract.

*Response*

As noted by the commentators, specific services provided and not provided to each resident are required in § 2600.25. This section regarding description of services requires the home to have a broad, home-wide description of services and activities that the home provides. This description of services may cover the same items in the individual resident-home contracts, but in a broad sense to apply to the entire home.

*§ 2600.224. Preadmission screening tool*

Seven commentators recommended that the preadmission screening tool be provided by the Department and include a mobility assessment. One commentator requested deletion of subsection (a), stating that this will force homes to admit all residents who meet the screening criteria. Eight commentators asked whether subsection (b) means that if a home cannot meet an applicant's needs, the home must notify the area agency on aging. Several commentators suggested that current regulatory language about requirements for admission be kept.

*Response*

In collaboration with home providers and interested persons, the Department will develop and provide the preadmission screening tool as requested. The intent is not to force a home to admit all residents who meet screening criteria. The section requires that if a home cannot meet an applicant's needs, the home must notify the local appropriate assessment agency, such as the area agency on aging. Subsection (c) was added in response to comments to keep current language about requirements for admission in the final-form rulemaking.

*§ 2600.225(a). Initial assessment and the annual assessment (redesignated as Initial and annual assessment)*

Several advocacy organizations supported the requirement for an assessment within 72 hours. Several trade associations stated that it is unreasonable and unnecessary to require an assessment within 72 hours of admission and that the time period be increased to 30 days following admission. Several commentators opposed assessments altogether, stating that assessments push toward a medical model, which is not appropriate for personal care homes.

Twenty-one commentators opposed having the administrator or designee complete assessments. Some homes recommended that this assessment should be the responsibility of the referring agency. IRRC asked for clarification of the content of the assessment areas, the qualifications of the individuals who will complete the annual assessments, who will pay for these assessments and how this requirement will be implemented. Twenty-five commentators and IRRC suggested defining the term "human service agency."

*Response*

In response to concerns from the trade associations and upon review of the initial assessment requirements in other Departmental licensing regulations, the Department increased the time period for completion of the initial assessment to within 15 days following admission. This allows a reasonable time period for completion of the assessment and allows the home to observe the resident in his new setting to make an appropriate assessment of his service and protection needs.

The Department does not intend to mandate completion of the initial assessment by an outside professional or source, so as not to put an undue financial burden on the home. The initial assessment form will be able to be completed by an administrator who is qualified and trained under this chapter. The term "human service agency" is left undefined as it is meant to be broad and all inclusive to permit the home maximum flexibility.

*§ 2600.225(b). Initial assessment and the annual assessment (redesignated as Initial and annual assessment)*

Several commentators requested deletion or clarification of subsection (b), stating that this should be decided by the home. Several commentators asked for the addition of a mobility assessment.

*Response*

This subsection was deleted in response to comments. The Department's initial assessment form will include the content of the assessment and will be developed in collaboration with stakeholders. In developing the standard assessment form, the Department will consider the recommendation to add a mobility assessment.

§ 2600.225(c) and (d). *Initial assessment and the annual assessment (redesignated as Initial and annual assessment)*

One commentator requested allowing the home to use its own form if it contains the same information. Two commentators suggested changing “materially” to “significantly” in subsection (d)(1). Eight commentators suggested revising subsection (d)(2) to require a new updated assessment to be completed and put into the resident’s record. Fourteen commentators requested deletion of subsection (d)(3) and (4). IRRC suggested defining the term “state agency” in subsection (d)(3).

*Response*

In response to comment, the Department revised this requirement to allow the home to use its own form if it contains the same information as the Department’s form. The term “materially” was changed as suggested. Assessment are required to be kept in the resident record in § 2600.252 (relating to content of resident records). “State agency” was clarified as the Department. The Department deleted the requirement to complete a new assessment at the time of a hospital discharge.

§ 2600.225(e) and (g). *Initial assessment and the annual assessment (redesignated as Initial and annual assessment)*

One commentator requested deletion of subsection (e), stating that this should be decided by the home. Commentators suggested that subsection (g) should provide that if a resident is determined to be immobile, assessment requirements shall be met immediately. In subsection (g), ten commentators requested deletion of “continually” and insertion of “mobility annually or upon a substantial change” at the end of the sentence.

*Response*

The Department deleted proposed subsections (e) and (g) in response to comments and questions. The assessment of the resident’s mobility will be addressed in the content of the assessment form and in the support plan. Mobility criteria is addressed in new § 2600.226 (relating to mobility criteria).

§ 2600.226. *Development of the support plan (redesignated as § 2600.227)*

Two commentators asked to retain current regulation. One commentator opposed this section, stating that a medical model is not appropriate for personal care homes.

*Response*

This section was revised and relocated to § 2600.227. § 2600.228. *Notification of termination*

Commentators expressed concerns with subsection (b), explaining that a home would need to immediately remove a resident who threatens the health and safety of other residents or staff persons. IRRC recommended addressing situations when a resident needs to be moved quickly to protect both the resident and others at the home or for other reasons that impact the other residents. IRRC noted that the amendment should be consistent with proposed §§ 2600.26(a)(1)(viii) and (ix) and 2600.42(u).

*Response*

In response to public comments, clarifications to this section were made. The 30-day advance notice is not required if a delay in discharge or transfer would jeopardize the health, safety or well being of the resident or others in the home. These changes are consistent with

§ 2600.42(u) and § 2600.26(a)(1)(viii) and (ix) (redesignated § 2600.25(a)(1)(8) and (9)).

Clarification was added to subsection (h) to require consultation with an appropriate assessment agency or a physician if the resident disagrees with the home’s decision to discharge or transfer based on a change in functional level. Subsection (h) was clarified to state that a fundamental alteration includes a change that would create an undue financial or programmatic burden on the home and to include documented, repeated violation of this chapter. The reference to “efforts to obtain public funding” was deleted.

*SECURED UNIT REQUIREMENTS (redesignated as SECURED DEMENTIA CARE UNITS)*

§§ 2600.231—2600.241 (redesignated as §§ 2600.231—2600.238)

Community Legal Services and the Office of the State Ombudsman suggested further development of the requirements for admission, resident care and program, staffing and notification to the Department for secured care dementia units.

*Response*

The consumer demand for secure care dementia units has increased the development of secure care dementia units in this Commonwealth. The Department has responded to the public service demand with increased protection standards for this special type of care. In response to public comment, the Department has strengthened and expanded the proposed rulemaking to strengthen the requirements for admission criteria, fire safety, resident care, program, staff training and notification to the Department for secured care dementia units.

§ 2600.231. *Doors, locks and alarms. (redesignated as § 2600.233)*

Fifteen commentators suggested enhancing the protection of the rights of residents residing in secured units. Some commentators requested continuance of their waivers for existing secure units and exempting current homes from compliance. Four commentators and IRRC noted the duplication of paragraph (10) with § 2600.87 (relating to lighting). Five commentators recommended deletion of paragraph (11). IRRC requested clarification of the applicability of this section in conjunction with § 2600.42(p) regarding the right to be free of restraints.

*Response*

As specified in § 2600.19(g), existing waivers for current secured dementia care units will no longer be in effect 1 year after the effective date of this final-form rulemaking. This means that a home has 18 months to comply with the new requirements in this section. The health and safety needs of the residents in secure dementia care are so intensive that the Department cannot permanently grandfather existing homes. The Department will however, consider new waiver requests under § 2600.19 for a specific section of this chapter.

Proposed paragraphs (10) and (11) were deleted in response to comment. This section is not in conflict with the resident’s right to be free of restraints. The locking of doors to prevent resident injury or death in secure care is not a restraint.

The Department has added clarification of the type of locking devices permitted, the manufacturer’s statement verifying the nature of the locking system and the posting of directions for operating locking devices.

*§ 2600.232. Environmental standards (redesignated as Environmental protection)*

Five commentators requested clarification of “adequate” in paragraph (1). Four commentators requested deletion of paragraph (2). Six commentators requested clarification of paragraph (4) to enhance environmental awareness.

*Response*

These suggested changes were made. The term “adequate” was deleted since it is subjective and not measurable.

*§ 2600.233. Admission standards (redesignated as § 2600.231. Admission)*

Commentators requested definitions of “geriatric assessment team” and “legal representative.” Nine commentators suggested adding how, by whom, when and with what frequency services will be provided.

*Response*

The Department has defined “geriatric assessment team” as suggested. The term “legal representative” was not defined in the final-form rulemaking, but means an individual who has been authorized by law to represent the resident with respect to a particular matter.

The Department has specified additional detail about the services, as suggested by the commentators.

In response to general comments to improve and expand the section on secure dementia care, the Department has clarified the definition of a “secure dementia care unit,” clarified the proposed requirements regarding the medical evaluation and cognitive assessment and further clarified the admission requirements for a secure dementia care unit.

*§ 2600.234. Care standards (redesignated as Resident care)*

Nine commentators suggested adding how, by whom, when and with what frequency services will be provided.

*Response*

In response to public comment, this section was revised.

*§ 2600.235. Discharge standards (redesignated as Discharge)*

Seventeen commentators suggested replacing 60-day written discharge notice with 30-day written discharge notice to assure that residents receive appropriate care.

*Response*

In response to comment, this change was made.

*§ 2600.236. Administrator training (redesignated as Training)*

Four commentators suggested requiring a specific number of hours of training and orientation. Seven commentators suggested requiring 8 additional hours of annual training regarding dementia for administrators and direct care staff. Two commentators suggested requiring 12 additional hours of annual training in dementia. Seven commentators suggested deleting the competency-tested training.

*Response*

The proposed section was deleted and replaced with a requirement that each direct care staff person must have an additional 6 hours of annual training related to dementia care and services.

*§ 2600.237. Staff training on dementia (redesignated as Program)*

In response to general comments to improve and expand the section on secure dementia care, the proposed section on training was deleted and replaced with requirements for activities.

*§ 2600.238. Additional staffing (redesignated as Staffing)*

Five commentators suggested that the Department establish minimum staffing standards for secure dementia care units, subject to public review and comment.

*Response*

Based on discussions with and recommendations of the Committee, this change was not made. The Department will consider increased staffing requirements for secure dementia care units for a future rulemaking. The Department clarified that for purposes of applying the staffing requirements in § 2600.57(c), the residents in secure dementia care are considered to be residents with mobility needs.

*§ 2600.239. Programming standards (deleted on final-form)*

Five commentators requested deletion of paragraph (1) because it is subjective and not measurable. One commentator recommended deleting “general activity programming, which shall” in paragraph (2), deleting paragraph (3) and renumbering subparagraphs (i)-(iv) as paragraphs. Three commentators suggested deleting “and social status” and inserting “and cognitive limitations” in subparagraph (iii) and deleting “taking advantage of the” and inserting “should promote the” in subparagraph (iv).

*Response*

This proposed section was deleted in response to public comment.

*§ 2600.240. Notification to Department (redesignated as § 2600.239)*

Many commentators suggested clarifying that the home must submit a request for approval of secured unit and that the Department must inspect and approve the unit prior to operation. Commentators also suggested many technical and clarification changes throughout this section.

*Response*

In response to comment the Department revised this section on final-form rulemaking. As suggested, the Department clarified that the home must submit a request for approval of a secure care dementia unit, and be inspected and approved by the Department, prior to operation or a change in the secured care dementia unit.

*§ 2600.241. Mobility standards (deleted on final-form)*

Eight commentators suggested that this standard should be expanded to include the three levels of independently mobile, mobile with assistance and immobile. Four commentators requested clarification of “specific requirements” in subsection (b). Five commentators requested deletion of subsection (c) as unnecessary.

*Response*

This section was deleted since any special requirements related to mobility are addressed in the appropriate section of this chapter.

*RESIDENT RECORDS**§ 2600.251. Resident records*

Eight commentators requested deletion of this section, suggesting that there is no documented need to increase recordkeeping requirements.

*Response*

These are basic recordkeeping requirements that must be met to provide a separate record for each resident, accurate recording of resident information and availability to appropriate individuals. The Department clarified that the record is also available to the resident's designated person.

*§ 2600.252(a) and (b). Content of records (redesignated as Content of resident records)*

Nine commentators requested deletion of this section, suggesting that there is no documented need to increase recordkeeping requirements. A suggestion was received to make the recent photograph optional. Eight commentators suggested deleting race. Eleven commentators suggested requiring a photograph only if the resident agrees, and allowing photographs up to 5 years old. Three commentators suggested adding a requirement for information on a resident's dentist and other medical specialists, if applicable. Eight commentators suggested clarifying that only incident reports that are reportable to the Department must be kept in resident files. Two commentators suggested deleting the record of incident reports with the medical record since it is contrary to legal advice and makes the home vulnerable to potential legal action.

Seven commentators suggested eliminating emergency medical plan. Four commentators requested deletion of proposed subsection (d)(5), due to difficulty in obtaining the information. Five commentators suggested deleting proposed subsection (d)(12), because homes are not medical facilities. Four commentators requested deletion of subsection (d)(14) because services are listed in the contract.

*Response*

The majority of these record content items are found at other locations within this chapter. In most cases, these are not new requirements, with the exception of the resident descriptive data in paragraphs (1)–(3), which is important for identification purposes. Although incident reports must be kept in the resident's record, information that includes confidential identifying information relating to the resident or another resident should be redacted before release or review of this information. Information about the resident's source of health care is found on the resident's physical evaluation.

A photograph and the resident's race is important to identify the resident in the case a resident is missing or needs to be identified for emergency medical services. Identification of the resident's race is also important for protection of the resident's civil rights. Religious affiliation was added so that appropriate end-of-life services may be provided, if appropriate.

In response to comment, the requirements for notice of grievance procedures, consent to treatment protection and individual services were deleted.

*§ 2600.253. Record retention and disposal*

Twenty commentators requested deletion of proposed paragraphs (2) and (3).

*Response*

The Department needs information regarding residents who have been discharged from the home to verify compliance with this chapter and to investigate a complaint. The Department also added that the general records of the home required in this chapter, such as fire drill records and menus, must be kept for 3 years. Again, this is necessary for regulatory administration and enforcement purposes.

*§ 2600.254. Record access and security*

Six commentators recommended deletion of this section, indicating that these records do not contain highly confidential information and do not need to have restricted access. Seven commentators suggested deleting "solely" and "at all times" and inserting "during normal business hours." Ten commentators requested clarification of subsection (c).

*Response*

Resident records must be kept confidential and private because they contain resident-identifying information, which must be protected. The term "solely" was not deleted to ensure that records are kept in a separate and confidential location. The enclosed area does not need to be a separate room and could be a locked file cabinet. The records contain important health and service information and must be available and able to be accessed at all times, including after business hours. Subsection (c) was clarified.

*ENFORCEMENT**§§ 2600.261–2600.264. Enforcement (redesignated as §§ 2600.261–2600.270)*

The Department received many comments requesting stronger enforcement provisions. IRRC, personal care homes, advocates, the City of Philadelphia and the Committee recommended the implementation of the current classification system of violations, bans on admissions for homes without a full license, increased requirements for plans of correction, quicker appeal decisions by the Department, better disclosure of public information and establishment of a complaint investigation team. Commentators suggested adding a fourth classification for violations that have no adverse effect on the health, safety or well-being of residents. Commentators suggested that multidisciplinary teams should conduct all inspections of homes. Commentators suggested adding a section regarding voluntary and involuntary home closures.

*Response*

The Department is very pleased that many providers and other stakeholders have supported strengthened enforcement protections. Many of the enforcement recommendations of the public commentators have been adopted in this final-form rulemaking. The Department's implementation of the current classification system of violations has been underway for almost 2 years. In response to the request for enhanced enforcement, the Department strengthened the proposed provisions and added several new sections in §§ 2600.268–2660.270 (relating to notice of violations; ban on admissions; and correction of violations).

Section 2600.268 is added to conform to section 1057.3(a)(4) of the Public Welfare Code.

New § 2600.269 is necessary because a home that cannot care for its current residents in compliance with this chapter should not be allowed to take new residents and expose them to the risks resulting from the regulatory violations.

New § 2600.270 addresses the issue of the large difference of timeframes between the statutory requirements for the correction of a violation to avoid a fine and the duration of a provisional license. In 1988, under section 1086 of the Public Welfare Code and section 1087 of the Public Welfare Code (62 P. S. § 1087), licensing enforcement of personal care homes was strengthened through the implementation of a system of fines for regulatory violations based on the seriousness of the violation. However, in section 1087 of the Public Welfare Code, the Department is permitted to continue to use traditional licensing enforcement methods, such as the use of a provisional license under section 1008 of the Public Welfare Code (62 P. S. § 1008). The timeframe for correction of a violation under traditional enforcement methods in section 1008 of the Public Welfare Code allows up to 6 months; however, the timeframe under the system of fines in section 1086 of the Public Welfare Code allows a correction period of up to 15 days. Correction of a violation under section 1086 of the Public Welfare Code does not necessarily qualify a home for a regular license. To qualify for a regular license, the home must demonstrate compliance over a sufficient period of time so that the correction is shown to be permanent and not temporary.

A classification for violations that have no adverse effect on the health, safety or well-being of residents was not added because it would be inconsistent with section 1085 of the Public Welfare Code. Also, a violation of any section of this chapter endangers residents to some degree.

The Department's licensing inspectors work in conjunction with other special investigators, such as the Department of Aging ombudsman, advocacy organizations and police, as appropriate, to investigate complaints.

The Department supports the need for more timely appeal decisions by the Department; however, the appeal workload includes more than just personal care home licensing appeals and must be balanced to meet the needs of all appellants and parties.

*§ 2600.261. Classification of violations*

Fifteen commentators recommended including classification guidelines, adding definitions and language to control subjective application of classifications and penalties, and listing routine Class I, Class II and Class III violations. Five commentators found the criteria for Class I violations outdated, punitive and unreasonable.

*Response*

The Department reviews the determinations of Class I, Class II and Class III violations made by the personal care home regional offices to ensure the uniformity and consistency of the classification process. The Department continues to refine the standard guidelines for the classification of violations and evaluates the use of these guidelines to ensure the uniformity and consistency of the classification process. Penalties for Class I violations are designed to be punitive because they have a substantial probability of resulting in death or serious mental or physical harm to a resident.

*§ 2600.262(a) and (b). Penalties*

Fourteen commentators suggested changing the legal base. Commentators indicated that there should be no penalty for violations that do not affect health, safety and well-being of residents or for violations that are corrected in a reasonable time. Commentators recommended that there be no penalties for administrative errors corrected

within 24 hours of discovery that do not have an adverse effect upon the health, safety or well-being of residents.

*Response*

The Department semiannually reviews its classification guidelines for the classification of violations and evaluates the use of these guidelines. This review is to ensure the uniformity and consistency of the classification process. Many minor violations are classified as Class III violations. There is no monetary penalty for Class III violations unless the home fails to correct the violation within 15 calendar days.

The Department added Class III violations in subsection (b) to conform to section 1086(b) of the Public Welfare Code.

*§ 2600.262(c). Penalties*

Four commentators suggested that fines should not be levied if the Department has accepted the plan of correction or if a vendor delays action. Commentators suggested adding that the Department shall establish a formal process to enable each home to file for an extension. Several commentators requested deletion of "this time period may be extended for good cause."

*Response*

A Class II violation is defined as having a substantial adverse effect upon the health, safety or well-being of a resident. The law permits the Department to consider whether a home has a substantial reason, such as extenuating circumstances beyond the home's control, for failing to correct a violation on a timely basis. The Department may permit a longer time for correction if for good cause. The retroactive fine is included in subsection (c).

The Department clarified that if the home fails to provide proof of correction of the violation to the Department within the 5-day period, the fine will be retroactive to the date of the citation. It is necessary for the home to demonstrate correction of the violation to the Department.

*§ 2600.262(g). Penalties (redesignated as § 2600.262(f))*

Seven commentators suggested longer time frames for correction.

*Response*

The time frames specified are set in law, but the Department may permit a longer time for correction if for good cause in the case of Class II violations.

*§ 2600.262(j). Penalties (redesignated as § 2600.263(a))*

Three commentators suggested adding language regarding expungement from the Department's records and from the Department's website when available. Five commentators suggested that fines collected by the Department should be used to educate facilities that were cited and fined.

*Response*

Expungement is not permitted because patterns of violations over time are legally significant. See section 1057.1(b) of the Public Welfare Code (62 P. S. § 1057.1(b)).

As specified in § 2600.264 (relating to use of fines), fines collected by the Department are placed in a special restricted account. Money collected is used first to defray the expenses incurred by residents being relocated, and then used to assist with paying for enforcement of this chapter.



§ 2600.263. *Revocation or nonrenewal of licenses (redesignated as § 2600.263. Appeals of penalty; § 2600.264. Use of fines; § 2600.265. Review of classifications)*

Twenty-one commentators recommended revoking licenses only for uncorrected violations that affect health, safety and well-being of residents. Commentators recommended the time period for operation following a revocation to 2 to 3 years, but reserving 5 year revocation or nonrenewal for multiple noncompliance issues. One commentator requested a ban on admissions for homes with a provisional license and posting information about homes with a provisional license due to regulatory violations on the Department's website.

*Response*

Correction of violations prior to the expiration of the license will result in the issuance of a license. Section 2600.269 was added regarding bans on admissions. The time period for operation following a revocation will remain at 5 years to conform to section 1087(a)(4) of the Public Welfare Code. The Department website lists licensing information about homes on its website and will consider including information about a home's provisional license status in the future.

§ 2600.264. *Policies, plans and procedures of the personal care home (deleted on final-form)*

Fourteen commentators expressed concern about the amount of time that developing policies, plans and procedures will take from resident care. Commentators expressed concern about cost. Commentators suggested listing the required policies, plans and procedures.

*Response*

The proposed § 2600.264 was deleted. The Department will develop sample policies and procedures to assist homes to comply with requirements for policies and procedures.

**ADDITIONAL CHANGES**

In addition to the major changes previously discussed, the Department made additional changes in preparation of the final-form rulemaking to correct typographical errors, reformat to enhance readability, revise language to improve clarity and conform to the changes previously discussed.

*Contact Person*

For additional information on this final-form rulemaking, contact Karen E. Kroh, Department of Public Welfare, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-2800.

*Regulatory Review Act*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 23, 2002, the Department submitted a copy of the notice of proposed rulemaking, published at 32 Pa.B. 4939, to IRRC and the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.1) and (j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.1) and (j.2)), on February 23,

2005, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on February 24, 2005, and approved the final-form rulemaking.

*Findings*

The Department finds that:

(1) The public notice of intention to adopt the administrative regulations by this order has been given under sections 201 and 202 of the Commonwealth Documents Law (45 P. S. §§ 1201 and 1202) and the regulations promulgated hereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of these regulations in the manner provided in this order is necessary and appropriate for the administration and enforcement of section 211 and Articles IX and X of the Public Welfare Code (62 P. S. § 211, §§ 901—922 and §§ 1001—1087).

*Order*

The Department, acting under the Public Welfare Code, orders that:

(a) The regulation of the Department, 55 Pa. Code Chapter 2600 and 2620, are amended by adding §§ 2600.1—2600.5, 2600.11—2600.29, 2600.41—2600.44, 2600.51—2600.68, 2600.81—2600.109, 2600.121—2600.133, 2600.141—2600.144, 2600.161—2600.164, 2600.171, 2600.181—2600.191, 2600.201, 2600.202, 2600.221—2600.228, 2600.231—2600.239, 2600.251—2600.254 and 2600.261—2600.270; and by deleting §§ 2620.1—2620.3, 2620.5, 2620.11—2620.14, 2620.21—2620.24, 2620.24a, 2620.25—2620.28, 2620.31—2620.40, 2620.51—2620.55, 2620.61—2620.74 and 2620.81—2620.83, to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.

(c) The Secretary of the Department shall certify and deposit this order and Annex A with the Legislative Reference Bureau as required by law.

(d) This Order shall take effect on October 24, 2005, with the exception of § 2600.65(d) that shall take effect on April 24, 2005, § 2600.19(g) that shall take effect on October 24, 2006, and §§ 2600.122, 2600.130(e) and 2600.182 that shall take effect on April 24, 2007.

ESTELLE B. RICHMAN,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 1734 (March 12, 2005).)*

**Fiscal Note:** Fiscal Note 14-475 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 55. PUBLIC WELFARE  
PART IV. ADULT SERVICES MANUAL  
Subpart E. RESIDENTIAL  
AGENCIES/FACILITIES/SERVICES  
CHAPTER 2600. PERSONAL CARE HOMES  
GENERAL PROVISIONS**

Sec.	
2600.1.	Purpose.
2600.2.	Scope.
2600.3.	Inspections and licenses.
2600.4.	Definitions.
2600.5.	Access.

**GENERAL REQUIREMENTS**

- 2600.11. Procedural requirements for licensure or approval of personal care homes.
- 2600.12. Appeals.
- 2600.13. Maximum capacity.
- 2600.14. Fire safety approval.
- 2600.15. Abuse reporting covered by law.
- 2600.16. Reportable incidents and conditions.
- 2600.17. Confidentiality of records.
- 2600.18. Applicable health and safety laws.
- 2600.19. Waivers.
- 2600.20. Financial management.
- 2600.21. Offsite services.
- 2600.22. Admission.
- 2600.23. Activities.
- 2600.24. Personal hygiene.
- 2600.25. Resident-home contract.
- 2600.26. Quality management.
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- 2600.28. Refunds.
- 2600.29. Hospice care and services.

**RESIDENT RIGHTS**

- 2600.41. Notification of rights and complaint procedures.
- 2600.42. Specific rights.
- 2600.43. Prohibition against deprivation of rights.
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**STAFFING**

- 2600.51. Criminal history checks.
- 2600.52. Staff hiring, retention and utilization.
- 2600.53. Qualifications and responsibilities of administrators.
- 2600.54. Qualifications for direct care staff persons.
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- 2600.56. Administrator staffing.
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- 2600.64. Administrator training and orientation.
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- 2600.66. Staff training plan.
- 2600.67. Training institution registration.
- 2600.68. Instructor approval.

**PHYSICAL SITE**

- 2600.81. Physical accommodations and equipment.
- 2600.82. Poisons.
- 2600.83. Temperature.
- 2600.84. Heat sources.
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- 2600.87. Lighting.
- 2600.88. Surfaces.
- 2600.89. Water.
- 2600.90. Communication system.
- 2600.91. Emergency telephone numbers.
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- 2600.96. First aid kit.
- 2600.97. Elevators and stair glides.
- 2600.98. Indoor activity space.
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- 2600.108. Firearms and weapons.
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**FIRE SAFETY**

- 2600.121. Unobstructed egress.
- 2600.122. Exits.
- 2600.123. Emergency evacuation.
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- 2600.125. Flammable and combustible materials.
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- 2600.128. Supplemental heating sources.
- 2600.129. Fireplaces.
- 2600.130. Smoke detectors and fire alarms.
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**RESIDENT HEALTH**

- 2600.141. Resident medical evaluation and health care.
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- 2600.161. Nutritional adequacy.
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**TRANSPORTATION**

- 2600.171. Transportation.

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- 2600.181. Self-administration.
- 2600.182. Medication administration.
- 2600.183. Storage and disposal of medications and medical supplies.
- 2600.184. Labeling of medications.
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- 2600.186. Prescription medications.
- 2600.187. Medication records.
- 2600.188. Medication errors.
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- 2600.190. Medication administration training.
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**SAFE MANAGEMENT TECHNIQUES**

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**SERVICES**

- 2600.221. Activities program.
- 2600.222. Community social services.
- 2600.223. Description of services.
- 2600.224. Preadmission screening tool.
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- 2600.226. Mobility criteria.
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**SECURED DEMENTIA CARE UNITS**

- 2600.231. Admission.
- 2600.232. Environmental protection.
- 2600.233. Doors, locks and alarms.
- 2600.234. Resident care.
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- 2600.236. Training.
- 2600.237. Program.
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**RESIDENT RECORDS**

- 2600.251. Resident records.
- 2600.252. Content of resident records.
- 2600.253. Record retention and disposal.
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**ENFORCEMENT**

- 2600.261. Classification of violations.
- 2600.262. Penalties.
- 2600.263. Appeals of penalty.
- 2600.264. Use of fines.
- 2600.265. Review of classifications.
- 2600.266. Revocation or nonrenewal of licenses.
- 2600.267. Relocation of residents.
- 2600.268. Notice of violations.
- 2600.269. Ban on admissions.
- 2600.270. Correction of violations.

**GENERAL PROVISIONS****§ 2600.1. Purpose.**

(a) The purpose of this chapter is to protect the health, safety and well-being of personal care home residents.

(b) Personal care homes are designed to provide safe, humane, comfortable and supportive residential settings for adults who do not require the services in or of a licensed long-term care facility, but who do require assistance or supervision with activities of daily living, instrumental activities of daily living, or both. Residents who live in personal care homes that meet the requirements 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 exclusively for the care of clergy or other individuals in a religious profession.

**§ 2600.3. Inspections and licenses.**

(a) The Department will annually conduct at least one onsite unannounced inspection of each personal care home.

(b) A license 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 license are met.

(c) The personal care home shall post the current license, a copy of the current license inspection summary issued by the Department and a copy of this chapter in a conspicuous and 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 eating, drinking, ambulating, transferring in and out of a bed or chair, toileting, bladder and bowel management, personal hygiene, securing health care, managing health care, self-administering medication and proper turning and positioning in a bed or chair.

*Abuse*—The occurrence of 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 the personal care home or its staff persons of goods or services which are necessary to maintain physical or mental health.

(iii) Sexual harassment, rape or abuse, as defined in 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 the personal care home or its staff persons.

*Adult*—An individual who is 18 years of age or older.

*Ancillary staff person*—An individual who provides services for the residents other than activities of daily living.

*Agent*—An individual authorized by the Department to enter, visit, inspect or conduct an investigation of a personal care home.

*Appropriate assessment agency*—An organization serving adults who are older or adults with disabilities, 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 adults who are older and adults with disabilities, 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.

*CPR*—Cardiopulmonary resuscitation.

*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 individuals who require no services beyond food, shelter and other services usually found in hotel or apartment rental.

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

*Day*—Calendar day.

*Dementia*—A clinical syndrome characterized by a decline of long duration in mental function in an alert individual. Symptoms of dementia may include memory loss, personality change, chronic wandering and the loss or diminishing of other cognitive abilities, such as learning ability, judgment, comprehension, attention and orientation to time and place and to oneself.

*Department*—The Department of Public Welfare of the Commonwealth.

*Designated person*—An individual who may be chosen by the resident and documented in the resident's record, to be notified in case of an emergency, termination of service, personal care home closure or other situations as indicated by the resident or as required by this chapter. A designated person may be the resident's legal representative or an advocate.

*Designee*—A staff person authorized in writing to act in the administrator's absence.

*Direct care staff person*—A staff person who directly assists residents with activities of daily living, and instrumental activities of daily living and provides services or is otherwise responsible for the health, safety and well-being of the residents.

*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 a guardian or power of attorney assigned prior to December 21, 1988, for a resident, or when a resident requests and receives assistance in budgeting and spending of the personal needs allowance.

(ii) The term does not include solely 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, an insurance company loss control representative, Department of Labor and Industry building code inspector or construction code official.

*IADL—Instrumental activities of daily living*—The term includes the following activities when done on behalf of a resident:

- (i) Doing laundry.
- (ii) Shopping.
- (iii) Securing and using transportation.
- (iv) Managing finances.
- (v) Using a telephone.
- (vi) Making and keeping appointments.
- (vii) Caring for personal possessions.
- (viii) Writing correspondence.
- (ix) Engaging in social and leisure activities.
- (x) Using a prosthetic device.
- (xi) Obtaining and keeping clean, seasonal clothing.

*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 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 Chapter 20 (relating to licensure or approval of facilities and agencies).

*Long-term care ombudsman*—A representative of the Office of the State Long-Term Care Ombudsman in the Department of Aging who investigates and seeks to resolve complaints made by or on behalf of individuals who are 60 years of age or older 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, well-being or rights of these consumers.

*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 physical or oral assistance in the case of an emergency, including the capability to ascend or descend stairs if present on the exit path.

(A) Physical assistance means assistance in getting to one's feet or into a wheelchair, walker or prosthetic device.

(B) Oral assistance means giving instructions to assist the resident in vacating the personal care home.

(ii) The term includes an individual who is able to effectively operate an ambulation 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 of a personal care home or its staff persons to provide goods or services essential to avoid a clear and serious threat to the physical or mental health

of a resident. The failure or omission to provide the care, supervision and services that the personal care home has voluntarily, or by contract, agreed to provide and that are necessary to maintain the resident's health, safety and well-being, including personal care services, food, clothing, medicine, shelter, supervision and medical services. Neglect may be repeated conduct or a single incident.

*OTC*—Over the counter or nonprescription.

*Personal care home or home*—

(i) 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 activities of daily living or instrumental activities of daily living.

(ii) The term includes a premise that has held or presently holds itself out as a personal care home and provides food and shelter to four or more adults who need personal care services, but who are not receiving the services.

*Personal care home administrator or administrator*—An individual who is charged with the general administration of a personal care home, whether the individual has an ownership interest in the personal care home, and whether functions and duties are shared with other individuals.

*Personal care services*—Assistance or supervision in ADL or IADL, or both.

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

*Protective services unit*—The local area agency on aging unit designated by the Department of Aging to investigate allegations of abuse of adults who are 60 years of age or older and assess the need for protective interventions.

*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.

*Resident*—An individual, unrelated to the legal entity, who resides in a personal care home, and who requires personal care services, but who does not require the level of care provided by a hospital or long-term care facility.

*Resident with mobility needs*—An individual who is unable to move from one location to another, has difficulty in understanding and carrying out instructions without the continued full assistance of other individuals or is incapable of independently operating an ambulation device, such as a wheelchair, prosthesis, walker or cane to exit a building.

*Restraint*—A manual, chemical or mechanical device used to limit or restrict the movement or normal function of an individual or a portion of the individual's body.

*SSI*—Supplemental Security Income.

*Secretary*—The Secretary of the Department.

*Staff person*—An individual who works for the personal care home for compensation either on payroll or under contract.

*Support plan*—A written document that describes for each resident the resident's care, service or treatment

needs based on the assessment of the resident, and when the care, service or treatment will be provided, and by whom.

*Volunteer—*

(i) An individual who, of his own free will, and without monetary compensation, provides direct care services for residents in the personal care home.

(ii) The term does not include visitors or individuals who provide nondirect services or entertainment on an occasional basis.

**§ 2600.5. Access.**

(a) The administrator or a designee shall provide, upon request, immediate access to the home, the residents and records to:

- (1) Agents of the Department.
- (2) Representatives of the area agency on aging.
- (3) Representatives of the Long-Term Care Ombudsman Program.
- (4) Representatives of the protection and advocacy system for individuals with disabilities designated under the Protection and Advocacy for Individual Rights Program of the Vocational Rehabilitation and Rehabilitation Services Act (29 U.S.C.A. § 794e), the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C.A. §§ 10801—10851) and the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C.A. §§ 15041—15043).

(b) The administrator or a designee shall permit community service organizations and representatives of community legal services programs to have access to the home during visitation hours or by appointment for the purpose of assisting or informing the residents of the availability of services and assistance. A resident or a resident's designated person may decline the services of the community service organization or the community legal service program.

**GENERAL REQUIREMENTS**

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

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

(b) Before a home is initially licensed and permitted to open, operate or admit residents, it will be inspected by the Department and found to be in compliance with applicable laws and regulations. The Department will reinspect newly licensed homes within 3 months of the date of initial licensure.

(c) After the Department determines that a 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.

**§ 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 maximum capacity is the total number of residents who are permitted to reside in the 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 maximum capacity is limited by physical plant space and other applicable laws and regulations.

(b) The maximum capacity specified on the license may not be exceeded.

**§ 2600.14. Fire safety approval.**

(a) Prior to issuance of a license, a written fire safety approval from the Department of Labor and Industry, the Department of Health or the appropriate local building authority under the Pennsylvania Construction Code Act (35 P. S. §§ 7210.101—7210.1103) is required.

(b) If the fire safety approval is withdrawn or restricted, the home shall notify the Department orally immediately, 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 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 15 days of the completion of the renovation or alteration.

(d) The Department will request additional fire safety inspections by the appropriate agency if possible fire safety violations are observed during an inspection by the Department.

**§ 2600.15. Abuse reporting covered by law.**

(a) The 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) and comply with the requirements regarding restrictions on staff persons.

(b) If there is an allegation of abuse of a resident involving a home's staff person, the home shall immediately develop and implement a plan of supervision or suspend the staff person involved in the alleged incident.

(c) The home shall immediately submit to the Department's personal care home regional office a plan of supervision or notice of suspension of the affected staff person.

(d) The home shall immediately notify the resident and the resident's designated person of a report of suspected abuse or neglect involving the resident.

**§ 2600.16. Reportable incidents and conditions.**

(a) A reportable incident or condition includes the following:

- (1) The death of a resident.
- (2) A physical act by a resident to commit suicide.
- (3) A serious bodily injury or trauma 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—2600.44 (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, or an absence of a resident from a secured dementia care unit.

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

(7) An outbreak of a serious communicable disease as defined in 28 Pa. Code § 27.2 (relating to specific identified reportable diseases, infections and conditions).

(8) Food poisoning of residents.

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

(10) Fire or structural damage to the home.

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

(12) A complaint of resident abuse, suspected resident abuse or referral of a complaint of resident abuse to a local authority.

(13) A prescription medication error as defined in § 2600.188 (relating to medication errors.)

(14) An emergency in which the procedures under § 2600.107 (relating to emergency preparedness) are implemented.

(15) An unscheduled closure of the home or the relocation of the residents.

(16) Bankruptcy filed by the legal entity.

(17) A criminal conviction against the legal entity, administrator or staff that are subsequent to the reporting on the criminal history checks under § 2600.51 (relating to criminal history checks).

(18) A termination notice from a utility.

(19) A violation of the health and safety laws listed in § 2600.18 (relating to applicable health and safety laws).

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

(c) The home shall report the incident or condition to the Department's personal care home regional office or the personal care home complaint hotline within 24 hours in a manner designated by the Department. Abuse reporting shall also follow the guidelines in § 2600.15 (relating to abuse reporting covered by law).

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

(e) If the home's final report validates the occurrence of the alleged incident or condition, the affected resident and other residents who could potentially be harmed or his designated person shall also be informed immediately following the conclusion of the investigation.

(f) The home shall keep a copy of the report of the reportable incident or condition.

#### § 2600.17. Confidentiality of records.

Resident records shall be confidential, and, except in emergencies, may not be accessible to anyone other than the resident, the resident's designated person if any, staff persons for the purpose of providing services to the resident, agents of the Department and the long-term

care ombudsman without the written consent of the resident, an individual holding the resident's power of attorney for health care or health care proxy or a resident's designated person, or if a court orders disclosure.

#### § 2600.18. Applicable health and safety laws.

A home shall comply with applicable Federal, State and local laws, ordinances and regulations.

#### § 2600.19. Waivers.

(a) A home may submit a written request for a waiver of a specific requirement contained in this chapter. The waiver request must be on a form prescribed by the Department. The Secretary, or the Secretary's appointee, may grant a waiver of a specific requirement of this chapter if the following conditions are met:

(1) There is no jeopardy to the residents.

(2) There is an alternative for providing an equivalent level of health, safety and well-being protection of the residents.

(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) At least 30 days prior to the submission of the completed written waiver request to the Department, the home shall provide a copy of the completed written waiver request to the affected resident and designated person to provide the opportunity to submit comments to the Department. The home shall provide the affected resident and designated person with the name, address and telephone number of the Department staff person to submit comments.

(d) The home shall discuss the waiver request with the affected resident and designated person upon the request of the resident or designated person.

(e) The home shall notify the affected resident and designated person of the approval or denial of the waiver. A copy of the waiver request and the Department's written decision shall be posted in a conspicuous and public place within the home.

(f) The Department will review waivers annually to determine compliance with the conditions required by the waiver. The Department may revoke the waiver if the conditions required by the waiver are not met.

(g) A waiver granted prior to October 24, 2005, is no longer in effect as of October 24, 2006.

#### § 2600.20. Financial management.

(a) A resident may manage his personal finances unless he has a guardian of his estate.

(b) If the home provides assistance with financial management or holds resident funds, the following requirements apply:

(1) The home shall keep a record of financial transactions with the resident, including the dates, amounts of deposits, amounts of withdrawals and the current balance.

(2) Resident funds shall be disbursed during normal business hours within 24 hours of the resident's request.

(3) The home shall obtain a written receipt from the resident for cash disbursements at the time of disbursement.

(4) Resident funds and property shall only be used for the resident's benefit.

(5) Commingling of resident funds and home funds is prohibited.

(6) If a home is holding more than \$200 for a resident 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.

(7) The legal entity, administrator and staff persons of the home are prohibited from being assigned power of attorney or guardianship of a resident or a resident's estate.

(8) The home shall give the resident and the resident's designated person, an itemized account of financial transactions made on the resident's behalf on a quarterly basis.

(9) A copy of the itemized account shall be kept in the resident's record.

(10) The home shall provide the resident the opportunity to review his own financial record upon request during normal business hours.

**§ 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 resident health and safety needs are met.

**§ 2600.22. Admission.**

The following admission documents shall be completed for each resident:

(1) Preadmission screening completed prior to admission on a form specified by the Department.

(2) Medical evaluation completed 60 days prior to or 30 days after admission on a form specified by the Department.

(3) Personal care home assessment completed within 15 days after admission on a form specified by the Department.

(4) Support plan developed and implemented within 30 days after admission.

(5) Resident-home contract completed prior to admission or within 24 hours after admission.

**§ 2600.23. Activities.**

(a) A home shall provide each resident with assistance with ADLs as indicated in the resident's assessment and support plan.

(b) A home shall provide each resident with assistance with IADLs as indicated in the resident's assessment and support plan.

**§ 2600.24. Personal hygiene.**

A home shall provide the resident with assistance with personal hygiene as indicated in the resident's assessment and support plan. Personal hygiene includes one or more of the following:

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

(5) Shaving.

(6) Nail care.

(7) Foot care.

(8) Skin care.

**§ 2600.25. Resident-home contract.**

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

(b) The contract shall be signed by the administrator or a designee, the resident and the payer, if different from the resident, and cosigned by the resident's designated person if any, if the resident agrees.

(c) At a minimum, the contract must specify the following:

(1) 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. A personal needs allowance is the amount that a resident shall be permitted to keep for his personal use.

(2) A fee schedule that lists the actual amount of allowable resident charges for each of the home's available services.

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

(4) The party responsible for payment.

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

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

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

(8) The home's rules related to home services, including whether the home permits smoking.

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

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

(11) A list of personal care services to be provided to the resident based on the outcome of the resident's support plan, a list of the actual rates that the resident will be periodically charged for food, shelter and services and how, when and by whom payment is to be made.

(12) Charges to the resident for holding a bed during hospitalization or other extended absence from the home.

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

(d) A 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 home will be

assisting the resident to manage a portion of the rent rebate, the requirements of § 2600.20 (relating to financial management) may apply. There may be no charge for filling out this paperwork.

(e) The resident, or a designated person, has the right to rescind the contract for up to 72 hours after the initial dated signature of the contract and pay only for the services received. Rescission of the contract must be in writing addressed to the home.

(f) The home may not require or permit a resident to assign assets to the home in return for a life care contract/guarantee. A life care contract/guarantee is an agreement between the legal entity and the resident that the legal entity will provide care to the resident for the duration of the resident's life. Continuing care communities that have obtained a Certificate of Authority from the Insurance Department and provide a copy of the certificate to the Department are exempt from this requirement.

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

(h) The service needs addressed in the resident's support plan shall be available to the resident every day of the year.

#### § 2600.26. Quality management.

(a) The home shall establish and implement a quality management plan.

(b) The quality management plan shall address the periodic review and evaluation of the following:

(1) The reportable incident and condition reporting procedures.

(2) Complaint procedures.

(3) Staff person training.

(4) Licensing violations and plans of correction, if applicable.

(5) Resident or family councils, or both, if applicable.

(c) The quality management plan shall include the development and implementation of measures to address the areas needing improvement that are identified during the periodic review and evaluation.

#### § 2600.27. SSI recipients.

(a) If a home agrees to admit a resident eligible for SSI benefits, the home's 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 or staff persons 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) The administrator or staff persons 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 home and for which full payment has not been received.

(d) The 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 for personal laundry, bed linens and towels, 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 for the resident that are not food, clothing or shelter.

#### § 2600.28. Refunds.

(a) If, after the home gives notice of discharge or transfer in accordance with § 2600.228(b) (relating to notification of termination), 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 or transfer. The resident's personal needs allowance shall be refunded within 2 business days of discharge or transfer.

(b) After a resident gives notice of the intent to leave in accordance with § 2600.228(b) and if the resident moves out of the home before the 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 shall be required to pay only for the nights spent in the home.

(d) If the 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 30 days of the date the resident moved from the home.

(e) In the event of a death of a resident under 60 years of age, the administrator shall refund the remainder of previously paid charges to the resident's estate within 30 days from the date the room is cleared of the resident's personal property. In the event of a death of a resident 60 years of age and older, the home shall provide a refund in accordance with the Elder Care Payment Restitution Act (35 P. S. §§ 10226.101—10226.107). The home shall keep documentation of the refund in the resident's record.

(f) Within 30 days of either the termination of service by the home or the resident's leaving the home, the resident shall receive an itemized written account of the resident's funds, including notification of funds still owed the home by the resident or a refund owed the resident by the home. Refunds shall be made within 30 days of discharge.

(g) Upon discharge of the resident or transfer of the resident to a higher level of care, the administrator shall return the resident's funds being managed or stored by the home to the resident within 2 business days from the date the room is cleared of the resident's personal property.

#### § 2600.29. Hospice care and services.

Hospice care and services that are licensed by the Department of Health as a hospice may be provided in a personal care home.



**RESIDENT RIGHTS**

**§ 2600.41. Notification of rights and complaint procedures.**

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

(b) Notification of rights and complaint procedures shall be communicated in an easily understood manner and in a language understood by or mode of communication used by the resident and, if applicable, the resident's designated person.

(c) The Department's poster of the list of resident's rights shall be posted in a conspicuous and public place in the home.

(d) A copy of the resident's rights and complaint procedures shall be given to the resident and, if applicable, the resident's designated person upon admission.

(e) A statement signed by the resident and, if applicable, the resident's designated person acknowledging receipt of a copy of the information specified in subsection (d), or documentation of efforts made to obtain signature, shall be kept in the resident's record.

**§ 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, intimidated, physically or verbally abused, mistreated, subjected to corporal punishment or disciplined in any way.

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

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

(e) A resident shall have access to a telephone in the home to make calls in privacy. Nontoll calls shall be without charge to the resident.

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

(1) Outgoing mail may not be opened or read by staff persons unless the resident requests.

(2) Incoming mail may not be opened or read by staff persons unless upon the request of the resident or the resident's designated person.

(g) A resident has the right to communicate privately with and access the local ombudsman.

(h) A resident has 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 health services.

(j) A resident shall receive assistance in obtaining and keeping clean, seasonal clothing. A resident's clothing may not be shared with other residents.

(k) A resident and the resident's designated person, and other individuals upon the resident's written approval shall have the right to access, review and request corrections to the resident's record.

(l) A resident has the right to furnish his room and purchase, receive, use and retain personal clothing and possessions.

(m) A resident has the right to leave and return to the home at times consistent with the home rules and the resident's support plan.

(n) A resident has the right to relocate and to request and receive assistance, from the home, in relocating to another facility. The assistance shall include helping the resident get information about living arrangements, making telephone calls and transferring records.

(o) A resident has the right to freely associate, organize 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 laws for labor performed on behalf of the home. Residents may voluntarily and without coercion perform tasks related directly to the resident's personal space or common areas of the home.

(r) A resident has the right to receive visitors for a minimum of 12 hours daily, 7 days per week.

(s) A resident has the right to privacy of self and possessions. Privacy shall be provided to the resident during bathing, dressing, changing and medical procedures.

(t) A resident has the right to file complaints with any individual or agency and recommend changes in policies, home rules and services of the home without intimidation, retaliation or threat of discharge.

(u) A resident has the right to remain in the home, as long as it is operating with a license, except as specified in § 2600.228 (relating to notification of termination).

(v) A resident has the right to receive services contracted for in the resident-home contract.

(w) A resident has the right to use both the home's procedures and external procedures, if any, to appeal involuntary discharge.

(x) A resident has the right to a system to safeguard a resident's money or property.

(y) A resident has the right to choose his own health care providers without limitation by the home. This includes the right to select the resident's own pharmacist provided that the pharmacy agrees to supply medications in a way that is compatible with the home's system for handling and assisting with the self-administration of resident medications.

**§ 2600.43. Prohibition against deprivation of rights.**

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

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

**§ 2600.44. Complaint procedures.**

(a) Prior to admission, the home shall inform the resident and the resident's designated person of the right to file and the procedure for filing a complaint with the Department's personal care home regional office, local ombudsman or protective services unit in the area agency on aging, Pennsylvania Protection & Advocacy, Inc. or law enforcement agency.

(b) The home shall permit and respond to oral and written complaints from any source regarding an alleged violation of resident rights, quality of care or other matter without retaliation or the threat of retaliation.

(c) If a resident indicates that he wishes to make a written complaint, but needs assistance in reducing the complaint to writing, the home shall assist the resident in writing the complaint.

(d) The home shall ensure investigation and resolution of complaints. The home shall designate the staff person responsible for receiving complaints and determining the outcome of the complaint.

(e) Within 2 business days after the submission of a written complaint, a status report shall be provided by the home to the complainant. If the resident is not the complainant, the resident and the resident's designated person shall receive the status report unless contraindicated by the support plan. The status report must indicate the steps that the home is taking to investigate and address the complaint.

(f) Within 7 days after the submission of a written complaint, the home shall give the complainant and, if applicable, the designated person, a written decision explaining the home's investigation findings and the action the home plans to take to resolve the complaint. If the resident is not the complainant, the affected resident shall receive a copy of the decision unless contraindicated by the support plan. If the home's investigation validates the complaint allegations, a resident who could potentially be harmed or his designated person shall receive a copy of the decision, with the name of the affected resident removed, unless contraindicated by the support plan.

(g) The telephone number of the Department's personal care home regional office, the local ombudsman or protective services unit in the area agency on aging, Pennsylvania Protection & Advocacy, Inc., the local law enforcement agency, the Commonwealth Information Center and the personal care home complaint hotline shall be posted in large print in a conspicuous and public place in the home.

#### STAFFING

##### § 2600.51. 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.

Hiring, retention and utilization of staff persons 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. Qualifications and responsibilities of administrators.

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

(1) A license as a registered nurse from the Department of State.

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

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

(4) A license as a nursing home administrator from the Department of State.

(5) For a home serving 8 or fewer residents, a general education development diploma or high school diploma and 2 years direct care or administrative experience in the human services field.

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

(c) The administrator shall be responsible for the administration and management of the home, including the health, safety and well-being of the residents, implementation of policies and procedures and compliance with this chapter.

(d) The administrator shall have the ability to provide personal care services or to supervise or direct the work to provide personal care services.

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

(f) The administrator shall have the ability to comply with applicable laws, rules and regulations, including this chapter.

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

(h) 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. Qualifications for direct care staff persons.

(a) Direct care staff persons shall have the following qualifications:

(1) Be 18 years of age or older, except as permitted in subsection (b).

(2) Have a high school diploma, GED or active registry status on the Pennsylvania nurse aide registry.

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

(b) An individual who is 16 or 17 years of age may be a staff person at a home, but may not perform tasks related to medication administration. A staff person who is 16 or 17 years of age may not perform tasks related to incontinence care, bathing or dressing of residents without supervision.

(c) A volunteer who performs ADLs shall meet the staff person qualifications and training requirements specified in this chapter.

(d) A resident receiving personal care services who voluntarily performs tasks in the home will not be considered a volunteer under this chapter.

##### § 2600.55. Exceptions for staff qualifications.

(a) The staff qualification requirements for administrator and direct care staff persons do not apply to individuals hired or promoted to the specified positions prior to December 1, 2004.

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

##### § 2600.56. Administrator staffing.

The administrator shall be present in the home an average of 20 hours or more per week, in each calendar month.

**§ 2600.57. Direct care staffing.**

(a) At all times one or more residents are present in the home a direct care staff person who is 21 years of age or older and who serves as the designee, shall be present in the home. The direct care staff person may be the administrator if the administrator provides direct care services.

(b) Direct care staff persons shall be available to provide at least 1 hour per day of personal care services to each mobile resident.

(c) Direct care staff persons shall be available to provide at least 2 hours per day of personal care services to each resident who has mobility needs.

(d) At least 75% of the personal care service hours specified in subsections (b) and (c) shall be available during waking hours.

**§ 2600.58. Awake staff persons.**

(a) If a home serves 16 or more residents, all direct care staff persons on duty in the home shall be awake at all times one or more residents are present in the home.

(b) If a home serves one or more but less than 16 residents with mobility needs, at least one direct care staff person shall be awake at all times residents are present in the home.

**§ 2600.59. Multiple buildings.**

(a) For a home with multiple buildings on the same premises that are within 300 feet of one another, the direct care staff person required in § 2600.57 (relating to direct care staffing) shall be on the premises and available by a two-way communication system at all times one, two or three mobile residents are present in the home.

(b) For a home with multiple buildings on the same premises regardless of the distance between buildings, the direct care staffing requirements in § 2600.57 apply at all times four or more mobile residents, or one or more residents with mobility needs, are present in the home.

**§ 2600.60. Additional staffing based on the needs of the residents.**

(a) Staffing shall be provided to meet the needs of the residents as specified in the resident's assessment and support plan.

(b) The Department may require additional staffing as necessary to protect the health, safety and well-being of the residents. Requirements for additional staffing will be based on the resident's assessment and support plan, the design and construction of the home and the operation and management of the home.

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

**§ 2600.61. Substitute personnel.**

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 as specified in §§ 2600.54 and § 2600.65 (relating to qualifications for direct care staff persons; and direct care staff person training and orientation).

**§ 2600.62. List of staff persons.**

The administrator shall maintain a current list of the names, addresses and telephone numbers of staff persons including substitute personnel and volunteers.

**§ 2600.63. First aid, CPR and obstructed airway training.**

(a) At least one staff person for every 50 residents who is trained in first aid and certified in obstructed airway techniques and CPR shall be present in the home at all times.

(b) Current training in first aid and certification in obstructed airway techniques and CPR shall be provided by an individual certified as a trainer by a hospital or other recognized health care organization.

(c) Licensed, certified and registered medical personnel meet the qualifications in subsection (a) and are exempt from the training requirements in subsections (a) and (b).

(d) A staff person who is trained in first aid or certified in obstructed airway techniques or CPR shall provide those services in accordance with his training, unless the resident has a do not resuscitate order.

**§ 2600.64. Administrator training and orientation.**

(a) Prior to initial employment as an administrator, a candidate shall successfully complete the following:

(1) An orientation program approved and administered by the Department.

(2) A 100-hour standardized Department-approved administrator training course.

(3) A Department-approved competency-based training test with a passing score.

(4) Paragraphs (1), (2) and (3) do not apply to an administrator hired or promoted prior to October 24, 2005.

(b) The standardized Department-approved administrator training course specified in subsection (a)(2) shall include the following:

(1) Fire prevention and emergency preparedness.

(2) Medication procedures, medication effects and side effects, universal precautions and personal hygiene.

(3) Certification in CPR and obstructed airway techniques and training in first aid.

(4) Personal care services.

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

(6) Nutrition, food handling and sanitation.

(7) Recreation.

(8) Care for residents with mental illness.

(9) Resident rights.

(10) Care for residents with dementia, cognitive impairments and other special needs.

(11) Care for residents with mental retardation.

(12) Community resources, social services and activities in the community.

(13) Staff supervision and staff person training including developing orientation and training guidelines for staff.

(14) Budgeting, financial recordkeeping and resident records including:

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

(ii) Resident-home contracts.

(15) Gerontology.

- (16) Abuse and neglect prevention and reporting.
- (17) Cultural competency.
- (18) The requirements of this chapter.

(c) An administrator shall have at least 24 hours of annual training relating to the job duties. The Department-approved administrator training course specified in subsection (a) fulfills the annual training requirement for the first year.

(d) Annual training shall be provided by Department-approved training sources listed in the Department's personal care home training resource directory or by an accredited college or university.

(e) An administrator who has successfully completed the training in subsections (a)—(d) shall provide written verification of successful completion to the Department's personal care home regional office.

(f) A record of training including the individual trained, date, source, content, length of each course and copies of certificates received shall be kept.

(g) A licensed nursing home administrator who is employed as an administrator prior to October 24, 2006, is exempt from the training and educational requirements of this chapter if the administrator continues to meet the requirements of the Department of State. A licensed nursing home administrator hired as an administrator after October 26, 2006, shall complete and pass the Department-approved personal care home administrator competency-based training test.

**§ 2600.65. Direct care staff person training and orientation.**

(a) Prior to or during the first work day, all direct care staff persons including ancillary staff persons, substitute personnel and volunteers shall have an orientation in general fire safety and emergency preparedness that includes the following:

- (1) Evacuation procedures.
- (2) Staff duties and responsibilities during fire drills, as well as during emergency evacuation, transportation and at an emergency location if applicable.
- (3) The designated meeting place outside the building or within the fire-safe area in the event of an actual fire.
- (4) Smoking safety procedures, the home's smoking policy and location of smoking areas, if applicable.
- (5) The location and use of fire extinguishers.
- (6) Smoke detectors and fire alarms.
- (7) Telephone use and notification of emergency services.

(b) Within 40 scheduled working hours, direct care staff persons, ancillary staff persons, substitute personnel and volunteers shall have an orientation that includes the following:

- (1) Resident rights.
- (2) Emergency medical plan.
- (3) Mandatory reporting of abuse and neglect under the Older Adult Protective Services Act (35 P. S. §§ 10225.101—10225.5102).
- (4) Reporting of reportable incidents and conditions.

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

(d) Direct care staff persons hired after April 24, 2006, may not provide unsupervised ADL services until completion of the following:

(1) Training that includes a demonstration of job duties, followed by supervised practice.

(2) Successful completion and passing the Department-approved direct care training course and passing of the competency test.

(3) Initial direct care staff person training to include the following:

- (i) Safe management techniques.
- (ii) ADLs and IADLs.
- (iii) Personal hygiene.
- (iv) Care of residents with dementia, mental illness, cognitive impairments, mental retardation and other mental disabilities.
- (v) The normal aging-cognitive, psychological and functional abilities of individuals who are older.
- (vi) Implementation of the initial assessment, annual assessment and support plan.
- (vii) Nutrition, food handling and sanitation.
- (viii) Recreation, socialization, community resources, social services and activities in the community.
- (ix) Gerontology.
- (x) Staff person supervision, if applicable.
- (xi) Care and needs of residents with special emphasis on the residents being served in the home.
- (xii) Safety management and hazard prevention.
- (xiii) Universal precautions.
- (xiv) The requirements of this chapter.
- (xv) Infection control.
- (xvi) Care for individuals with mobility needs, such as prevention of decubitus ulcers, incontinence, malnutrition and dehydration, if applicable to the residents served in the home.

(e) Direct care staff persons shall have at least 12 hours of annual training relating to their job duties.

(1) Staff person orientation shall be included in the 12 hours of training for the first year of employment.

(2) On the job training for direct care staff persons may count for 6 out of the 12 training hours required annually.

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

- (1) Medication self-administration training.
- (2) Instruction on meeting the needs of the residents as described in the preadmission screening form, assessment tool, medical evaluation and support plan.
- (3) Care for residents with dementia and cognitive impairments.
- (4) 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) Personal care service needs of the resident.
- (6) Safe management techniques

(g) Direct care staff persons shall have at least 12 hours of annual training relating to their job duties.

(1) Staff person orientation shall be included in the 12 hours of training for the first year of employment.

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

- (1) Medication self-administration training.
- (2) Instruction on meeting the needs of the residents as described in the preadmission screening form, assessment tool, medical evaluation and support plan.
- (3) Care for residents with dementia and cognitive impairments.
- (4) 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) Personal care service needs of the resident.
- (6) Safe management techniques

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

(g) Direct care staff persons, ancillary staff persons, substitute personnel and regularly scheduled volunteers shall be trained annually in the following areas:

(1) Fire safety completed by a fire safety expert or by a staff person trained by a fire safety expert. Videos 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) Emergency preparedness procedures 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 population groups that are being served at the home that were not previously served, if applicable.

(h) If a staff person has completed the required initial direct care staff person training within the past year as a direct care staff person at another home, the requirement for initial direct care staff person training in this section does not apply if the staff person provides written verification of completion of the training.

(i) A record of training including the staff person trained, date, source, content, length of each course and copies of any certificates received, shall be kept.

**§ 2600.66. Staff training plan.**

(a) A staff training plan shall be developed annually.

(b) The plan must include training aimed at improving the knowledge and skills of the home's direct care staff persons in carrying out their job responsibilities. The staff training plan must include the following:

(1) The name, position and duties of each direct care staff person.

(2) The required training courses for each staff person.

(3) The dates, times and locations of the scheduled training for each staff person for the upcoming year.

(c) Documentation of compliance with the staff training plan shall be kept.

**§ 2600.67. Training institution registration.**

(a) An institution and the course of study offered by an educational institution, association, professional society or organization for the purpose of educating and qualifying applicants for certification as personal care home administrators shall be registered and approved by the Department prior to offering the course of study.

(b) An application for registration of an institution and approval of a course of study shall be submitted to the Department on a form provided by the Department and include the following information:

(1) The full name, address, telephone number, facsimile number and electronic mail address of the prospective training provider, each instructor and the program coordinator.

(2) The training objectives, instructional materials, content and teaching methods to be used and the number of clock hours.

(3) The recommended class size.

(4) The attendance certification method.

(5) Proof that each course instructor is certified by the Department to conduct administrator training.

(6) The subject that each instructor will teach and documentation of the instructor's academic credentials, instructional experience and work experience to teach the subject.

(7) The location of the training site, which shall accommodate the number of anticipated participants.

(c) A request to amend a Department-approved course of study shall be submitted for the Department's review and approval prior to implementation of a change in the course of study.

(d) The training institution shall issue a training certificate to each participant who successfully completes the Department-approved course and passes the competency test. Each training certificate must indicate the participant's name, the name of the training institution, the date and location of the training and the number of clock hours completed for each training topic.

**§ 2600.68. Instructor approval.**

(a) Training for personal care home administrators provided by an individual who is not certified as an instructor by the Department will not be considered valid training.

(b) To receive the Department's certification as an approved instructor for personal care home administrators, an instructor shall successfully complete the Department's train-the-trainer course. The train-the-trainer course is designed to provide and reinforce basic training skills, including the roles and responsibilities of the trainer, training methodology, the use of instructional aids and recordkeeping.

(c) An instructor shall demonstrate competent instructional skills and knowledge of the applicable topic and meet the Department's qualifications for the topic being taught.

(d) An instructor is subject to unannounced monitoring by the Department while conducting training.

(e) The Department will establish approval standards that include the following:

(1) The mechanism to measure the quality of the training being offered.

(2) The criteria for selecting and evaluating instructors, subject matter and instructional materials.

(3) The criteria for evaluating requests to amend a course.

(4) The criteria for evaluating the effectiveness of each course.

(5) The instructor qualifications for each subject being taught.

(f) The Department may withdraw approval under the following conditions:

(1) Failure to follow the approved curriculum.

(2) Lack of trainer competency.

(3) A pattern of violations of this chapter by a home conducting the training.

**PHYSICAL SITE**

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

(a) 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 the home and exiting from the home.

(b) Wheelchairs, walkers, prosthetic devices and other apparatus used by residents must be clean, in good repair and free of hazards.

**§ 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, in areas used by the residents, must 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 must be equipped with protective guards or insulation to prevent the resident from coming in contact with the heat source.

**§ 2600.85. Sanitation.**

(a) Sanitary conditions shall be maintained.

(b) There may be no evidence of infestation of insects or rodents 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 covered receptacles that prevent the penetration of insects and rodents.

(f) For a home serving 9 or more residents that is not connected to a public sewer system there shall be 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.**

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

(b) A bathroom that does not have an operable, outside window shall be equipped with an exhaust fan for ventilation.

**§ 2600.87. Lighting.**

The home's rooms, hallways, interior stairs, outside steps, outside doorways, porches, ramps, evacuation routes, outside walkways and fire escapes shall be lighted and marked to ensure that residents, including those with vision impairments, can safely move through the home and safely evacuate.

**§ 2600.88. Surfaces.**

(a) Floors, walls, ceilings, windows, doors and other surfaces must 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 must 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 below maximum contaminant levels. 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 found to be above maximum contaminant levels, the home shall conduct remediation activity to reduce the level of contaminants to below the maximum contaminant level. During remediation activity, an alternate source of drinking water shall be provided to the residents.

(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, landline telephone that is accessible in emergencies and accessible to individuals with disabilities.

(b) For a home serving 9 or more residents, there shall be a system or method of communication that enables staff persons to immediately 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, local emergency management and personal care home complaint hotline shall be posted on or by each telephone with an outside line.

**§ 2600.92. Windows and screens.**

Windows, including windows in doors, must 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 must have a well-secured handrail.

(b) Each porch must 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 must have a landing, which is a minimum of 3 feet by 3 feet.

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

**§ 2600.95. Furniture and equipment.**

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

**§ 2600.96. First aid kit.**

(a) The home shall have a first aid kit that includes nonporous disposable gloves, antiseptic, adhesive bandages, gauze pads, thermometer, adhesive tape, scissors, breathing shield, eye coverings and tweezers.

(b) Staff persons shall know the location of the first aid kit.

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

**§ 2600.97. Elevators and stair glides.**

Each elevator and stair glide must have a certificate of operation from the Department of Labor and Industry or the appropriate local building authority in accordance with 34 Pa. Code Chapter 405 (relating to elevators and other lifting devices).

**§ 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 area for residents, their families and visitors. The combined living room or lounge areas shall accommodate all residents at one time. These rooms or areas shall contain tables, chairs and lighting to accommodate the residents, their families and visitors.

(c) The home shall have a working television and radio available to residents in a living room or lounge area.

**§ 2600.99. Recreation space.**

The home shall provide regular access to outdoor and indoor recreation space and recreational items, such as books, newspapers, magazines, puzzles, games, cards and crafts.

**§ 2600.100. Exterior conditions.**

(a) The exterior of the building and the building grounds or yard must 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 must have at least 80 square feet of floor space measured wall to wall, including space occupied by furniture.

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

(c) Each bedroom for one or more residents with a mobility need must have at least 100 square feet per resident, to 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. A legal entity with a personal care home license for the home as of October 24, 2005, that has one or more bedrooms serving a resident with physical mobility needs as of October 24, 2005, shall be exempt from the requirements specified in this subsection for the bedroom. If a bedroom is exempt in accord-

ance with this subsection, additional square footage may be required sufficient to accommodate the assistive devices of the resident with mobility needs.

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

(e) Ceiling height in each bedroom must be an average of at least 7 feet.

(f) Each bedroom must have a window with direct exposure to natural light.

(g) A resident's bedroom shall be used only by the occupying resident 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) A resident shall have access to his bedroom at all times.

(j) 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. A legal entity with a personal care home license for the home as of October 24, 2005, shall be exempt from the requirement for a fire retardant mattress.

(2) A chair for each resident that meets the resident's needs.

(3) Pillows, bed linens and blankets that are clean and in good repair.

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

(5) A bedside table or a shelf.

(6) A mirror.

(7) An operable lamp or other source of lighting that can be turned on at bedside.

(8) If a resident shares a bedroom with other residents, the items specified in paragraphs (4)—(7) may be shared with one other resident.

(k) Cots and portable beds are prohibited.

(l) Bunk beds or other raised beds that require residents to climb steps or ladders to get into or out of bed are prohibited.

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

(n) A resident may not be required to share a bedroom with an individual of the opposite sex.

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

(p) There must be doors on the bedrooms.

(q) Space for storage of personal property shall be provided in a dry, protected area.

(r) There must be drapes, shades, curtains, blinds or shutters on the bedroom windows. Window coverings must be clean, in good repair, provide privacy and cover the entire window when drawn.

**§ 2600.102. Bathrooms.**

(a) There shall be at least one functioning flush toilet for every six or fewer users, including residents, staff persons and household members.

(b) There shall be at least one sink and wall mirror for every six or fewer users including residents, staff persons and household members.

(c) There shall be at least one bathtub or shower for every ten or fewer users, including residents, staff persons and household members.

(d) Toilet and bath areas must have grab bars, hand rails or assist bars. Bathtubs and showers must have slip-resistant surfaces.

(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 to residents who are not recipients of SSI. If the home charges for these items, the charges shall be indicated in the resident-home contract. Availability of toiletry items for residents who are recipients of SSI is specified in § 2600.27(d)(1) (relating to SSI recipients).

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

(i) A dispenser with soap shall be provided within reach of each bathroom sink. Bar soap is not permitted unless there is a separate bar clearly labeled for each resident who shares a bathroom.

(j) Towels and washcloths shall be in the possession of the resident in the resident's living space unless the resident has access to the home's linen supply.

(k) Use of a common towel is prohibited.

(l) Shelves or hooks for the resident's towel and clothing shall be provided.

(m) A legal entity with a personal care home license for the home as of October 24, 2005, shall be exempt from the requirements specified in subsection (c). If a home is exempt in accordance with this subsection, there shall be at least one bathtub or shower for every 15 or fewer users.

#### § 2600.103. Food service.

(a) A home shall have access on the grounds to an operable kitchen with a refrigerator, sink, stove, oven, cooking equipment and cabinets or shelves for storage. If the kitchen is not in the home, the home shall have a kitchen area with a refrigerator, cooking equipment, a sink and food storage space.

(b) Kitchen surfaces must 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.

(e) Food served and returned from an individual's plate may not be served again or used in the preparation of other dishes. Leftover food shall be labeled and dated.

(f) Food requiring refrigeration shall be stored at or below 40°F. Frozen food shall be kept at or below 0°F. Thermometers are 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) Outdated or spoiled food or dented cans may not be used.

(j) Eating, drinking and cooking utensils shall be washed, rinsed and sanitized after each use by a method specified in 7 Pa. Code Chapter 46, Subchapter D (relating to equipment, utensils and linen).

#### § 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 must be clean, and free of chips and cracks. Plastic and paper plates, utensils and cups for meals may not be used on a regular basis.

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

(d) Adaptive eating equipment or utensils shall be available, if needed, to assist residents in eating at the table.

(e) Breakfast, midday and evening meals shall be served to residents in a dining room 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 illness.

(2) When room service is available in a home, a resident may choose to have a meal 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 room.

#### § 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 SSI benefits. 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 resident-home contract.

(c) The supply of bed linens 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 and more often as needed to maintain sanitary conditions.

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

(f) Measures shall be implemented to ensure that residents' clothing are not lost or misplaced during laundering or cleaning. The resident's clean clothing shall be returned to the resident within 24 hours after laundering.

(g) To reduce the risks of fire hazards, lint shall be removed from the lint trap and drum of clothes dryers after each use. Lint shall be cleaned from the vent duct and internal and external ductwork of clothes dryers according to the manufacturer's instructions.

#### § 2600.106. Swimming areas.

If a home operates a swimming area, the following requirements apply:

(1) Swimming areas shall be operated in accordance with applicable laws and regulations.



(2) Written policy and procedures to protect the health, safety and well-being of the residents shall be developed and implemented.

**§ 2600.107. Emergency preparedness.**

(a) The administrator shall have a copy and be familiar with the emergency preparedness plan for the municipality in which the home is located.

(b) The home shall have written emergency procedures that include the following:

(1) Contact information for each resident's designated person.

(2) The home's plan to provide the emergency medical information for each resident that ensures confidentiality.

(3) Contact telephone numbers of local and State emergency management agencies and local resources for housing and emergency care of residents.

(4) Means of transportation in the event that relocation is required.

(5) Duties and responsibilities of staff persons during evacuation, transportation and at the emergency location. These duties and responsibilities shall be specific to each resident's emergency needs.

(6) Alternate means of meeting resident needs in the event of a utility outage.

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

(d) The written emergency procedures shall be reviewed, updated and submitted annually to the local emergency management agency.

**§ 2600.108. 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 individual 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 a resident, there shall be a written policy and procedures regarding the safety, access and use of firearms, weapons and ammunition. A resident may not take a firearm, weapon or ammunition out of the locked cabinet into living areas.

**§ 2600.109. Pets.**

(a) The home rules shall specify whether the home permits pets on the premises.

(b) Cats and dogs present at the home shall have a current rabies vaccination. A current certificate of rabies vaccination from a licensed veterinarian shall be kept.

(c) Pets that are accessible to the residents shall be in good health and nonaggressive to the residents.

(d) If a home has additional charges for pets, the charges shall be included in the resident-home contract.

**FIRE SAFETY**

**§ 2600.121. Unobstructed egress.**

(a) Stairways, hallways, doorways, passageways and egress routes from rooms and from the building must be unlocked and unobstructed.

(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, unless the home has written approval or a variance from the Department of Labor and Industry, the Department of Health or the appropriate local building authority.

**§ 2600.122. Exits.**

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

**§ 2600.123. Emergency evacuation.**

(a) Exit doors must be equipped so that they can be easily opened by residents from the inside without the use of a key or other manual device that can be removed, misplaced or lost.

(b) Copies of the emergency procedures as specified in § 2600.107 (relating to emergency preparedness) shall be posted in a conspicuous and public place in the home and a copy shall be kept.

(c) For a home serving nine or more residents, an emergency evacuation diagram of each floor showing corridors, line of travel to exit doors and location of the fire extinguishers and pull signals shall be posted in a conspicuous and public place on each floor.

(d) If the home serves one or more residents with mobility needs above or below grade level of the home, there shall be a fire-safe area, as specified in writing within the past year by a fire safety expert, on the same floor as each resident with mobility needs.

**§ 2600.124. Notification of local fire officials.**

The home shall notify the local fire department 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 and flammable materials may not be located near heat sources or hot water heaters.

(b) Combustible materials shall be inaccessible to residents.

**§ 2600.126. Furnaces.**

(a) A professional furnace cleaning company or trained maintenance staff person 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.**

(a) Portable space heaters are prohibited.

(b) Nonportable space heaters must be well 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, professional cleaning company or trained maintenance staff person inspects and approves them annually. Wood and coal burning stoves that are used as a regular heating source shall be cleaned every year according to the manufacturer's instructions. Documentation of wood and coal burning stove inspections and cleanings shall be kept.

(c) Wood and coal burning stoves must be securely screened or equipped with protective guards while in use.

**§ 2600.129. Fireplaces.**

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

(b) A fireplace chimney and flue shall be cleaned when there is an accumulation of creosote. Written documentation of the cleaning shall be kept.

**§ 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 hallways.

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

(d) If the home serves nine or more residents, 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 interconnected and 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, a signaling device approved by a fire safety expert shall be used and tested so that each resident and staff person with a hearing impairment will be alerted in the event of a fire.

(f) Smoke detectors and fire alarms shall be tested for operability at least once per month. 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 emergency procedures shall indicate the procedures that will be immediately implemented until the smoke detector or fire alarms are operable.

(i) In homes housing five or more residents with mobility needs, the fire alarm system shall be directly connected to the local fire department or 24-hour monitoring service approved by the local fire department, if this service is available in the community.

**§ 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 must meet the requirements for one floor as required in subsection (a).

(d) Fire extinguishers must 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) A fire safety inspection and fire drill conducted by a fire safety expert shall be completed annually. Documentation of this fire drill and fire safety inspection shall be kept.

(c) A written fire drill record must include 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 persons participating, problems encountered and whether the fire alarm or smoke detector was operative.

(d) Residents shall be able to evacuate the entire building to a public thoroughfare, or to a fire-safe area designated in writing within the past year by a fire safety expert within the period of time specified in writing within the past year by a fire safety expert. For purposes of this subsection, the fire safety expert may not be a staff person 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, 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 away from 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.**

The following requirements apply for a home serving nine or more residents:

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

(2) 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.

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

**RESIDENT HEALTH**

**§ 2600.141. Resident medical evaluation and health care.**

(a) A resident shall have a medical evaluation by a physician, physician's assistant or certified registered nurse practitioner documented on a form specified by the Department, within 60 days prior to admission or within 30 days after admission. The evaluation must include the following:

- (1) A general physical examination by a 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, medication side effects and the ability to self-administer medications.
- (8) Body positioning and movement stimulation for residents, if appropriate.
- (9) Health status.
- (10) Mobility assessment, updated annually or at the Department's request.

(b) A resident shall have a medical evaluation:

- (1) At least annually.
- (2) If the medical condition of the resident changes prior to the annual medical evaluation.

**§ 2600.142. Assistance with health care.**

(a) The home shall assist the resident to secure medical care if a resident's health status declines. The home shall document the resident's need for the medical care, including updating the resident's assessment and support plan.

(b) If a resident refuses routine medical or dental examination or treatment, the refusal and the continued attempts to educate and inform 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 the resident's designated person.

(d) The home shall assist the resident to secure preventative medical, dental, vision and behavioral health care as requested by a physician, physician's assistant or certified registered nurse practitioner.

**§ 2600.143. Emergency medical plan.**

(a) The home shall have a written emergency medical plan that includes the following:

- (1) The hospital or source of health care that will be used in an emergency. This shall be the resident's choice, if possible.
- (2) Emergency transportation to be used.
- (3) An emergency-staffing plan.

(b) The following current emergency medical and health information shall be available at all times for each resident and shall accompany the resident when the resident needs emergency medical attention:

- (1) The resident's name 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.
- (8) Insurance or third party payer and identification number.
- (9) The power of attorney for health care or health care proxy, if applicable.
- (10) The resident's designated person with current address and telephone number.
- (11) Personal information and related instructions regarding advance directives, do not resuscitate orders or organ donation, if applicable.

**§ 2600.144. Use of tobacco.**

(a) A home may permit smoking tobacco in a designated smoking room of the home.

(b) The home rules shall specify whether the home is designated as smoking or nonsmoking.

(c) A home that permits smoking inside or outside of the home shall develop and implement written fire safety policy and procedures that include the following:

- (1) Proper safeguards inside and outside of the home to prevent fire hazards involved in smoking, including providing fireproof receptacles and ashtrays, direct outside ventilation, no interior ventilation from the smoking room through other parts of the home, extinguishing procedures, fire resistant furniture both inside and outside the home and fire extinguishers in the smoking rooms.
- (2) Location of a smoking room or outside smoking area a safe distance from heat sources, hot water heaters, combustible or flammable materials and away from common walkways and exits.
- (3) Prohibition of the use of tobacco during transportation by the home.
- (d) Smoking outside of the smoking room is prohibited.

**NUTRITION**

**§ 2600.161. Nutritional adequacy.**

(a) Meals shall be offered that meet the recommended dietary allowances established by the United States Department of Agriculture.

(b) At least three nutritionally well-balanced meals shall be offered 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) A resident's special dietary needs as prescribed by a physician, physician's assistant, certified registered nurse

practitioner or dietitian shall be met. Documentation of the resident's special dietary needs shall be kept in the resident's record.

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

(f) Drinking water shall be available to the residents at all times.

**§ 2600.162. Meals.**

(a) There may not be more than 15 hours between the evening meal and the first meal of the next day. There may not be more than 6 hours between breakfast and lunch, and between lunch and supper. This requirement does not apply if a resident's physician has prescribed otherwise.

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

(c) Menus, stating the specific food being served at each meal, shall be prepared for 1 week in advance and shall be followed. Weekly menus shall be posted 1 week in advance in a conspicuous and public place in the home.

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

(e) A change to a menu shall be posted in a conspicuous and public place in the home and shall be accessible to a resident in advance of the meal. Meal substitutions shall be made in accordance with § 2600.161 (relating to nutritional adequacy).

**§ 2600.163. Personal hygiene for food service workers.**

(a) Staff persons, volunteers and 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 and after using the bathroom.

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

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

(d) Staff persons, volunteers and 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. Food and beverages may be withheld in accordance with prescribed medical or dental procedures.

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

(c) If a resident refuses to eat or drink continuously during a 24-hour period, the resident's primary care physician and the resident's designated person shall be immediately notified.

(d) If a resident has a cognitive impairment that affects the resident's ability to consume adequate amounts of food and water, a staff person shall encourage and remind the resident to eat and drink.

**TRANSPORTATION**

**§ 2600.171. Transportation.**

(a) A home may not be required to provide transportation.

(b) The following requirements apply whenever staff persons or volunteers of the home provide transportation for the resident:

(1) The occupants of the vehicle shall be in an appropriate safety restraint at all times the vehicle is in motion.

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

(3) The driver of the home vehicle cannot be a resident.

(4) At least one staff member transporting or accompanying the residents shall have completed the initial new hire direct care staff person training as specified in § 2600.65 (relating to direct care staff training and orientation).

(5) The vehicle must have a first aid kit with the contents as specified in § 2600.96 (relating to first aid kit).

(6) During vehicle operations, the driver may only use a hands-free cellular telephone.

(7) Transportation shall include, when necessary, an assistant to the driver who assists the driver to escort residents in and out of the home and provides assistance during the trip.

(c) The home shall maintain current copies of the following documentation for each of the home's vehicles used to transport residents:

(1) Vehicle registration.

(2) Valid driver's license for vehicle operator.

(3) Vehicle insurance.

(4) Current inspection.

(5) Commercial driver's license for vehicle operator if applicable.

(d) The home shall assist a resident with the coordination of transportation to and from medical appointments, if requested by the 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) If assistance includes helping the resident to remember the schedule for taking the medication, the resident shall be reminded of the prescribed schedule.

(c) The resident's assessment shall identify if the resident is able to self-administer medications as specified in § 2600.227(e) (relating to development of the support plan). A resident who desires to self-administer medications shall be assessed by a physician, physician's assistant or certified registered nurse practitioner regarding the ability to self-administer and the need for medication reminders.

(d) If the resident does not need assistance with medication, medication may be stored in a resident's room for self-administration. Medications stored in the resident's room shall be kept locked in a safe and secure location to protect against contamination, spillage and theft.

(e) To be considered capable to self-administer medications, a resident shall:

- (1) Be able to recognize and distinguish his medication.
- (2) Know how much medication is to be taken.
- (3) Know when medication is to be taken.

(f) The resident's record shall include a current list of prescription, CAM and OTC medications for each resident who is self-administering his medication.

**§ 2600.182. Medication administration.**

(a) A home may provide medication administration services for a resident who is assessed to need medication administration services in accordance with § 2600.181 (relating to self-administration) and for a resident who chooses not to self-administer medications. If a home does not provide medication administration services, the resident shall be referred to an appropriate assessment agency.

(b) Prescription medication that is not self-administered by a resident shall be administered by one of the following:

- (1) A physician, licensed dentist, licensed physician's assistant, registered nurse, certified registered nurse practitioner, licensed practical nurse or licensed paramedic.
- (2) A graduate of an approved nursing program functioning under the direct supervision of a professional nurse who is present in the home.

(3) A student nurse of an approved nursing program functioning under the direct supervision of a member of the nursing school faculty who is present in the home.

(4) A staff person who has completed the medication administration training as specified in § 2600.190 (relating to medication administration training) for the administration of oral; topical; eye, nose and ear drop prescription medications; insulin injections and epinephrine injections for insect bites or other allergies.

(c) Medication administration includes the following activities, based on the needs of the resident:

- (1) Identify the correct resident.
- (2) If indicated by the prescriber's orders, measure vital signs and administer medications accordingly.
- (3) Remove the medication from the original container.
- (4) Crush or split the medication as ordered by the prescriber.
- (5) Place the medication in a medication cup or other appropriate container, or in the resident's hand.
- (6) Place the medication in the resident's hand, mouth or other route as ordered by the prescriber, in accordance with the limitations specified in subsection (b)(4).
- (7) Complete documentation in accordance with § 2600.187 (relating to medication records).

**§ 2600.183. Storage and disposal of medications and medical supplies.**

(a) Prescription medications, OTC medications and CAM 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 insulin and epinephrine injections and sterile liquids shall be provided immediately upon removal of the medication from its container.

(b) Prescription medications, OTC medications, CAM and syringes shall be kept in an area or container that is locked. This includes medications and syringes kept in the resident's room.

(c) Prescription medications, OTC medications and CAM stored in a refrigerator shall be kept in an area or container that is locked.

(d) Only current prescription, OTC, sample and CAM for individuals living in the home may be kept in the home.

(e) Prescription medications, OTC medications and CAM shall be stored in an organized manner under proper conditions of sanitation, temperature, moisture and light and in accordance with the manufacturer's instructions.

(f) Prescription medications, OTC medications and CAM that are discontinued, expired or for residents who are no longer served at the home shall be destroyed in a safe manner according to the Department of Environmental Protection and 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) Subsections (a) and (e) do not apply to a resident who self-administers medication and stores the medication in his room.

**§ 2600.184. Labeling of medications.**

(a) The original container for prescription medications shall be labeled with a pharmacy label that includes the following:

- (1) The resident's name.
- (2) The name of the medication.
- (3) The date the prescription was issued.
- (4) The prescribed dosage and instructions for administration.
- (5) The name and title of the prescriber.

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

(c) Sample prescription medications shall have written instructions from the prescriber that include the components specified in subsection (a).

**§ 2600.185. Accountability of medication and controlled substances.**

(a) The home shall develop and implement procedures for the safe storage, access, security, distribution and use of medications and medical equipment by trained staff persons.

(b) At a minimum, the procedures must include:

- (1) Documentation of the receipt of controlled substances and prescription medications.
- (2) A process to investigate and account for missing medications and medication errors.
- (3) Limited access to medication storage areas.

(4) Documentation of the administration of prescription medications, OTC medications and CAM for residents who receive medication administration services or assistance with self-administration. This requirement does not apply to a resident who self-administers medication without the assistance of a staff person and stores the medication in his room.

**§ 2600.186. Prescription medications.**

(a) Each prescription medication must be prescribed in writing by an authorized prescriber. Prescription orders shall be kept current.

(b) Prescription medications shall be used only by the resident for whom the prescription was prescribed.

(c) Changes in medication may only be made in writing by the prescriber, or in the case of an emergency, an alternate prescriber, except for circumstances in which oral orders may be accepted by nurses in accordance with regulations of the Department of State. The resident's medication record shall be updated as soon as the home receives written notice of the change.

**§ 2600.187. Medication records.**

(a) A medication record shall be kept to include the following for each resident for whom medications are administered:

- (1) Resident's name.
- (2) Drug allergies.
- (3) Name of medication.
- (4) Strength.
- (5) Dosage form.
- (6) Dose.
- (7) Route of administration.
- (8) Frequency of administration.
- (9) Administration times.
- (10) Duration of therapy, if applicable.
- (11) Special precautions, if applicable.
- (12) Diagnosis or purpose for the medication, including pro re nata (PRN).
- (13) Date and time of medication administration.
- (14) Name and initials of the staff person administering the medication.

(b) The information in subsection (a)(13) and (14) shall be recorded at the time the medication is administered.

(c) If a resident refuses to take a prescribed medication, the refusal shall be documented in the resident's record and on the medication record. The refusal shall be reported to the prescriber within 24 hours, unless otherwise instructed by the prescriber. Subsequent refusals to take a prescribed medication shall be reported as required by the prescriber.

(d) The home shall follow the directions of the prescriber.

**§ 2600.188. Medication errors.**

- (a) Medication errors include the following:
- (1) Failure to administer a medication.
  - (2) Administration of the wrong medication.
  - (3) Administration of the wrong amount of medication.
  - (4) Failure to administer a medication at the prescribed time.

(5) Administration to the wrong resident.

(6) Administration through the wrong route.

(b) A medication error shall be immediately reported to the resident, the resident's designated person and the prescriber.

(c) Documentation of medication errors and the prescriber's response shall be kept in the resident's record.

(d) There shall be a system in place to identify and document medication errors and the home's pattern of error.

(e) There shall be documentation of the follow-up action that was taken to prevent future medication errors.

**§ 2600.189. Adverse reaction.**

(a) If a resident has a suspected adverse reaction to a medication, the home shall immediately consult a physician or seek emergency medical treatment. The resident's designated person shall be notified, if applicable.

(b) The home shall document adverse reactions, the prescriber's response and any action taken in the resident's record.

**§ 2600.190. Medication administration training.**

(a) A staff person who has successfully completed a Department-approved medications administration course that includes the passing of the Department's performance-based competency test within the past 2 years may administer oral; topical; eye, nose and ear drop prescription medications and epinephrine injections for insect bites or other allergies.

(b) A staff person is permitted to administer insulin injections following successful completion of a Department-approved medications administration course that includes the passing of a written performance-based competency test within the past 2 years, as well as successful completion of a Department-approved diabetes patient education program within the past 12 months.

(c) A record of the training shall be kept including the staff person trained, the date, source, name of trainer and documentation that the course was successfully completed.

**§ 2600.191. Resident education.**

The home shall educate the resident of the right to question or refuse a medication if the resident believes there may be a medication error. Documentation of this resident education shall be kept.

**SAFE MANAGEMENT TECHNIQUES**

**§ 2600.201. Safe management techniques.**

The home shall use positive interventions to modify or eliminate a behavior that endangers the resident himself or others. Positive interventions include improving communications, reinforcing appropriate behavior, redirection, conflict resolution, violence prevention, praise, deescalation techniques and alternative techniques or methods to identify and defuse potential emergency situations.

**§ 2600.202. Prohibitions.**

The following procedures are prohibited:

(1) Seclusion, defined as involuntary confinement of a resident in a room from which the resident is physically prevented from leaving, is prohibited. This does not include the admission of a resident in a secured dementia care unit in accordance with § 2600.231 (relating to admission).

(2) Aversive conditioning, defined as the application of startling, painful or noxious stimuli, is prohibited.

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

(4) A chemical restraint, defined as use of drugs or chemicals for the specific and exclusive purpose of controlling acute or episodic aggressive behavior, is prohibited. A chemical restraint does not include a drug ordered by a physician or dentist to treat the symptoms of a specific mental, emotional or behavioral condition, or as pretreatment prior to a medical or dental examination or treatment.

(5) A mechanical restraint, defined as a device that restricts the movement or function of a resident or portion of a resident's body, is prohibited. Mechanical restraints include geriatric chairs, handcuffs, anklets, wristlets, camisoles, helmet with fasteners, muffs and mitts with fasteners, poseys, waist straps, head straps, papoose boards, restraining sheets, chest restraints and other types of locked restraints. A mechanical restraint does not include a device used to provide support for the achievement of functional body position or proper balance that has been prescribed by a medical professional as long as the resident can easily remove the device.

(6) A manual restraint, defined as a hands-on physical means that restricts, immobilizes or reduces a resident's ability to move his arms, legs, head or other body parts freely, is prohibited. A manual restraint does not include prompting, escorting or guiding a resident to assist in the ADLs or IADLs.

**SERVICES**

**§ 2600.221. Activities program.**

(a) 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.

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

(c) A current weekly activity calendar shall be posted in a conspicuous and public place in the home.

**§ 2600.222. Community social services.**

Residents shall be encouraged and assisted in the access to and use of 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 current written description of services and activities that the home provides including the following:

(1) The scope and general description of the services and activities that the home provides.

(2) The criteria for admission and discharge.

(3) Specific services that the home does not provide, but will arrange or coordinate.

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

**§ 2600.224. Preadmission screening.**

(a) A determination shall be made within 30 days prior to admission and documented on the Department's preadmission screening form 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.

(c) The preadmission screening shall be completed by the administrator or designee. If the resident is referred by a State-operated facility, a county mental health and mental retardation program, a drug and alcohol program or an area agency on aging, a representative of the referral agent may complete the preadmission screening.

**§ 2600.225. Initial and annual assessment.**

(a) A resident shall have a written initial assessment that is documented on the Department's assessment form within 15 days of admission. The administrator or designee, or a human service agency may complete the initial assessment.

(b) A home may use its own assessment form if it includes the same information as the Department's assessment form.

(c) The resident shall have additional assessments as follows:

(1) Annually.

(2) If the condition of the resident significantly changes prior to the annual assessment.

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

(d) If the resident's physician or appropriate 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.

**§ 2600.226. Mobility criteria.**

(a) The resident shall be assessed for mobility needs as part of the resident's assessment.

(b) If a resident is determined to have mobility needs as part of the initial or annual assessment, specific requirements relating to the care, health and safety of the resident shall be met immediately.

(c) The administrator shall notify the Department's personal care home regional office within 30 days after a resident with mobility needs is admitted to the home or the date when a resident develops mobility needs.

**§ 2600.227. Development of the support plan.**

(a) A resident requiring personal care services shall have a written support plan developed and implemented within 30 days of admission to the home. The support plan shall be documented on the Department's support plan form.

(b) A home may use its own support plan form if it includes the same information as the Department's support plan form.

(c) The support plan shall be revised within 30 days upon completion of the annual assessment or upon changes in the resident's needs as indicated on the current assessment.

(d) Each home shall document in the resident's support plan the medical, 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 the resident's physician, physician's assistant or certified registered nurse practitioner, determine the necessity of these services. This requirement does not require a home to pay for the cost of these medical and behavioral care services.

(e) The resident's support plan must document the ability of the resident to self-administer medications or the need for medication reminders or medication administration.

(f) A resident may participate in the development and implementation of the support plan. A resident may include a designated person in making decisions about services.

(g) Individuals who participate in the development of the support plan shall sign and date the support plan.

(h) If a resident or designated person is unable or chooses not to sign the support plan, a notation of inability or refusal to sign shall be documented.

(i) The support plan shall be accessible by direct care staff persons at all times.

(j) The home shall give a copy of the support plan to the resident and the resident's designated person upon request.

**§ 2600.228. Notification of termination.**

(a) At the resident's request, the home shall provide assistance in relocating to the resident's own home or to another residence 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 designated person and the referral agent citing the reasons for the discharge or transfer. This shall be stipulated in the resident-home contract. A 30-day advance written notice is not required if a delay in discharge or transfer would jeopardize the health, safety or well-being of the resident or others in the home, as certified by a physician or the Department. This may occur when the resident needs psychiatric or long-term care or is abused in the home, or the Department initiates closure of the home.

(c) A home shall give the Department written notice of its intent to close the home, at least 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, safety and well-being 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 or if the Department has initiated legal action to close the home, the Department working in conjunction with appropriate local authorities, will offer relocation assistance to the residents. Except in the case of an emergency, each resident may participate in planning the transfer, and shall have the right to choose among the available alternatives after an opportunity to visit the alternative homes. 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 Department's personal care home regional 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, or a portion of the home.

(3) If a home determines that a resident's functional level has advanced or declined so that the resident's needs cannot be met in the home. If a resident or the resident's designated person disagrees with the home's decision to discharge or transfer, consultation with an appropriate assessment agency or the resident's physician shall be made to determine if the resident needs a higher level of care. A plan for other placement shall be made as soon as possible by the administrator in conjunction with the resident and the resident's designated person, if any. 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 Department's personal care home regional office.

(4) If meeting the resident's needs would require a fundamental alteration in the home's program or building site, or would create an undue financial or programmatic burden on the home.

(5) If the resident has failed to pay after reasonable documented efforts by the home to obtain payment.

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

(7) Documented, repeated violation of the home rules.

**SECURED DEMENTIA CARE UNITS**

**§ 2600.231. Admission.**

(a) This section and §§ 2600.232—2600.239 apply to secured dementia care units. These provisions are in addition to the other provisions of this chapter. A secured dementia care unit is a home or portion of a home that provides specialized care and services for residents with Alzheimer's disease or other dementia.

(b) A resident shall have a medical evaluation by a physician, physician's assistant or certified registered nurse practitioner, documented on a form provided by the Department, within 60 days prior to admission. Documentation shall include the resident's diagnosis of Alzheimer's disease or other dementia and the need for the resident to be served in a secured dementia care unit.

(c) A written cognitive preadmission screening completed in collaboration with a physician or a geriatric assessment team and documented on the Department's preadmission screening form shall be completed for each resident within 72 hours prior to admission to a secured dementia care unit.

(d) A geriatric assessment team is a group of multidisciplinary specialists in the care of adults who are older that conducts a multidimensional evaluation of a resident and assists in developing a support plan by working with the resident's physician, designated person and family to coordinate the resident's care.

(e) Each resident record must have documentation that the resident and the resident's designated person have not objected to the resident's admission or transfer to the secured dementia care unit.



(f) In addition to the requirements in § 2600.225 (relating to initial and annual assessment), the resident shall also be assessed annually for the continuing need for the secured dementia care unit.

(g) An individual who does not have a primary diagnosis of Alzheimer's disease or other dementia may reside in the secured dementia care unit if desired by the resident.

(1) The individual shall have a medical evaluation by a physician, physician's assistant or certified registered nurse practitioner, documented on a form provided by the Department, within 60 days prior to residence or 30 days after residence.

(2) If the medical evaluation shows that personal care services are needed, the requirements of this chapter apply.

(3) The individual shall have access to and be able to follow directions for the operation of the key pads or other lock-releasing devices to exit the secured dementia care unit.

(h) The resident-home contract specified in § 2600.25 (relating to resident-home contract) must also include a disclosure of services, admission and discharge criteria, change in condition policies, special programming and costs and fees.

**§ 2600.232. Environmental protection.**

(a) The home shall provide exercise space, both indoor and outdoor.

(b) No more than two residents may occupy a bedroom regardless of its size. A bedroom shall meet the requirement in § 2600.101(a), (b) or (c) (relating to resident bedrooms), as applicable. Section 2600.101(d) does not apply to a secured dementia care unit.

(c) The home shall provide space for dining, group and individual activities and visits.

(d) The home shall provide a full description of the measures taken to enhance environmental awareness and maximize independence of the residents. The measures to enhance environmental awareness and maximize independence of the residents shall be implemented.

**§ 2600.233. Doors, locks and alarms.**

(a) Doors equipped with key-locking devices, electronic card operated systems or other devices that prevent immediate egress are permitted only if there is written approval from the Department of Labor and Industry, Department of Health or appropriate local building authority permitting the use of the specific locking system.

(b) A home shall have a statement from the manufacturer, specific to that home, verifying that the electronic or magnetic locking system will shut down, and that all doors will open easily and immediately when one of more of the following occurs:

(1) Upon a signal from an activated fire alarm system, heat or smoke detector.

(2) Power failure to the home.

(3) Overriding the electronic or magnetic locking system by use of a key pad or other lock-releasing device.

(c) If key-locking devices, electronic cards systems or other devices that prevent immediate egress are used to lock and unlock exits, directions for their operation shall be conspicuously posted near the device.

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

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

**§ 2600.234. Resident care.**

(a) Within 72 hours of the admission, or within 72 hours prior to the resident's admission to the secured dementia care unit, a support plan shall be developed, implemented and documented in the resident record.

(b) The support plan must identify the resident's physical, medical, social, cognitive and safety needs.

(c) The support plan must identify the individual responsible to address the resident's needs.

(d) The support plan shall be revised at least annually and as the resident's condition changes.

(e) The resident or the resident's designated person shall be involved in the development and the revisions of the support plan.

**§ 2600.235. Discharge.**

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 30-day advance written notice to the resident, the resident's designated person 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 dementia care unit.

**§ 2600.236. Training.**

Each direct care staff person working in a secured dementia care unit shall have 6 hours of annual training related to dementia care and services, in addition to the 12 hours of annual training specified in § 2600.65 (relating to direct care staff person training and orientation).

**§ 2600.237. Program.**

(a) The following types of activities shall be offered at least weekly:

(1) Gross motor activities, such as dancing, stretching and other exercise.

(2) Self-care activities, such as personal hygiene.

(3) Social activities, such as games, music and holiday and seasonal celebrations.

(4) Crafts, such as sewing, decorations and pictures.

(5) Sensory and memory enhancement activities, such as review of current events, movies, story telling, picture albums, cooking, pet therapy and reminiscing.

(6) Outdoor activities, as weather permits, such as walking, gardening and field trips.

(b) Resident participation in general activity programming shall:

(1) Be voluntary.

(2) Respect the resident's age and cognitive abilities.

(3) Support the retention of the resident's abilities.

**§ 2600.238. Staffing.**

Each resident in a secured dementia care unit shall be considered to be a resident with mobility needs under § 2600.57(c) (relating to direct care staffing).

**§ 2600.239. Notification to Department.**

(a) The legal entity shall submit a written request to the Department's personal care home regional office at least 60 days prior to the following:

- (1) Opening a secured care dementia unit.
- (2) Adding a secured dementia care unit to an existing home.
- (3) Increasing the maximum capacity in an existing unit.
- (4) Changing the locking system, exit doors or floor plan of an existing unit.

(b) The Department will inspect and approve the secured care dementia unit prior to operation or change. The requirements of this chapter shall be met prior to operation.

(c) The following documents shall be included in the written request specified in subsection (a):

- (1) The name, address and legal entity of the home.
- (2) The name of the administrator of the home.
- (3) The maximum capacity of the home.
- (4) The requested resident population of the secured dementia care unit.
- (5) A building description.
- (6) A unit description.
- (7) The type of locking system.
- (8) Policy and procedures to be implemented for emergency egress and resident elopement.
- (9) A sample of a 2-week staffing schedule.
- (10) Verification of completion of additional training requirements.
- (11) The operational description of the secured dementia care unit locking system of the doors.
- (12) The manufacturer's statement regarding the secured dementia care unit locking system.
- (13) A written approval or a variance permitting locked exit doors from the Department of Labor and Industry, the Department of Health or the appropriate local building authority.
- (14) The name of the municipality or 24-hour monitoring service maintaining the interconnection with the home's fire alarm system.
- (15) A sample plan of care and service for the resident addressing the resident's physical, medical, social, cognitive and safety needs for the residents.
- (16) The activity standards.
- (17) The complete medical and cognitive preadmission assessment, that is completed upon admission and reviewed and updated annually.
- (18) A consent form agreeing to the resident's placement in the secured unit, to be signed by the resident or the resident's designated person.
- (19) A written agreement containing full disclosure of services, admission and discharge criteria, change in condition policies, services, special programming, costs and fees.
- (20) A description of environmental cues being utilized.
- (21) A general floor plan of the entire home.

(22) A specific floor plan of the secured dementia care unit, outside enclosed area and exercise space.

**RESIDENT RECORDS****§ 2600.251. Resident records.**

- (a) A separate record shall be kept for each resident.
- (b) The entries in a resident's record must be permanent, legible, dated and signed by the staff person making the entry.
- (c) The home shall use standardized forms to record information in the resident's record.
- (d) Separate resident records shall be kept on the premises where the resident lives.
- (e) Resident records shall be made available to the resident and the resident's designated person during normal working hours.

**§ 2600.252. Content of resident records.**

Each resident's record must include the following information:

- (1) Name, gender, admission date, birth date and Social Security number.
- (2) Race, height, weight, color of hair, color of eyes, religious affiliation, if any, and identifying marks.
- (3) A photograph of the resident that is no more than 2 years old.
- (4) Language or means of communication spoken or used by the resident.
- (5) The name, address, telephone number and relationship of a designated person to be contacted in case of an emergency.
- (6) The name, address and telephone number of the resident's physician or source of health care.
- (7) The current and previous 2 years' physician's examination reports, including copies of the medical evaluation forms.
- (8) A list of prescribed medications, OTC medications and CAM.
- (9) Dietary restrictions.
- (10) A record of incident reports for the individual resident.
- (11) A list of allergies.
- (12) The documentation of health care services and orders, including orders for the services of visiting nurse or home health agencies.
- (13) The preadmission screening, initial intake assessment and the most current version of the annual assessment.
- (14) A support plan.
- (15) Applicable court order, if any.
- (16) The resident's medical insurance information.
- (17) The date of entrance into the home, relocations and discharges, including the transfer of the resident to other homes owned by the same legal entity.
- (18) An inventory of the resident's personal property as voluntarily declared by the resident upon admission and voluntarily updated.
- (19) An inventory of the resident's property entrusted to the administrator for safekeeping.

(20) The financial records of residents receiving assistance with financial management.

(21) The reason for termination of services or transfer of the resident, the date of transfer and the destination.

(22) Copies of transfer and discharge summaries from hospitals, if available.

(23) If the resident dies in the home, a copy of the official death certificate.

(24) Signed notification of rights, grievance procedures and applicable consent to treatment protections specified in § 2600.41 (relating to notification of rights and complaint procedures).

(25) A copy of the resident-home contract.

(26) A termination notice, if any.

**§ 2600.253. Record retention and disposal.**

(a) 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.

(b) Records shall be destroyed in a manner that protects confidentiality.

(c) The home shall keep a log of resident records destroyed on or after October 24, 2005. This log must include the resident's name, record number, birth date, admission date and discharge date.

(d) Records required under this chapter that are not part of the resident records shall be kept for a minimum of 3 years or until any audit or litigation is resolved.

**§ 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 develop and implement policy and procedures addressing record accessibility, security, storage, authorized use and release and who is responsible for the records.

(c) Resident records 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 the administrator's designee, and upon request, to the Department or representatives of the area agency on aging.

**ENFORCEMENT**

**§ 2600.261. Classification of violations.**

(a) The Department will classify each violation of this chapter 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 guidelines for determining the classification of violations are available from the Department's personal care home regional 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 and Class III 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 home to correct the violation. If the home fails to provide proof of correction of the violation to the Department within the 5-day period, the fine will be retroactive to the date of citation. The Department may extend the time period for good cause.

(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. Failure to correct a Class III violation within the 15-day period 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.

(g) 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.

(h) 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.

**§ 2600.263. Appeals of penalty.**

(a) If the home that is fined intends to appeal 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 for placement in an escrow account with the State Treasurer. A letter appealing the penalty shall be submitted with the assessed penalty. This process constitutes an appeal.

(b) 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 legal entity together with interest accumulated on these funds in the escrow deposit.

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

(d) After an administrative hearing decision that is adverse to the legal entity, 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.

(e) 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.

**§ 2600.264. Use of fines.**

(a) Money collected by the Department under this section will be placed in a special restricted receipt account.

(b) Money collected will be used first to defray the expenses incurred by residents relocated under this chapter.

(c) The Department will use money remaining in this account to assist with paying for enforcement of this chapter. Fines collected will not be subject to 42 Pa.C.S. § 3733 (relating to deposits into account).

**§ 2600.265. Review of classifications.**

(a) The Department will review the determinations of Class I, Class II and Class III violations made by the Department's personal care home regional offices.

(b) Semiannually, the Department will review the standard guidelines 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.

**§ 2600.266. Revocation or nonrenewal of licenses.**

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

(b) The Department will temporarily revoke the license of a 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 home continues to operate without applying for a license as described in § 2600.262(h) (relating to penalties), residents shall be relocated.

(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 does not issue a new license for a home, the prior license is revoked under section 1087 of the Public Welfare Code (62 P. S. § 1087).

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

(2) A 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 home which applies for a license for 5 years after the revocation or nonrenewal.

(f) If a 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 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).

**§ 2600.267. Relocation of residents.**

(a) If the relocation of residents is due to the failure of the 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 homes. These procedures will occur even if the residents are placed in a temporary living situation.

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

**§ 2600.268. Notice of violations.**

(a) The administrator shall give each resident and the resident's designated person written notification of a Class I violation within 24 hours of the citation.

(b) The administrator shall give each resident and the resident's designated person oral or written notification of a Class I or Class II violation, as defined in § 2600.261 (relating to classification of violations), which remains uncorrected for 5 days after the date of citation.

(c) If a Class II violation remains uncorrected within 5 days following the citation, the administrator shall give written notice of the violation to each resident and the resident's designated person on the 6th day from the date of the citation.

(d) The Department will provide immediate written notification to the appropriate long-term care ombudsman of Class I violations, and notification of Class II violations which remain uncorrected 5 days after the date of citation.

**§ 2600.269. Ban on admissions.**

(a) The Department will ban new admissions to a home:

(1) That has been found to have a Class I violation.

(2) That has been found to have a Class II violation that remains uncorrected without good cause 5 days after being cited for the violation.

(3) Whose license has been revoked or nonrenewed.

(b) The Department may ban new admissions to a home that has been found to have a repeated Class II violation within the past 2 years.

(c) A ban on admissions will remain in effect until the Department determines that the home has corrected the violation, and after the correction has been made, has maintained regulatory compliance for a period of time sufficient to permit a conclusion that the compliance will be maintained for a prolonged period.

**§ 2600.270. Correction of violations.**

The correction of a violation cited under section 1086 of the Public Welfare Code (62 P. S. § 1086) does not preclude the Department from issuing a provisional license based upon the same violation.

**CHAPTER 2620. (Reserved).**

**§§ 2620.1—2620.5. (Reserved).**

**§§ 2620.11—2620.15. (Reserved).**

**§§ 2620.21—2620.28. (Reserved).**

**§§ 2620.31—2620.42. (Reserved).**

**§§ 2620.51—2620.55. (Reserved).**

**§§ 2620.61—2620.74. (Reserved).**

**§§ 2620.81—2620.83. (Reserved).**

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