

STATEMENTS OF POLICY

Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 2600]

Personal Care Homes

Subject

The subject of this statement of policy is rent rebates to personal care home residents under the act of June 27, 2006 (P. L. 1873, No. 1) (spec. Sess. No. 1) (53 P. S. § 6926.5006) that continues the former act of March 11, 1971 (P. L. 104, No. 3), known as the Senior Citizens Rebate and Assistance Act (72 P. S. §§ 4751-1—4751-12).

Scope

This statement of policy applies to personal care homes governed by Chapter 2600 (relating to personal care homes).

Purpose

The purpose of this statement of policy is to clarify the procedures and notices to be used if a personal care home intends to collect rent rebate funds as restricted under section 1057.3 of the Public Welfare Code (62 P. S. 1057.3(a)(7)) regarding rules and regulations for personal care homes and assisted living residences and § 2600.25(d) (relating to resident-home contract).

Background

Many personal care home residents with low incomes are eligible to receive annual rent rebates from the Commonwealth of up to \$500, based on their income. Since December 21, 1988, section 1057.3 of the Public Welfare Code has restricted the amount of the rent rebate funds that can be collected from residents by a personal care home. Specifically, a personal care home is prohibited from seeking or accepting any payment from a resident who receives Supplemental Security Income (SSI) in excess of one-half of the rent rebate received. The personal care home licensing regulation in § 2600.25(d) extends that restriction to all personal care home residents eligible to receive a rent rebate.

Recently, residents and other interested parties have inquired about the purpose of this statute and regulation. The purpose of these statutory and regulatory protections is to conserve a portion of the rent rebate for the personal use of the resident. Without this protection, a personal care home would be free to collect the full amount of rebate income from residents in the form of rent and service charges.

Additional concerns have been raised regarding whether a personal care home must fully disclose its intention to collect a portion of the rent rebate to current and potential residents. While most personal care homes articulate this intention in their resident-home contracts, some do not.

Discussion

Whether a personal care home collects a portion, up to one-half, of a resident's rent rebate is important information for individuals considering admission to a personal care home. The difference between a resident retaining a full rent rebate, as opposed to half of the rent rebate, could mean as much as 16% of an SSI recipient's total annual resources available for personal expenditures.

To ensure that this rent rebate information is available to residents, the Department is clarifying that a personal care home specify in the resident-home contract whether the personal care home intends to collect a portion of the rent rebate, and if so, the dollar amount or percentage to be collected, up to one-half, and the personal care home's intention for the use of the revenues collected. In addition, a statement signed by the resident, and the resident's designated person if applicable, outlining the personal care home's policy regarding the collection of rent rebates is to be kept in the resident's record.

This requirement will have no impact on the State budget.

Effective Date

This statement of policy is effective July 1, 2009. For current residents, the rent rebate language in the resident-home contract and the signed statement are due by July 31, 2009. For residents admitted on or after July 31, 2009, the rent rebate information and the signed statement are due upon admission.

Contact Person

Comments and questions related to this statement of policy may be directed to Matthew J. Jones, Director of Operations, Adult Residential Licensing, Department of Public Welfare, Room 423, Health and Welfare Building, 7th and Forster Streets, Harrisburg, PA 17120, (717) 772-4982, matjones@state.pa.us.

ESTELLE B. RICHMAN,
Secretary

(Editor's Notice: Title 55 of the *Pennsylvania Code* is amended by adding a statement of policy in § 2600.25b to read as set forth in Annex A.)

Fiscal Note: 14-BUL-84. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

PART IV. ADULT SERVICES MANUAL

Subpart E. RESIDENTIAL AGENCIES/FACILITIES/SERVICES

CHAPTER 2600. PERSONAL CARE HOMES

GENERAL REQUIREMENTS

§ 2600.25b. Rent rebates for residents of personal care homes—statement of policy.

(a) The resident-home contract must include whether the home collects a portion of a resident's rent rebate under § 2600.25(d) (relating to resident-home contract).

(b) If the home collects a resident's rent rebate under subsection (a), the resident-home contract must include the following:

(1) The dollar amount or percentage of the rent rebate to be collected.

(2) The home's intended use of the revenue collected from the rent rebate.

(c) A statement signed by the resident, and the resident's designated person if applicable, at the time of

admission, informing the resident that the information required in subsection (a) is to be kept in the resident's record.

[Pa.B. Doc. No. 09-839. Filed for public inspection May 8, 2009, 9:00 a.m.]

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DEPARTMENT OF PUBLIC WELFARE
[55 PA. CODE CHS. 3270, 3280 AND 3290]
Playground Protective Surface Covering

Scope

This statement of policy applies to the following:

- 1) Child day care centers.
- 2) Group child day care homes.
- 3) Family child care homes.

Purpose

The purpose of this statement of policy is to provide clarification regarding how the Department of Public Welfare (Department) will apply the recommendations of the United States Consumer Product Safety Commission (CPSC) regarding playground protective surface covering when inspecting child care facilities.

Background

The child care facility regulations in §§ 3270.102(c), 3280.102(c) and 3290.102(c) (relating to condition of play equipment) state that outdoor equipment that requires embedded mounting must be mounted over a loose-fill or unitary playground protective surface covering that meets the recommendations of the CPSC. The regulations in §§ 3270.102(c), 3280.102(c) and 3290.102(c) require compliance with the CPSC recommendations regarding the need for protective surfacing to afford a minimum level of protection based on the fall height of the equipment. "Fall height" is the vertical distance between the highest designated play surface on a piece of equipment and the protective surfacing beneath it.

The CPSC publishes recommendations for playground safety that encompass a wide range of topics including playground protective surfacing. Child care facility operators have asked for clarification regarding the CPSC recommendations that are referenced in the regulatory requirement.

Discussion

The Department's regulations in §§ 3270.102(c), 3280.102(c) and 3290.102(c) require that facilities comply with the CPSC recommendations for playground protective surfacing under outdoor equipment that requires embedded mounting. The protective surfacing must afford protection to a child who falls from the highest designated play surface on a piece of equipment to the protective surfacing below. The CPSC provides information regarding the depth and type of loose-fill materials that afford protection from specific fall heights. In addition, the CPSC provides information regarding determining the amount of protection afforded by a unitary protective surface covering.

Child care facility operators shall comply with the CPSC recommendations for playground protective surfacing. Facility operators may choose to comply with other CPSC playground recommendations that go beyond the scope of the regulatory requirement relating to play-

ground protective surfacing. The Department will only measure compliance with and offer technical assistance in meeting the CPSC recommendations for playground protective surfacing.

The CPSC recommendations differentiate between commercial child care facilities, that is those child care facilities not operated in residences, and residential child care facilities. Based on these distinctions, the Department will apply the CPSC recommendations based on the facility types identified by the CPSC as described in the following.

A. Child Care Center or Group Child Care Home Not Located in a Residence

The CPSC recommendations applicable to a child care center or a group child care home not located in a residence are found in the *Public Playground Safety Handbook*, Publication 325. This publication is intended for use by commercial (nonresidential) child care facilities and is available on the Internet at <http://www.cpsc.gov/cpscpub/pubs/325.pdf> or by calling the CPSC at (800) 638-2772.

The Department will apply the protective surfacing recommendations in Publication 325 to a child care center and to a group child care home not located in a residence as follows:

- *Unitary Playground Protective Surface Covering*—See 2.4.2.1 *Unitary surfacing materials*, page 9. The facility operator shall have available test data from the manufacturer that warrants the material as safe and shock absorbing for a fall from the highest accessible point on the outdoor play equipment according to test data obtained consistent with ASTM F1292 test data from the manufacturer identifying the critical height rating of the desired surface, that is, the fall height below which a life-threatening head injury would not be expected to occur. The fall height of the equipment over the unitary protective surfacing may not exceed the critical height rating of the surface.

- *Loose-fill Surfacing Materials*—See Table 2. *Minimum compressed loose-fill surfacing depths*, page 10. Refer to Table 2 which gives the minimum required depth of compressed loose-fill material based on material type and fall height. Note that this is the depth of the material when it is compressed due to use and after the surface has been used and exposed to the weather.

B. Family Child Care Home and Group Child Care Home Located in a Residence

The CPSC recommendations applicable to a family child care home or a group child care home located in a residence are found in the *Outdoor Home Playground Safety Handbook*, Publication 324. This publication is intended for use by homes and residential child care facilities and is available at <http://www.cpsc.gov/cpscpub/pubs/324.pdf> or by calling the CPSC at (800) 638-2772.

The Department will apply the protective surfacing recommendations in Publication 324 to a family child care home and a group child care home located in a residence as follows:

- *Unitary Playground Protective Surface Covering*—See *Poured in-Place Surfaces or Pre-Manufactured Rubber Tiles*, page 6. The facility operator shall have available test data from the manufacturer that shows the surfacing was tested per ASTM F1292 test standards. The test data should show the specific height for which the surface is intended to protect against serious head injury. This height must be equal to or greater than the fall height to

the protective surfacing below. The fall height of the equipment over the unitary protective surfacing may not exceed the critical height rating of the surface.

- *Loose-Fill Surfacing Materials*—See *Loose-Fill Materials*, page 5. Refer to the CPSC recommendations for loose-fill materials which give the minimum required depth of compressed loose-fill material based on material type and fall height. Note that this is the depth of the material when it is compressed due to use and after the surface has been used and exposed to the weather.

Regulation Interpretation

The regulation interpretations are contained in Annex A.

Effective Date

This statement of policy is effective immediately upon publication in the *Pennsylvania Bulletin*.

Contact Person

Tamula Ferguson, Division of Regulatory Administration, Bureau of Certification Services, Office of Child Development and Early Learning, (717) 346-9320.

ESTELLE B. RICHMAN,
Secretary

(*Editor's Note:* Title 55 of the *Pennsylvania Code* is amended by adding statements of policy in §§ 3270.102b, 3280.102b and 3290.102b to read as set forth in Annex A.)

Fiscal Note: 14-082. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

**PART V. CHILDREN, YOUTH AND FAMILIES
MANUAL**

**Subpart D. NONRESIDENTIAL AGENCIES,
FACILITIES AND SERVICES**

ARTICLE I. LICENSING/APPROVAL

CHAPTER 3270. CHILD DAY CARE CENTERS

EQUIPMENT

§ 3270.102b. Playground protective surface covering—statement of policy.

The requirement for playground protective surface covering in § 3270.102(c) (relating to condition of play equipment) means that the protective surfacing material must be safe and shock absorbing for a fall from the highest designated play surface on a piece of equipment as specified in the United States Consumer Public Safety Commission's *Public Playground Safety Handbook*, Publication 325. This publication is available on the Internet

at <http://www.cpsc.gov/cpsc/pub/pubs/325.pdf> or by calling the Consumer Public Safety Commission at (800) 638-2772.

**CHAPTER 3280. GROUP CHILD DAY CARE HOMES
EQUIPMENT**

§ 3280.102b. Playground protective surface covering—statement of policy.

(a) For a group child day care home that is not located in a residence, the requirement for playground protective surface covering in § 3280.102(c) (relating to condition of play equipment) means that the protective surfacing material must be safe and shock absorbing for a fall from the highest designated play surface on a piece of equipment as specified in the United States Consumer Public Safety Commission's *Public Playground Safety Handbook*, Publication 325. This publication is available on the Internet at <http://www.cpsc.gov/cpsc/pub/pubs/325.pdf> or by calling the Consumer Public Safety Commission at (800) 638-2772.

(b) For a group child care home that is located in a residence, the requirement for playground protective surface covering in § 3280.102(c) means that the protective surfacing material must be safe and shock absorbing for a fall from the highest designated play surface on a piece of equipment as specified in the United States Consumer Public Safety Commission's *Outdoor Home Playground Safety Handbook*, Publication 324. This publication is available on the Internet at <http://www.cpsc.gov/cpsc/pub/pubs/324.pdf> or by calling the Consumer Public Safety Commission at (800) 638-2772.

**CHAPTER 3290. FAMILY CHILD DAY CARE HOMES
EQUIPMENT**

§ 3290.102b. Playground protective surface covering—statement of policy.

The requirement for playground protective surface covering in § 3290(c) (relating to condition of play equipment) means that the protective surfacing material must be safe and shock absorbing for a fall from the highest designated play surface on a piece of equipment as specified in the United States Consumer Public Safety Commission's *Outdoor Home Playground Safety Handbook*, Publication 324. This publication is available on the Internet at <http://www.cpsc.gov/cpsc/pub/pubs/324.pdf> or by calling the Consumer Public Safety Commission at (800) 638-2772.

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