

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 649 Session of 2021

INTRODUCED BY RAPP, ZIMMERMAN, COX, CAUSER, HILL-EVANS, THOMAS, KULIK, RYAN, STAMBAUGH, GLEIM, TOOHIL, PICKETT, NEILSON, FREEMAN, LONGIETTI AND GAYDOS, FEBRUARY 24, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MARCH 23, 2021

AN ACT

1 Providing for access to congregate care facilities for essential
2 caregivers, for additional safety requirements for residents
3 of congregate care facilities, for suspension of access for
4 essential caregivers and for ~~personal protective equipment~~ <--
5 ~~for~~ COSTS ASSOCIATED WITH SAFETY MEASURES RELATED TO <--
6 essential caregivers.

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

9 Section 1. Short title.

10 This act shall be known and may be cited as the Access to
11 Congregate Care Facilities Act.

12 Section 2. Definitions.

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

16 "Congregate care facility." A facility licensed by the
17 department or the Department of Human Services, including, but
18 not limited to, a long-term care nursing facility, a skilled
19 nursing facility, an assisted living facility, a personal care

1 home, an independent long-term care facility or an intermediate
2 care facility for individuals with intellectual disabilities.

3 "Declaration of disaster emergency." A disaster emergency
4 declared by the Governor under 35 Pa.C.S. § 7301(c) (relating to
5 general authority of Governor).

6 "Department." The Department of Health of the Commonwealth.

7 "Essential caregiver." An individual, whether a family
8 member or friend of a resident of a congregate care facility,
9 who is designated by the resident or appointed by an individual
10 with decision-making authority for the resident to provide
11 physical or emotional support to the resident during a
12 declaration of disaster emergency.

13 Section 3. Access to congregate care facilities for essential
14 caregivers.

15 The department, in consultation with the Department of Human
16 Services, shall establish protocols to allow a resident of a
17 congregate care facility or an individual with decision-making
18 authority for the resident to designate an individual as the
19 resident's essential caregiver during a declaration of disaster
20 emergency. A resident of a congregate care facility or an
21 individual with decision-making authority for the resident shall
22 designate an essential caregiver during the intake of the
23 resident into the congregate care facility. An essential
24 caregiver shall meet the necessary qualifications to enter the
25 congregate care facility to provide in-person physical or
26 emotional support to a resident of a congregate care facility in
27 accordance with the protocols established under this section.

28 THE DEPARTMENT MAY UPDATE THE PROTOCOLS ESTABLISHED UNDER THIS
29 SECTION AT ANY TIME DURING THE DISASTER EMERGENCY. THE
30 DEPARTMENT MAY NOT UPDATE THE PROTOCOLS ESTABLISHED UNDER THIS

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1 SECTION TO EXTEND THE DURATION OF THE LOCK-DOWN PHASE UNDER
2 PARAGRAPH (3) FOR A TIME PERIOD EXCEEDING 45 DAYS. The protocols
3 shall include all of the following:

4 (1) Safety measures for an essential caregiver,
5 including, but not limited to, restrictions on travel,
6 enhanced testing for communicable diseases and the necessary
7 safety equipment required to protect the health and safety of
8 the residents of the congregate care facility.

9 (2) Procedures to replace an essential caregiver due to
10 necessary circumstances, including illness or death of the
11 essential caregiver.

12 (3) A duration SET BY THE DEPARTMENT, IN CONSULTATION <--
13 WITH THE DEPARTMENT OF HUMAN SERVICES, not to exceed 30 45 <--
14 days after a declaration of disaster emergency, when a
15 congregate care facility may enter a lock-down phase DURING <--
16 WHICH THE CONGREGATE CARE FACILITY SHALL EXCLUDE ESSENTIAL
17 CAREGIVERS for the purpose of establishing safety measures
18 for residents of the congregate care facility and essential
19 caregivers. ~~If a congregate care facility requires an~~ <--
20 ~~extension of the lock down phase under this paragraph, the~~
21 ~~congregate care facility shall require staff of the~~
22 ~~congregate care facility to remain in the congregate care~~
23 ~~facility during the extended period to prevent the potential~~
24 ~~spread of a communicable disease to the congregate care~~
25 ~~facility.~~

26 Section 4. Additional safety requirements for residents of
27 congregate care facilities.

28 ~~(a) Additional safety requirements.~~ A A congregate care <--
29 facility may establish reasonable, additional safety
30 requirements to protect the residents of the congregate care

1 facility ~~if the~~, INCLUDING LIMITATIONS ON THE DURATION OF THE VISITS, THE NUMBER OF VISITS PER WEEK PER RESIDENT, THE LOCATION OF VISITS AND THE SPACING OF VISITORS. THE requirements UNDER THIS SUBSECTION SHALL meet all of the following criteria: <--

5 (1) The requirements are directly linked to a
6 declaration of disaster emergency.

7 (2) The requirements are not so burdensome and onerous
8 as to substantially prevent an essential caregiver from being
9 able to physically or emotionally support a resident of the
10 congregate care facility in person.

11 ~~(b) Costs. An essential caregiver shall pay the costs of~~ <--
12 ~~the reasonable, additional safety measures established under~~
13 ~~subsection (a). A congregate care facility may not pay the costs~~
14 ~~of the reasonable, additional safety measures established under~~
15 ~~subsection (a).~~

16 Section 5. Suspension of access for essential caregivers.

17 A congregate care facility may suspend access to the
18 congregate care facility for an essential caregiver who violates
19 the protocols established under section 3, and the congregate
20 care facility shall allow the resident, or an individual with
21 decision-making authority for the resident, to immediately
22 designate a replacement essential caregiver.

23 ~~Section 6. Personal protective equipment for essential~~ <--
24 ~~caregivers.~~

25 ~~A congregate care facility may require an essential caregiver~~
26 ~~to provide personal protective equipment for himself or herself~~
27 ~~or assume the cost of the personal protective equipment provided~~
28 ~~by the facility to allow the essential caregiver to provide in-~~
29 ~~person physical or emotional support.~~

30 SECTION 6. COSTS ASSOCIATED WITH SAFETY MEASURES RELATED TO <--

1 ESSENTIAL CAREGIVERS.

2 A CONGREGATE CARE FACILITY MAY REQUIRE AN ESSENTIAL CAREGIVER
3 TO ASSUME THE COSTS OF ANY OF THE FOLLOWING:

4 (1) PROVIDING PERSONAL PROTECTIVE EQUIPMENT FOR HIMSELF
5 OR HERSELF TO ALLOW THE ESSENTIAL CAREGIVER TO SAFELY PROVIDE
6 IN-PERSON PHYSICAL OR EMOTIONAL SUPPORT. PERSONAL PROTECTIVE
7 EQUIPMENT PROVIDED BY THE CONGREGATE CARE FACILITY MAY NOT
8 REDUCE THE PERSONAL PROTECTIVE EQUIPMENT AVAILABLE TO THE
9 EMPLOYEES AND STAFF OF THE CONGREGATE CARE FACILITY.

10 (2) MEETING THE ADDITIONAL SAFETY REQUIREMENTS
11 ESTABLISHED BY THE CONGREGATE CARE FACILITY UNDER SECTION 4.
12 Section 7. Applicability.

13 This act shall apply for the period commencing 15 days after
14 a declaration of disaster emergency ~~and~~ THAT RESULTS IN THE <--
15 CLOSURE OF CONGREGATE CARE FACILITIES UNTIL 60 days after the
16 termination or expiration of the declaration of disaster
17 emergency by executive order, proclamation or operation of law.

18 Section 8. Construction.

19 Nothing in this act shall be construed to supersede Federal
20 authority or guidance regarding congregate care facilities or to
21 prevent the department or Department of Human Services from
22 taking necessary actions to render the Commonwealth eligible for
23 Federal funds or reimbursement services provided in congregate
24 care facilities.

25 Section 9. Effective date.

26 This act shall take effect in 60 days.