



New Legislation Only the Beginning in Pennsylvania

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In July, 2007, Pennsylvania Governor Edward G. Rendell approved legislation that created a new licensing category for long-term care (LTC) facilities known as "assisted living" (AL). According to Dr. Stuart Shapiro, President & CEO of the Pennsylvania Health Care Association (PHCA), the creation of this new licensing category "marks a tremendous victory for Pennsylvanian consumers because it assures that they will have access to a new level of care for those who need assistance with more than personal care, but do not yet need round-the-clock skilled nursing home care," Dr. Shapiro said. "This legislation is a testament to the care and consideration our Governor and General Assembly pay to our most vulnerable citizens, and is a real demonstration of how bipartisanship can benefit consumers."¹

This law established a separate screening process to ensure that the home meets the needs of an individual resident. It also prohibits AL facilities from admitting residents who have serious medical conditions. AL facilities must demonstrate that they can provide supplemental health services safely. In contrast, personal care homes may not provide supplemental health services at all, although they may help the resident procure those services.² In addition, "AL" facilities must be inspected annually, and those inspections must not be announced beforehand. By contrast, personal care homes may go up to 3 years without an inspection.

While this legislation has been applauded by lawmakers and advocacy groups alike, it was only after the law took effect that the "real work" of writing, proposing, and approving new regulations to fit into the legislative framework began. According to the statute, the legislators must determine what qualifications an administrator must have and what training a staff must undergo.³ These regulations must set forth standards for how large a resident's room must be, how a resident may provide informed consent, and when a resident should be transferred from the facility.³

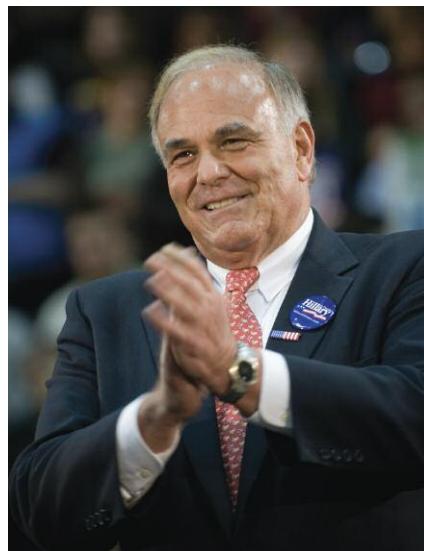
The same process is playing out across the country. In 2005, Virginia enacted a similar statute, and by 2006, a state task force determined that several of the promulgated regulations were "unworkable." Additionally, training staff members to adhere to these new regulations was proving to be difficult. Many residents did not have access to AL facilities.

Despite these growing pains, only 1 year into its existence, the law appeared to be well on its way to being a success. Of 11 proposed regulations, 3 were fully implemented (unannounced license renewal visits, all staff members are 18 and literate, and the fire marshal has authority to inspect the premises), 5 were partially implemented, and 3 were not yet implemented. On July 1, 2008, all promulgated regulations must be fully implemented in Virginia.⁴ Even then, it will be difficult to establish whether this new law is a success.

The LTC industry is evolving and growing as the nation's largest generations grow older. As we can see by the examples of Virginia and Pennsylvania, the legislators are rushing to keep up with this

change. However, while the outline is in place and the agendas laid out, it will be a time before the laws make a discernable difference. As the regulations are written, debated, rewritten, and put into effect, it will take even longer to determine their impact.

ALC



Pennsylvania Governor Edward G. Rendell

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References

1. PHCA applauds enactment of 'assisted living' legislation. Long Term Care Provider Web site. www.longtermcareprovider.com/content/news/article.asp?DocID=%7B409AC5F1-92AF-456C-8357-A43D30807014%7D&Bucket=Current+Headlines&VNETCOOKIE=NO. August 23, 2007. Accessed March 18, 2008.
2. Senate Aging and Youth Committee. Summary Senate Bill 704 PN 802. Senator Vance Web site. www.senatorvance.com/aging/061907/SB704.pdf. Accessed March 18, 2008.
3. The General Assembly of Pennsylvania. Senate Bill 704. Legislature of Pennsylvania Web site. www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2007&sessInd=0&billBody=S&billTyp=B&billNbr=0704&pnn=1272. July 1, 2007. Accessed March 18, 2008.
4. Joint Legislative Audit and Review Commission. Impact of Assisted Living Regulations. Commission Briefing. Joint Legislative Audit and Review Commission of the Virginia General Assembly Web site. <http://jlarc.state.va.us/Meetings/June06/ALFBrf.pdf>. June 12, 2006. Accessed March 18, 2008.