



**pennsylvania**

DEPARTMENT OF PUBLIC WELFARE

**Office of Administration**

**Bureau of Human Services Licensing**

**Licensing Reference Manual**

For

**Personal Care Home, Assisted Living,  
Child Residential,  
Intellectual Disabilities, and Mental  
Health Service Providers**

**Issue Date: September 1, 2013**

# **Introduction**

## **What is this guide, and why do I need it?**

On July 1, 2012, the Department of Public Welfare (Department) consolidated licensing and inspection functions into a single Bureau of Human Services Licensing. By consolidating licensing functions, the Department seeks to increase efficiency by eliminating duplicative administrative structures, and to improve its regulatory protection of vulnerable populations. The Department recognizes that human service licensing is a professional discipline, and that a single, consolidated licensing bureau can provide the highest level of professional development and support for inspectors, and thereby, provide better health, safety and rights protections for people served in licensed settings. In addition, the merger will provide better, more consistent across-the-board decision-making for regulatory application, interpretation and enforcement, particularly for those human services providers who serve multiple populations.

As is the case with any reorganization, the complete transition of all administrative functions from one program area to another must be done gradually and judiciously to ensure the least possible disruption in services. This guide is meant to help providers of child residential and day treatment facilities, adult training facilities, vocational rehabilitation settings, community homes for persons with intellectual disabilities, family living homes, and mental health facilities understand how to communicate with the Bureau of Human Services Licensing as we move forward in our partnership.

Please be advised that the Bureau of Human Services Licensing is a "pure licensing" agency, and as such is concerned solely with protecting the health, safety, and welfare of vulnerable persons by enforcing regulations exactly as they are written. While some of the methods described in this guide may appear to be duplicative or redundant, they are meant in part to benefit providers by clearly distinguishing health and safety requirements from fiscal or programmatic ones.

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## Contacting the Bureau of Human Services Licensing

Nearly all of the licensing-related information providers will need from BHSL can be accessed on our website, located at:

<http://www.dhs.pa.gov/provider/longtermcareservices/index.htm>

Providers may also call BHSL for clarification or assistance. BHSL recommends that providers contact BHSL Headquarters for all general information relating to child residential, intellectual disabilities, and mental health licensing. For information relating to a specific inspection, providers should contact the appropriate regional office. However, any provider may call any number about any matter and will be directed to the appropriate responder.

### **BHSL Headquarters**

#### **Traditional Mailing Address:**

BHSL  
Room 631 Health and Welfare Building  
625 Forster Street  
Harrisburg, Pennsylvania 17120  
By facsimile: 717-783-5662

#### **E-mail Address:**

[ra-pwarlheadquarters@pa.gov](mailto:ra-pwarlheadquarters@pa.gov).

#### **BHSL Operator Support Hotline:**

1-866-503-3926

#### **Director's Office:**

Matthew Jones  
Telephone: 717-772-4982  
E-Mail: [matjones@pa.gov](mailto:matjones@pa.gov)

### **BHSL Regional Offices**

#### **Central Regional Office**

Neil Cody, Licensing Director  
Address: 555 Walnut Street - 6th Floor,  
Harrisburg, PA 17120  
Telephone Number: 717-772-4673  
Toll-Free Number: 1-800-882-1885  
Fax Number: 717-783-3956  
Email: [ra-pwarlcentral@pa.gov](mailto:ra-pwarlcentral@pa.gov)

#### **Northeast Regional Office**

Bob Bisignani, Licensing Director  
Address: 330 Scranton State Office Building,  
100 Lackawanna Avenue, Scranton, PA,  
18503-1923  
Telephone Number: 570-963-3209  
Toll-Free Number: 1-800-833-5095  
Fax Number: 570-963-3018  
Email: [ra-pwarlnortheast@pa.gov](mailto:ra-pwarlnortheast@pa.gov)

<p align="center"><b>Southeast Regional Office</b></p> <p>Sandi Wooters, Acting Licensing Director  Address: 1001 Sterigere Street, Norristown State Hospital Building #2, Room 161, Norristown, PA 19401  Telephone Number: 610-270-1137  Toll-Free Number: 1-866-711-4115  Fax Number: 610-270-1147  Email: <a href="mailto:ra-pwarlsoutheast@pa.gov">ra-pwarlsoutheast@pa.gov</a></p>	<p align="center"><b>Western Regional Office</b></p> <p>Maria Stepanovich, Acting Licensing Director  Address: 11 Stanwix Street, Room 230, Pittsburgh, PA 15222  Telephone Number: 412-565-5614  OR 412-565-5616  Toll-Free Number: 1-888-464-6378 OR  1-888-322-3664  Fax Number: 412-565-2840 OR  412-565-5633  Email: <a href="mailto:ra-pwarlwest@pa.gov">ra-pwarlwest@pa.gov</a></p>
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Although BHSL operates four regional offices, the counties that make up a “region” vary by licensing type. The table below shows which regional office to contact based on county and license type.

<b>County</b>	<b>Adult Residential Licensing</b>	<b>Child Residential Licensing</b>	<b>Intellectual Disabilities Licensing</b>	<b>Mental Health Licensing</b>
ADAMS	Central	Central	Central	Central
ALLEGHENY	Western	Western	Western	Western
ARMSTRONG	Western	Western	Western	Western
BEAVER	Western	Western	Western	Western
BEDFORD	Central	Central	Central	Central
BERKS	Northeast	Northeast	Northeast	Northeast
BLAIR	Central	Central	Central	Central
BRADFORD	Northeast	Northeast	Northeast	Northeast
BUCKS	Southeast	Southeast	Southeast	Southeast
BUTLER	Western	Western	Western	Western
CAMBRIA	Central	Central	Central	Central
CAMERON	Northeast	Western	Western	Western
CARBON	Northeast	Northeast	Northeast	Northeast
CENTRE	Northeast	Central	Central	Central
CHESTER	Central	Southeast	Southeast	Southeast
CLARION	Western	Western	Western	Western
CLEARFIELD	Western	Western	Western	Western
CLINTON	Northeast	Central	Central	Central
COLUMBIA	Northeast	Central	Central	Central
CRAWFORD	Western	Western	Western	Western
CUMBERLAND	Central	Central	Western	Central
DAUPHIN	Central	Central	Central	Central
DELAWARE	Southeast	Southeast	Southeast	Southeast
ELK	Western	Western	Western	Western
ERIE	Western	Western	Western	Western
FAYETTE	Western	Western	Western	Western
FOREST	Western	Western	Western	Western
FRANKLIN	Central	Central	Central	Central

<b>County</b>	<b>Adult Residential Licensing</b>	<b>Child Residential Licensing</b>	<b>Intellectual Disabilities Licensing</b>	<b>Mental Health Licensing</b>
FULTON	Central	Central	Central	Central
GREENE	Western	Western	Western	Western
HUNTINGDON	Central	Central	Central	Central
INDIANA	Western	Western	Western	Western
JEFFERSON	Western	Western	Western	Western
JUNIATA	Central	Central	Central	Central
LACKAWANNA	Northeast	Northeast	Northeast	Northeast
LANCASTER	Central	Central	Central	Central
LAWRENCE	Western	Western	Western	Western
LEBANON	Central	Central	Central	Central
LEHIGH	Northeast	Northeast	Northeast	Northeast
LUZERNE	Northeast	Northeast	Northeast	Northeast
LYCOMING	Northeast	Central	Central	Central
MCKEAN	Western	Western	Western	Western
MERCER	Western	Western	Western	Western
MIFFLIN	Central	Central	Central	Central
MONROE	Northeast	Northeast	Northeast	Northeast
MONTGOMERY	Southeast	Southeast	Southeast	Southeast
MONTOUR	Northeast	Central	Central	Central
NORTHAMPTON	Northeast	Northeast	Northeast	Northeast
NORTHUMBERLAND	Northeast	Central	Central	Central
PERRY	Central	Central	Central	Central
PHILADELPHIA	Southeast	Southeast	Southeast	Southeast
PIKE	Northeast	Northeast	Northeast	Northeast
POTTER	Northeast	Western	Western	Western
SCHUYLKILL	Northeast	Northeast	Northeast	Northeast
SNYDER	Northeast	Central	Central	Central
SOMERSET	Western	Central	Central	Central
SULLIVAN	Northeast	Northeast	Northeast	Northeast
SUSQUEHANNA	Northeast	Northeast	Northeast	Northeast
TIOGA	Northeast	Northeast	Northeast	Northeast
UNION	Northeast	Central	Central	Central
VENANGO	Western	Western	Western	Western
WARREN	Western	Western	Western	Western
WASHINGTON	Western	Western	Western	Western
WAYNE	Northeast	Northeast	Northeast	Northeast
WESTMORELAND	Western	Western	Western	Western
WYOMING	Northeast	Northeast	Northeast	Northeast
YORK	Central	Central	Central	Central

# Reportable Incident Process for Human Services Providers

## Purpose

Each chapter of licensing regulations administered by BHSL includes a requirement to report specific incidents to BHSL. Some service providers are subject to additional reporting requirements for programmatic or fiscal reasons. This section explains BHSL's expectations for incident reporting, and establishes guidelines that limit reporting of incidents that do not have a direct impact on the health and safety of persons receiving care.

## Policy

It is the policy of BHSL to require operators to report only those incidents specifically required by regulation to BHSL in a manner consistent with the guidelines established in this document. Nothing in this document applies to, amends, or truncates programmatic or fiscal reporting requirements.

## Reporting Requirements

Appendices A-F list the regulatory reporting requirements for each type of child residential, intellectual disability, and mental health setting that are regulated by BHSL. Incidents that appear in the appendices must be reported to BHSL as described below. Incidents that do not appear in the appendices do not need to be reported to BHSL.

## Procedure – Incidents Submitted via the Home and Community Services Information System (HCSIS)

Following an incident, and within the timeframes established by regulation, service providers who report incidents via HCSIS should:

1. Enter the incident in HCSIS, making note of the Incident ID Number generated by the system.
2. Review the appropriate appendix to determine if the incident must be reported to BHSL.
  - a. If the incident must be reported to BHSL, the provider will send an email to [ra-pwarlheadquarters@pa.gov](mailto:ra-pwarlheadquarters@pa.gov). The subject line will be the HCSIS-generated Incident ID Number. No other information is required.
3. In the event that HCSIS is unavailable, service providers will follow the procedures for incidents submitted by mail, facsimile, or e-mail. Intellectual disability services providers may use the "Incident Management Contingency Plan" procedures set forth in Appendix J of the Office of Developmental Programs Incident Management Statement of Policy, provided that the Incident Management Contingency Form is also transmitted to BHSL as described below.

Please note that failure to email HCSIS ID Numbers to BHSL will not result in a regulatory violation. Providers are only required to submit the incident via the HCSIS system. BHSL requests that providers email the HCSIS ID Numbers to BHSL for operational efficiency.

### Procedure – Incidents Submitted by Mail, Facsimile, or Email

Following an incident, and within the timeframes established by regulation, service providers who report incidents via mail, facsimile, or email will:

1. Review the appropriate appendix to determine if the incident must be reported to BHSL.
2. Complete the BHSL Incident Report Form attached as Appendix H.
3. Transmit the completed form to BHSL Headquarters.
  - a. By mail:  
BHSL  
Room 631 Health and Welfare Building  
625 Forster Street  
Harrisburg, Pennsylvania 17120
  - b. By facsimile: 717-783-5662
  - c. By email: [ra-pwarlheadquarters@pa.gov](mailto:ra-pwarlheadquarters@pa.gov).

Chapter 5310 requires service providers to have a written agreement with the County Mental Health/Intellectual Disabilities program that will indicate the procedure for reporting<sup>1</sup>. Chapter 5320 requires service providers to report to the county administrator<sup>2</sup>.

If the county requires a service provider to report in HCSIS, BHSL is requesting that the service provider send an email to [ra-pwarlheadquarters@pa.gov](mailto:ra-pwarlheadquarters@pa.gov) with a subject line that includes the HCSIS-generated Incident ID Number. No other information is required.

Pursuant to 55 Pa.Code § 5310.37 and 5310.127, providers must report the closure of a CRR to the Department within 30 days of the intended closure date. This applies to both agencies (i.e. the closure of the program and all satellite locations) or the closure of a single satellite location.

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<sup>1</sup> § 5310.39(c)(3), § 5310.63

<sup>2</sup> § 5320.22(15)

## List of Appendices

- A. Reporting Requirements for Adult Training Facilities (Chapter 2380)
- B. Reporting Requirements for Vocational Facilities (Chapter 2390)
- C. Reporting Requirements for Child Residential and Day Treatment Facilities (Chapter 3800)
- D. Reporting Requirements for Community Homes for Individuals with Mental Retardation (Chapter 6400)
- E. Reporting Requirements for Family Living Homes (Chapter 6500)
- F. List of serious communicable diseases, as defined in 28 Pa. Code § 27.2 (relating to specific identified reportable diseases, infections and conditions)

BHSL Incident Reporting Form

## APPENDIX A – Reporting Requirements for Adult Training Facilities (Chapter 2380)

1. Abuse or suspected abuse of an individual.
2. Injury, trauma or illness requiring inpatient hospitalization, that occurs while the individual is at the facility or under the supervision of the facility.
3. A suicide attempt by an individual.
4. A violation or alleged violation of an individual's rights.
5. An individual whose absence is unaccounted for, and is therefore presumed to be at risk.
  - a. Clarification -Whether or not an individual is "presumed to be at risk" depends on the individual's assessed need for supervision<sup>3</sup> and protocol for direct supervision as specified in the ISP<sup>4</sup>.
6. The misuse or alleged misuse of an individual's funds or property.
  - a. Clarification - Misuse of an individual's funds or property constitutes financial exploitation, a form of abuse. As such, incidents of this type should be reported as (1) Abuse.
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) to the extent that confidentiality laws permit reporting.
8. An incident requiring the services of a fire department or law enforcement agency.
  - a. Clarification- This does not include:
    - i. Calls to an ambulance/EMS
    - ii. A police response to a 302 involuntary commitment proceeding.
    - iii. Police response to an EMS call.
9. A condition, except for snow or ice conditions, that results in closure of the facility for more than 1 scheduled day of operation.
10. The death of an individual that occurs at the facility or while under the supervision of the facility.

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<sup>3</sup> § 2380.181(e)(4)

<sup>4</sup> § 2380.183(4)

## APPENDIX B – Reporting Requirements for Vocational Facilities (Chapter 2390)

1. Death of a client.
2. Injury or illness of a client requiring inpatient hospitalization.
3. Fire requiring the services of a fire department.

Clarification – While BHSL strongly recommends reporting any incident where the fire department responds to the facility, only actual fires are *required* to be reported.

## APPENDIX C – Reporting Requirements for Child Residential and Day Treatment Facilities (Chapter 3800)

1. A death of a child.
2. A physical act by a child to commit suicide.
3. An injury, trauma or illness of a child requiring inpatient treatment at a hospital.
4. A serious injury or trauma of a child requiring outpatient treatment at a hospital, not to include minor injuries such as sprains or cuts.
  - a. Clarification – “Serious bodily injury or trauma” is such that the individual experienced extreme physical pain; protracted loss or impairment of the function of a limb, organ, or mental faculty; protracted unconsciousness; or significant or substantial internal damage (such as broken bones). Only injuries of this type need to be reported.
5. A violation of a child’s rights.
6. Intimate sexual contact between children, consensual or otherwise.
7. A child absence from the premises for 4 hours or more without the approval of staff persons, or for 30 minutes or more without the approval of staff persons if the child may be in immediate jeopardy.
8. Abuse or misuse of a child’s funds.
  - a. Clarification – Abuse or misuse of a child’s funds or property constitutes financial exploitation, a form of abuse. As such, incidents of this type should be reported as abuse.
9. An outbreak of a serious communicable disease as defined in 28 Pa. Code § 27.2 (relating to specific identified reportable diseases, infections and conditions).
10. An incident requiring the services of the fire or police departments.
  - a. Clarification- This does not include:
    - i. Calls to an ambulance/EMS
    - ii. A police response to a 302 involuntary commitment proceeding.
    - iii. Police response to an EMS call.
11. Any condition which results in closure of the facility.

## APPENDIX D – Reporting Requirements for Community Homes for Individuals with Mental Retardation (Chapter 6400)

1. Abuse or suspected abuse of an individual.
2. Injury, trauma or illness requiring inpatient hospitalization.
3. A suicide attempt by an individual.
4. A violation or alleged violation of an individual's rights.
5. An individual who is missing for more than 24 hours or who could be in jeopardy if missing at all.
  - a. Clarification -Whether an individual "could be in jeopardy if missing at all" depends on the individual's assessed need for supervision<sup>5</sup> and protocol for direct supervision as specified in the ISP<sup>6</sup>.
6. The misuse or alleged misuse of an individual's funds or property.
  - a. Clarification - Misuse of an individual's funds or property constitutes financial exploitation, a form of abuse. As such, incidents of this type should be reported as (1) Abuse.
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) to the extent that confidentiality laws permit reporting.
8. An incident requiring the services of a fire department or law enforcement agency.
  - a. Clarification- This does not include:
    - i. Calls to an ambulance/EMS
    - ii. A police response to a 302 involuntary commitment proceeding.
    - iii. Police response to an EMS call.
9. Any condition that results in closure of the facility for more than 1 scheduled day of operation.
10. The death of an individual.

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<sup>5</sup> § 6400.181(e)(4)

<sup>6</sup> § 6400.183(4)

## APPENDIX E – Reporting Requirements for Family Living Homes (Chapter 6500)

1. Abuse or suspected abuse of an individual.
2. Injury, trauma or illness requiring inpatient hospitalization.
3. A suicide attempt by an individual.
4. A violation or alleged violation of an individual's rights.
5. An individual who is missing for more than 24 hours or who could be in jeopardy if missing at all.
  - a. Clarification -Whether an individual "could be in jeopardy if missing at all" depends on the individual's assessed need for supervision<sup>7</sup> and protocol for direct supervision as specified in the ISP<sup>8</sup>.
6. The misuse or alleged misuse of an individual's funds or property.
  - a. Clarification - Misuse of an individual's funds or property constitutes financial exploitation, a form of abuse. As such, incidents of this type should be reported as (1) Abuse.
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) to the extent that confidentiality laws permit reporting.
8. An incident requiring the services of a fire department or law enforcement agency.
  - a. Clarification- This does not include:
    - i. Calls to an ambulance/EMS
    - ii. A police response to a 302 involuntary commitment proceeding.
    - iii. Police response to an EMS call.
9. The death of an individual.

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<sup>7</sup> § 6500.151(e)(4)

<sup>8</sup> § 6500.153(4)

## Appendix F:

### List of serious communicable diseases, as defined in 28 Pa. Code § 27.2 (relating to specific identified reportable diseases, infections and conditions)

The following diseases, infections and conditions are reportable within 24 hours after being identified by symptoms, appearance or diagnosis:

Animal bite.	Hemorrhagic fever.
Anthrax.	Lead poisoning.
Arboviruses.	Legionellosis.
Botulism.	Measles (rubella).
Cholera.	Meningococcal invasive disease.
Diphtheria.	Plague.
Enterohemorrhagic E. coli.	Poliomyelitis.
Food poisoning outbreak.	Rabies.
Haemophilus influenzae invasive disease	Smallpox.
Hantavirus pulmonary syndrome	Typhoid fever

The following diseases, infections and conditions are reportable within 5 working days after being identified by symptoms, appearance or diagnosis:

AIDS.  
Amebiasis.  
Brucellosis.  
CD4 T-lymphocyte test result with a count of less than 200 cells/ $\mu$ L or a CD4 T-lymphocyte percentage of less than 14% of total lymphocytes (effective October 18, 2002).  
Campylobacteriosis.  
Cancer.  
Chancroid.  
Chickenpox (varicella) (effective January 26, 2005).  
Chlamydia trachomatis infections.  
Creutzfeldt-Jakob Disease.  
Cryptosporidiosis.  
Encephalitis.  
Giardiasis.  
Gonococcal infections.  
Granuloma inguinale.  
Guillain-Barre syndrome.  
HIV (Human Immunodeficiency Virus) (effective October 18, 2002).  
Hepatitis, viral, acute and chronic cases.  
Histoplasmosis.  
Influenza.  
Leprosy (Hansen's disease).  
Leptospirosis.  
Listeriosis.

Lyme disease.  
Lymphogranuloma venereum.  
Malaria.  
Meningitis (All types not caused by invasive Haemophilus influenza or Neisseria meningitis).  
Mumps.  
Pertussis (whooping cough).  
Psittacosis (ornithosis).  
Rickettsial diseases.  
Rubella (German measles) and congenital rubella syndrome.  
Salmonellosis.  
Shigellosis.  
Staphylococcus aureus, Vancomycin-resistant (or intermediate) invasive disease.  
Streptococcal invasive disease (group A).  
Streptococcus pneumoniae, drug-resistant invasive disease.  
Syphilis (all stages).  
Tetanus.  
Toxic shock syndrome.  
Toxoplasmosis.  
Trichinosis.  
Tuberculosis, suspected or confirmed active disease.  
Tularemia.

28 Pa.Code § 27.21 specifies the Pennsylvania Department of Health reporting procedures for communicable and non-communicable disease.

- 🌐 Reporting of these diseases and conditions is required only if there is a written diagnosis by a physician and only if the initial diagnosis occurred after the resident moved into the home.
- 🌐 Reporting of cancer is required only if the cancer was diagnosed by a physician after the resident was admitted to a residential setting and if there are more than two cases of the same type of cancer diagnosed within the past year. It is important to look for any environmental causes of cancer and contact health authorities and/or DEP.
- 🌐 An outbreak of MRSA is not required to be reported as per the Department of Health's list of reportable diseases; therefore, MRSA cases or outbreaks are not required to be reported to the Department.

If it is suspected that there is a risk to the health and safety of other residents due to an outbreak of a reportable disease, the regional licensing inspector should consult with their supervisor. The supervisor should immediately contact the local health department and report the incident. The inspector should remind the provider to follow universal precautions as well as any instructions provided by the local health department. If the local health department cannot be reached, the supervisor should contact the State Department of Health, Division of Infectious Disease Epidemiology at: (717) 787-3350.

HIPAA (Health Insurance Portability and Accountability Act) does not preclude the home from sending these reports related to the health or condition of an individual resident, including a death certificate, to the Department. As a state licensing (oversight) agency, the Department is permitted free and full access to resident information.

## Bureau of Human Services Licensing Incident Reporting Form

<b>Regulatory Chapter (Circle)</b>	2380	2390	2600	2800	3800	5310	5320	6400	6500
<b>Licensed Setting Name:</b>									
<b>Street Address:</b>									
<b>License Number OR Master Provider Index Number:</b>									

<b>Date Of Incident:</b>		<b>Incident Number:</b> <i>(Example list the number of the incident as it appears in the applicable regulatory chapter)</i>
<b>Time of Incident:</b>		
<b>If Reporting Resident Abuse, Check Here if Resident is Under 60:</b> <input type="checkbox"/>		

**Persons Involved:**

Name (Last, First)	Person's Role in Incident <i>(Example: Resident, Staff Person, Responding Officer, etc.)</i>

**Description of Incident (Attach Additional Pages as Necessary):**

*Please provide as much detail as possible about the incident, including what happened, where it happened, when it happened, the licensed setting's response, etc.)*

## Requesting a Regulatory Waiver

### Purpose

It is sometimes necessary to waive certain regulatory requirements in order to better meet the needs of persons in care. This section explains how to request regulatory waivers.

### Policy

For all licensed human service settings overseen by the Bureau of Human Services Licensing, a request for a regulatory waiver must be completed on the Department's "Request for Waiver of Regulation" form, a copy of which appears below.

The Department's "Request for Waiver of Regulation" form must be completed in its entirety, including all information requested on the form, and submitted to the Department's Human Services Licensing Headquarters Office for review.

A decision is made within 60 calendar days to grant the waiver request, deny the waiver request, or ask for more information related to the waiver request. It may also be determined that a regulatory waiver is not needed. Written correspondence will be issued to the human service setting requesting the waiver.

### Procedure – Requesting Regulatory Waivers

For all licensed human service settings overseen by the Bureau of Human Services Licensing, a request for a regulatory waiver must be completed on the Department's "Request for Waiver of Regulation" form.

The following information must be included on the human service setting's "Request for Waiver of Regulation" form:

- a) The address of the human service setting and legal entity, including the names of the human service setting and legal entity.
- b) The name of the administrator, director, or chief executive officer (CEO) of the human service setting. This person will serve as the point of contact for the processing of the waiver.
- c) The human service setting's county, license number and capacity, as well as which set of regulations are applicable to the setting.
- d) The date of the waiver request, including if the waiver request is for a new waiver, or if it is for a renewal of a current waiver.

- e) The section title of the regulation (regulation heading), as well as the regulation section and/or subsection of the regulation for which the human service setting is seeking a waiver.
  - f) Information regarding the reason why the human service setting is requesting the specific regulatory waiver, including:
    - i) Why, if the waiver is granted, there will be no jeopardy to the residents/children/individuals residing in the human service setting.
    - ii) Alternatives for providing an equivalent level of health, safety and well-being protection of the residents/children/individuals residing in the human service setting.
    - iii) An explanation as to how one or more residents/children/individuals residing in the human service setting will benefit from this waiver of regulation.
  - g) The date that the waiver request was submitted and information was provided to the affected residents/children/individuals residing in the human service setting for review and comment.
  - h) Human service setting-specific information, such as identifying waivers which have already been granted, including the regulation, section, and subsection. Each human service setting also has to notate which region of Pennsylvania the setting is located in.
- 2) All regulatory waiver requests must be sent to BHSL Headquarters.
- 3) A decision will be made within 60 calendar days to grant the waiver request, deny the waiver request, or ask for more information related to the waiver request. It may also be determined that a regulatory waiver is not needed.
- a) For granted waivers, a letter will be issued to the human service setting notating the regulation for which a waiver is granted, the conditions of the waiver, and the time length of the waiver.
  - b) For denied waivers, a letter will be issued to the human service setting including an explanation as to why the waiver request was denied, and also including a statement that the human service setting has the right to appeal the decision through the Department of Public Welfare, Bureau of Hearings and Appeals.
  - c) For waivers requiring more information, a letter will be issued to the human service setting listing the specific information which is needed in order to effectively process the waiver request. The human service setting will then be responsible for providing the requested information; once this information is received by the Department, a thorough review of the documentation will occur. A written response to the human service setting will be provided regarding the Department's review.
  - d) If it is determined that a waiver is not needed, a letter will be issued to the human service setting explaining why a regulatory waiver is not needed for what the setting is requesting.

## REQUEST FOR WAIVER OF REGULATION

NAME OF LEGAL ENTITY:	NAME OF ADMINISTRATOR/DIRECTOR/CEO:
ADDRESS OF LEGAL ENTITY:	COUNTY:
NAME OF FACILITY (if different from Legal Entity):	LICENSE or MPI #
ADDRESS OF FACILITY (if different from Legal Entity):	LICENSED CAPACITY
REGULATIONS WHICH APPLY TO YOUR FACILITY (55 Pa.Code Chapter):	
<input type="checkbox"/> 2380 <input type="checkbox"/> 2390 <input type="checkbox"/> 2600 <input type="checkbox"/> 2800 <input type="checkbox"/> 3800 <input type="checkbox"/> 5310 <input type="checkbox"/> 5320 <input type="checkbox"/> 6400 <input type="checkbox"/> 6500 <input type="checkbox"/> 6600	
DATE OF WAIVER REQUEST	
<input type="checkbox"/> NEW WAIVER <input type="checkbox"/> RENEWAL OF WAIVER	
SECTION TITLE OF REGULATION (Regulation Heading):	
PENNSYLVANIA CODE SECTION/SUBSECTION NUMBER (Complete a separate form for each section/subsection/paragraph):	
DESCRIBE THE CONDITION FOR WHICH THE WAIVER IS SOUGHT*	
WHAT IS THE REASON FOR THIS REQUEST*	
EXPLAIN WHY THERE IS NO JEOPARDY TO THE RESIDENTS/CHILDREN/INDIVIDUALS IF THIS WAIVER IS GRANTED*	
WHAT IS THE ALTERNATIVE FOR PROVIDING AN EQUIVALENT LEVEL OF HEALTH, SAFETY AND WELL-BEING PROTECTION*	
EXPLAIN HOW ONE OR MORE RESIDENTS/CHILDREN/INDIVIDUALS WILL BENEFIT FROM THE WAIVER OF THIS REGULATION*	
DATE(S) THIS WAIVER REQUEST AND DEPARTMENT CONTACT INFORMATION WAS PROVIDED TO THE AFFECTED RESIDENTS/DESIGNATED PERSONS FOR REVIEW/COMMENT: (Attach copy of cover letter shared and all comments received)	
HAVE ANY OTHER WAIVERS BEEN GRANTED TO YOUR HOME UNDER YOUR APPLICABLE REGULATIONS? <input type="checkbox"/> YES <input type="checkbox"/> NO	SECTION(S) OR SUBSECTION(S) PREVIOUSLY WAIVED:  IS (ARE) WAIVER(S) STILL VALID? <input type="checkbox"/> YES <input type="checkbox"/> NO
REGION: <input type="checkbox"/> CENTRAL <input type="checkbox"/> NORTHEAST <input type="checkbox"/> SOUTHEAST <input type="checkbox"/> WEST	
* ATTACH ADDITIONAL PAGES IF NECESSARY	

## The BHSL Licensing Inspection Cycle

### Purpose

The licensing inspection cycle is the series of steps that lead to license renewal decisions. Each step (or "phase") of the inspection cycle includes actions and events that most occur before transition to the next phase can occur.

### The Phases of the Licensing Inspection Cycle

Each facility or agency licensed by the Department of Public Welfare (hereafter "setting") must be inspected at least once every 12 months<sup>9</sup>. This inspection is referred to as the "annual inspection" or "renewal inspection," and is typically seen as the sole basis for a license renewal decision. However, the annual inspection is only one event in one phase of the inspection cycle. Many other phases must occur before and after the annual inspection in order to make a license renewal decision. The phases of the licensing inspection cycle are:

1. *Application*, in which the provider applies to renew an existing license.
2. *License Issuance*, in which Licensing Administration issues a license based on provider's renewal application.
3. *Scheduling*, in which BHSL decides when the on-site inspection will be conducted.
4. *Pre-inspection*, in which BHSL collects information from the setting and measures compliance with as many regulations as possible based on the information.
5. *On-site inspection*, in which BHSL measures compliance with regulations at the setting.
6. *Licensing Inspection Summary*, a report in which BHSL develops and sends to the setting as a result of violations found during the inspection.
7. *Plan of Correction*, in which the setting produces a plan to permanently correct any regulatory violations found during the pre-inspection or on-site inspection phases, and BHSL approves the plan.
8. *Verification*, in which BHSL determines the degree to which a setting has completed its plan of correction.
9. *Recommendation*, in which BHSL considers the findings of phases 2 – 6, makes a recommendation for license renewal, and completes administrative review of the recommendation.

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<sup>9</sup> 55 Pa.Code § 20.2 (relating to applicability); § 20.31 (relating to annual inspection)

10. *Action*, in which BHSL enforces the recommendation and provides official notification to the setting of the action.

A setting's licensing inspection cycle begins with scheduling and ends with a licensing action. Once the action is taken, the cycle begins anew.

### **The Application Phase**

Licensed providers are required to reapply for licenses every year. Applications are received and reviewed by BHSL's Division of Licensing Administration. Applications must be complete, i.e. contain all of the required information and any applicable fees, before moving to the next phase.

### **The License Issuance Phase**

If the applicant currently holds a regular license, the Division of Licensing Administration produces a regular license effective for a period of one year from the date the current license expires and transmits the license to the provider.

### **The Scheduling Phase**

The process of scheduling annual inspections must be consistent both internally and externally. Internal consistency is necessary to ensure equitable distribution of work and travel to BHSL employees. External consistency is necessary to ensure that each setting is treated fairly and equitably.

### **The Pre-Inspection Phase**

With the exception of personal care homes and assisted living residences, each setting must be informed in advance of the date of the annual on-site inspection<sup>10</sup>. As a result, the scope of events in the pre-inspection phase is different for settings that are unaware of the date of the annual inspection and settings that are aware of the date of the annual inspection.

1. Review any documentation maintained in the setting's file that relates to known compliance<sup>11</sup>.
2. Review the findings from all inspections completed between the previous renewal inspection and the date of the review (such as complaint and incident investigations, monitoring inspections, etc.).

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<sup>10</sup> § 20.32 (relating to announced inspections). The exceptions for personal care and assisted living are set forth at 55 Pa.Code § 2600.11(a) (relating to procedural requirements for licensure or approval of personal care homes) and 55 Pa.Code § 2800.11(a) (relating to procedural requirements for licensure or approval of assisted living residences)

<sup>11</sup> "Known compliance" means static information about or produced by the setting that has been verified and approved by BHSL Headquarters.

3. Review all reportable incidents submitted by the setting since the last renewal inspection.
4. Determine whether the setting has any waivers of regulations.

When inspections are announced, it is possible to reduce the number of regulations that are measured on-site, allowing for a more detailed review of requirements that can only be measured through direct observation and (in smaller settings) a reduction in on-site inspection hours. Information obtained prior to the inspection can either establish compliance or noncompliance with a regulation or be used as a basis for an on-site inspection element (for example, a staff training plan provided prior to the inspection could be used as a basis for on-site interviews wherein actual attendance at the training is verified). Additionally, announced inspections offer BHSL the opportunity to provide technical assistance with regulatory compliance to the setting that may reduce regulatory violations identified prior to or during the on-site phase. Therefore, prior to announced inspections, BHSL may:

1. Request that the setting provide, via electronic or fax transmission:
  - a. Records maintained for regulatory compliance, such as fire drill logs or policies established by the setting.
  - b. The names, dates of birth, and service start date of the persons served by the setting.
  - c. The names and dates of hire of staff employed by the setting, and
  - d. Contact information for third-party sources<sup>12</sup> that provide services to the setting.
2. Review submitted material for compliance, if appropriate.
3. Generate a sample of persons served and staff persons employed by the setting to be used as the focus of the inspection (see "Sampling Methodology" below for information on generating resident and staff samples).a)

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<sup>12</sup> Third-party information is any information relating to actions or events performed for the purpose of maintaining regulatory compliance by an entity that is neither a licensed setting nor an agent of the licensing oversight agency. Examples include, but are not limited to: confirmation from primary care physicians that the licensed setting regularly schedules medical examinations for individuals or staff who require annual health assessments; records maintained by fire-safety experts verifying that supervised fire drills or required fire-safety inspections were completed at the setting; records from alarm companies showing that alarm systems are disabled to conduct fire drills; copies of invoices from furnace repair companies documenting regular maintenance, and so on. Reliance on third-party information offers administrative relief to the licensed setting with regard to storing and presenting documentation strictly for the purposes of demonstrating regulatory compliance, rebalances and reduces on-site inspection time by eliminating extensive document review by the line inspector, and provides greater assurance to the licensing oversight agency that documented actions were actually performed than is obtained through setting-generated documentation.

- a. 75% of the sample lists may be shared with the setting prior to the on-site phase so that the setting may prepare records that cannot be transmitted electronically for review during the on-site inspection. The remaining 25% of the sample lists should not be revealed to the setting prior to the on-site inspection.
  - b. Records that may reveal which sites will be sampled should not be requested prior to the inspection.
4. Review records maintained in the Department's Home and Community Services Information System (HCSIS) or Enterprise Data Warehouse (EDW) relating to the individuals served at the setting.
  5. Generate an inspection plan that will enable BHSL to verify information submitted in advance of the on-site phase during the on-site phase.
  6. Contact the setting and inform the operator of any potential regulatory violations identified through the pre-inspection process, and request that potential regulatory violations be corrected prior to the on-site phase.
  7. Begin a Licensing Inspection Summary (LIS).

### **The On-Site Inspection Phase**

The manner in which the on-site inspection phase is completed is determined by a number of factors, including but not limited to:

1. Whether the setting was provided with advance notice of the inspection date.
2. The number of materials obtained and reviewed during the pre-inspection phase.
3. The type of licensed setting being inspected.

### **Interaction with Recipients of Services**

Compliance with regulations that relate to individual rights, assistance with care, and participation in care planning should be measured in conjunction with the individuals themselves. Therefore, inspectors will meet with individuals in private or with a person with whom the individual is comfortable.

### **Observation of Individuals in Care**

When interacting with an individual, inspectors will observe whether the setting's record of the individual's care needs accurately corresponds with the individual's presentation. For example:

1. If a personal care home's record indicates that a resident does not have mobility needs, but the resident is unable to rise from his/her bed without assistance, then the accuracy of the home's records should be subjected to further evaluation.
2. If a community home's ISP reflects that an individual does not have any social or behavioral needs, but the individual demonstrates unusual or problematic behaviors during the interaction, then the inspector should consider whether the home has accurately assessed the individual's needs.
3. If a child residential setting documented that a parent participated in the development of an ISP, but the resident states that his/her parents did not participate, then the inspector should determine the nature of the discrepancy.

### **Administrator and Staff Interviews**

Inspectors will conduct interviews with the management, direct care, and ancillary staff who are responsible for the development and implementation of the sampled individuals' care plans.

### **Preparation of the Licensing Inspection Summary**

Preparing and transmitting the LIS to the setting is included in the On-site Inspection Phase. Preparation and transmission of the LIS includes:

1. Producing a first draft of the LIS.
2. Transmitting the first draft of the LIS to the first-line supervisor or regional director.
3. Review of the first draft of the LIS by the first-line supervisor or regional director.
4. Revisions to the first draft of the LIS following supervisory review, as appropriate.
5. Approval of the final LIS by supervisory reviewer.
6. Transmission of LIS to setting.

### **The Plan of Correction Phase**

In order for the Department to issue any license, settings must submit or agree to an acceptable plan of correction (POC). Each inspection, LIS, and POC is unique. The specific details of a violation of any individual regulation differ from setting to setting and from inspection to inspection. As a result, there is no single POC that can be universally applied to all situations. Nevertheless, developing an acceptable POC always includes the following steps:

1. Review the benefit(s) of the regulation - Compliance with a regulation is difficult if not impossible unless the home understands why the regulation was written in the first place. In some cases, the reason for the regulation is obvious – everyone knows why flammable materials shouldn't be stored next to heat sources –while in other cases the reason for the regulation may not be as clear (for example, personal care home residents must have a lamp at their bedsides to prevent falls when rising from bed in the middle of the night). If the reason or benefits of a regulation are unclear, settings should contact the Department's regional office or Operator Support Hotline for assistance.
2. Review the violation of the regulation - If the setting is writing a plan of correction, then that means the setting received an LIS. Before writing a plan of correction, settings should carefully review the Department's findings for Frequency, Seriousness, Potential of Recurrence, and Repeat Status.
  - a. Frequency means the number of actual events that led to the issuance of a violation. Were 50 individual's physical examinations past-due, or only one? Was the diagnosis or purpose of a medication missing from every Medication Administration Record, or only a small percentage? More events are typically indicative of the need for a detailed, targeted POC and a period of time to pass with no additional events of violation to ensure that the planned correction was successful.
  - b. Seriousness means the seriousness of the violation. For example, a setting may be in violation of § 3800.89 because the indoor temperature was 63°F (two degrees below the required minimum) on a hot July day (less serious), or because the indoor temperature was 30°F during a winter snowstorm (more serious). The greater the severity of the violation, the more steps the setting must take to demonstrate full compliance.
  - c. Potential for recurrence means the likelihood that the circumstances resulting in a violation will occur. For example, if a setting is missing a grab bar in a single toilet area and subsequently installs the bar (and checks every other toilet area to ensure that bars are present), then the potential for recurrence of that violation is low. Conversely, a setting with a medication violation that administers multiple medications to numerous residents several times per day presents a high potential for recurrence. POC detail and length of time required to demonstrate compliance increase as the potential for recurrence increases.
  - d. Repeat status means whether a violation of the same regulation was previously found. Repeated violations will require more detailed POCs and may require more time to elapse before full compliance can be determined.

3. Fix the immediate problem - The LIS will always cite a specific problem, such as a broken chair or water that is too hot. The first step towards compliance is fixing exactly what the Department found. Unfortunately, many settings stop there, which prevents the Department from accepting the plan.
4. Determine the root cause of the violation - If the Department found that the water in a bathroom area was too hot, the setting will of course adjust the settings on the hot water heater - *but settings must determine why the settings were too high in the first place to prevent the problem from happening again*. This process is called a "root cause analysis." Was the water too hot because the maintenance person does not know the maximum allowable temperature, or because a repair person accidentally changed the setting while performing routine maintenance? The importance of this step cannot be understated.
5. Prevent future occurrences - Once settings understand what caused the problem, they can develop a long-term plan that includes changing practice, teaching, and ongoing monitoring.
  - a. Changing practice means developing a new way to do business without violating a regulation. If the water was too hot because the water heater was malfunctioning and the heater was replaced to fix the immediate problem, the new hot water heater needs to be regularly checked to ensure that it is functioning properly in order for the home to avoid future violations.
  - b. Teaching means making sure that everyone involved with regulatory compliance is aware of their roles and responsibilities, especially if the setting's business practice has changed. Teaching will primarily involve staff, but persons in care may need to be instructed about changes as well. For example, if individuals were observed smoking near a common entrance to a setting, individuals who smoke will need to be reminded or otherwise encouraged to smoke in the designated smoking area.
  - c. Ongoing monitoring means verifying that the setting is in compliance with both the regulation and the new business practice created to maintain compliance. Ongoing monitoring may need to be completed for a limited period of time or for the duration of the setting's operation depending on the specific violation.
6. Designate responsibility and specific target dates for correction – It is critical that a specific person or persons be accountable for compliance. A general promise that water temperature will be monitored will not be effective – someone must be responsible for doing the monitoring, and must be rewarded or reprimanded based on the quality of his/her job performance. Moreover, specific dates by which cor-

rection tasks will be completed are required in order to effectively monitor plan completion and, ultimately, determine full compliance.

### **Can settings dispute a finding on the LIS?**

Settings may document disagreement with a finding, and/or may document that providing a plan does not constitute admission that the listed violation is accurate. However, settings must provide a plan to correct each violation in addition to any statement(s) disputing the report's findings. Remember, the Department may not issue any kind of license without a plan of correction. Some settings have expressed concern that the Department will use the plan provided as evidence that the violation existed – in other words, that providing a plan is an “admission of guilt.” The Department cannot do this, since the law requires settings to produce a plan.

### **The Verification Phase**

During the verification phase, the Department reviews the degree of POC compliance the setting has achieved for each violation. This review determines in large part what kind of license the Department will issue – a regular license, a provisional license, or no license at all. When a setting submits a POC, the setting should assume that the POC is acceptable and begin implementing the plan. Meanwhile, each POC is reviewed by the Department to determine if it is acceptable. If the plan is significantly unacceptable for one or more regulations, the Department will contact the setting by phone or letter to inform the setting of the unacceptable plan. “Significantly unacceptable” means that the plan is fundamentally flawed; in some cases, the Department will partially amend a POC without contacting the setting. In these cases, compliance, or noncompliance with the amendments are not used in the final licensing decision. There are four possible degrees of POC compliance status identified during the Department's review:

1. Fully Implemented - The setting has completed the POC steps in their entirety. This does not necessarily mean that all “ongoing monitoring” has been completed – indeed, permanent monitoring by definition cannot be “complete.” Instead, this means that a monitoring plan has been established and tested such that full compliance is probable.
2. Partially Implemented, Adequate Progress - The setting has not completed all of the POC steps, but has done enough to demonstrate that eventual achievement of full compliance is probable.
3. Partially Implemented, Inadequate Progress - The setting has completed some of the POC steps, but has not done enough to demonstrate that eventual achievement of full compliance is probable.

4. Not Implemented - The setting has not completed any of the POC steps.

When an LIS is transmitted to the setting, the setting is informed by the letter accompanying the report to submit evidence of compliance with the plan along with the POC. The more evidence a setting submits, the easier it will be to determine compliance and issue a license. Examples of evidence include:

1. Documentation produced by the setting. This evidence type includes new written policies, sign-in sheets showing attendance at staff trainings, residents' assessments and support plans, maintenance logs, and any other internal documents.
2. Documentation produced by an external source. This evidence type is extremely reliable, as it is generated by impartial third parties. Examples include bills and invoices for equipment, materials, or labor; written statements or letters from professionals who participated in the plan's implementation (such as fire-safety experts or outside training sources); and documents confirming future appointments (such as medical appointments or on-site repair work).
3. Photographic and video evidence. Pictures and videos are good sources of evidence that the setting has made repairs or improvements to the physical site and grounds.

Some kinds of evidence are not useful to demonstrate compliance. Evidence that is not useful includes:

1. Statements of support from residents, family members, or public officials. While feedback from the community may be valuable to the setting, it does not serve as evidence of regulatory compliance.
2. Promises to comply. Written statements from the setting where a promise is made to comply with the regulation is not factual evidence.
3. The plan of correction alone. Some settings believe that submitting a plan to correct violations is sufficient to demonstrate compliance. This is not the case. Following the plan leads to compliance, so evidence of following the plan is required.

## The Recommendation Phase

When there has been *substantial but not complete* compliance with the regulations and when a setting has taken steps to correct violations, the Department is required to issue a provisional license<sup>13</sup>. Furthermore, the courts have continuously upheld that one regulatory violation is sufficient to take licensing enforcement action<sup>14</sup>. To establish full, substantial, or no compliance for the purposes of recommending and issuing a license, BHSL will during the recommendation phase:

1. Review the compliance status of each regulation cited on the LIS.
2. Compare the plans of corrections where inadequate or no compliance has been achieved to the frequency, seriousness, potential for recurrence, and repeat status of the cited regulatory violation.
3. Consider extenuating or unusual circumstances unique to the licensed setting and/or the inspection cycle.
4. Make a preliminary recommendation for a regular license, provisional license, license revocation, or license nonrenewal.
5. Complete the following administrative review process:
  - a. Initial recommendation by first-line supervisor.
  - b. First-level review of recommendation by the regional licensing director.
  - c. Second-level review by BHSL Headquarters
    - i. Recommendations for regular licenses will be reviewed by the BHSL Director of Regulatory Implementation and/or the BHSL Director of Operations.
    - ii. Recommendations for licensing enforcement actions will be reviewed by the BHSL Enforcement Manager and the BHSL Director.
6. If at any point during the administrative review process a reviewer questions the basis for recommendation, (s)he will communicate with previous reviewers until consensus is achieved.

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<sup>13</sup> 62 PS § 1008.

<sup>14</sup> Colonial Gardens Nursing Home v. Dep't of Health, 34 Pa. Cmwlth. 131, 382 A.2d 1273 (1978), Pine Haven v. Dep't of Pub. Welfare, 99 Pa. Cmwlth. 1, 5, 512 A.2d 59, 61 (1986); Arcurio v. Dep't of Pub. Welfare, 125 Pa. Cmwlth. 557, 565, 557 A.2d 1171, 1174 (1988); Colonial Manor v. Dep't of Pub. Welfare, 121 Pa. Cmwlth. 506, 519, 551 A.2d 347, 353 (1988), 1<sup>st</sup> Steps, 880 A.2d at 39, Altagarcia DePena Family Day Care Home v. Dep't of Pub. Welfare, 943 A.2d 353 (Pa. Commw. 2007).

## The Action Phase

Upon completion of phases 1 – 6 of the licensing inspection cycle, BHSL will:

1. Update licensing tracking systems.
2. Notify the provider as follows:
  - a. If the provider is on a regular license, the official version of the LIS will be transmitted to the provider. The license issued during the License Issuance Phase remains in effect.
  - b. If the recommendation is for licensing enforcement action, the license issued during the License Issuance Phase will be revoked, and a provisional license (or notice of license revocation) will be issued to the provider.
3. In the event of licensing enforcement action, notify stakeholders as appropriate. Stakeholders may include, but are not limited to:
  - a. Other program offices within the Department
  - b. Other state agencies
  - c. County social services agencies
  - d. Advocacy groups
  - e. Law enforcement