

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HUMAN SERVICES
BUREAU OF HUMAN SERVICES LICENSING
Assisted Living Residences (55 Pa.Code Chapter 2800)

Q/A - Regulatory Clarifications – July 2015

The clarifications and interpretations below will remain on the Department's web site until the information is included in the next updated Regulatory Compliance Guide (RCG).

Regulation: § 2800.18 – Applicable Laws; § 2800.144 – Use of Tobacco

§ 2800.18 - A residence shall comply with applicable Federal, State and local laws, ordinances and regulations.

§ 2800.144 –

(a) A residence may permit smoking tobacco in a designated smoking room of the residence.

(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.

(d) Smoking outside of the smoking room is prohibited.

Question: Does the Clean Indoor Air Act address e-cigarettes (also known as electronic cigarettes, vaporizers)?

ANSWER: Pennsylvania's Clean Indoor Air Act does not include e-cigarettes at this time and therefore, those devices are not prohibited. The Department of Health (DOH) has not issued a formal statement related to these devices, however, DOH encourages businesses to include e-cigarettes in their own tobacco-free policies since e-cigarettes are not currently regulated by the FDA and can be harmful to residents, employees, and visitors.

Regulation: § 2800.190(a) – Medication Administration Training

§ 2800.190(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.

Question: What should a residence do if a direct care staff person is out of work for a period of 4 months (one quarter) and is unable to complete the MAR review for that quarter?

ANSWER: As per the ODP Medication Train-The-Trainer Course, if a direct care staff person misses **only one** quarterly MAR review, the residence would document the absence and there would be no need for remediation.

Regulation: § 2800.202 – Prohibitions

§ 2800.202 - The following procedures are 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.

Question: Can residences administer medications in gel form (such as Ativan) as a PRN without the residents' knowledge?

ANSWER: No. Medications should not be given without the resident's knowledge if the resident is capacitated. Residents have the right to refuse medication. Refusals shall be reported to the prescribing physician in accordance with § 2800.187(c). Medications in gel form, including Ativan, are permitted as long as the resident has a doctor's order and the medication is not used as a chemical restraint to control episodic behavior. A resident should be informed that medication in the form of gel is being administered.