



**DIVISION OF HOME HEALTH
LIFE/PACE PROGRAM LICENSURE**

The Department has received inquiries regarding state licensure requirements as applied to Programs for All-Inclusive Care for the Elderly (PACE) known in Pennsylvania as Living Independence for the Elderly (LIFE). This advisory is intended to clarify state licensure requirements as applied to PACE/LIFE programs.

BACKGROUND:

Home Care Agencies - The Health Care Facilities Act (Act), 35 P.S. §§ 448.101-448.904b, requires agencies or registries that supply or refer direct care workers for the provision of home care services (assistance with activities of daily living, instrumental activities of daily living, companionship services, respite care or specialized care) to be licensed by the Department of Health. The home care agency licensure regulations are at 28 Pa. Code Chapter 611.

Home Health Agencies - The Act also requires home health agencies to be licensed. Home health agencies, in contrast to home care agencies, provide skilled care. Skilled care includes nursing care and therapeutic services such as physical therapy, occupational therapy, speech pathology, medical social services or home health aide services. The home health care agency licensure regulations are at 28 Pa. Code Chapter 601.

PACE/LIFE Program Operators - PACE/LIFE programs are created and regulated pursuant to federal law . The federal PACE regulations are at 42 CFR 460, et seq. The PACE/LIFE programs were created as a model of managed care service delivery for frail elderly individuals living in the community, most of whom are dually eligible for Medicare and Medicaid coverage and for nursing home placement. Under federal regulation, the benefit package for all PACE/LIFE participants includes: primary care, hospital care, medical specialty services, prescription drugs, nursing home services, nursing services, personal care services, emergency services, home care, physical therapy, occupational therapy, adult day health care, recreational therapy, meals, dental care, nutritional counseling, social services, laboratory/x-ray, social work counseling, end of life care and transportation. Hospital, nursing home, home health and other specialized services are generally furnished under contract. The service package allows participants to continue living at home rather than be institutionalized.

The federal regulations applicable to PACE/LIFE programs address the application process, the PACE program agreement, program administrative requirements, PACE services, participant rights, quality assessment and performance improvement, participant enrollment and disenrollment, payment, and federal/state monitoring of program operators.

The PACE federal regulations impose the following requirements on the PACE organization as a whole that are, to a great extent, duplicative of home care licensure requirements at 28 Pa Code Chapter 611 and home health care agency licensure requirements at 28 Pa Code Chapter 601:

- Ensure staff (including contracted staff) competency
- Provide staff(including contracted staff) with an orientation to include mission, philosophy, participant rights, emergency plan, ethics, the PACE benefit, and policies related to specific job duties
- Develop a competency evaluation program that must be completed before staff begin providing participant care
- Designate a staff member to oversee competency training
- Verify current certifications/licenses for staff whose positions require certification/licensure
- Not employ individuals excluded from participation in Medicare/Medicaid or who have been convicted of criminal offenses related to involvement in Medicare/Medicaid or in any capacity where an individual's contact with participants would pose a potential risk because the individual has been convicted of physical, sexual, drug or alcohol abuse
- No less than annual monitoring and oversight visits by regulatory authorities to insure compliance with federal program requirements.

Pursuant to federal law, the PACE organization also must have a written participant bill of rights, must inform a participant upon enrollment, in writing, of his/her rights, and all rules/regulations governing participation. The regulations address specific rights to which the participant is entitled: respect and nondiscrimination, information disclosure, choice of providers, participation in treatment decisions, confidentiality of health information, complaints and appeals.

The PACE federal regulations also impose an administrative structure – including a program director, a governing body and an interdisciplinary team, that develops a plan of care for each LIFE program participant. Because most services are provided at the LIFE adult day care center, and services are provided in the individual's home only if necessary, the regulations also include physical environment, infection control and dietary services requirements.

DEPARTMENTAL DETERMINATION

Because the department has determined that state licensure requirements for home care agencies/registries and home health agencies are duplicative of PACE federal regulatory requirements and that the oversight provided by the state PACE Administering Agency (DPW) is duplicative of DOH regulatory oversight, **PACE/LIFE programs in Pennsylvania need not be licensed as a home care agency or home health care agency in order to provide home care or home health services to program participants.** However, PACE/LIFE programs who wish to provide home care or home health services, or skilled nursing care and therapeutic services, to non-program participants must offer those services through a licensed home health care agency or obtain a home health agency license prior to providing those services.