
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1727 Session of
2005

INTRODUCED BY WALKO, DeWEESE, BLAUM, BELARDI, BELFANTI,
BIANCUCCI, CALTAGIRONE, CRAHALLA, DERMODY, FABRIZIO, GERGELY,
GINGRICH, GOODMAN, JAMES, JOSEPHS, KOTIK, McCALL, PRESTON,
SIPTROTH, SHANER, THOMAS, YOUNGBLOOD AND YUDICHAK,
JUNE 14, 2005

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
JUNE 14, 2005

AN ACT

1 Providing for the licensure of persons engaged in the provision
2 of or the procurement of long-term care planning assistance.

3 The General Assembly finds and declares as follows:

4 The health and welfare of Pennsylvanians will be enhanced by
5 the licensure and regulation of those agencies which assist
6 older Pennsylvanians and other consumers to secure long-term
7 care services in a variety of settings.

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

10 Section 1. Short title.

11 This act shall be known and may be cited as the Long-Term
12 Care Placement and Assessment Agency Act.

13 Section 2. Definitions.

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

1 "Agency." A long-term care placement and assessment agency.
2 The term includes an area agency, as defined in section 2202-A
3 of the act of April 9, 1929 (P.L.177, No.175), known as The
4 Administrative Code of 1929.

5 "Care-dependent person." As defined in 18 Pa.C.s. § 2713(f)
6 (relating to neglect of care-dependent person).

7 "Department." The Department of Aging of the Commonwealth.

8 "Facility." Any of the following:

9 (1) "Domiciliary care." as defined in section 2202-A of
10 the act of April 9, 1929 (P.L.177, No.175), known as The
11 Administrative Code of 1929.

12 (2) A home health agency.

13 (3) A long-term care nursing facility as defined in
14 section 802.1 of the act of July 19, 1979 (P.L.130, No.48),
15 known as the Health Care Facilities Act.

16 (4) An older adult daily living center as defined in
17 section 2 of the act of July 11, 1990 (P.L.499, No.118),
18 known as the Older Adult Daily Living Centers Licensing Act.

19 (5) A personal care home as defined in section 1001 of
20 the act of June 13, 1967 (P.L.31, No.21), known as the Public
21 Welfare Code.

22 (6) Any premises in which personal care services are
23 provided to care-dependent persons who are not relatives of
24 the provider.

25 "Long-term care." As defined in section 2202-A of the act of
26 April 9, 1929 (P.L.177, No.175), known as The Administrative
27 Code of 1929.

28 "Long-term care placement and assessment agency." A person
29 providing care-planning assistance which involves any of the
30 following services:

1 (1) Referral or placement services for which a fee is
2 charged. This paragraph includes recommending, locating or
3 arranging temporary or permanent placements in a facility.

4 (2) Provision of individualized-need assessments which
5 may include assessment of physical, cognitive and emotional
6 health status or functioning; ability to carry out functions
7 of daily living; managing finances; and determining
8 eligibility for financial assistance and services.

9 "Person." Any individual, corporation, for profit or not-
10 for-profit association, firm, partnership or joint stock
11 company.

12 "Personal care services." Assistance or supervision in
13 matters such as dressing, bathing, diet, financial management,
14 emergency evacuation and self-administration of medication.

15 "Secretary." The Secretary of Aging of the Commonwealth.
16 Section 3. Licensure.

17 (a) Operation and maintenance without license prohibited.--
18 No person may maintain, operate or conduct an agency without
19 having a license for that agency issued by the department.

20 (b) Application for license.--A person desiring to secure a
21 license for maintaining, operating or conducting an agency must
22 submit an application to the department on a form prepared and
23 furnished by the department, together with such other
24 information as the department requires. Application for annual
25 renewal of a license must be made in the same manner as
26 application for an original license.

27 (c) Fees.--An annual license shall be issued when the proper
28 fee is received by the department and all other conditions
29 prescribed in this act are met. For long-term care placement and
30 assessment, the fee shall be set on an annual basis by the

1 department.

2 (d) Issuance of license.--If, after investigation, the
3 department is satisfied that the applicant for a license is a
4 responsible person and that the applicant meets all of the
5 requirements of this act, it shall issue a license and shall
6 keep a record of the license and the application.

7 (e) Licenses.--The department may establish multiple classes
8 of licenses based on the level of services provided and the
9 level of expertise required to perform those services.

10 (f) Term and content of license.--Each license issued by the
11 department under this act shall expire one year next following
12 the day on which it was issued, shall be on a form prescribed by
13 the department, shall not be transferable and shall be issued
14 only to the person for the premises and for the agency named in
15 the application.

16 (g) Posting.--The agency shall post the current certificate
17 of compliance in a public place in the agency.

18 Section 4. Right to inspect.

19 For the purpose of determining the suitability of the
20 applicant or the continuing conformity of the licensees to this
21 act and to the applicable regulations of the department, any
22 authorized agent of the department shall have full and free
23 access to the records of the applicant.

24 Section 5. Records.

25 Every person licensed under this act to maintain, operate or
26 conduct an agency shall keep records and make reports as
27 required by the department.

28 Section 6. Refusal to issue license and revocation.

29 (a) Notice.--If the department, upon investigation and
30 inspection, learns of a violation of this act or of regulations

1 promulgated by the department pursuant to this act, it shall
2 give written notice of the violation to the offending person.
3 The notice shall require the offending person to take action to
4 bring the agency into compliance with this act or with the
5 relevant regulations within a specified time.

6 (b) Criteria.--The department shall refuse to issue a
7 license or shall revoke a license for any of the following
8 reasons:

9 (1) Violation of or noncompliance with the provisions of
10 this act or of regulations pursuant to this act.

11 (2) Fraud or deceit in obtaining or attempting to obtain
12 a license.

13 (3) Lending, borrowing or using the license of another
14 or knowingly aiding or abetting the improper granting of a
15 license.

16 (4) Gross incompetence, negligence or misconduct in
17 operating an agency.

18 (5) Placing or recommending placement for a care-
19 dependent person in a long-term care setting when the care-
20 dependent person, because of a health condition, cannot be
21 adequately cared for in that setting.

22 (6) Placing or recommending placement in a facility
23 which is not licensed, approved or regulated by the
24 Commonwealth.

25 (7) Placing or recommending placement in a long-term
26 care setting without a physician-approved long-term care
27 plan.

28 (8) Failing to notify the appropriate regulatory agency
29 of a known or suspected incident which would jeopardize the
30 health or safety of a resident in a facility.

(9) Failing to meet the disclosure requirements of this act.

Section 7. Disclosure of interest in referral facility.

An agency shall, prior to the referral of a client to a facility, disclose to the client or, in the case of cognitive incapacity, the client's guardian or personal representative, any financial interest of the agency or ownership by the agency in the facility. In making a referral, the agency may render any recommendations it considers appropriate but shall advise the client of the client's freedom of choice in the election of a facility.

Section 8. Penalties.

(a) Actions brought by department.--If a person violates this act or a regulation promulgated under this act, the department may maintain an action for an injunction to restrain the violation.

(b) Administrative penalty.--A licensee that violates this act, a regulation promulgated under this act or an order issued under this act may be assessed an administrative civil penalty by an order of the department of up to \$100 for each day that the violation continues. This subsection is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

(c) Criminal penalty.--A person that violates section 3(a) commits a summary offense. Each day of violation constitutes a separate offense.

Section 9. Regulations.

(a) Authorization.--The department may promulgate regulations establishing minimum standards of operation,

1 personnel, training and expertise and services for the issuance
2 of licenses.

3 (b) Exemption from review.--

4 (1) Regulations promulgated under this section shall not
5 be subject to:

6 (i) section 205 of the act of July 31, 1968
7 (P.L.769, No.240), referred to as the Commonwealth
8 Documents Law;

9 (ii) section 204(b) of the act of October 15, 1980
10 (P.L.950, No.164), known as the Commonwealth Attorneys
11 Act; or

12 (iii) the act of June 25, 1982 (P.L.633, No.181),
13 known as the Regulatory Review Act.

14 (2) This subsection shall expire December 31, 2007.

15 Section 30. Effective date.

16 This act shall take effect as follows:

17 (1) This section shall take effect immediately.

18 (2) Section 3(a) shall take effect six months after the
19 effective date of the regulations promulgated under section
20 9.

21 (3) The remainder of this act shall take effect in 90
22 days.