

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 761 Session of
2005

INTRODUCED BY VANCE, M. WHITE, EARLL, COSTA, FERLO, KITCHEN,
LAVALLE, O'PAKE, ORIE, RAFFERTY, REGOLA, STACK, TARTAGLIONE,
THOMPSON AND WONDERLING, JUNE 13, 2005

REFERRED TO PUBLIC HEALTH AND WELFARE, JUNE 13, 2005

AN ACT

1 Requiring public notices relating to certain matters affecting
2 long-term care facilities; providing for compliance and
3 enforcement; requiring the Department of Health to make
4 inspection information available to the public; requiring
5 long-term care facilities to transmit certain information to
6 resident's representative; and imposing penalties.

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

9 Section 1. Short title.

10 This act shall be known and may be cited as the Long-Term
11 Care Consumer Protection Act.

12 Section 2. Definitions.

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

16 "Applicable department." The department which is responsible
17 for licensing, registering or certifying the facility in
18 question.

19 "Enforcement action." Any of the following:

- 1 (1) Suspension of license.
- 2 (2) Revocation of license.
- 3 (3) Refusal to renew license.
- 4 (4) Limitation of license as to operation of a portion
- 5 of the facility or to the services which may be provided at
- 6 the facility.
- 7 (5) Issuance of a provisional license.
- 8 (6) Limitation or suspension of admissions to the
- 9 facility.
- 10 (7) Civil monetary penalty as prescribed by section 9 or
- 11 as provided in a statute or regulation governing licensing,
- 12 registration or certification of the facility in question.
- 13 "Facility." Any of the following:

14 (1) A facility providing domiciliary care as defined in

15 section 2202-A of the act of April 9, 1929 (P.L.177, No.175),

16 known as The Administrative Code of 1929.

17 (2) A hospice as defined in section 802.1 of the act of

18 July 19, 1979 (P.L.130, No.48), known as the Health Care

19 Facilities Act.

20 (3) A long-term care nursing facility as defined in

21 section 802.1 of the act of July 19, 1979 (P.L.130, No.48),

22 known as the Health Care Facilities Act.

23 (4) An older adult daily living center as defined in

24 section 2 of the act of July 11, 1990 (P.L.499, No.118),

25 known as the Older Adult Daily Living Centers Licensing Act.

26 (5) A personal care home as defined in section 1001 of

27 the act of June 13, 1967 (P.L.31, No.21), known as the Public

28 Welfare Code.

29 (6) A facility providing continuing care as defined in

30 section 3 of the act of June 18, 1984 (P.L.391, No.82), known

as the Continuing-Care Provider Registration and Disclosure Act.

"Representative." An individual responsible for making decisions on behalf of a resident as designated by the resident or an individual authorized by law to take certain action on behalf of a resident. The term includes legal counsel, a court-appointed guardian, an attorney-in-fact under a durable power of attorney, an agent under a health care proxy, a representative payee or any other individual authorized by statute or regulation.

"Resident." An individual who receives services at or from a facility.

Section 3. Facility requirements for certain information.

(a) Public display.--A facility shall display all of the following in a public and conspicuous location where they may easily be observed and read:

(1) The license permitting operation of the facility.

(2) All reports of inspections issued during the preceding 12 months.

(3) Notices of any enforcement actions currently being undertaken against the facility.

(b) Records.--A facility shall maintain for each resident, where applicable, a current record of the name, address and telephone number of the resident's representative or representatives which shall be provided upon request to the applicable department.

Section 4. Notice to persons receiving services.

(a) General rule.--Whenever a facility receives from the applicable department a notice of enforcement action, the notice shall also be transmitted by the facility to the representative

1 for each resident of the facility within ten days.

2 (b) Contents of notice.--The notice shall include the
3 applicable department's Internet website, telephone number and,
4 where applicable, indicate where additional information
5 regarding the action may be found.

6 Section 5. Notice on premises.

7 No later than 24 hours after a facility receives notification
8 from the applicable department of an enforcement action, the
9 facility shall post the notification on each entrance to the
10 physical location of the facility. The public notice shall
11 remain posted until such time as the action taken by the
12 applicable department has been resolved. If an appeal of the
13 applicable department's action is filed, the notice shall remain
14 posted until all issues on appeal are determined finally.

15 Section 6. Confirmation to department.

16 A facility shall notify the applicable department immediately
17 upon meeting the requirements of sections 3, 4 and 5.

18 Section 7. Consumer information.

19 With respect to a "health care facility," as that term is
20 defined in the act of July 19, 1979 (P.L.130, No.48), known as
21 the Health Care Facilities Act, the Department of Health shall
22 make the results of any surveys or licensing inspections and any
23 resulting enforcement action, statements of deficiencies or
24 plans of correction available to the public through an Internet
25 website or similar mechanism.

26 Section 8. Regulations.

27 Within six months of the effective date of this act, the
28 Department of Health shall inform all facilities and the general
29 public of policies and procedures necessary to administer this
30 act.

1 Section 9. Penalties; appeal.

2 (a) Civil penalty.--The applicable department shall have
3 authority to assess a civil penalty of \$1,000 per day for each
4 violation of this act.

5 (b) Appeal--Any person aggrieved by an enforcement action
6 shall have the right to appeal pursuant to 42 Pa.C.S. (relating
7 to judiciary and judicial procedure).

8 Section 10. Repeals.

9 All acts and parts of acts are repealed insofar as they are
10 inconsistent with this act.

11 Section 20. Effective date.

12 This act shall take effect in 60 days.