

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 821 Session of  
2009

INTRODUCED BY BOBACK, MUNDY, HENNESSEY, BEAR, BEYER, CARROLL,  
CAUSER, CONKLIN, CREIGHTON, FRANKEL, GIBBONS, GINGRICH,  
GOODMAN, GROVE, HALUSKA, HELM, KAUFFMAN, W. KELLER, KILLION,  
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MUSTIO, MYERS, M. O'BRIEN, O'NEILL, PALLONE, PHILLIPS,  
PICKETT, RAPP, ROHRER, ROSS, SCAVELLO, SIPTROTH, K. SMITH,  
STERN, SWANGER, VULAKOVICH, WALKO, WATSON AND YOUNGBLOOD,  
MARCH 10, 2009

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES, MARCH  
10, 2009

AN ACT

1 Requiring certain long-term care facilities to coordinate with  
2 licensing agencies and local area agencies on aging to  
3 provide assistance to consumers in circumstances involving  
4 relocation of consumers; and providing for powers and duties  
5 of the Department of Aging.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Long-Term  
10 Care Consumer Relocation Coordination Act.

11 Section 2. Definitions.

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

15 "Area agency on aging" or "AAA." The single local agency  
16 designated by the department within each planning and service

1 area to administer the delivery of a comprehensive and  
2 coordinated plan of social and other services and activities in  
3 the planning and service area.

4 "Consumer." A person who receives services in a facility.

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

6 "Designated person." An individual who may be chosen by a  
7 consumer and documented in the consumer's record, to be notified  
8 in case of an emergency, termination of service, facility  
9 closure or other situations as indicated by the consumer or as  
10 required by law or regulation. The term includes a consumer's  
11 legal representative or an advocate.

12 "Facility." Any of the following:

13 (1) A home that provides domiciliary care as defined in  
14 section 2202-A of the act of April 9, 1929 (P.L.177, No.175),  
15 known as The Administrative Code of 1929.

16 (2) A personal care home or an assisted living residence  
17 as defined in section 1001 of the act of June 13, 1967  
18 (P.L.31, No.21), known as the Public Welfare Code.

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

22 "Licensing agency." In the case of:

23 (1) A domiciliary care home, the Department of Aging.

24 (2) A long-term care nursing facility, the Department of  
25 Health.

26 (3) A personal care home or an assisted living  
27 residence, the Department of Public Welfare.

28 "Long-term care ombudsman" or "ombudsman." An agent of the  
29 Department of Aging, who under section 2203-A of the act of  
30 April 9, 1929 (P.L.177, No.175), known as The Administrative

1 Code of 1929, investigates and seeks to resolve complaints made  
2 by or on behalf of older individuals who are consumers of  
3 facilities, which complaints may relate to action, inaction or  
4 decisions of facilities, public agencies or of social agencies  
5 or their representatives, and which may adversely affect the  
6 health, safety, welfare, interests, preferences or rights of  
7 consumers.

8 "Relocation." The transfer of a consumer from one facility  
9 to another or discharge of a consumer from a facility to another  
10 setting.

11 Section 3. Coordination efforts in relocation situations.

12 (a) General rule.--Other than situations described in  
13 subsection (b), at least 30 days prior to relocation of a  
14 consumer, a facility shall provide a written notice to the  
15 consumer and the consumer's designated person and shall notify  
16 the appropriate licensing agency and both the area agency on  
17 aging within their designated area and the area agency on aging  
18 within the designated area of the facility to which the consumer  
19 is being relocated.

20 (b) Exceptions.--

21 (1) Prior to a relocation situation involving the  
22 imminent removal of a consumer in order to ensure the  
23 consumer's health and safety, a facility shall notify the  
24 consumer and the consumer's designated person and shall  
25 contact the appropriate licensing agency and both the area  
26 agency on aging within their designated area and the area  
27 agency on aging within the designated area of the facility to  
28 which the consumer is being relocated.

29 (2) When a relocation is at the request of a consumer or  
30 the consumer's designated person and either of them has

provided notice to the facility, the 30-day notice shall be waived.

(c) Administrative cooperation.--When a relocation occurs, the affected facilities, licensing agencies and local area agencies on aging shall:

(1) Coordinate efforts to ensure the protection of the health and safety of the consumer and ensure smooth relocation for each consumer at the facility.

(2) Share relevant information concerning the consumer and the relocation plans and process, including, but not limited to, conducting site visits for alternative placement.

(3) Cooperate in order to ensure that any other agencies that may serve certain specific populations, including, but not limited to, mental health, mental retardation and veterans' affairs, shall be included in the relocation process, as appropriate.

(4) (i) Coordinate the relocation process so that consumer relocation occurs only between the hours of 7 a.m. and 7 p.m.

(ii) Subparagraph (i) shall not apply in emergency situations where consumers must be relocated in order to ensure their health and safety.

(d) Long-term care ombudsman duties.--

(1) The local ombudsman shall ensure that a consumer, and if appropriate, the consumer's designated person, acting within the scope of that person's authority, is involved in planning such transfers and is afforded the right to choose among the available alternative placements.

(2) The ombudsman shall also assist consumers who are 60 years of age and older and shall refer consumers, regardless

1 of age, to appropriate social service agencies.

2 (3) Nothing in this act shall be construed to preclude  
3 the right of a licensing agency to make temporary placement  
4 until final placement can be arranged.

5 (e) Record of relocation incident.--

6 (1) An AAA shall maintain a record of each relocation  
7 incident in which the local ombudsman is involved and shall,  
8 upon request, share that information with the licensing  
9 agency, the department and, to the extent that release of  
10 that information is relevant to an investigation of criminal  
11 activity, law enforcement officials.

12 (2) The department shall provide technical assistance  
13 and guidance to the local ombudsman to ensure that laws and  
14 regulations regarding confidentiality of information are  
15 strictly adhered to.

16 Section 4. Enforcement.

17 (a) Appropriate licensing agencies.--In a relocation, the  
18 appropriate licensing agency shall take a lead role to ensure  
19 that facilities involved in the relocation comply with the  
20 provisions of this act as a condition of licensure.

21 (b) Department.--The department shall ensure that the local  
22 ombudsman and each area agency on aging complies with the  
23 provisions of this act.

24 (c) Promulgation of regulations.--The department shall work  
25 in consultation with the Department of Health and the Department  
26 of Public Welfare to develop rules and regulations to implement  
27 this act, including sanctions to be imposed for noncompliance.

28 Section 5. Effective date.

29 This act shall take effect in 180 days.