

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 325 Session of
2017

INTRODUCED BY BOBACK, D. COSTA, MATZIE, NEILSON, V. BROWN,
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JOZWIAK AND PASHINSKI, FEBRUARY 6, 2017

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
FEBRUARY 6, 2017

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 "Another setting." A location, other than a facility, where
16 services or support may be provided.

17 "Area agency on aging." A single local agency designated by
18 the department within each planning and service area to

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

4 "Consumer." A person who resides 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 whose selection is documented in the consumer's
8 record to be notified in case of emergency, termination of
9 service, facility closure or for reasons requested by the
10 consumer or as required under this act.

11 "Facility." Any of the following:

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

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

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

21 "Licensing agency." In the case of:

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

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

25 (3) A personal care home or an assisted living
26 residence, the Department of Human Services.

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

1 by or on behalf of older individuals who are consumers of
2 facilities. Complaints may relate to action, inaction or
3 decisions of facilities, public agencies or of social agencies
4 or their representatives, and that may adversely affect the
5 health, safety, welfare, interests, preferences or rights of
6 consumers.

7 "Relocation." The involuntary transfer of a consumer from
8 one facility to another or involuntary discharge of a consumer
9 from a facility to another setting due to facility closure.

10 Section 3. Coordination efforts in relocation situations.

11 (a) General rule.--Other than as specified in subsection
12 (b), at least 30 days prior to relocation of a consumer, a
13 facility shall provide a written notice to the consumer and the
14 consumer's designated person and shall notify its licensing
15 agency, the area agency on aging within its geographic region
16 and the area agency on aging within the geographic region of the
17 facility that the consumer is being relocated. Facilities shall
18 retain full responsibility for discharge planning for all
19 relocations.

20 (b) Exceptions.--Emergency relocations shall be excluded
21 from the requirements of subsection (a) under the following
22 circumstances:

23 (1) Immediate health or safety risk to a consumer as
24 determined by the licensing agency or facility in conjunction
25 with the ombudsman.

26 (2) Licensing action taken requiring closure of the
27 facility with less than 30 days' notice to the facility.

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

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

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

7 (3) Cooperate in order to ensure that other agencies
8 that may serve specific populations, including, but not
9 limited to, mental health, intellectually disabled and
10 veterans' affairs, shall be included in the relocation
11 process, as appropriate.

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

15 (ii) Subparagraph (i) shall not apply in emergency
16 situations where consumers must be relocated in order to
17 ensure a consumer's health and safety.

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

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

24 (2) The ombudsman shall also assist consumers who are 60
25 years of age and older and shall refer consumers, regardless
26 of age, to appropriate social service agencies.

27 (3) Nothing in this act shall be construed to:

28 (i) Preclude the right of a licensing agency to make
29 temporary placement until final placement can be
30 arranged.

(ii) Supplant existing requirements for contacting the ombudsman.

(iii) Supplant existing requirements applicable to transfers of nursing facility residents.

(e) Record of relocation incident.--

(1) An area agency on aging shall maintain a record of each relocation incident that the local ombudsman is involved and shall on request share that information with the licensing agency, the department and, to the extent that release of that information is relevant to an investigation of criminal activity, law enforcement officials. The information shall be stored electronically by an area agency on aging that may, at its discretion, destroy hard copies of the information.

(2) The department shall provide technical assistance and guidance to the local ombudsman to ensure that laws and regulations regarding confidentiality of information are followed.

(3) The department shall monitor and track relocation records to identify trends and issues that may need to be addressed.

Section 4. Enforcement.

(a) Appropriate licensing agencies.--The licensing agency shall ensure that a facility is in compliance with the provisions of this act and may cite a facility for noncompliance identified during a routine or complaint investigation.

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

(c) Promulgation of regulations.--The department may, in

1 consultation with the Department of Health and the Department of
2 Human Services, develop rules and regulations as deemed
3 necessary at the discretion of the department to implement this
4 act, including sanctions to be imposed for noncompliance.

5 Section 5. Effective date.

6 This act shall take effect in 180 days.