

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 468 Session of
2005

INTRODUCED BY E. Z. TAYLOR, WATSON, GINGRICH, S. MILLER,
BELFANTI, BLACKWELL, CALTAGIRONE, CAPPELLI, CAWLEY, CORNELL,
CRAHALLA, CREIGHTON, DeLUCA, DeWEESE, EACHUS, FICHTER, FLICK,
FRANKEL, FREEMAN, GEIST, GEORGE, GOODMAN, HENNESSEY, HERMAN,
LaGROTTA, LEACH, MILLARD, O'NEILL, PALLONE, PHILLIPS,
PICKETT, PISTELLA, RUBLEY, SCAVELLO, SCHRODER, SEMMEL,
SHANER, SOLOBAY, THOMAS, TIGUE, WALKO, WHEATLEY AND
YOUNGBLOOD, FEBRUARY 14, 2005

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES,
FEBRUARY 14, 2005

AN ACT

1 Requiring public notices relating to certain matters affecting
2 long-term care nursing facilities; providing for compliance
3 and enforcement; requiring nursing homes to submit
4 information annually to the Department of Health; requiring
5 the Department of Health to place certain information on the
6 Internet; and providing for certain duties of the Department
7 of Health and the Department of Aging.

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 Nursing Home
12 Consumer Protection 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:

17 "Consumer Information Internet Guide." The Nursing Home

1 Consumer Information Internet Guide required to be published
2 under the provisions of this act.

3 "Department." The Department of Health of the Commonwealth.

4 "Designated party." An individual designated by a resident
5 or resident's responsible party who receives notices as required
6 by section 5 (relating to notice on premises).

7 "Elderly persons." Those persons residing within this
8 Commonwealth who are 60 years of age or older.

9 "Long-term care nursing facility" or "nursing home." A
10 facility that provides either skilled or intermediate nursing
11 care or both levels of care to two or more patients, who are
12 unrelated to the licensee, for a period exceeding 24 hours.
13 Intermediate care facilities exclusively for the mentally
14 retarded, commonly called ICF/MR, shall not be considered long-
15 term care nursing facilities for the purpose of this act and
16 shall be licensed by the Department of Public Welfare.

17 Section 3. License and operational postings.

18 A long-term care nursing facility shall:

19 (1) Display the license permitting its operation in a
20 public and conspicuous location where it may be easily
21 observed and read.

22 (2) Display all reports of inspections issued during the
23 preceding 12-month period of time in a public and conspicuous
24 location where these documents may be easily observed and
25 read.

26 (3) Display any notice of a ban on admissions or
27 revocation of a license.

28 (4) Display information regarding the Commonwealth's
29 long-term care Internet website.

30 (5) Maintain in current status for each resident, where

1 applicable, the names, addresses and telephone numbers of the
2 representative payee or next of kin, responsible party or
3 designated party and the person or persons named as power of
4 attorney or guardian.

5 (6) Provide the information identified in paragraph (5)
6 to the department, its representative or agent, responsible
7 for issuing the license for the facility, at any time when
8 requested by the department.

9 Section 4. Notice to persons receiving services.

10 (a) General rule.--Whenever the department shall provide
11 notice to a facility of a proposed ban on admissions or license
12 revocation, such notice shall be delivered by either a
13 representative or agent of the department or placed in the
14 United States Postal Service, registered mail, return receipt
15 requested. The notice shall also be transmitted to the
16 responsible party or designated party for each resident of the
17 facility. The notice to the responsible or designated party
18 shall be either hand delivered by a representative or agent of
19 the department or postmarked by the United States Postal Service
20 no later than 24 hours after notification to the facility and
21 shall be written in clear and specific language so as to clearly
22 communicate the action being taken by the department. The
23 department shall ensure that the notice be included on the
24 Commonwealth's long-term care Internet website.

25 (b) Notice of corrective action or appeal resolution.--In
26 the event that corrections are made or appeals are resolved, the
27 department shall notify the responsible party or designated
28 party for each resident of the facility of the corrections or
29 resolution of appeals. The department shall ensure that the
30 notice shall be posted on Commonwealth's long-term care Internet

1 website.

2 Section 5. Notice on premises.

3 No later than 24 hours after a facility receives notification
4 from the department of a proposed ban on admissions or license
5 revocation under section 4(a) (relating to notice to persons
6 receiving services), the facility shall post the notification on
7 any entrance to the physical location of the facility. The
8 public notice shall remain posted until such time as the action
9 taken by the department has been resolved. If an appeal is filed
10 of the department's action, the notice shall remain posted until
11 all issues on appeal are determined finally.

12 Section 6. Compliance and enforcement.

13 Notwithstanding any other provision of law, compliance with
14 this act shall operate as a condition of licensure for a long-
15 term care nursing facility, and this act shall be enforced
16 against a long-term care nursing facility in the same manner as
17 provided in the act under which the facility is licensed.

18 Section 7. Nursing home consumer information report.

19 In addition to the information required by the department on
20 a form provided by the department pursuant to the provisions of
21 the act of July 19, 1979 (P.L.130, No.48), known as the Health
22 Care Facilities Act, and regulations promulgated pursuant
23 thereto, each nursing home shall provide to the department no
24 later than 90 days after the close of each calendar year the
25 following information on the above-referenced form:

26 (1) Nursing hours worked per patient per day and nursing
27 hours required by the department per patient per day. Actual
28 hours worked per patient per day are for the most recently
29 concluded fiscal or calendar year.

30 (2) Average length of service of professional nursing

1 staff and the average length of service of nurse aide
2 personnel at the nursing home completing the form.

3 (3) Average length of licensure and/or certification of
4 professional nursing staff and the average length of
5 licensure and/or certification of nurse aide personnel.

6 (4) Nursing hours per patient per day of temporary
7 agency professional nursing staff and nurse aide personnel.

8 (5) Whether a resident council exists and meets on a
9 regular basis.

10 Section 8. Nursing home consumer information.

11 (a) Guide.--

12 (1) The Department of Aging shall produce, in a timely
13 manner, a nursing home information site on the Internet. It
14 shall include:

15 (i) The items listed in section 7 (relating to
16 nursing home consumer information report).

17 (ii) Information obtained from the annual Long-Term
18 Care Facilities Questionnaires submitted to the
19 department.

20 (iii) Information obtained from the Health Care
21 Financing Administration Ownership Disclosure Form.

22 (iv) A comparative list of nursing homes developed
23 in the manner provided in subsection (b).

24 (v) The Nursing Home Consumer Inquiry Telephone
25 Hotline telephone number required under subsection (c).

26 (2) If errors are found in the Consumer Information
27 Internet Guide, all facilities shall be sent a correction
28 sheet within 30 days of the Department of Aging's receipt of
29 notification of the error. For the purposes of this section,
30 an error shall be defined as information incorrectly

1 transcribed from the forms provided to the department to the
2 consumer guide.

3 (3) The Department of Aging shall send prior to
4 publication final proofs to the nursing home of its data
5 profile that will be published in the consumer guide. The
6 nursing home shall have five days to notify the Department of
7 Aging of any errors to be corrected. If the Department of
8 Aging receives no notification of errors, the data profile
9 will be considered accurate and will be published.

10 (b) Comparative list.--The comparative list of nursing homes
11 shall be developed and included in the Consumer Information
12 Internet Guide by the Department of Aging. It shall include the
13 following information:

14 (1) Name of facility.

15 (2) Facility address and telephone number.

16 (3) Bed capacity.

17 (4) Owner of facility and managing company, if
18 applicable.

19 (5) Type of sponsorship, including, but not limited to,
20 governmental, nonprofit and for-profit or religious
21 affiliation, if applicable.

22 (6) Payment sources accepted, including, but not limited
23 to, Medicare, Medicaid, Veterans' Administration, long-term
24 care insurance and private pay.

25 (7) Current license, deficiency and certification status
26 as determined by the department; whether, within the previous
27 five years, the facility has been subject to a provisional
28 license, a ban on admissions, penalties imposed in connection
29 with the licensure or certification process, a license
30 revocation or appointment of a temporary manager to operate

1 the facility or Medicare or Medicaid decertification and the
2 corresponding dates.

3 (8) Nursing hours per patient per day and nursing hours
4 required by the department per patient per day. Actual hours
5 worked per patient per day are for the most recently
6 concluded fiscal or calendar year.

7 (9) Average length of service at the nursing home of
8 professional nursing staff and the average length of service
9 of nurse aide staff.

10 (10) Average length of licensure and/or certification of
11 professional nursing staff and the average length of
12 licensure and/or certification of nurse aide personnel.

13 (11) Nursing hours per patient per day of temporary
14 agency professional nursing staff and nurse aide personnel.

15 (12) A listing of existence and availability of specific
16 therapy services, including, but not limited to, physical
17 therapy, occupational therapy, speech therapy and respiratory
18 therapy.

19 (13) Whether a resident council exists and meets on a
20 regular basis.

21 (14) Name and telephone number of a local ombudsman.

22 (15) Costs per day, month and year.

23 (16) Visiting hours.

24 (17) If there are telephones available for private
25 conversations.

26 (18) If there is a registered dietitian.

27 (19) If there is a written emergency evacuation plan.

28 (20) The nearest hospital and the distance in miles from
29 the nursing home.

30 (21) If there are isolation rooms for patients with

1 contagious illnesses.

2 (22) If there is an Alzheimer/Parkinson disease program.

3 (23) Whether there are qualified physical therapists
4 onsite.

5 (24) Whether there is a written description of patients'
6 rights and responsibilities.

7 (25) Whether there are written policies on "do not
8 resuscitate orders," physical restraints and chemical
9 sedation.

10 (26) What medical services are available onsite,
11 including dentists, podiatrists, pharmacists and
12 ophthalmologists.

13 (27) The current resident profile, including average
14 age, race and sex.

15 (28) Information on how to contact the local area agency
16 on aging, including the services available to persons over 60
17 years of age through the local area agency on aging.

18 (29) Information on community resources that can assist
19 in the selection of a long-term care facility, such as trade
20 associations or consumer advocacy groups.

21 (c) Nursing Home Consumer Inquiry Telephone Hotline.--The
22 Department of Aging shall establish a Statewide telephone number
23 to serve as the Nursing Home Consumer Inquiry Telephone Hotline.
24 This number shall be a toll-free number. The purpose of this
25 telephone hotline is to respond to calls regarding the current
26 licensure, deficiency and certification status of nursing homes.
27 All data provided by the hotline shall be updated each week
28 using information provided by the department in a timely
29 fashion. This telephone number shall be prominently displayed in
30 the annual Consumer Information Internet Guide.

1 (d) Disclosure.--The State Long-Term Care Ombudsman in the
2 Department of Aging shall mail at least the address of the
3 Consumer Information Internet Guide to the local long-term care
4 ombudsman of each area agency on aging, to each nursing home and
5 to the Pennsylvania Council on Aging annually.

6 (e) Availability.--Each nursing home shall post next to its
7 department license an exact copy of its listing as found in the
8 Consumer Information Internet Guide. A nursing home shall
9 provide to each prospective resident and family member of such
10 prospective resident who visits the facility, or any member of
11 the public upon request, during normal business or visiting
12 hours, Sunday through Saturday, an exact copy of its listing as
13 set forth in the Consumer Information Internet Guide.

14 (f) Inspections.--The department shall verify the
15 availability of the listing during annual licensing surveys. The
16 department shall monitor compliance with the requirements of
17 this act for regular filing of the Long-Term Care Facilities
18 Questionnaire with the department.

19 (g) Update.--The department shall issue modifications to the
20 Long-Term Care Facilities Questionnaire resulting from changes
21 in the reimbursement system for nursing homes. Such
22 modifications shall provide the same information in an updated
23 format.

24 (h) Regulations.--The Department of Aging shall promulgate
25 regulations setting forth proposed additions, changes, or both,
26 if the department does any of the following:

27 (1) Expands the scope of the consumer guide beyond those
28 topics expressly set forth in subsection (a).

29 (2) Expands the scope of the comparative list beyond
30 those topics expressly set forth in subsection (b).

1 (3) Expands the scope of any topic expressly set forth
2 in subsection (a) or (b).

3 Section 9. Complaints.

4 Complaints of noncompliance with this act shall be filed with
5 the Department of Aging. A complainant shall include a local
6 ombudsman, a nursing home employee, a nursing home resident, a
7 prospective nursing home resident, or any person representing
8 the interests of a nursing home resident or prospective nursing
9 home resident.

10 Section 10. Additional consumer information.

11 Each nursing home shall provide to each prospective resident
12 or representative thereof at the time of initial inquiry a
13 companion consumer guide which describes how to select a nursing
14 home. This information can be either a publication of the
15 Department of Aging, a camera-ready copy of a publication
16 provided by the Department of Aging or a comparable publication
17 that will inform the consumer on how to choose a nursing home.

18 Section 11. Regulations.

19 The department shall promulgate rules or regulations
20 necessary to administer this act within six months of the
21 effective date of this section.

22 Section 12. Penalties.

23 The Department of Aging shall have the authority to assess a
24 \$1,000 civil penalty for each violation of this act. Any person
25 aggrieved by an adjudication by the Department of Aging shall
26 have the right to appeal pursuant to 42 Pa.C.S. (relating to
27 judiciary and judicial procedure).

28 Section 13. Repeals.

29 All acts and parts of acts are repealed insofar as they are
30 inconsistent with this act.

1 Section 14. Effective date.

2 This act shall take effect in 60 days.