

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 371 Session of
2009

INTRODUCED BY STABACK, BELFANTI, BOBACK, FABRIZIO, FREEMAN,
GEORGE, GRUCELA, HORNAMAN, JOSEPHS, KORTZ, KOTIK, KULA,
McGEEHAN, MUNDY, M. O'BRIEN, PASHINSKI, READSHAW, SEIP,
SIPTROTH, K. SMITH, WALKO, WANSACZ, WATSON, YOUNGBLOOD,
YUDICHAK, MOUL, J. TAYLOR, DeLUCA, PRESTON, MAHONEY, PALLONE
AND BEYER, FEBRUARY 10, 2009

AS REPORTED FROM COMMITTEE ON AGING AND OLDER ADULT SERVICES,
HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 24, 2009

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," in general powers and
4 duties of Department of Public Welfare, providing for onsite
5 complaint investigations and plans of correction.

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

8 Section 1. The act of June 13, 1967 (P.L.31, No.21), known
9 as the Public Welfare Code, is amended by adding a section to
10 read:

11 Section 211.1. Onsite Complaint Investigations and Plans of
12 Correction.--(a) The department shall initiate onsite
13 investigations of complaints at personal care homes and assisted
14 living residences as follows:

15 (1) If the complaint is a ~~Level~~CLASS 1 complaint, the onsite ←
16 inspection shall be initiated within twenty-four hours of the
17 complaint intake.

1 (2) If the complaint is a ~~Level~~CLASS 2 complaint, the onsite ←
2 inspection shall be initiated within seven calendar days of the
3 complaint intake.

4 (3) If the complaint is a ~~Level~~CLASS 3 complaint, the onsite ←
5 inspection shall be initiated within twenty-one calendar days of
6 the complaint intake.

7 (b) The department shall contact and coordinate the
8 investigation with appropriate local agencies, including the
9 Area Agency on Aging, specifically the Protective Services or
10 Long-Term Care Ombudsman Program, County Mental Health/Mental
11 Retardation, local or Pennsylvania State Police, local code
12 enforcement or fire officials.

13 (c) The department shall conduct an unannounced onsite
14 inspection of the personal care home or assisted living
15 residence within the time frame established under subsection (a)
16 (1), (2) or (3). The complaint investigation shall include the
17 following components and adhere to the following time frames:

18 (1) Conduct an entrance interview with administrator or
19 designee, providing general information regarding the complaint,
20 but maintaining confidentiality of residents and complainant.

21 (2) Interview relevant subjects to the complaint such as
22 residents, families, staff or other witnesses.

23 (3) Preserve evidence by obtaining signed witness
24 statements, making copies of documents and taking photographs.

25 (4) Review relevant documents such as resident, staff and
26 facility records.

27 (5) Observe physical site conditions related to the
28 complaint.

29 (6) Contact the appropriate manager in the department
30 regarding ~~Level~~CLASS 1 high-risk issues. ←

1 (7) Ensure that immediate threats are resolved before
2 leaving the personal care home or assisted living residence.

3 (8) Record all relevant information, including violations,
4 as directed by department policies and procedures.

5 (9) Conduct an exit interview with the administrator or the
6 most appropriate employee onsite and provide an opportunity to
7 respond to preliminary findings, unless the disclosure may
8 jeopardize ongoing aspects of the investigation.

9 (10) Determine and discuss findings with the appropriate
10 manager in the department and determine if ~~each allegation is~~ ←
11 ~~founded, unfounded~~A REGULATORY VIOLATION IS FOUND or requires ←
12 further investigation.

13 (11) Additional collateral contacts, interviews and site
14 inspections shall be made as indicated by the seriousness of the
15 complaint allegation and based on the initial onsite inspection.

16 (12) The complaint investigation, including all collateral
17 contacts, interviews and onsite inspections, must be concluded
18 within fifteen days following the onsite inspection.

19 (d) Within four business days of the conclusion of the
20 complaint investigation for ~~Level~~CLASS 1 high-risk complaints, ←
21 within ten business days of the conclusion of the complaint
22 investigation for ~~Level~~CLASS 2 complaints and within 15 business ←
23 days of the conclusion of the complaint investigation for
24 ~~Level~~CLASS 3 complaints, the department shall prepare a ←
25 violation report if applicable, review the violation report with
26 the appropriate manager in the department and transmit the
27 violation report to the personal care home or assisted living
28 residence for corrective action.

29 (e) If a violation report is provided by the department, the
30 personal care home or assisted living residence must submit a

1 plan of correction within seven calendar days of receipt of the
2 violation report.

3 (f) Within ten business days of receiving the plan of
4 correction from the personal care home or assisted living
5 residence, the department shall review the plan of correction
6 and refer the plan to the appropriate manager in the department
7 for plan approval or denial.

8 (g) If the personal care home or assisted living residence
9 does not submit a plan of correction within the required seven-
10 day time frame, the department may ~~suspend, revoke or~~
11 ~~limit~~REVOKE OR NONRENEW a license, or may issue a ban on
12 admissions for the personal care home or assisted living
13 residence.

14 (h) Once the plan of correction has been approved by the
15 department, the follow-up complaint inspection of the personal
16 care home or assisted living residence shall be conducted onsite
17 after the longest target date for compliance has been reached as
18 noted on the plan of correction, but no later than ninety days
19 after the initial onsite complaint inspection by the department
20 to ensure compliance with the plan of correction.

21 (i) If the plan of correction is disapproved, the department
22 shall contact the personal care home or assisted living
23 residence within forty-eight hours of the disapproval decision
24 and require an alternate plan of correction within four business
25 days. If the personal care home or assisted living residence
26 returns an approved plan of correction within the required time
27 frame, the department shall conduct a follow-up onsite
28 inspection of the personal care home or assisted living
29 residence as outlined under subsection (h).

30 (j) If the alternate plan of correction is not resubmitted

1 by the personal care home or assisted living residence within
2 the required time frame, the department may ~~suspend, revoke or~~ ←
3 ~~limit~~REVOKE OR NONRENEW a license, or may issue a ban on ←
4 admissions for the personal care home or assisted living
5 residence.

6 (k) Within ten business days of the conclusion of the
7 investigation and determination on each of the complaint
8 allegations, the department shall send a complaint response
9 letter to the complainant.

10 (l) The department may exceed the timelines relating to a
11 ~~Level~~CLASS 3 complaint if it determines that resources are ←
12 otherwise necessary to address risks to the health and safety of
13 other residents in the personal care home or assisted living
14 residence.

15 (m) For purposes of this section:

16 "~~Level~~CLASS 1 complaint" shall mean AN ALLEGED VIOLATION, ←
17 WHICH, IF VERIFIED, WOULD CONSTITUTE A CLASS 1 VIOLATION AS
18 DEFINED IN SECTION 1085. A CLASS 1 COMPLAINT MEANS a complaint
19 with a high risk, including, but not limited to, incidents
20 related to immediate fire safety, physical assault or abuse, no
21 food or water, no heat in winter, no staff or serious illness
22 outbreak.

23 "~~Level~~CLASS 2 complaint" shall mean AN ALLEGED VIOLATION, ←
24 WHICH, IF VERIFIED, WOULD CONSTITUTE A CLASS 2 VIOLATION AS
25 DEFINED IN SECTION 1085. A CLASS 2 COMPLAINT MEANS a complaint
26 with a medium risk, including, but not limited to, incidents
27 related to inadequate staffing, quality of care issues,
28 nutrition, sanitation or medication administration.

29 "~~Level~~CLASS 3 complaint" shall mean AN ALLEGED VIOLATION, ←
30 WHICH, IF VERIFIED, WOULD CONSTITUTE A CLASS 3 VIOLATION AS

1 DEFINED IN SECTION 1085. A CLASS 3 COMPLAINT MEANS a complaint
2 with a low risk, including, but not limited to, incidents
3 related to menus, policies, assessments, support plans,
4 financial management or contracts.

5 Section 2. This act shall take effect in 60 days.