
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 869

Session of
1987

INTRODUCED BY REINARD, MAIALE, HOWLETT, GEIST, NOYE, HALUSKA,
J. L. WRIGHT, CARLSON, FISCHER, SEMMEL, STAIRS, FOX,
SIRIANNI, RAYMOND, BUNT, TRELLO, CORNELL AND FLICK, MARCH 17,
1987

REFERRED TO COMMITTEE ON HEALTH AND WELFARE, MARCH 17, 1987

AN ACT

1 Establishing a community trust for persons with severe chronic
2 disabilities.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Community
7 Trust Fund Act.

8 Section 2. Legislative intent.

9 (a) Findings.--The General Assembly finds that it is in the
10 public interest to encourage activities by voluntary
11 associations and private citizens which will supplement and
12 augment those services provided by Federal, State and local
13 government agencies in discharge of their responsibilities
14 toward individuals with severe chronic disabilities. The General
15 Assembly further finds that, as a result of changing social,
16 economic and demographic trends, families of persons with severe
17 chronic disabilities are increasingly aware of the need for a

1 means by which they can assure ongoing individualized personal
2 concern for a severely disabled family member who may survive
3 his parents or other family members and can provide for the
4 efficient management of small legacies or trust funds to be used
5 for the benefit of such a disabled person. The Community Trust
6 Fund will pool resources contributed by families or persons with
7 philanthropic intent and will reserve portions of these funds
8 for the use and benefit of designated beneficiaries.

9 (b) Liberal construction.--This act shall be liberally
10 construed and applied to promote its underlying purposes and
11 policies, which are, among others, to:

12 (1) encourage the orderly establishment of community
13 trusts for the benefit of persons with severe chronic
14 disabilities;

15 (2) ensure that community trusts are administered
16 properly and that the managing boards of the trusts are free
17 from conflicts of interest;

18 (3) facilitate sound administration of trust funds for
19 persons with severe chronic disabilities by allowing family
20 members and others to pool resources in order to make
21 professional management investment more efficient;

22 (4) provide parents of persons with severe chronic
23 disabilities peace of mind in knowing that a means exists to
24 ensure that the interests of their children who have severe
25 chronic disabilities are properly looked after and managed
26 after the parents die or become incapacitated;

27 (5) encourage the availability of private resources to
28 purchase for persons with severe chronic disabilities goods
29 and services that are not available through any governmental
30 or charitable program and to conserve these resources by

1 limiting purchases to those which are not available from
2 other sources;

3 (6) encourage the inclusion, as beneficiaries of
4 community trusts, of persons who lack resources and whose
5 families are indigent, in a way that does not diminish the
6 resources available to other beneficiaries whose families
7 have contributed to the trust; and

8 (7) remove the disincentives which discourage parents
9 and others from setting aside funds for the future protection
10 of persons with severe chronic disabilities by ensuring that
11 the interest of beneficiaries in community trusts are not
12 considered assets or income which would disqualify them from
13 any governmental or charitable entitlement program with an
14 economic means test.

15 Section 3. Definitions.

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

19 "Beneficiary." A person with a severe chronic disability who
20 has qualified as a member of the community trust program and who
21 has the right to receive the services and benefits of the
22 community trust program as provided in this act.

23 "Board." The board of trustees or the group of persons
24 vested with the management of the business and affairs of a
25 nonprofit corporation, formed for the purpose of managing a
26 community trust, irrespective of the name by which the group is
27 designated.

28 "Community trust." A nonprofit organization which offers the
29 following services:

30 (1) Administration of special trust funds for persons

1 with severe chronic disabilities.

2 (2) Follow-up services.

3 (3) Advice and counsel to persons who have been
4 appointed as individual guardians of the persons or estates
5 of persons with severe chronic disabilities.

6 "Follow-up services." Services purchased or offered by
7 community trusts which are designed to insure that the needs of
8 each beneficiary are being met, for as long as may be required,
9 and may include periodic visits to the beneficiary and to the
10 places where the beneficiary receives services, participation in
11 the development of individualized plans being made by service
12 providers for the beneficiary and other similar services
13 consistent with the purposes of this act.

14 "Severe chronic disability." A physical or mental impairment
15 which is expected to give rise to a long-term need for
16 specialized health, social and other services, and which makes
17 the person with such a disability dependent upon others for
18 assistance.

19 "Surplus trust funds." Funds accumulated in the trust from
20 contributions made on behalf of an individual beneficiary which,
21 after the death of the beneficiary, are determined by the board
22 to be in excess of the actual cost of providing services during
23 the beneficiary's lifetime, including the beneficiary's share of
24 administrative costs.

25 "Trustee." A member of the board of a corporation, formed
26 for the purpose of managing a community trust, whether that
27 member is designated as a trustee, director, manager or
28 governor, or by any other title.

29 Section 4. Organization of community trust.

30 (a) Administration.--Each community trust shall be

1 administered by a board of trustees, which shall be incorporated
2 as a nonprofit corporation.

3 (b) Board membership.--The board shall be comprised of at
4 least nine, but not more than 21 members, and at least one-third
5 of the members shall be parents or other relatives of a person
6 with severe chronic disabilities. Board members shall be
7 selected in a manner which gives geographic representation
8 throughout the area served by the board.

9 (c) Limitation on members.--No board member, other than
10 those who serve in an advisory capacity, may be a provider of
11 habilitative, health, social or educational services to persons
12 with severe chronic disabilities, nor may an employee of such a
13 provider serve as a board member.

14 (d) Compensation.--No board member may receive compensation
15 for services provided as a member of the board. No fees or
16 commissions may be paid to a board member. A board member may be
17 reimbursed for necessary expenses incurred as a board member
18 upon presentation of receipts. A board member may receive
19 indemnification.

20 Section 5. Powers and duties of board.

21 (a) Adoption of bylaws.--The board shall adopt bylaws and
22 shall file them with the Secretary of Public Welfare, in
23 addition to complying with the provisions of 15 Pa.C.S. Part III
24 (relating to corporations not-for-profit). The bylaws shall
25 include a declaration delineating the primary geographic area
26 served by the trust and the principal services which are
27 provided.

28 (b) Employment of staff.--The board may retain necessary
29 paid staff to provide follow-up services to the extent required
30 by each beneficiary.

1 (c) Expenditure of moneys.--

2 (1) The board may authorize the following expenditures:

3 (i) Payment for goods or services which, in the sole
4 discretion of the board, will promote the well-being of a
5 beneficiary of the trust. This shall include recreational
6 services.

7 (ii) Payment for burial of a beneficiary.

8 (iii) Payment for the reasonable costs of
9 administering the community trust.

10 (2) The board may not expend or authorize the
11 expenditure of funds for goods or services of comparable
12 quality to those available to a particular beneficiary
13 through a governmental or charitable program, through
14 insurance or through other sources.

15 (d) Acceptance of moneys.--

16 (1) The board may accept contributions, bequests and
17 designations under life insurance policies to the community
18 trust on behalf of individuals with severe chronic
19 disabilities for the purpose of qualifying them as
20 beneficiaries of the trust. When a contribution, bequest or
21 assignment of insurance proceeds is made, the trustor shall
22 receive a written statement of the services to be provided to
23 the beneficiary. The statement shall include a starting date
24 for delivery of services or the condition precedent which
25 shall determine the starting date. The statement shall
26 describe the frequency with which services shall be provided,
27 the duration of provision and the criteria and procedure for
28 program modification which assure that services provided are
29 in the best interest of the beneficiary.

30 (2) The board may accept gifts and use surplus trust

1 funds for the purpose of qualifying as a beneficiary an
2 indigent person whose family members lack the financial
3 resources to make a full contribution on that person's
4 behalf. The extent and character of the services and
5 selection of beneficiaries are at the discretion of the
6 board. The board may accept gifts to meet start-up costs, to
7 reduce the charges to the trust for the cost of
8 administration and for any other purpose consistent with this
9 act. Gifts made to the trust for an unspecified purpose shall
10 be used by the board either to qualify indigent persons whose
11 families lack the means to qualify them as beneficiaries of
12 the trust or to meet any start-up costs that the trust
13 incurs. The board may not use surplus trust funds to make a
14 charitable contribution on behalf of a beneficiary or a group
15 or class of beneficiaries.

16 (e) Preparation and filing of annual financial report.--In
17 addition to reports required to be filed under 15 Pa.C.S. Part
18 III, the board shall file an annual report with the Secretary of
19 Public Welfare along with an itemized statement which shows the
20 funds collected for the year, income earned, salaries paid,
21 other expenses incurred and the opening and final trust
22 balances. A copy of this statement shall be available to a
23 beneficiary, trustor or designee of the trustor, upon request.

24 (f) Preparation of annual beneficiary's report.--The board
25 shall prepare and provide each trustor or the trustor's designee
26 annually with a detailed individual statement of the services
27 provided to the trustor's beneficiary during the previous 12
28 months and of the services to be provided during the following
29 12 months. The board shall provide a copy of this statement to
30 the beneficiary, upon request.

(g) Provision of services.--

(1) The board may agree to fulfill any special requests made on behalf of a beneficiary if the request is consistent with this act and if an adequate contribution has been made for this purpose on behalf of a beneficiary.

(2) The board may agree to serve as trustee for an individual trust created on behalf of a beneficiary, regardless of whether the trust is revocable or irrevocable, has one or more remaindermen or contingent beneficiaries, or any other condition, as long as the individual trust is consistent with the purposes of this act.

(3) The board may offer consultative and professional assistance to a guardian of a beneficiary of its trust.

(h) Limitations on provision of services.--

(1) The board need not provide services to a beneficiary who is a competent adult who refuses to accept the services.

(2) The board shall not provide services of a nature or in a manner which is contrary to the public policy of the Commonwealth at the time the services would be provided.

(i) Transmittal of trust moneys.--The board shall transmit all moneys received by it as trustee to the Department of Public Welfare, for deposit receipts in the Community Trust Fund.

Section 6. Community Trust Fund.

There is hereby created in the Department of Public Welfare the Community Trust Fund. All moneys received from community trust boards in this Commonwealth shall be deposited into this account. Receipts shall be provided to a board at the time of deposit. Quarterly accounting statements shall be provided to each board having moneys deposited in the fund.

Section 7. Irrevocable nature of trust.

1 A community trust for persons with severe chronic
2 disabilities is irrevocable, but the trustees in their sole
3 discretion may provide compensation for any contribution to the
4 trust to any trustor who, upon good cause, withdraws a
5 beneficiary designated by the trustor from the trust, or if it
6 becomes impossible to fulfill the conditions of the trust with
7 regard to an individual beneficiary for reasons other than the
8 death of the beneficiary.

9 Section 8. Effect of participation.

10 Notwithstanding any other provision of law to the contrary,
11 the beneficiary's interest in community trust shall not be
12 deemed to be an asset for the purpose of determining income
13 eligibility for a publicly operated program, nor shall that
14 interest be reached in satisfaction of a claim for support and
15 maintenance of the beneficiary. No agency shall reduce the
16 benefits of services available to an individual because that
17 person is the beneficiary of a community trust.

18 Section 9. Rule against perpetuities abrogated.

19 A community trust shall not be subject to or held to be in
20 violation of a principle of law against perpetuities or
21 restraints on alienation or perpetual accumulations of trusts.

22 Section 10. Settlement and dissolution.

23 The board shall settle a community trust by filing a final
24 accounting in the court of common pleas. In addition, at any
25 time prior to the settlement of the final account, the board,
26 the Secretary of Public Welfare or the Attorney General may
27 bring an action for the dissolution of a nonprofit corporation
28 in the court of common pleas for the purpose of terminating the
29 trust or merging it with another charitable trust. No trustee or
30 any private individual shall be entitled to share in the

1 distribution of any of the trust assets upon dissolution, merger
2 or settlement of the community trust. Upon dissolution, merger
3 or settlement, the court of common pleas shall distribute all of
4 the remaining net assets of the community trust in a manner that
5 is consistent with the purposes of this act.

6 Section 11. Applicability.

7 This act shall apply to community trusts established on or
8 after the effective date of this act.

9 Section 12. Effective date.

10 This act shall take effect in 90 days.