

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1119 Session of
2001

INTRODUCED BY VANCE, SCHULER, MICOZZIE, DeWEESE, ADOLPH, ARMSTRONG, BARD, BEBKO-JONES, BELARDI, BELFANTI, BROWNE, BUNT, BUXTON, CALTAGIRONE, CAPPABIANCA, CLARK, L. I. COHEN, COLAFELLA, CORRIGAN, CRUZ, CURRY, DAILEY, DeLUCA, EGOLF, FAIRCHILD, FLICK, FRANKEL, FREEMAN, GEIST, GEORGE, GRUCELA, HALUSKA, HARHAI, HENNESSEY, HERMAN, HESS, HORSEY, JAMES, JOSEPHS, KELLER, KENNEY, LAUGHLIN, LEDERER, LEH, MACKERETH, MAHER, MANDERINO, MANN, MARKOSEK, MARSICO, McNAUGHTON, MELIO, R. MILLER, S. MILLER, MUNDY, NAILOR, NICKOL, ORIE, PETRARCA, READSHAW, ROEBUCK, ROHRER, ROSS, RUBLEY, SAINATO, SANTONI, SATHER, SAYLOR, SCHRODER, SHANER, B. SMITH, SOLOBAY, STABACK, STAIRS, STEELMAN, SURRA, E. Z. TAYLOR, THOMAS, TIGUE, TRAVAGLIO, TRELLO, TRICH, WALKO, WATSON, J. WILLIAMS, WILT, WOJNAROSKI, YEWIC, YOUNGBLOOD, YUDICHAK, ZUG, CLYMER AND SAMUELSON, MARCH 21, 2001

AS RE-REPORTED FROM COMMITTEE ON AGING AND OLDER ADULT SERVICES,
HOUSE OF REPRESENTATIVES, AS AMENDED, JANUARY 22, 2002

AN ACT

1 Requiring public notices relating to certain matters affecting
2 long-term care NURSING facilities; and providing for <—
3 compliance and enforcement.

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

6 ~~Section 1. Short title.~~ <—

7 ~~This act shall be known and may be cited as the Long Term~~
8 ~~Care Facility Public Notice Act.~~

9 ~~Section 2. Definitions.~~

10 ~~The following words and phrases when used in this act shall~~
11 ~~have the meanings given to them in this section unless the~~

~~context clearly indicates otherwise:~~

~~"Designated party." An individual designated by a resident or resident's responsible party who receives notices as required by section 5.~~

~~"Licensing authority." A Commonwealth department that licenses long term care facilities.~~

~~"Long term care." The provision of assessment, care management and diagnostic, preventative, therapeutic, rehabilitative, support and maintenance services for older adults and other adults with functional limitations.~~

~~"Long term care facility." A facility that is licensed by the Commonwealth to provide long term care. The term includes, but is not limited to, a long term care nursing facility, personal care home, community residential rehabilitation service provider, community home for individuals with mental retardation, intermediate care facility for individuals with mental retardation or adult daily living center.~~

~~Section 3. License and operational postings.~~

~~A long term care facility shall:~~

~~(1) Display the license or certificate of compliance permitting its operation in a public and conspicuous location where it may be easily observed and read.~~

~~(2) Display all reports of inspections; lists of citations; statements of deficient operation; notices of action taken, or to be taken by the licensing authority; plans for correcting any practice, procedure or other issue identified by the licensing authority, or its agent, issued during the preceding 12 month period of time, in a public and conspicuous location where these documents may be easily observed and read.~~

~~(3) Maintain a current list of:~~

~~(i) all persons, their addresses and Social Security numbers, receiving service or enrolled within the programs operated by the facility;~~

~~(ii) any orders of court entered regarding the decisional capacity or service status of any person receiving service or enrolled within the programs operated by the facility;~~

~~(iii) the names, addresses and telephone numbers of: the representative payee or next of kin or responsible party and person named as power of attorney or guardian, responsible for any person receiving service or enrolled within the facility's programs;~~

~~(iv) The name, address, contact person and telephone number of the agency, organization or person providing payment, in whole or in part, for the services provided to the persons enrolled within the programs operated by the facility.~~

~~(4) Maintain the list identified in paragraph (3) in current status at all times, keeping it distinct and separate from, the client service or treatment record and shall contain in correlated form all of the information in this section on any and all persons enrolled in the facility's programs.~~

~~(5) Shall provide the list identified in paragraph (3) to the issuing authority, its representative or agent, responsible for issuing the license or certificate of compliance for the facility, at any time when requested by the licensing authority.~~

~~Section 4. Notice to long term care facility.~~

~~A licensing authority shall notify a long term care facility in writing that the licensing authority plans to take, or has taken, any of the following actions:~~

~~(1) Revocation, refusal to reissue or suspension of the facility's license or certificate of compliance.~~

~~(2) Removal of any, or all, persons receiving service, or enrolled within the programs operated by the facility, from the physical location of the facility.~~

~~(3) Refusal to permit the facility to admit, or readmit, any person, to the service programs operated by the facility due to health or safety issues posed by the operation of the facility by the current licensee or holder of the certificate of compliance, or its agent or appointee.~~

~~(4) Decision to appoint, or seek the appointment of, an entity, other than the current licensee or holder of the certificate of compliance, or its agent or appointee, to operate or maintain the facility due to health or safety issues posed by the operation of the facility.~~

~~Section 5. Notice to persons receiving services.~~

~~A licensing authority notifying any facility of any action described in section 4 shall notify in writing, and by other necessary means, all persons receiving long term care services, or enrolled in the programs of service of a facility and any responsible party or designated party for any person receiving long term care services, or enrolled in programs of service of a facility, as listed in section 3(3)(iii), of such action. The notification shall be delivered in person by a representative or agent of the licensing authority or by the United States Postal Service and shall be written in clear and specific language so as to clearly communicate the action being taken by the issuing~~

1 authority.

2 ~~Section 6. Notice on premises.~~

3 ~~A licensing authority notifying any long term care facility~~
4 ~~of any action described in section 4 shall post on the entrances~~
5 ~~to the physical location of the notified facility a public~~
6 ~~notice, no smaller in size than 24 inches by 24 inches, and~~
7 ~~printed with type no smaller than 18 points, specifically~~
8 ~~stating the action which is being taken pursuant to section 4.~~
9 ~~The public notice shall be posted no later than 24 hours after~~
10 ~~the licensing authority has delivered, or placed in the United~~
11 ~~States Postal Service, the notice to the facility as required by~~
12 ~~section 4. The posting may not occur until the licensing~~
13 ~~authority has received confirmation of receipt of the notice by~~
14 ~~the facility. The public notice shall remain posted until such~~
15 ~~time that the action taken by the issuing authority has been~~
16 ~~resolved. If an appeal is filed of the licensing authority's~~
17 ~~action, the public notice shall be posted when all issues on~~
18 ~~appeal are determined finally.~~

19 ~~Section 7. Newspaper publication.~~

20 ~~A licensing authority notifying any long term care facility~~
21 ~~of any action described in section 4 shall place an~~
22 ~~advertisement in a newspaper of general circulation, published~~
23 ~~at least weekly, for three separate dates of publication. The~~
24 ~~public notice shall be no smaller in size than four inches by~~
25 ~~four inches stating that the licensing authority is taking, or~~
26 ~~has taken, such action and specifying the long term care~~
27 ~~facility, its location, and the operating organization, if other~~
28 ~~than the named holder of the license or certificate of~~
29 ~~compliance. In the event that any issue leading to the posting~~
30 ~~of notices and publication of notices is later reversed or found~~

~~invalid, the licensing authority shall publish a retraction in the same style and manner prescribed in this section. In the event that corrections are made and appeals are resolved, the licensing authority shall notify any responsible party or designated party for any person receiving long term care services, or enrolled in programs of service of said facility, of such corrections and resolution of appeals.~~

~~Section 8. Compliance and enforcement.~~

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

~~Section 9. Regulations.~~

~~Each licensing authority shall promulgate rules or regulations necessary to administer this act within six months of the effective date of this act.~~

~~Section 10. Effective date.~~

~~This act shall take effect in 60 days.~~

SECTION 1. SHORT TITLE.

THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE LONG-TERM CARE NURSING FACILITY PUBLIC NOTICE ACT.

SECTION 2. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"DEPARTMENT." THE DEPARTMENT OF HEALTH OF THE COMMONWEALTH.

"DESIGNATED PARTY." AN INDIVIDUAL DESIGNATED BY A RESIDENT OR RESIDENT'S RESPONSIBLE PARTY WHO RECEIVES NOTICES AS REQUIRED BY SECTION 5.

1 "LONG-TERM CARE NURSING FACILITY." A FACILITY THAT PROVIDES
2 EITHER SKILLED OR INTERMEDIATE NURSING CARE OR BOTH LEVELS OF
3 CARE TO TWO OR MORE PATIENTS, WHO ARE UNRELATED TO THE LICENSEE,
4 FOR A PERIOD EXCEEDING 24 HOURS. INTERMEDIATE CARE FACILITIES
5 EXCLUSIVELY FOR THE MENTALLY RETARDED, COMMONLY CALLED ICF/MR,
6 SHALL NOT BE CONSIDERED LONG-TERM CARE NURSING FACILITIES FOR
7 THE PURPOSE OF THIS ACT AND SHALL BE LICENSED BY THE DEPARTMENT
8 OF PUBLIC WELFARE.

9 SECTION 3. LICENSE AND OPERATIONAL POSTINGS.

10 A LONG-TERM CARE NURSING FACILITY SHALL:

11 (1) DISPLAY THE LICENSE PERMITTING ITS OPERATION IN A
12 PUBLIC AND CONSPICUOUS LOCATION WHERE IT MAY BE EASILY
13 OBSERVED AND READ.

14 (2) DISPLAY ALL REPORTS OF INSPECTIONS ISSUED DURING THE
15 PRECEDING 12-MONTH PERIOD OF TIME, IN A PUBLIC AND
16 CONSPICUOUS LOCATION WHERE THESE DOCUMENTS MAY BE EASILY
17 OBSERVED AND READ.

18 (3) DISPLAY ANY NOTICE OF A BAN ON ADMISSIONS OR
19 REVOCATION OF A LICENSE.

20 (4) DISPLAY INFORMATION REGARDING THE COMMONWEALTH'S
21 LONG-TERM CARE WORLD WIDE WEB SITE.

22 (5) MAINTAIN IN CURRENT STATUS FOR EACH RESIDENT, WHERE
23 APPLICABLE, THE NAMES, ADDRESSES AND TELEPHONE NUMBERS OF THE
24 REPRESENTATIVE PAYEE OR NEXT OF KIN, RESPONSIBLE PARTY OR
25 DESIGNATED PARTY AND THE PERSON OR PERSONS NAMED AS POWER OF
26 ATTORNEY OR GUARDIAN.

27 (6) PROVIDE THE INFORMATION IDENTIFIED IN PARAGRAPH (5)
28 TO THE DEPARTMENT, ITS REPRESENTATIVE OR AGENT, RESPONSIBLE
29 FOR ISSUING THE LICENSE FOR THE FACILITY, AT ANY TIME WHEN
30 REQUESTED BY THE DEPARTMENT.

1 SECTION 4. NOTICE TO PERSONS RECEIVING SERVICES.

2 (A) GENERAL RULE.--WHENEVER THE DEPARTMENT SHALL PROVIDE
3 NOTICE TO A FACILITY OF A PROPOSED BAN ON ADMISSIONS OR LICENSE
4 REVOCATION, SUCH NOTICE SHALL ALSO BE TRANSMITTED TO THE
5 RESPONSIBLE PARTY OR DESIGNATED PARTY FOR EACH RESIDENT OF THE
6 FACILITY. THE NOTICE SHALL BE EITHER HAND DELIVERED BY A
7 REPRESENTATIVE OR AGENT OF THE DEPARTMENT OR POSTMARKED BY THE
8 UNITED STATES POSTAL SERVICE NO LATER THAN 24 HOURS AFTER
9 NOTIFICATION TO THE FACILITY AND SHALL BE WRITTEN IN CLEAR AND
10 SPECIFIC LANGUAGE SO AS TO CLEARLY COMMUNICATE THE ACTION BEING
11 TAKEN BY THE DEPARTMENT. THE DEPARTMENT SHALL ENSURE THAT THE
12 NOTICE SHALL BE INCLUDED ON THE COMMONWEALTH'S LONG-TERM CARE
13 WORLD WIDE WEB SITE.

14 (B) NOTICE OF CORRECTIVE ACTION OR APPEAL RESOLUTION.--IN
15 THE EVENT THAT CORRECTIONS ARE MADE OR APPEALS ARE RESOLVED, THE
16 DEPARTMENT SHALL NOTIFY THE RESPONSIBLE PARTY OR DESIGNATED
17 PARTY FOR EACH RESIDENT OF THE FACILITY OF THE CORRECTIONS OR
18 RESOLUTION OF APPEALS. THE DEPARTMENT SHALL ENSURE THAT THE
19 NOTICE SHALL BE POSTED ON COMMONWEALTH'S LONG-TERM CARE WORLD
20 WIDE WEB SITE.

21 SECTION 5. NOTICE ON PREMISES.

22 NO LATER THAN 24 HOURS AFTER A FACILITY RECEIVES NOTIFICATION
23 FROM THE DEPARTMENT OF A PROPOSED BAN ON ADMISSIONS OR LICENSE
24 REVOCATION UNDER SECTION 4(A), THE FACILITY SHALL POST THE
25 NOTIFICATION ON ANY ENTRANCE TO THE PHYSICAL LOCATION OF THE
26 FACILITY. THE PUBLIC NOTICE SHALL REMAIN POSTED UNTIL SUCH TIME
27 AS THE ACTION TAKEN BY THE DEPARTMENT HAS BEEN RESOLVED. IF AN
28 APPEAL IS FILED OF THE DEPARTMENT'S ACTION, THE NOTICE SHALL
29 REMAIN POSTED UNTIL ALL ISSUES ON APPEAL ARE DETERMINED FINALLY.

30 SECTION 6. COMPLIANCE AND ENFORCEMENT.

1 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, COMPLIANCE WITH
2 THIS ACT SHALL OPERATE AS A CONDITION OF LICENSURE FOR A LONG-
3 TERM CARE NURSING FACILITY, AND THIS ACT SHALL BE ENFORCED
4 AGAINST A LONG-TERM CARE NURSING FACILITY IN THE SAME MANNER AS
5 PROVIDED IN THE ACT UNDER WHICH THE FACILITY IS LICENSED.

6 SECTION 7. REGULATIONS.

7 THE DEPARTMENT SHALL PROMULGATE RULES OR REGULATIONS
8 NECESSARY TO ADMINISTER THIS ACT WITHIN SIX MONTHS OF THE
9 EFFECTIVE DATE OF THIS ACT.

10 SECTION 8. EFFECTIVE DATE.

11 THIS ACT SHALL TAKE EFFECT IN 60 DAYS.