

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 AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, JANUARY 28, 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; 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 Long-term
12 Care Nursing Facility Public Notice AND NURSING HOME CONSUMER <—
13 INTERNET INFORMATION ACCESS Act.

1 Section 2. Definitions.

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

5 "CONSUMER INFORMATION INTERNET GUIDE." THE NURSING HOME <—
6 CONSUMER INFORMATION INTERNET GUIDE REQUIRED TO BE PUBLISHED
7 UNDER THE PROVISIONS OF THIS ACT.

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

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

12 "ELDERLY PERSONS." THOSE PERSONS RESIDING WITHIN THIS <—
13 COMMONWEALTH WHO ARE 60 YEARS OF AGE OR OLDER.

14 "Long-term care nursing ~~facility~~ FACILITY" OR "NURSING HOME." <—
15 A facility that provides either skilled or intermediate nursing
16 care or both levels of care to two or more patients, who are
17 unrelated to the licensee, for a period exceeding 24 hours.
18 Intermediate care facilities exclusively for the mentally
19 retarded, commonly called ICF/MR, shall not be considered long-
20 term care nursing facilities for the purpose of this act and
21 shall be licensed by the Department of Public Welfare.

22 Section 3. License and operational postings.

23 A long-term care nursing facility shall:

24 (1) Display the license permitting its operation in a
25 public and conspicuous location where it may be easily
26 observed and read.

27 (2) Display all reports of inspections issued during the
28 preceding 12-month period of time, in a public and
29 conspicuous location where these documents may be easily
30 observed and read.

1 (3) Display any notice of a ban on admissions or
2 revocation of a license.

3 (4) Display information regarding the Commonwealth's
4 long-term care World Wide Web site.

5 (5) Maintain in current status for each resident, where
6 applicable, the names, addresses and telephone numbers of the
7 representative payee or next of kin, responsible party or
8 designated party and the person or persons named as power of
9 attorney or guardian.

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

14 Section 4. Notice to persons receiving services.

15 (a) General rule.--Whenever the department shall provide
16 notice to a facility of a proposed ban on admissions or license
17 revocation, such notice shall BE DELIVERED BY EITHER A <—
18 REPRESENTATIVE OR AGENT OF THE DEPARTMENT OR PLACED IN THE
19 UNITED STATES POSTAL SERVICE, REGISTERED MAIL, RETURN RECEIPT
20 REQUESTED. THE NOTICE SHALL also be transmitted to the <—
21 responsible party or designated party for each resident of the
22 facility. The notice TO THE RESPONSIBLE OR DESIGNATED PARTY <—
23 shall be either hand delivered by a representative or agent of
24 the department or postmarked by the United States Postal Service
25 no later than 24 hours after notification to the facility and
26 shall be written in clear and specific language so as to clearly
27 communicate the action being taken by the department. The
28 department shall ensure that the notice shall be included on the
29 Commonwealth's long-term care World Wide Web site.

30 (b) Notice of corrective action or appeal resolution.--In

1 the event that corrections are made or appeals are resolved, the
2 department shall notify the responsible party or designated
3 party for each resident of the facility of the corrections or
4 resolution of appeals. The department shall ensure that the
5 notice shall be posted on Commonwealth's long-term care World
6 Wide Web site.

7 Section 5. Notice on premises.

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

16 Section 6. Compliance and enforcement.

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

22 SECTION 7. NURSING HOME CONSUMER INFORMATION REPORT. ←

23 IN ADDITION TO THE INFORMATION REQUIRED BY THE DEPARTMENT OF
24 HEALTH ON A FORM PROVIDED BY THE DEPARTMENT OF HEALTH PURSUANT
25 TO THE PROVISIONS OF THE ACT OF JULY 19, 1979 (P.L.130, NO.48),
26 KNOWN AS THE HEALTH CARE FACILITIES ACT, AND REGULATIONS
27 PROMULGATED PURSUANT THERETO, EACH NURSING HOME SHALL PROVIDE TO
28 THE DEPARTMENT OF HEALTH NO LATER THAN 90 DAYS AFTER THE CLOSE
29 OF EACH CALENDAR YEAR THE FOLLOWING INFORMATION ON THE ABOVE-
30 REFERENCED FORM:

1 (1) NURSING HOURS WORKED PER PATIENT PER DAY AND NURSING
2 HOURS REQUIRED BY THE DEPARTMENT OF HEALTH PER PATIENT PER
3 DAY. ACTUAL HOURS WORKED PER PATIENT PER DAY ARE FOR THE MOST
4 RECENTLY CONCLUDED FISCAL OR CALENDAR YEAR.

5 (2) AVERAGE LENGTH OF SERVICE OF PROFESSIONAL NURSING
6 STAFF AND THE AVERAGE LENGTH OF SERVICE OF NURSE AIDE
7 PERSONNEL AT THE NURSING HOME COMPLETING THE FORM.

8 (3) AVERAGE LENGTH OF LICENSURE AND/OR CERTIFICATION OF
9 PROFESSIONAL NURSING STAFF AND THE AVERAGE LENGTH OF
10 LICENSURE AND/OR CERTIFICATION OF NURSE AIDE PERSONNEL.

11 (4) NURSING HOURS PER PATIENT PER DAY OF TEMPORARY
12 AGENCY PROFESSIONAL NURSING STAFF AND NURSE AIDE PERSONNEL.

13 (5) WHETHER A RESIDENT COUNCIL EXISTS AND MEETS ON A
14 REGULAR BASIS.

15 SECTION 8. NURSING HOME CONSUMER INFORMATION.

16 (A) GUIDE.--

17 (1) THE DEPARTMENT OF AGING SHALL PRODUCE, IN A TIMELY
18 MANNER, A NURSING HOME INFORMATION SITE ON THE INTERNET. IT
19 SHALL INCLUDE:

20 (I) THE ITEMS LISTED IN SECTION 7.

21 (II) INFORMATION OBTAINED FROM THE ANNUAL LONG-TERM
22 CARE FACILITIES QUESTIONNAIRES SUBMITTED TO THE
23 DEPARTMENT OF HEALTH.

24 (III) INFORMATION OBTAINED FROM THE HEALTH CARE
25 FINANCING ADMINISTRATION OWNERSHIP DISCLOSURE FORM.

26 (IV) A COMPARATIVE LIST OF NURSING HOMES DEVELOPED
27 IN THE MANNER PROVIDED IN SUBSECTION (B).

28 (V) THE NURSING HOME CONSUMER INQUIRY TELEPHONE
29 HOTLINE TELEPHONE NUMBER REQUIRED UNDER SUBSECTION (C).

30 (2) IF ERRORS ARE FOUND IN THE CONSUMER INFORMATION

1 INTERNET GUIDE, ALL FACILITIES SHALL BE SENT A CORRECTION
2 SHEET WITHIN 30 DAYS OF THE DEPARTMENT OF AGING'S RECEIPT OF
3 NOTIFICATION OF THE ERROR. FOR THE PURPOSES OF THIS SECTION,
4 AN ERROR SHALL BE DEFINED AS INFORMATION INCORRECTLY
5 TRANSCRIBED FROM THE FORMS PROVIDED TO THE DEPARTMENT OF
6 HEALTH TO THE CONSUMER GUIDE.

7 (3) THE DEPARTMENT OF AGING WILL SEND FINAL PROOFS TO
8 THE NURSING HOME OF ITS DATA PROFILE THAT WILL BE PUBLISHED
9 IN THE CONSUMER GUIDE PRIOR TO PUBLICATION. THE NURSING HOME
10 WILL HAVE FIVE DAYS TO NOTIFY THE DEPARTMENT OF AGING OF ANY
11 ERRORS TO BE CORRECTED. IF THE DEPARTMENT OF AGING RECEIVES
12 NO NOTIFICATION OF ERRORS, THE DATA PROFILE WILL BE
13 CONSIDERED ACCURATE AND WILL BE PUBLISHED.

14 (B) COMPARATIVE LIST.--THE COMPARATIVE LIST OF NURSING HOMES
15 SHALL BE DEVELOPED AND INCLUDED IN THE CONSUMER INFORMATION
16 INTERNET GUIDE BY THE DEPARTMENT OF AGING. IT SHALL INCLUDE THE
17 FOLLOWING INFORMATION:

18 (1) NAME OF FACILITY.

19 (2) FACILITY ADDRESS AND TELEPHONE NUMBER.

20 (3) BED CAPACITY.

21 (4) OWNER OF FACILITY AND MANAGING COMPANY, IF
22 APPLICABLE.

23 (5) TYPE OF SPONSORSHIP, INCLUDING, BUT NOT LIMITED TO,
24 GOVERNMENTAL, NONPROFIT AND FOR-PROFIT OR RELIGIOUS
25 AFFILIATION, IF APPLICABLE.

26 (6) PAYMENT SOURCES ACCEPTED, INCLUDING, BUT NOT LIMITED
27 TO, MEDICARE, MEDICAID, VETERANS' ADMINISTRATION, LONG-TERM
28 CARE INSURANCE AND PRIVATE PAY.

29 (7) CURRENT LICENSE, DEFICIENCY AND CERTIFICATION STATUS
30 AS DETERMINED BY THE DEPARTMENT OF HEALTH; WHETHER, WITHIN

1 THE PREVIOUS FIVE YEARS, THE FACILITY HAS BEEN SUBJECT TO A
2 PROVISIONAL LICENSE, A BAN ON ADMISSIONS, PENALTIES IMPOSED
3 IN CONNECTION WITH THE LICENSURE OR CERTIFICATION PROCESS, A
4 LICENSE REVOCATION OR APPOINTMENT OF A TEMPORARY MANAGER TO
5 OPERATE THE FACILITY OR MEDICARE OR MEDICAID DECERTIFICATION
6 AND THE CORRESPONDING DATES.

7 (8) NURSING HOURS PER PATIENT PER DAY AND NURSING HOURS
8 REQUIRED BY THE DEPARTMENT OF HEALTH PER PATIENT PER DAY.
9 ACTUAL HOURS WORKED PER PATIENT PER DAY ARE FOR THE MOST
10 RECENTLY CONCLUDED FISCAL OR CALENDAR YEAR.

11 (9) AVERAGE LENGTH OF SERVICE AT THE NURSING HOME OF
12 PROFESSIONAL NURSING STAFF AND THE AVERAGE LENGTH OF SERVICE
13 OF NURSE AIDE STAFF.

14 (10) AVERAGE LENGTH OF LICENSURE AND/OR CERTIFICATION OF
15 PROFESSIONAL NURSING STAFF AND THE AVERAGE LENGTH OF
16 LICENSURE AND/OR CERTIFICATION OF NURSE AIDE PERSONNEL.

17 (11) NURSING HOURS PER PATIENT PER DAY OF TEMPORARY
18 AGENCY PROFESSIONAL NURSING STAFF AND NURSE AIDE PERSONNEL.

19 (12) A LISTING OF EXISTENCE AND AVAILABILITY OF SPECIFIC
20 THERAPY SERVICES, INCLUDING, BUT NOT LIMITED TO, PHYSICAL
21 THERAPY, OCCUPATIONAL THERAPY, SPEECH THERAPY AND RESPIRATORY
22 THERAPY.

23 (13) WHETHER A RESIDENT COUNCIL EXISTS AND MEETS ON A
24 REGULAR BASIS.

25 (14) NAME AND TELEPHONE NUMBER OF A LOCAL OMBUDSMAN.

26 (15) COSTS PER DAY, MONTH AND YEAR.

27 (16) VISITING HOURS.

28 (17) IF THERE ARE TELEPHONES AVAILABLE FOR PRIVATE
29 CONVERSATIONS.

30 (18) IF THERE IS A REGISTERED DIETITIAN.

1 (19) IF THERE IS A WRITTEN EMERGENCY EVACUATION PLAN.

2 (20) THE NEAREST HOSPITAL AND THE DISTANCE IN MILES FROM
3 THE NURSING HOME.

4 (21) IF THERE ARE ISOLATION ROOMS FOR PATIENTS WITH
5 CONTAGIOUS ILLNESSES.

6 (22) IF THERE IS AN ALZHEIMER/PARKINSON DISEASE PROGRAM.

7 (23) WHETHER THERE ARE QUALIFIED PHYSICAL THERAPISTS
8 ONSITE.

9 (24) WHETHER THERE IS A WRITTEN DESCRIPTION OF PATIENTS
10 RIGHTS AND RESPONSIBILITIES.

11 (25) WHETHER THERE ARE WRITTEN POLICIES ON "DO NOT
12 RESUSCITATE ORDERS," PHYSICAL RESTRAINTS AND CHEMICAL
13 SEDATION.

14 (26) WHAT MEDICAL SERVICES ARE AVAILABLE ONSITE,
15 INCLUDING DENTISTS, PODIATRISTS, PHARMACISTS AND
16 OPHTHALMOLOGISTS.

17 (27) THE CURRENT RESIDENT PROFILE, INCLUDING AVERAGE
18 AGE, RACE AND SEX.

19 (28) INFORMATION ON HOW TO CONTACT THE LOCAL AREA AGENCY
20 ON AGING, INCLUDING THE SERVICES AVAILABLE TO PERSONS OVER 60
21 YEARS OF AGE THROUGH THE LOCAL AREA AGENCY ON AGING.

22 (29) INFORMATION ON COMMUNITY RESOURCES THAT CAN ASSIST
23 IN THE SELECTION OF A LONG-TERM CARE FACILITY, SUCH AS TRADE
24 ASSOCIATIONS OR CONSUMER ADVOCACY GROUPS.

25 (C) NURSING HOME CONSUMER INQUIRY TELEPHONE HOTLINE.--THE
26 DEPARTMENT OF AGING SHALL ESTABLISH A STATEWIDE TELEPHONE NUMBER
27 TO SERVE AS THE NURSING HOME CONSUMER INQUIRY TELEPHONE HOTLINE.
28 THIS NUMBER SHALL BE A TOLL-FREE NUMBER. THE PURPOSE OF THIS
29 TELEPHONE NUMBER IS TO RESPOND TO CALLS REGARDING THE CURRENT
30 LICENSURE, DEFICIENCY AND CERTIFICATION STATUS OF NURSING HOMES.

1 ALL DATA PROVIDED BY THE HOTLINE SHALL BE UPDATED EACH WEEK
2 USING INFORMATION PROVIDED BY THE DEPARTMENT OF HEALTH IN A
3 TIMELY FASHION. THIS TELEPHONE NUMBER SHALL BE PROMINENTLY
4 DISPLAYED IN THE ANNUAL CONSUMER INFORMATION INTERNET GUIDE.

5 (D) DISCLOSURE.--THE STATE LONG-TERM CARE OMBUDSMAN IN THE
6 DEPARTMENT OF AGING SHALL MAIL AT LEAST THE ADDRESS OF THE
7 CONSUMER INFORMATION INTERNET GUIDE TO THE LOCAL LONG-TERM CARE
8 OMBUDSMAN OF EACH AREA AGENCY ON AGING, TO EACH NURSING HOME AND
9 TO THE PENNSYLVANIA COUNCIL ON AGING ANNUALLY.

10 (E) AVAILABILITY.--EACH NURSING HOME SHALL POST NEXT TO ITS
11 DEPARTMENT OF HEALTH LICENSE AN EXACT COPY OF ITS LISTING AS
12 FOUND IN THE CONSUMER INFORMATION INTERNET GUIDE. A NURSING HOME
13 SHALL PROVIDE TO EACH PROSPECTIVE RESIDENT AND FAMILY MEMBER OF
14 SUCH PROSPECTIVE RESIDENT WHO VISITS THE FACILITY, OR ANY MEMBER
15 OF THE PUBLIC UPON REQUEST, DURING NORMAL BUSINESS OR VISITING
16 HOURS, SUNDAY THROUGH SATURDAY, AN EXACT COPY OF ITS LISTING AS
17 SET FORTH IN THE CONSUMER INFORMATION INTERNET GUIDE.

18 (F) INSPECTIONS.--THE DEPARTMENT OF HEALTH SHALL VERIFY THE
19 AVAILABILITY OF THE LISTING DURING ANNUAL LICENSING SURVEYS. THE
20 DEPARTMENT OF HEALTH SHALL MONITOR COMPLIANCE WITH THE
21 REQUIREMENTS OF THIS ACT FOR REGULAR FILING OF THE LONG-TERM
22 CARE FACILITIES QUESTIONNAIRE WITH THE DEPARTMENT OF HEALTH.

23 (G) UPDATE.--THE DEPARTMENT OF HEALTH SHALL ISSUE
24 MODIFICATIONS TO THE LONG-TERM CARE FACILITIES QUESTIONNAIRE
25 RESULTING FROM CHANGES IN THE REIMBURSEMENT SYSTEM FOR NURSING
26 HOMES. SUCH MODIFICATIONS SHALL PROVIDE THE SAME INFORMATION IN
27 AN UPDATED FORMAT.

28 (H) REGULATIONS.--THE DEPARTMENT OF AGING SHALL PROMULGATE
29 REGULATIONS SETTING FORTH PROPOSED ADDITIONS, CHANGES, OR BOTH,
30 IF THE DEPARTMENT DOES ANY OF THE FOLLOWING:

1 (1) EXPANDS THE SCOPE OF THE CONSUMER GUIDE BEYOND THOSE
2 TOPICS EXPRESSLY SET FORTH IN SUBSECTION (A).

3 (2) EXPANDS THE SCOPE OF THE COMPARATIVE LIST BEYOND
4 THOSE TOPICS EXPRESSLY SET FORTH IN SUBSECTION (B).

5 (3) EXPANDS THE SCOPE OF ANY TOPIC EXPRESSLY SET FORTH
6 IN SUBSECTION (A) OR (B).

7 SECTION 9. COMPLAINTS.

8 COMPLAINTS OF NONCOMPLIANCE WITH THIS ACT SHALL BE FILED WITH
9 THE DEPARTMENT OF AGING. A COMPLAINANT SHALL INCLUDE A LOCAL
10 OMBUDSMAN, A NURSING HOME EMPLOYEE, A NURSING HOME RESIDENT, A
11 PROSPECTIVE NURSING HOME RESIDENT, OR ANY PERSON REPRESENTING
12 THE INTERESTS OF A NURSING HOME RESIDENT OR PROSPECTIVE NURSING
13 HOME RESIDENT.

14 SECTION 10. ADDITIONAL CONSUMER INFORMATION.

15 EACH NURSING HOME SHALL PROVIDE TO EACH PROSPECTIVE RESIDENT
16 OR REPRESENTATIVE THEREOF AT THE TIME OF INITIAL INQUIRY, A
17 COMPANION CONSUMER GUIDE WHICH DESCRIBES HOW TO SELECT A NURSING
18 HOME. THIS INFORMATION CAN BE EITHER A PUBLICATION OF THE
19 DEPARTMENT OF AGING, A CAMERA-READY COPY OF A PUBLICATION
20 PROVIDED BY THE DEPARTMENT OF AGING OR A COMPARABLE PUBLICATION
21 THAT WILL INFORM THE CONSUMER ON HOW TO CHOOSE A NURSING HOME.

22 Section 7 11. Regulations. <—

23 The department shall promulgate rules or regulations
24 necessary to administer this act within six months of the
25 effective date of this act.

26 SECTION 12. PENALTIES. <—

27 THE DEPARTMENT OF AGING SHALL HAVE THE AUTHORITY TO ASSESS A
28 \$1,000 CIVIL PENALTY FOR EACH VIOLATION OF THIS ACT. ANY PERSON
29 AGGRIEVED BY AN ADJUDICATION BY THE DEPARTMENT OF AGING SHALL
30 HAVE THE RIGHT TO APPEAL PURSUANT TO 42 PA.C.S. (RELATING TO

1 JUDICIARY AND JUDICIAL PROCEDURE).

2 SECTION 13. REPEALS.

3 ALL ACTS AND PARTS OF ACTS ARE REPEALED INSOFAR AS THEY ARE
4 INCONSISTENT WITH THIS ACT.

5 Section & 14. Effective date.

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6 This act shall take effect in 60 days.