

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2114 Session of 2007

INTRODUCED BY SHIMKUS, BELFANTI, BIANCUCCI, BLACKWELL, BOBACK, CURRY, FABRIZIO, FREEMAN, GEORGE, GIBBONS, GOODMAN, GRUCELA, HORNAMAN, JAMES, JOSEPHS, KOTIK, KULA, LEACH, MCGEEHAN, MCILVAINE SMITH, MOUL, MOYER, MUNDY, M. O'BRIEN, PARKER, PASHINSKI, PRESTON, SIPTROTH, K. SMITH, STABACK, WALKO, WANSACZ, WATSON, WOJNAROSKI, YOUNGBLOOD, YUDICHAK, CALTAGIRONE AND VULAKOVICH, DECEMBER 13, 2007

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 7, 2008

AN ACT

1 Amending the act of November 6, 1987 (P.L.381, No.79), entitled
2 "An act relating to the protection of the abused, neglected,
3 exploited or abandoned elderly; establishing a uniform
4 Statewide reporting and investigative system for suspected
5 abuse, neglect, exploitation or abandonment of the elderly;
6 providing protective services; providing for funding; and
7 making repeals," further defining "facility"; and providing
8 for the definitions of "chronic dementia" and "cognitive
9 impairment" and for certain disclosures to facility
10 residents; AND MAKING EDITORIAL CHANGES.

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<—

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The definition of "facility" in section 103 of
14 the act of November 6, 1987 (P.L.381, No.79), known as the Older
15 Adults Protective Services Act, amended December 18, 1996
16 (P.L.1125, No.169), is amended and the section is amended by
17 adding definitions to read:

18 Section 103. Definitions.

19 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 \* \* \*

4 "Chronic dementia." An irreversible global loss of cognitive  
5 function causing evident intellectual impairment which always  
6 includes memory loss, without alteration of state of  
7 consciousness as diagnosed by a physician and is severe enough  
8 to interfere with work or social activities, or both, and to  
9 require continuous care or supervision.

10 \* \* \*

11 "Cognitive impairment." A mental or emotional condition or  
12 disorder that substantially affects a person's ability to  
13 reason, understand and make decisions.

14 \* \* \*

15 "Facility." Any of the following:

16 (1) A domiciliary care home as defined in section 2202-A  
17 of the act of April 9, 1929 (P.L.177, No.175), known as The  
18 Administrative Code of 1929.

19 (2) A home health care agency.

20 (3) A long-term care nursing facility as defined in  
21 section 802.1 of the act of July 19, 1979 (P.L.130, No.48),  
22 known as the Health Care Facilities Act.

23 (4) An older adult daily living center as defined in  
24 section 2 of the act of July 11, 1990 (P.L.499, No.118),  
25 known as the Older Adult Daily Living Centers Licensing Act.

26 (5) A personal care home as defined in section 1001 of  
27 the act of June 13, 1967 (P.L.31, No.21), known as the Public  
28 Welfare Code.

29 (6) An assisted living residence as defined in section  
30 1001 of the act of June 13, 1967 (P.L.31, No.21), known as

1 the Public Welfare Code.

2 \* \* \*

3 Section 2. The act is amended by adding a section to read:

4 Section 5101. Physician disclosure.

5 (A) DISCLOSURE.--In any facility in which a physician holds <—  
6 a financial or ownership interest and is the attending or  
7 primary care physician for a resident or prospective resident of  
8 the facility: <—

9 ~~(1) The physician shall disclose the interest to each~~  
10 FACILITY THE PHYSICIAN SHALL DISCLOSE THE INTEREST TO EACH <—  
11 facility resident and responsible family member or legal  
12 representative of the resident. The resident or responsible  
13 family member or legal representative of the resident shall have  
14 the right to choose the physician disclosing the interest or an  
15 independent physician as the resident's primary care physician.

16 ~~(2) If a facility resident has a cognitive impairment or~~ <—  
17 ~~chronic dementia and has no responsible family member or~~  
18 ~~legal representative, the physician shall disclose the~~  
19 ~~interest to the agency, which shall assist the resident in~~  
20 ~~choosing a primary care physician.~~

21 ~~(3) The department shall promulgate rules and~~  
22 ~~regulations as to the additional powers, duties and~~  
23 ~~responsibilities of the agency in assisting facility~~  
24 ~~residents under paragraph (2).~~

25 (B) VIOLATION.--A PHYSICIAN WHO VIOLATES THIS SECTION IS <—  
26 SUBJECT TO DISCIPLINARY ACTION UNDER THE ACT OF OCTOBER 5, 1978  
27 (P.L.1109, NO.261), KNOWN AS THE OSTEOPATHIC MEDICAL PRACTICE  
28 ACT, OR THE ACT OF DECEMBER 20, 1985 (P.L.457, NO.112), KNOWN AS  
29 THE MEDICAL PRACTICE ACT OF 1985.

30 (C) REGULATIONS.--THE DEPARTMENT SHALL PROMULGATE RULES AND

1 REGULATIONS REGARDING OVERSIGHT, COMPLIANCE AND ENFORCEMENT  
2 UNDER THIS SECTION, INCLUDING CASES WHERE A FACILITY RESIDENT OR  
3 PROSPECTIVE RESIDENT HAS A COGNITIVE IMPAIRMENT OR CHRONIC  
4 DEMENTIA AND HAS NO RESPONSIBLE FAMILY MEMBER OR LEGAL  
5 REPRESENTATIVE.

6 Section 3. Sections 5101 and 5102 of the act, amended  
7 December 18, 1996 (P.L.1125, No.169), are amended to read:

8 Section [5101] 5190. Repeals.

9 All other acts and parts of acts are repealed insofar as they  
10 are inconsistent with this act.

11 Section [5102] 5191. Effective date.

12 This act shall take effect July 1, 1988.

13 Section 4. This act shall take effect in 60 days.