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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2161

Session of  
2008

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INTRODUCED BY BOBACK, MUNDY, HENNESSEY, CAUSER, GINGRICH,  
WATSON, QUINN, SWANGER, VULAKOVICH, PASHINSKI, SHIMKUS,  
CARROLL, FREEMAN, GABIG, GOODMAN, HALUSKA, HELM, KORTZ, KULA,  
LEACH, MAJOR, MILLARD, MOYER, MURT, M. O'BRIEN, O'NEILL,  
PEIFER, PICKETT, RUBLEY, SAYLOR, SCHRODER, SIPTROTH, STERN,  
WANSACZ, YOUNGBLOOD AND YUDICHAK, JANUARY 14, 2008

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REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,  
JANUARY 14, 2008

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AN ACT

1 Requiring certain long-term care facilities to coordinate with  
2 licensing agencies and local area agencies on aging to  
3 provide assistance to consumers in circumstances involving  
4 relocation of consumers; and providing for powers and duties  
5 of the Department of Aging.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Long-Term  
10 Consumer Care Relocation Coordination Act.

11 Section 2. Definitions.

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

15 "Area agency on aging" or "AAA." The single local agency  
16 designated by the department within each planning and service  
17 area to administer the delivery of a comprehensive and

1 coordinated plan of social and other services and activities in  
2 the planning and service area.

3 "Consumer." A person who receives services in a facility.

4 "Department." The Department of Aging of the Commonwealth.

5 "Designated person." An individual who may be chosen by a  
6 consumer and documented in the consumer's record, to be notified  
7 in case of an emergency, termination of service, facility  
8 closure or other situations as indicated by the consumer or as  
9 required by law or regulation. The term includes a consumer's  
10 legal representative or an advocate.

11 "Facility." Any of the following:

12 (1) A home that provides domiciliary care as defined in  
13 section 2202-A of the act of April 9, 1929 (P.L.177, No.175),  
14 known as The Administrative Code of 1929.

15 (2) A personal care home or an assisted living residence  
16 as defined in section 1001 of the act of June 13, 1967  
17 (P.L.31, No.21), known as the Public Welfare Code.

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

21 "Licensing agency." In the case of:

22 (1) A domiciliary care home, the Department of Aging.

23 (2) A long-term care nursing facility, the Department of  
24 Health.

25 (3) A personal care home or an assisted living  
26 residence, the Department of Public Welfare.

27 "Long-term care ombudsman" or "ombudsman." An agent of the  
28 Department of Aging, who pursuant to section 2203-A of the act  
29 of April 9, 1929 (P.L.177, No.175), known as The Administrative  
30 Code of 1929, investigates and seeks to resolve complaints made

1 by or on behalf of older individuals who are consumers of  
2 facilities, which complaints may relate to action, inaction or  
3 decisions of facilities, public agencies or of social agencies  
4 or their representatives, and which may adversely affect the  
5 health, safety, welfare, interests, preferences or rights of  
6 consumers.

7 "Relocation." The transfer of a consumer from one facility  
8 to another.

9 Section 3. Coordination efforts in relocation situations.

10 (a) General rule.--Other than situations described in  
11 subsection (b), at least 30 days prior to relocation of a  
12 consumer, a facility shall provide a written notice to the  
13 consumer and the consumer's designated person and shall notify  
14 the appropriate licensing agency and both the area agency on  
15 aging within their designated area and the area agency on aging  
16 within the designated area of the facility to which the consumer  
17 is being relocated.

18 (b) Exception.--Prior to a relocation situation involving  
19 the imminent removal of a consumer in order to ensure the  
20 consumer's health and safety, a facility shall notify the  
21 consumer and the consumer's designated person and shall contact  
22 the appropriate licensing agency and both the area agency on  
23 aging within their designated area and the area agency on aging  
24 within the designated area of the facility to which the consumer  
25 is being relocated.

26 (c) Administrative cooperation.--When a relocation occurs,  
27 the affected facilities, licensing agencies and local area  
28 agencies on aging shall:

29 (1) Coordinate efforts to ensure the protection of the  
30 health and safety of the consumer and ensure smooth

1 relocation for each consumer at the facility.

2 (2) Share relevant information concerning the consumer  
3 and the relocation plans and process, including, but not  
4 limited to, conducting site visits for alternative placement.

5 (3) Cooperate in order to ensure that any other agencies  
6 that may serve certain specific populations, including, but  
7 not limited to, mental health, mental retardation and  
8 Department of Veterans' Affairs, shall be included in the  
9 relocation process, as appropriate.

10 (4) (i) Coordinate the relocation process so that  
11 consumer relocation occurs only between the hours of 7:00  
12 a.m. and 7:00 p.m.

13 (ii) Subparagraph (i) shall not apply in emergency  
14 situations where consumers must be relocated in order to  
15 ensure their health and safety.

16 (d) Long-term care ombudsman duty.--

17 (1) The local ombudsman shall ensure that a consumer  
18 and, if appropriate, the consumer's designated person, acting  
19 within the scope of that person's authority, is involved in  
20 planning such transfers and is afforded the right to choose  
21 among the available alternative placements.

22 (2) Nothing in this act shall be construed to preclude  
23 the right of a licensing agency to make temporary placement  
24 until final placement can be arranged.

25 (e) Record of relocation incident.--

26 (1) An AAA shall maintain a record of each relocation  
27 incident in which the local ombudsman is involved and shall,  
28 upon request, share that information with the licensing  
29 agency, the department and, to the extent that release of  
30 that information is relevant to an investigation of criminal

1 activity, law enforcement officials.

2 (2) The department shall provide technical assistance  
3 and guidance to the local ombudsman to ensure that laws and  
4 regulations regarding confidentiality of information are  
5 strictly adhered to.

6 Section 4. Enforcement.

7 (a) Appropriate licensing agencies.--In a relocation, the  
8 appropriate licensing agency shall take a lead role and shall  
9 ensure that facilities involved in the relocation comply with  
10 the provisions of this act as a condition of licensure.

11 (b) Department.--The department shall ensure that the local  
12 ombudsman in each area agency on aging complies with the  
13 provisions of this act.

14 (c) Promulgation of regulations.--The department shall work  
15 in consultation with the Department of Health and the Department  
16 of Public Welfare to develop rules and regulations to implement  
17 this act, including sanctions to be imposed for noncompliance.

18 Section 5. Effective date.

19 This act shall take effect in 180 days.