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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 309 Session of  
2009

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INTRODUCED BY JOHNSON, BROWN, BELFANTI, BRENNAN, D. COSTA,  
DeLUCA, GEORGE, GINGRICH, GRUCELA, HALUSKA, W. KELLER,  
KIRKLAND, KOTIK, MAHONEY, MANN, McGEEHAN, MOUL, MUNDY,  
MURPHY, PARKER, SIPTROTH, K. SMITH, STABACK, STURLA,  
VULAKOVICH AND WHITE, FEBRUARY 9, 2009

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REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,  
FEBRUARY 9, 2009

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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"; providing for  
8 the definitions of "chronic dementia" and "cognitive  
9 impairment" and for certain disclosures to facility  
10 residents; and making editorial changes.

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 (P.L.  
16 1125, No.169), is amended and the section is amended by adding  
17 definitions to read:

18 Section 103. Definitions.

19 The following words and phrases when used in this act shall  
20 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 \* \* \*

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

9 \* \* \*

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

13 \* \* \*

14 "Facility." Any of the following:

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

18 (2) A home health care agency.

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

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

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

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

1 \* \* \*

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

3 Section 5101. Physician disclosure.

4 (a) Disclosure.--In any facility in which a physician holds  
5 a financial or ownership interest and is the attending or  
6 primary care physician for a resident or prospective resident of  
7 the facility the physician shall disclose the interest to each  
8 facility resident and responsible family member or legal  
9 representative of the resident. The resident or responsible  
10 family member or legal representative of the resident shall have  
11 the right to choose the physician disclosing the interest or an  
12 independent physician as the resident's primary care physician.

13 (b) Violation.--A physician who violates this section is  
14 subject to disciplinary action under the act of October 5, 1978  
15 (P.L.1109, No.261), known as the Osteopathic Medical Practice  
16 Act, or the act of December 20, 1985 (P.L.457, No.112), known as  
17 the Medical Practice Act of 1985.

18 (c) Regulations.--The department shall promulgate rules and  
19 regulations regarding oversight, compliance and enforcement  
20 under this section, including cases where a facility resident or  
21 prospective resident has a cognitive impairment or chronic  
22 dementia and has no responsible family member or legal  
23 representative.

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

26 Section [5101] 5190. Repeals.

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

29 Section [5102] 5191. Effective date.

30 This act shall take effect July 1, 1988.

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