

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 309** Session of
2009

INTRODUCED BY JOHNSON, BROWN, BELFANTI, BRENNAN, D. COSTA,
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VULAKOVICH, WHITE, O'NEILL, KORTZ, BOBACK AND MYERS,
FEBRUARY 9, 2009

AS REPORTED FROM COMMITTEE ON AGING AND OLDER ADULT SERVICES,
HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 23, 2009

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

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 the physician shall disclose the interest to each
9 facility resident OR PROSPECTIVE RESIDENT and responsible family ←
10 member or legal representative of the FACILITY resident OR ←
11 PROSPECTIVE RESIDENT. The ~~resident or responsible family member~~ ←
12 ~~or legal representative of the resident~~FOLLOWING shall have the ←
13 right to choose the physician disclosing the interest or an
14 independent physician as the ~~resident's~~ primary care physician ←
15 OF THE FACILITY RESIDENT OR PROSPECTIVE RESIDENT: ←

16 (1) THE RESIDENT OR PROSPECTIVE RESIDENT OF THE
17 FACILITY; OR

18 (2) THE FAMILY MEMBER OR LEGAL REPRESENTATIVE OF THE
19 RESIDENT OR PROSPECTIVE RESIDENT OF THE FACILITY.

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

25 (c) Regulations.--The department shall promulgate rules and
26 regulations regarding oversight, compliance and enforcement
27 under this section, including cases where a facility resident or
28 prospective resident has a cognitive impairment or chronic
29 dementia and has no responsible family member or legal
30 representative.

1 Section 3. Sections 5101 and 5102 of the act, amended
2 December 18, 1996 (P.L.1125, No.169), are amended to read:
3 Section [5101] 5190. Repeals.

4 All other acts and parts of acts are repealed insofar as they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

6 Section [5102] 5191. Effective date.

7 This act shall take effect July 1, 1988.

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