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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 312 Session of  
2009

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INTRODUCED BY GINGRICH, BAKER, BELFANTI, BEYER, CLYMER, GEIST,  
GROVE, HENNESSEY, KAUFFMAN, KORTZ, MELIO, MILLER, MOUL,  
PAYNE, PHILLIPS, PICKETT, RAPP, SIPTROTH, SWANGER AND  
VULAKOVICH, 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 Requiring public notices relating to long-term care providers;  
2 and providing for compliance and enforcement, for certain  
3 information to be posted on the Internet, for certain  
4 information to be provided directly to consumers and  
5 consumers' designated persons and for certain duties of  
6 Commonwealth agencies responsible for licensure,  
7 certification and other approval of long-term care providers.

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 Consumer Notification Act.

13 Section 2. Definitions.

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

17 "Consumer." A person who receives services from a long-term  
18 care provider.

19 "Consumer's designated person." An individual designated by

1 a consumer or an individual authorized by law to take certain  
2 actions on behalf of a consumer and who is responsible for  
3 making decisions on behalf of a consumer. The term may include  
4 legal counsel, a court-appointed guardian, an attorney-in-fact  
5 under a durable power of attorney, an agent under a health care  
6 proxy, a representative payee or any other individual authorized  
7 by statute or regulation.

8 "Enforcement action." Any of the following:

9 (1) Suspension of license, certification or other State  
10 approval.

11 (2) Revocation of license, certification or other State  
12 approval.

13 (3) Refusal to renew license, certification or other  
14 State approval.

15 (4) Suspension of admissions to a facility or provision  
16 of services by a home and community-based provider.

17 "Facility." Any of the following:

18 (1) A long-term care nursing facility as defined under  
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 (2) A personal care home as defined under section 1001  
22 of the act of June 13, 1967 (P.L.31, No.21), known as the  
23 Public Welfare Code.

24 (3) An assisted living residence as defined under  
25 section 1001 of the Public Welfare Code.

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

29 (5) A facility that provides continuing care as defined  
30 under section 3 of the act of June 18, 1984 (P.L.391, No.82),

1 known as the Continuing-Care Provider Registration and  
2 Disclosure Act.

3 (6) A facility that provides domiciliary care as defined  
4 under section 2202-A of the act of April 9, 1929 (P.L.177,  
5 No.175), known as The Administrative Code of 1929.

6 "Home and community-based provider." Any of the following:

7 (1) A home health care agency as defined under section  
8 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as  
9 the Health Care Facilities Act.

10 (2) A home care agency as defined under section 802.1 of  
11 the Health Care Facilities Act.

12 (3) A State-approved home and community-based waiver  
13 provider that operates pursuant to a Medicaid home and  
14 community-based waiver granted by the Centers for Medicaid  
15 and Medicare Services to the Department of Public Welfare  
16 under the authority of section 1915(c) of the Social Security  
17 Act (49 Stat. 620, 42 U.S.C. § 1396n(c)) and that provides  
18 long-term care to nursing-facility-eligible consumers in the  
19 consumers' homes or at locations in the community to assist  
20 consumers to function as independently as possible.

21 "Inspection." An examination by a State agency or its  
22 representatives, including interviews with the office staff,  
23 clients and individuals who provide care and a review of  
24 documents pertinent to initial and continued licensure,  
25 certification or other State approval, for the purpose of  
26 determining a provider's compliance with requirements of  
27 licensure, certification or other State approval.

28 "Long-term care." Assistance, services or other devices  
29 which may be provided over an extended period of time and  
30 designed to meet medical, personal and social needs associated

1 with aging, chronic disease or disability, acute illness or  
2 injury or behavioral health problems that enable a person to  
3 live as independently as possible.

4 "Long-term care provider" or "provider." A facility or home  
5 and community-based provider licensed, certified or otherwise  
6 approved by the Commonwealth to provide long-term care.

7 Section 3. Postings and consumer notification.

8 (a) Duties of facilities.--A facility shall display the  
9 following information at the site where the long-term care is  
10 provided, in a public and conspicuous location, and where the  
11 information can be easily observed and read:

12 (1) The license, certification or other evidence of  
13 State approval by a Commonwealth agency responsible for  
14 overseeing its operation. In lieu of the license,  
15 certification or other State-approved document, the facility  
16 may display an identification number that is designated by  
17 the Commonwealth agency that currently holds the license,  
18 certification or other State approval for its operation.

19 (2) Notices of enforcement actions currently being  
20 undertaken against the facility. A Commonwealth agency  
21 providing notification of an enforcement action shall include  
22 a summary that is written in clear and specific language so  
23 as to clearly communicate the action being taken by the  
24 agency. No later than 36 hours after a facility receives  
25 notification from a Commonwealth agency of an enforcement  
26 action, the facility shall post the summary in a public and  
27 conspicuous location in the facility. The summary shall  
28 remain posted until such time as the action taken by a  
29 Commonwealth agency has been resolved. If an appeal of the  
30 action is filed, the notification shall reflect the appeal

1 and shall remain posted until all issues on appeal are  
2 determined finally. The notification shall reflect the status  
3 of the appeal.

4 (3) Information regarding the Commonwealth's Internet  
5 website where consumers can find information pertaining to  
6 the Commonwealth agency that licenses, certifies or otherwise  
7 approves the facility, with specific reference to inspection  
8 reports and agency contact information contained on the  
9 Internet website.

10 (b) Duties of home and community-based providers.--A home  
11 and community-based provider shall provide the following  
12 information to a consumer prior to the rendering of services:

13 (1) The license, certification or other evidence of  
14 State approval by a Commonwealth agency responsible for  
15 overseeing its operation. In lieu of the license,  
16 certification or other State-approved document, the home and  
17 community-based provider may provide to consumers an  
18 identification number that is designated by the Commonwealth  
19 agency that currently holds the license, certification or  
20 other State approval for its operation.

21 (2) Notices of enforcement actions currently being  
22 undertaken against the home and community-based provider. A  
23 Commonwealth agency providing notification of an enforcement  
24 action shall include a summary that is written in clear and  
25 specific language so as to clearly communicate the action  
26 being taken by the agency. No later than 36 hours after a  
27 home and community-based provider receives notification from  
28 a Commonwealth agency of an enforcement action, the home and  
29 community-based provider shall transmit a summary of the  
30 information to consumers to which the home and community-

1 based provider renders services as of the date of the  
2 notification from the agency as well as information regarding  
3 any appeals filed. The summary shall be either:

4 (i) hand-delivered to each consumer;

5 (ii) mailed through the United States Postal

6 Service; or

7 (iii) transmitted by a common or contract carrier.

8 A home and community-based provider shall maintain a record  
9 that the transmission was initiated within the required time  
10 frame.

11 (3) Information regarding the Commonwealth's Internet  
12 website where consumers can find information pertaining to  
13 the Commonwealth agency that licenses, certifies or otherwise  
14 approves the home and community-based provider, with specific  
15 reference to inspection reports and agency contact  
16 information contained on the Internet website.

17 Section 4. Notice to consumer's designated person.

18 (a) Records.--A long-term care provider shall maintain for  
19 each consumer, where feasible, a current record of the name,  
20 address and telephone number of the consumer's designated  
21 person, which shall be provided upon request to the Commonwealth  
22 agency responsible for oversight of the provider.

23 (b) Summary of enforcement action.--Whenever a long-term  
24 care provider receives a notice of enforcement action and a  
25 summary of such action from the Commonwealth agency responsible  
26 for oversight of the provider, the summary shall be transmitted  
27 by the provider to the consumer's designated person within seven  
28 days. The provider shall utilize the information transmission  
29 methods and record maintenance requirements as outlined in  
30 section 3(b)(1).

1 Section 5. Compliance and enforcement.

2 Notwithstanding any other provision of law, compliance with  
3 this act shall operate as a condition of licensure,  
4 certification or other State approval for a long-term care  
5 provider, and this act shall be enforced against a provider in  
6 the same manner as provided in this act, regulation or other  
7 similar authority under which the provider is licensed,  
8 certified or otherwise approved.

9 Section 6. Repeals.

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

12 Section 7. Effective date.

13 This act shall take effect in one year.