

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 312 Session of 2009

INTRODUCED BY GINGRICH, BAKER, BELFANTI, BEYER, CLYMER, GEIST, GROVE, HENNESSEY, KAUFFMAN, KORTZ, MELIO, MILLER, MOUL, PAYNE, PHILLIPS, PICKETT, RAPP, SIPTROTH, SWANGER, VULAKOVICH, MUSTIO, BEAR, MUNDY, BOYD, ROHRER, MURT, CREIGHTON AND FREEMAN, FEBRUARY 9, 2009

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

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.

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

9 "Enforcement action." Any of the following:

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

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

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

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

18 "Facility." Any of the following:

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

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

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

30 (5) A facility that provides continuing care as defined

1 under section 3 of the act of June 18, 1984 (P.L.391, No.82),
2 known as the Continuing-Care Provider Registration and
3 Disclosure Act.

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

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

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

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

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

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

29 "Long-term care." Assistance, services or other devices
30 which may be provided over an extended period of time and

1 designed to meet medical, personal and social needs associated
2 with aging, chronic disease or disability, acute illness or
3 injury or behavioral health problems that enable a person to
4 live as independently as possible.

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

8 Section 3. Postings and consumer notification.

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

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 facility
17 may display an identification number that is designated by
18 the Commonwealth agency that currently holds the license,
19 certification or other State approval for its operation.

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

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

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

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

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

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

1 shall transmit a summary of the information to consumers to
2 which the home and community-based provider renders services
3 as of the date of the notification from the agency as well as
4 information regarding any appeals filed. The summary shall be
5 either:

6 (i) hand-delivered to each consumer;

7 (ii) mailed through the United States Postal
8 Service; or

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

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

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

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

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

25 (b) Summary of enforcement action.--Whenever a long-term
26 care provider receives a notice of enforcement action and a
27 summary of such action from the Commonwealth agency responsible
28 for oversight of the provider, the summary shall be transmitted
29 by the provider to the consumer's designated person within seven
30 days, WHERE FEASIBLE. The provider shall utilize the information ←

1 transmission methods and record maintenance requirements as
2 outlined in section 3(b)(1).

3 Section 5. Compliance and enforcement.

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

11 Section 6. Repeals.

12 All acts and parts of acts are repealed insofar as they are
13 inconsistent with this act.

14 Section 7. Effective date.

15 This act shall take effect in one year.