

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 371 Session of 2009

INTRODUCED BY STABACK, BELFANTI, BOBACK, FABRIZIO, FREEMAN,
GEORGE, GRUCELA, HORNAMAN, JOSEPHS, KORTZ, KOTIK, KULA,
McGEEHAN, MUNDY, M. O'BRIEN, PASHINSKI, READSHAW, SEIP,
SIPTROTH, K. SMITH, WALKO, WANSACZ, WATSON, YOUNGBLOOD,
YUDICHAK AND MOUL, FEBRUARY 10, 2009

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
FEBRUARY 10, 2009

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," in general powers and
4 duties of Department of Public Welfare, providing for onsite
5 complaint investigations and plans of correction.

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

8 Section 1. The act of June 13, 1967 (P.L.31, No.21), known
9 as the Public Welfare Code, is amended by adding a section to
10 read:

11 Section 211.1. Onsite Complaint Investigations and Plans of
12 Correction.--(a) The department shall initiate onsite
13 investigations of complaints at personal care homes and assisted
14 living residences as follows:

15 (1) If the complaint is a Level 1 complaint, the onsite
16 inspection shall be initiated within twenty-four hours of the
17 complaint intake.

1 (2) If the complaint is a Level 2 complaint, the onsite
2 inspection shall be initiated within seven calendar days of the
3 complaint intake.

4 (3) If the complaint is a Level 3 complaint, the onsite
5 inspection shall be initiated within twenty-one calendar days of
6 the complaint intake.

7 (b) The department shall contact and coordinate the
8 investigation with appropriate local agencies, including the
9 Area Agency on Aging, specifically the Protective Services or
10 Long-Term Care Ombudsman Program, County Mental Health/Mental
11 Retardation, local or Pennsylvania State Police, local code
12 enforcement or fire officials.

13 (c) The department shall conduct an unannounced onsite
14 inspection of the personal care home or assisted living
15 residence within the time frame established under subsection (a)
16 (1), (2) or (3). The complaint investigation shall include the
17 following components and adhere to the following time frames:

18 (1) Conduct an entrance interview with administrator or
19 designee, providing general information regarding the complaint,
20 but maintaining confidentiality of residents and complainant.

21 (2) Interview relevant subjects to the complaint such as
22 residents, families, staff or other witnesses.

23 (3) Preserve evidence by obtaining signed witness
24 statements, making copies of documents and taking photographs.

25 (4) Review relevant documents such as resident, staff and
26 facility records.

27 (5) Observe physical site conditions related to the
28 complaint.

29 (6) Contact the appropriate manager in the department
30 regarding Level 1 high-risk issues.

1 (7) Ensure that immediate threats are resolved before
2 leaving the personal care home or assisted living residence.

3 (8) Record all relevant information, including violations,
4 as directed by department policies and procedures.

5 (9) Conduct an exit interview with the administrator or the
6 most appropriate employee onsite and provide an opportunity to
7 respond to preliminary findings, unless the disclosure may
8 jeopardize ongoing aspects of the investigation.

9 (10) Determine and discuss findings with the appropriate
10 manager in the department and determine if each allegation is
11 founded, unfounded or requires further investigation.

12 (11) Additional collateral contacts, interviews and site
13 inspections shall be made as indicated by the seriousness of the
14 complaint allegation and based on the initial onsite inspection.

15 (12) The complaint investigation, including all collateral
16 contacts, interviews and onsite inspections, must be concluded
17 within fifteen days following the onsite inspection.

18 (d) Within four business days of the conclusion of the
19 complaint investigation for Level 1 high-risk complaints, within
20 ten business days of the conclusion of the complaint
21 investigation for Level 2 complaints and within 15 business days
22 of the conclusion of the complaint investigation for Level 3
23 complaints, the department shall prepare a violation report if
24 applicable, review the violation report with the appropriate
25 manager in the department and transmit the violation report to
26 the personal care home or assisted living residence for
27 corrective action.

28 (e) If a violation report is provided by the department, the
29 personal care home or assisted living residence must submit a
30 plan of correction within seven calendar days of receipt of the

1 violation report.

2 (f) Within ten business days of receiving the plan of
3 correction from the personal care home or assisted living
4 residence, the department shall review the plan of correction
5 and refer the plan to the appropriate manager in the department
6 for plan approval or denial.

7 (g) If the personal care home or assisted living residence
8 does not submit a plan of correction within the required seven-
9 day time frame, the department may suspend, revoke or limit a
10 license, or may issue a ban on admissions for the personal care
11 home or assisted living residence.

12 (h) Once the plan of correction has been approved by the
13 department, the follow-up complaint inspection of the personal
14 care home or assisted living residence shall be conducted onsite
15 after the longest target date for compliance has been reached as
16 noted on the plan of correction, but no later than ninety days
17 after the initial onsite complaint inspection by the department
18 to ensure compliance with the plan of correction.

19 (i) If the plan of correction is disapproved, the department
20 shall contact the personal care home or assisted living
21 residence within forty-eight hours of the disapproval decision
22 and require an alternate plan of correction within four business
23 days. If the personal care home or assisted living residence
24 returns an approved plan of correction within the required time
25 frame, the department shall conduct a follow-up onsite
26 inspection of the personal care home or assisted living
27 residence as outlined under subsection (h).

28 (j) If the alternate plan of correction is not resubmitted
29 by the personal care home or assisted living residence within
30 the required time frame, the department may suspend, revoke or

1 limit a license, or may issue a ban on admissions for the
2 personal care home or assisted living residence.

3 (k) Within ten business days of the conclusion of the
4 investigation and determination on each of the complaint
5 allegations, the department shall send a complaint response
6 letter to the complainant.

7 (l) The department may exceed the timelines relating to a
8 Level 3 complaint if it determines that resources are otherwise
9 necessary to address risks to the health and safety of other
10 residents in the personal care home or assisted living
11 residence.

12 (m) For purposes of this section:

13 "Level 1 complaint" shall mean a complaint with a high risk,
14 including, but not limited to, incidents related to immediate
15 fire safety, physical assault or abuse, no food or water, no
16 heat in winter, no staff or serious illness outbreak.

17 "Level 2 complaint" shall mean a complaint with a medium
18 risk, including, but not limited to, incidents related to
19 inadequate staffing, quality of care issues, nutrition,
20 sanitation or medication administration.

21 "Level 3 complaint" shall mean a complaint with a low risk,
22 including, but not limited to, incidents related to menus,
23 policies, assessments, support plans, financial management or
24 contracts.

25 Section 2. This act shall take effect in 60 days.