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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 528 Session of  
2011

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INTRODUCED BY BOBACK, CALTAGIRONE, CARROLL, CAUSER, COHEN,  
CONKLIN, DAVIS, FABRIZIO, FLECK, FREEMAN, GILLESPIE,  
GINGRICH, GOODMAN, GRELL, GROVE, HALUSKA, HELM, KAUFFMAN,  
KAVULICH, W. KELLER, KILLION, KORTZ, KULA, MAJOR, MANN,  
MARSHALL, MILLARD, MILLER, MURT, MUSTIO, MYERS, PASHINSKI,  
PEIFER, PICKETT, QUINN, RAPP, ROCK, SCAVELLO, K. SMITH,  
STERN, SWANGER, VULAKOVICH, WATSON AND YOUNGBLOOD,  
FEBRUARY 8, 2011

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REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,  
FEBRUARY 8, 2011

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AN ACT

1 Requiring certain long-term care facilities to coordinate with  
2 licensing agencies and local area agencies on aging to  
3 provide assistance to consumers in circumstances involving  
4 relocation of consumers; and providing for powers and duties  
5 of the Department of Aging.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Long-Term  
10 Care Consumer Relocation Coordination Act.

11 Section 2. Definitions.

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

15 "Another setting." Any location, including a consumer's  
16 home, where a consumer receives services or supports.

1 "Area agency on aging" or "AAA." The single local agency  
2 designated by the department within each planning and service  
3 area to administer the delivery of a comprehensive and  
4 coordinated plan of social and other services and activities in  
5 the planning and service area.

6 "Consumer." A person who receives services in a facility.

7 "Department." The Department of Aging of the Commonwealth.

8 "Facility." Any of the following:

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

12 (2) A personal care home or an assisted living residence  
13 as defined in section 1001 of the act of June 13, 1967  
14 (P.L.31, No.21), known as the Public Welfare Code.

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

18 "Licensing agency." In the case of:

19 (1) A domiciliary care home, the Department of Aging.

20 (2) A long-term care nursing facility, the Department of  
21 Health.

22 (3) A personal care home or an assisted living  
23 residence, the Department of Public Welfare.

24 "Long-term care ombudsman" or "ombudsman." An agent of the  
25 Department of Aging, who, under section 2203-A of the act of  
26 April 9, 1929 (P.L.177, No.175), known as The Administrative  
27 Code of 1929, investigates and seeks to resolve complaints made  
28 by or on behalf of older individuals who are consumers of  
29 facilities, which complaints may relate to action, inaction or  
30 decisions of facilities, public agencies or of social agencies

1 or their representatives, and which may adversely affect the  
2 health, safety, welfare, interests, preferences or rights of  
3 consumers.

4 "Relocation." The transfer of a consumer from one facility  
5 to another or discharge of a consumer from a facility to another  
6 setting due to closure or sanction. All transfers of consumers  
7 without a responsible person shall be considered relocations for  
8 the purposes of this act.

9 "Responsible person." A person who is not an employee of a  
10 facility and, when appropriate, is responsible for making  
11 decisions on behalf of the consumer with respect to relocations  
12 under this act. The person shall be so designated by the  
13 consumer or the court, and documentation shall be available in  
14 the consumer's record to this effect.

15 Section 3. Coordination efforts in relocation situations.

16 (a) General rule.--Other than situations described in  
17 subsection (b), at least 30 days prior to relocation of a  
18 consumer, a facility shall provide a written notice to the  
19 consumer and the consumer's responsible person and shall notify  
20 the appropriate licensing agency and both the area agency on  
21 aging within their designated area and the area agency on aging  
22 within the designated area of the facility to which the consumer  
23 is being relocated.

24 (b) Exceptions.--Prior to a relocation situation involving  
25 the imminent removal of a consumer in order to ensure the  
26 consumer's health and safety, a facility shall notify the  
27 consumer and the consumer's responsible person and shall contact  
28 the appropriate licensing agency and both the area agency on  
29 aging within their designated area and the area agency on aging  
30 within the designated area of the facility to which the consumer

1 is being relocated.

2 (c) Administrative cooperation.--When a relocation occurs,  
3 the affected facilities, licensing agencies and local area  
4 agencies on aging shall:

5 (1) Coordinate efforts to ensure the protection of the  
6 health and safety of the consumer and ensure smooth  
7 relocation for each consumer at the facility.

8 (2) Share relevant information concerning the consumer  
9 and the relocation plans and process, including, but not  
10 limited to, conducting site visits for alternative placement.

11 (3) Cooperate in order to ensure that any other agencies  
12 that may serve certain specific populations, including, but  
13 not limited to, mental health, mental retardation and  
14 veterans' affairs, shall be included in the relocation  
15 process, as appropriate.

16 (4) (i) Coordinate the relocation process so that  
17 consumer relocation occurs only between the hours of  
18 7 a.m. and 7 p.m.

19 (ii) Subparagraph (i) shall not apply in emergencies  
20 where consumers must be relocated in order to ensure  
21 their health and safety.

22 (d) Long-term care ombudsman duties.--

23 (1) The local ombudsman shall ensure that a consumer,  
24 and if appropriate, the consumer's designated person, acting  
25 within the scope of that person's authority, is involved in  
26 planning such transfers and is afforded the right to choose  
27 among the available alternative placements.

28 (2) The ombudsman shall also assist consumers who are 60  
29 years of age and older and shall refer consumers, regardless  
30 of age, to appropriate social service agencies.

1 (3) Nothing in this act shall be construed to preclude  
2 the right of a licensing agency to make temporary placement  
3 until final placement can be arranged.

4 (e) Record of relocation incident.--

5 (1) An AAA shall maintain a record of each relocation  
6 incident in which the local ombudsman is involved and shall  
7 upon request share that information with the licensing  
8 agency, the department and, to the extent that release of  
9 that information is relevant to an investigation of criminal  
10 activity, law enforcement officials. The information shall be  
11 stored electronically by an AAA that may, at its discretion,  
12 destroy hard copies of the information.

13 (2) The department shall provide technical assistance  
14 and guidance to the local ombudsman to ensure that laws and  
15 regulations regarding confidentiality of information are  
16 strictly adhered to.

17 (3) The department shall monitor and track relocation  
18 records to identify trends and issues that may need to be  
19 addressed.

20 Section 4. Enforcement.

21 (a) Appropriate licensing agencies.--In a relocation, the  
22 appropriate licensing agency shall take a lead role to ensure  
23 that facilities involved in the relocation comply with the  
24 provisions of this act as a condition of licensure.

25 (b) Department.--The department shall ensure that the local  
26 ombudsman and each area agency on aging complies with the  
27 provisions of this act.

28 (c) Promulgation of regulations.--The department shall, in  
29 consultation with the Department of Health and the Department of  
30 Public Welfare, develop rules and regulations to implement this

1 act, including sanctions to be imposed for noncompliance.

2 Section 5. Effective date.

3 This act shall take effect in 180 days.