

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 528 Session of 2011

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, YOUNGBLOOD, GILLEN, D. COSTA, PETRI, BEAR AND THOMAS, FEBRUARY 8, 2011

AS REPORTED FROM COMMITTEE ON AGING AND OLDER ADULT SERVICES, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 6, 2012

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~~ A LOCATION, ←

1 OTHER THAN A FACILITY, WHERE SERVICES OR SUPPORTS MAY BE
2 PROVIDED.

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

8 "Consumer." A person who ~~receives services~~ RESIDES in a ←
9 facility.

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

11 "DESIGNATED PERSON." AN INDIVIDUAL WHO MAY BE CHOSEN BY A ←
12 CONSUMER AND WHOSE SELECTION IS DOCUMENTED IN THE CONSUMER'S
13 RECORD TO BE NOTIFIED IN CASE OF EMERGENCY, TERMINATION OF
14 SERVICE, FACILITY CLOSURE OR FOR REASONS REQUESTED BY THE
15 CONSUMER OR AS REQUIRED UNDER THIS ACT.

16 "Facility." Any of the following:

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

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

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

26 "Licensing agency." In the case of:

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

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

30 (3) A personal care home or an assisted living

1 residence, the Department of Public Welfare.

2 "Long-term care ombudsman" or "ombudsman." An agent of the
3 Department of Aging, who, under section 2203-A of the act of
4 April 9, 1929 (P.L.177, No.175), known as The Administrative
5 Code of 1929, investigates and seeks to resolve complaints made
6 by or on behalf of older individuals who are consumers of
7 facilities, which complaints may relate to action, inaction or
8 decisions of facilities, public agencies or of social agencies
9 or their representatives, and which may adversely affect the
10 health, safety, welfare, interests, preferences or rights of
11 consumers.

12 "Relocation." The INVOLUNTARY transfer of a consumer from ←
13 one facility to another or INVOLUNTARY discharge of a consumer ←
14 from a facility to another setting due to ~~closure or sanction.~~ ←
15 ~~All transfers of consumers without a responsible person shall be~~
16 ~~considered relocations for the purposes of this act~~ FACILITY ←
17 CLOSURE.

18 ~~"Responsible person." A person who is not an employee of a~~ ←
19 ~~facility and, when appropriate, is responsible for making~~
20 ~~decisions on behalf of the consumer with respect to relocations~~
21 ~~under this act. The person shall be so designated by the~~
22 ~~consumer or the court, and documentation shall be available in~~
23 ~~the consumer's record to this effect.~~

24 Section 3. Coordination efforts in relocation situations.

25 (a) General rule.--~~Other than situations described in~~ ←
26 ~~subsection (b), at least 30 days prior to relocation of a~~
27 ~~consumer, a facility shall provide a written notice to the~~
28 ~~consumer and the consumer's responsible person and shall notify~~
29 ~~the appropriate licensing agency and both the area agency on~~
30 ~~aging within their designated area and the area agency on aging~~

1 ~~within the designated area of the facility to which the consumer~~
2 ~~is being relocated.~~

3 ~~(b) Exceptions. Prior to a relocation situation involving~~
4 ~~the imminent removal of a consumer in order to ensure the~~
5 ~~consumer's health and safety, a facility shall notify the~~
6 ~~consumer and the consumer's responsible person and shall contact~~
7 ~~the appropriate licensing agency and both the area agency on~~
8 ~~aging within their designated area and the area agency on aging~~
9 ~~within the designated area of the facility to which the consumer~~
10 ~~is being relocated.~~ AS SPECIFIED IN SUBSECTION (B), AT LEAST 30 ←

11 DAYS PRIOR TO RELOCATION OF A CONSUMER, A FACILITY SHALL PROVIDE
12 A WRITTEN NOTICE TO THE CONSUMER AND THE CONSUMER'S DESIGNATED
13 PERSON AND SHALL NOTIFY ITS LICENSING AGENCY, THE AREA AGENCY ON
14 AGING WITHIN ITS GEOGRAPHIC REGION AND THE AREA AGENCY ON AGING
15 WITHIN THE GEOGRAPHIC REGION OF THE FACILITY TO WHICH THE
16 CONSUMER IS BEING RELOCATED. FACILITIES SHALL RETAIN FULL
17 RESPONSIBILITY FOR DISCHARGE PLANNING FOR ALL RELOCATIONS.

18 (B) EXCEPTIONS.--EMERGENCY RELOCATIONS SHALL BE EXCLUDED
19 FROM THE REQUIREMENTS OF SUBSECTION (A) UNDER THE FOLLOWING
20 CIRCUMSTANCES:

21 (1) IMMEDIATE HEALTH OR SAFETY RISK TO THE CONSUMER AS
22 DETERMINED BY THE LICENSING AGENCY OR FACILITY IN CONJUNCTION
23 WITH THE OMBUDSMAN.

24 (2) LICENSING ACTION TAKEN REQUIRING CLOSURE OF THE
25 FACILITY WITH LESS THAN 30 DAYS' NOTICE TO THE FACILITY.

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

29 (1) Coordinate efforts to ensure the protection of the
30 health and safety of the consumer and ensure smooth

1 relocation for each consumer at the facility.

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

5 (3) Cooperate in order to ensure that any other agencies
6 that may serve certain specific populations, including, but
7 not limited to, mental health, mental retardation and
8 veterans' affairs, shall be included in the relocation
9 process, as appropriate.

10 (4) (i) Coordinate the relocation process so that
11 consumer relocation occurs only between the hours of
12 7 a.m. and 7 p.m.

13 (ii) Subparagraph (i) shall not apply in emergencies
14 where consumers must be relocated in order to ensure
15 their health and safety.

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

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

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

25 ~~(3) Nothing in this act shall be construed to preclude~~ ←

26 (3) NOTHING IN THIS ACT SHALL BE CONSTRUED TO: ←

27 (I) PRECLUDE the right of a licensing agency to make
28 temporary placement until final placement can be
29 arranged.

30 (II) SUPPLANT EXISTING REQUIREMENTS FOR CONTACTING ←

1 THE OMBUDSMAN.

2 (III) SUPPLANT EXISTING REQUIREMENTS APPLICABLE TO
3 TRANSFERS OF NURSING FACILITY RESIDENTS.

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.~~ ← THE

25 LICENSING AGENCY SHALL ENSURE THAT A FACILITY IS IN COMPLIANCE
26 WITH THE PROVISIONS OF THIS ACT AND MAY CITE A FACILITY FOR
27 NONCOMPLIANCE IDENTIFIED DURING A ROUTINE OR COMPLAINT
28 INVESTIGATION.

29 (b) Department.--The department shall ensure that the local
30 ombudsman and each area agency on aging ~~complies~~ ← COMPLY with the

1 provisions of this act.

2 (c) Promulgation of regulations.--The department ~~shall~~ MAY, ←
3 in consultation with the Department of Health and the Department
4 of Public Welfare, develop rules and regulations AS DEEMED ←
5 NECESSARY AT THE DISCRETION OF THE DEPARTMENT to implement this
6 act, including sanctions to be imposed for noncompliance.

7 Section 5. Effective date.

8 This act shall take effect in 180 days.