

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,
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STERN, SWANGER, VULAKOVICH, WATSON, YOUNGBLOOD, GILLEN,
D. COSTA, PETRI, BEAR AND THOMAS, FEBRUARY 8, 2011

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 12, 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." A location, other than a facility, where
16 services or supports may be provided.

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 resides in a facility.

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

8 "Designated person." An individual who may be chosen by a
9 consumer and whose selection is documented in the consumer's
10 record to be notified in case of emergency, termination of
11 service, facility closure or for reasons requested by the
12 consumer or as required under this act.

13 "Facility." Any of the following:

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

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

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

23 "Licensing agency." In the case of:

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

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

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

29 "Long-term care ombudsman" or "ombudsman." An agent of the
30 Department of Aging, who, under section 2203-A of the act of

1 April 9, 1929 (P.L.177, No.175), known as The Administrative
2 Code of 1929, investigates and seeks to resolve complaints made
3 by or on behalf of older individuals who are consumers of
4 facilities, which complaints may relate to action, inaction or
5 decisions of facilities, public agencies or of social agencies
6 or their representatives, and which may adversely affect the
7 health, safety, welfare, interests, preferences or rights of
8 consumers.

9 "Relocation." The involuntary transfer of a consumer from
10 one facility to another or involuntary discharge of a consumer
11 from a facility to another setting due to facility closure.

12 Section 3. Coordination efforts in relocation situations.

13 (a) General rule.--Other than as specified in subsection
14 (b), at least 30 days prior to relocation of a consumer, a
15 facility shall provide a written notice to the consumer and the
16 consumer's designated person and shall notify its licensing
17 agency, the area agency on aging within its geographic region
18 and the area agency on aging within the geographic region of the
19 facility to which the consumer is being relocated. Facilities
20 shall retain full responsibility for discharge planning for all
21 relocations.

22 (b) Exceptions.--Emergency relocations shall be excluded
23 from the requirements of subsection (a) under the following
24 circumstances:

25 (1) Immediate health or safety risk to the consumer as
26 determined by the licensing agency or facility in conjunction
27 with the ombudsman.

28 (2) Licensing action taken requiring closure of the
29 facility with less than 30 days' notice to the facility.

30 (c) Administrative cooperation.--When a relocation occurs,

1 the affected facilities, licensing agencies and local area
2 agencies on aging shall:

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

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

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

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

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

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

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

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

29 (3) Nothing in this act shall be construed to:

30 (i) Preclude the right of a licensing agency to make

1 temporary placement until final placement can be
2 arranged.

3 (ii) Supplant existing requirements for contacting
4 the ombudsman.

5 (iii) Supplant existing requirements applicable to
6 transfers of nursing facility residents.

7 (e) Record of relocation incident.--

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

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

20 (3) The department shall monitor and track relocation
21 records to identify trends and issues that may need to be
22 addressed.

23 Section 4. Enforcement.

24 (a) Appropriate licensing agencies.--The licensing agency
25 shall ensure that a facility is in compliance with the
26 provisions of this act and may cite a facility for noncompliance
27 identified during a routine or complaint investigation.

28 (b) Department.--The department shall ensure that the local
29 ombudsman and each area agency on aging comply with the
30 provisions of this act.

1 (c) Promulgation of regulations.--The department may, in
2 consultation with the Department of Health and the Department of
3 Public Welfare, develop rules and regulations as deemed
4 necessary at the discretion of the department to implement this
5 act, including sanctions to be imposed for noncompliance.

6 Section 5. Effective date.

7 This act shall take effect in 180 days.