

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2196 Session of
2012INTRODUCED BY CURRY, GEORGE, MANN, MUNDY, STABACK AND STURLA,
FEBRUARY 14, 2012AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 29, 2012

AN ACT

1 Amending the act of November 6, 1987 (P.L.381, No.79), entitled
2 "An act relating to the protection of the abused, neglected,
3 exploited or abandoned elderly; establishing a uniform
4 Statewide reporting and investigative system for suspected
5 abuse, neglect, exploitation or abandonment of the elderly;
6 providing protective services; providing for funding; and
7 making repeals," further defining "facility"; defining
8 "chronic dementia" and "cognitive impairment"; and providing
9 for certain disclosures to facility residents.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. The definition of "facility" in section 103 of
13 the act of November 6, 1987 (P.L.381, No.79), known as the Older
14 Adults Protective Services Act, amended December 18, 1996
15 (P.L.1125, No.169), is amended and the section is amended by
16 adding definitions to read:

17 Section 103. Definitions.

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

21 * * *

1 "Chronic dementia." An irreversible global loss of cognitive
2 function causing evident intellectual impairment which always
3 includes memory loss, without alteration of state of
4 consciousness as diagnosed by a physician and is severe enough
5 to interfere with work or social activities, or both, and to
6 require continuous care or supervision.

7 * * *

8 "Cognitive impairment." A mental or emotional condition or
9 disorder that substantially affects a person's ability to
10 reason, understand and make decisions.

11 * * *

12 "Facility." Any of the following:

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

16 (2) A home health care agency.

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

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

23 (5) A personal care home as defined in section 1001 of
24 the act of June 13, 1967 (P.L.31, No.21), known as the Public
25 Welfare Code.

26 (6) An assisted living residence as defined in section
27 1001 of the Public Welfare Code.

28 * * *

29 Section 2. The act is amended by adding a chapter to read:

30 CHAPTER 9

DISCLOSURES

Section 901. Physician disclosure.

(a) Disclosure.--In any facility in which a physician holds a financial or ownership interest and is the attending or primary care physician for a resident or prospective resident of the facility the physician shall disclose the interest to each facility resident or prospective resident and responsible family member or legal representative of the facility resident or prospective resident. The following shall have the right to choose the physician disclosing the interest or an independent physician as the primary care physician of the facility resident or prospective resident:

(1) the resident or prospective resident of the facility; or

(2) the family member or legal representative of the resident or prospective resident of the facility.

(b) Violation.--A physician who violates this section is subject to disciplinary action under the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, or the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985.

(c) Regulations.--The department shall promulgate rules and regulations regarding oversight, compliance and enforcement under this section, including cases where a facility resident or prospective resident has a cognitive impairment or chronic dementia and has no responsible family member or legal representative.

(D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:



1 "FACILITY." ANY OF THE FOLLOWING:

2 (1) A DOMICILIARY CARE HOME, AS DEFINED IN SECTION 2202-
3 A OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE
4 ADMINISTRATIVE CODE OF 1929.

5 (2) A HOME HEALTH CARE AGENCY.

6 (3) A LONG-TERM CARE NURSING FACILITY, AS DEFINED IN
7 SECTION 802.1 OF THE ACT OF JULY 19, 1979 (P.L.130, NO.48),
8 KNOWN AS THE HEALTH CARE FACILITIES ACT.

9 (4) AN OLDER ADULT DAILY LIVING CENTER, AS DEFINED IN
10 SECTION 2 OF THE ACT OF JULY 11, 1990 (P.L.499, NO.118),
11 KNOWN AS THE OLDER ADULT DAILY LIVING CENTERS LICENSING ACT.

12 (5) A PERSONAL CARE HOME, AS DEFINED IN SECTION 1001 OF
13 THE ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE PUBLIC
14 WELFARE CODE.

15 (6) AN ASSISTED LIVING RESIDENCE, AS DEFINED IN SECTION
16 1001 OF THE PUBLIC WELFARE CODE.

17 (7) A HOME CARE REGISTRY, AS DEFINED UNDER SECTION 802.1
18 OF THE HEALTH CARE FACILITIES ACT.

19 (8) A HOME CARE AGENCY, AS DEFINED UNDER SECTION 802.1
20 OF THE HEALTH CARE FACILITIES ACT.

21 (9) A HOSPICE, AS DEFINED UNDER SECTION 802.1 OF THE
22 HEALTH CARE FACILITIES ACT.

23 Section 3. This act shall take effect in 60 days.