

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1693 Session of 2021

INTRODUCED BY BONNER, ROTHMAN, JAMES, MILLARD, BOBACK, RYAN, DeLUCA, B. MILLER AND ZIMMERMAN, JUNE 24, 2021

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES, AS AMENDED, FEBRUARY 7, 2022

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 departmental powers and
4 duties as to licensing, providing for notice of legal
5 representation for medical assistance.

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 Human Services Code, is amended by adding a section to
10 read:

11 ~~Section 1019. Notice of Legal Representation for Medical~~ <--
12 ~~Assistance. (a) An assisted living residence administrator~~
13 ~~shall provide a resident of an assisted living residence or a~~
14 ~~designated representative, at the time of admission to the~~
15 ~~assisted living residence, the following notice:~~

16 ~~"YOU HAVE THE OPTION TO HIRE AN ATTORNEY TO ASSIST WITH~~
17 ~~APPLYING FOR MEDICAL ASSISTANCE (MEDICAID) LONG TERM CARE~~
18 ~~BENEFITS:~~

19 ~~Relying on a nonlegal service might expose you and your~~

~~family to unnecessary financial risk. There are nonlegal agencies and companies, including affiliates of hospitals and nursing homes, which may offer to prepare and submit a Medicaid application for free or a fee. These entities are not permitted to give legal advice or implement legal strategies that may best protect your interests, and they are not obligated to advise you of your rights. Moreover, these entities may have conflicts of interest. Pennsylvania does not mandate that a Medicaid applicant obtain the assistance of an attorney when completing a Medicaid application. You may, however, seek the assistance of an attorney who is knowledgeable about elder law and Medicaid eligibility rules."~~

~~(b) The notice under subsection (a) shall be legible and clear to allow a resident of an assisted living residence or a designated representative to easily read the notice. The resident of the assisted living residence or a designated representative shall acknowledge receipt of the notice under subsection (a) by signing at the bottom of the notice. The assisted living residence administrator shall provide the notice under subsection (a) to the resident of the assisted living residence or a designated representative in a manner detached from a resident agreement. The assisted living residence administrator shall prominently display the notice under subsection (a) in the office and admission area of the assisted living residence and shall make a copy of the notice available at the same time and in the same manner as a resident agreement.~~

~~(c) As used in this section, the term "designated representative" means the guardian, agent under power of attorney or other responsible party for a resident of an~~

1 ~~assisted living residence identified in a resident agreement.~~

2 SECTION 1019. NOTICE OF LEGAL REPRESENTATION FOR MEDICAL <--  
3 ASSISTANCE.--(A) A LONG-TERM CARE NURSING FACILITY OPERATOR  
4 SHALL PROVIDE A RESIDENT OF THE FACILITY OR A DESIGNATED  
5 REPRESENTATIVE, AT THE TIME OF ADMISSION TO THE FACILITY, THE  
6 FOLLOWING NOTICE:

7 "YOU HAVE THE OPTION TO HIRE AN ATTORNEY TO ASSIST WITH  
8 APPLYING FOR MEDICAL ASSISTANCE (MEDICAID) LONG-TERM CARE  
9 BENEFITS:  
10 RELYING ON A NONLEGAL SERVICE MIGHT EXPOSE YOU AND YOUR  
11 FAMILY TO UNNECESSARY FINANCIAL RISK. THERE ARE NONLEGAL  
12 AGENCIES AND COMPANIES, INCLUDING AFFILIATES OF HOSPITALS  
13 AND LONG-TERM CARE NURSING FACILITIES, WHICH MAY OFFER TO  
14 PREPARE AND SUBMIT A MEDICAID APPLICATION FOR FREE OR A  
15 FEE. THESE ENTITIES ARE NOT PERMITTED TO GIVE LEGAL  
16 ADVICE OR IMPLEMENT LEGAL STRATEGIES THAT MAY BEST  
17 PROTECT YOUR INTERESTS, AND THEY ARE NOT OBLIGATED TO  
18 ADVISE YOU OF YOUR RIGHTS. MOREOVER, THESE ENTITIES MAY  
19 HAVE CONFLICTS OF INTEREST. PENNSYLVANIA DOES NOT MANDATE  
20 THAT A MEDICAID APPLICANT OBTAIN THE ASSISTANCE OF AN  
21 ATTORNEY WHEN COMPLETING A MEDICAID APPLICATION. YOU MAY,  
22 HOWEVER, SEEK THE ASSISTANCE OF AN ATTORNEY WHO IS  
23 KNOWLEDGEABLE ABOUT ELDER LAW AND MEDICAID ELIGIBILITY  
24 RULES."

25 (B) THE NOTICE UNDER SUBSECTION (A) SHALL BE LEGIBLE AND  
26 CLEAR IN A LANGUAGE OR FORMAT TO ALLOW A RESIDENT OF A LONG-TERM  
27 CARE NURSING FACILITY OR A DESIGNATED REPRESENTATIVE TO EASILY  
28 READ AND UNDERSTAND THE NOTICE. THE RESIDENT OF THE FACILITY OR  
29 A DESIGNATED REPRESENTATIVE SHALL ACKNOWLEDGE RECEIPT OF THE  
30 NOTICE UNDER SUBSECTION (A) BY SIGNING AT THE BOTTOM OF THE

1 NOTICE. THE FACILITY OPERATOR SHALL PROVIDE THE NOTICE UNDER  
2 SUBSECTION (A) TO THE RESIDENT OF THE FACILITY OR A DESIGNATED  
3 REPRESENTATIVE IN A MANNER DETACHED FROM A RESIDENT AGREEMENT.  
4 THE FACILITY OPERATOR SHALL PROMINENTLY DISPLAY THE NOTICE UNDER  
5 SUBSECTION (A) IN THE OFFICE AND ADMISSION AREA OF THE FACILITY  
6 AND SHALL MAKE A COPY OF THE NOTICE AVAILABLE AT THE SAME TIME  
7 AND IN THE SAME MANNER AS A RESIDENT AGREEMENT. THE DEPARTMENT  
8 SHALL POST THE NOTICE UNDER SUBSECTION (A) ON ITS PUBLICLY  
9 ACCESSIBLE INTERNET WEBSITE IN MULTIPLE LANGUAGES OR FORMATS  
10 THAT IT DEEMS NECESSARY TO ENSURE THAT RESIDENTS ARE ABLE TO  
11 READ AND UNDERSTAND THE NOTICE. A LONG-TERM CARE NURSING  
12 FACILITY MAY USE THE FORM DEVELOPED BY THE DEPARTMENT OR USE ITS  
13 OWN FORM, PROVIDED THAT THE REQUIREMENTS OF SUBSECTION (A) ARE  
14 MET.

15 (C) AS USED IN THIS SECTION, THE TERM "DESIGNATED  
16 REPRESENTATIVE" MEANS THE GUARDIAN, AGENT UNDER POWER OF  
17 ATTORNEY OR OTHER RESPONSIBLE PARTY FOR A RESIDENT OF A LONG-  
18 TERM CARE NURSING FACILITY IDENTIFIED IN A RESIDENT AGREEMENT.

19 Section 2. This act shall take effect immediately.