

Bill No. 4808-09

No. 27-09-OR

AN ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending and supplementing the Allegheny County Code of Ordinances, through the creation of a new Chapter 575, entitled "Elder Care," in order to create protections for the County's vulnerable elderly residents living in nursing home and other assisted living environments.

WHEREAS, the United States Census Bureau estimates that, as of 2007, Allegheny County had 208,105 residents aged 65 or over, a figure which comprises 16.9% of the County's total population; and

WHEREAS, the Census Bureau also estimates that, as of 2007, Allegheny County had another 62,040 residents aged 60 to 64, and another 81,843 residents aged 55 to 59; and

WHEREAS, the Census Bureau statistics indicate that a total of 351,988 County residents were aged 55 or older as of 2007, a figure which represents 28.7% of the total population of the County; and

WHEREAS, according to the Pennsylvania Department of Health's 2008 Allegheny County Health Profile, 63 nursing homes operated to provide services to over 8,000 County residents as of 2006, with an average facility occupancy rate of 90.8%; and

WHEREAS, also according to the 2008 Allegheny County Health Profile, the costs of nursing home care are high, with an average resident stay of 181 days and an average semi-private daily room cost of \$200 yielding a total room cost of \$36,200 for an average nursing home stay; and

WHEREAS, media reports have disclosed multiple instances of fraudulent diversion of residents' assets away from providing for the costs of care by nursing home employees and other individuals within Allegheny County; and

WHEREAS, it is the judgment of Council that care-dependent residents of the County are in need of protection from unscrupulous individuals, who, by virtue of extensive access to residents' personal information and records, are often uniquely placed to do profound damage by fraudulently opening and using credit accounts for personal gain, mismanaging assets, and engaging in other practices designed specifically to do harm to the finances of the residents; and

WHEREAS, it is further the judgment of Council that care-dependent residents will benefit from the provisions of the Credit Reporting Agency Act, 73 P.S. §2501 et. seq., if they

are made aware of those provisions, particularly those pertaining to security freezes of consumer credit reports in order to limit the damage that can be done; and

WHEREAS, Council also finds that establishing a means by which the cost of care can be recovered from legal representatives, responsible parties, and facility employees who misapply care-dependent residents' resources will provide additional protections for such residents from unscrupulous individuals who may come to control their assets;

The Council of the County of Allegheny hereby enacts as follows:

Section 1.

The Allegheny County Code of Ordinances is hereby amended through the creation of a new Chapter 575, entitled "Elder Care," and comprised as follows:

Chapter 575

ELDER CARE

§575-1. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings described under this Section unless context clearly indicates otherwise:

- A. "Facility" means any nursing home or similar assisted living facility established for or actually providing care to individuals aged 60 or over that is licensed by the Commonwealth of Pennsylvania for that purpose and which is located within Allegheny County.
- B. "Facility employee" means any individual employed in any capacity by any facility for any compensation of monetary value, regardless of total compensation amount, benefit value, or full, part time, temporary or permanent employee status.
- C. "Legal representative" means an attorney-in-fact under a valid power of attorney executed by the prospective resident of a facility, or a conservator or guardian appointed for the prospective resident of a facility, or a representative payee appointed for the prospective resident, or other agent of limited powers.
- D. "Responsible party" means a person who has access to the resident's income and assets and who agrees to apply the resident's income and assets to pay for the resident's care or who agrees to make and complete an application for medical assistance on behalf of the resident.

§575-2. Notice of Credit Reporting Agency Act provisions required.

- A. Notice of the provisions of the Credit Reporting Agency Act relating to security freezes of consumer credit reports shall be provided to all individuals residing in a facility as of the effective date of this Chapter within 10 days of such effective date. Notice of the provisions of the Act pertaining to security freezes shall also be provided to all future facility residents at the time of admission.
- B. Failure to provide the notice required under the terms of this Section shall constitute a summary offense by the owner or individual in control of the facility, punishable upon conviction by a fine of up to \$250. For the purposes of this Section, each day upon which notice is not provided shall constitute a separate offense.

§575-3. Financial exploitation of facility residents prohibited.

In the event that a legal representative, responsible party, or facility employee knowingly fails to spend any resident's assets or income appropriately for the purpose of obtaining medical assistance, the legal representative, responsible party, or facility employee shall be liable to the facility for the resident's costs of care which are not paid for by medical assistance. A legal representative, responsible party or facility employee shall be personally liable only to the extent the resident's income or assets were misapplied.

SECTION 2. Effective Date.

The provisions of this Ordinance shall become effective immediately upon final approval.

SECTION 3. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.

PRIMARY SPONSORS: PRESIDENT FITZGERALD AND DISTRICT ATTORNEY STEVE ZAPPALA

CO-SPONSORS: COUNCIL MEMBERS ELLENBOGEN, FINNERTY, MACEY, & ROBINSON

Enacted in Council, this 1st day of July, 2009

Council Agenda No. 4808-09



Rich Fitzgerald
President of Council

Attest: _____


Allegheny County Council

Chief Executive Office JULY 6, 2009

Approved: _____



Dan Onorato
Chief Executive

Attest: _____



Donna Beltz
Executive's Secretary