

HOUSE BILL No. 5943

June 29, 1990, Introduced by Reps. Hollister and DeMars and referred to the Committee on Social Services and Youth.

A bill to amend the title and sections 11, 13, 14, 17, 19, and 30 of Act No. 218 of the Public Acts of 1979, entitled "Adult foster care facility licensing act," sections 11, 13, and 19 as amended by Act No. 257 of the Public Acts of 1986, being sections 400.711, 400.713, 400.714, 400.717, 400.719, and 400.730 of the Michigan Compiled Laws; and to add section 13a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 11, 13, 14, 17, 19, and
2 30 of Act No. 218 of the Public Acts of 1979, sections 11, 13,
3 and 19 as amended by Act No. 257 of the Public Acts of 1986,
4 being sections 400.711, 400.713, 400.714, 400.717, 400.719, and
5 400.730 of the Michigan Compiled Laws, are amended and
6 section 13a is added to read as follows:

1 TITLE

2 An act to provide for the licensing and regulation of adult
3 foster care facilities; to provide for the establishment of stan-
4 dards of care for adult foster care facilities; to prescribe
5 powers and duties of the department of social services and other
6 departments; TO PRESCRIBE CERTAIN FEES; to prescribe penalties;
7 and to repeal certain acts and parts of acts.

8 Sec. 11. (1) The director, the director's agent, or person-
9 nel of another department or agency, acting at the request of the
10 director, may enter upon the premises of an applicant or licensee
11 at a reasonable time to make inspections, as permitted by appli-
12 cable law, to determine whether the applicant or licensee is com-
13 plying with this act and the rules promulgated under this act.

14 ON-SITE INSPECTIONS MAY BE CONDUCTED WITHOUT PRIOR NOTICE TO THE
15 ADULT FOSTER CARE FACILITY. A health and sanitation inspection of
16 an adult foster care facility shall be conducted upon the request
17 of the department by 1 of the following:

18 (a) Department staff.

19 (b) The department of public health.

20 (c) A local health department.

21 (2) The department of public health, the fire marshal divi-
22 sion of the department of state police, or local authorities, in
23 carrying out this act, may visit an adult foster care facility
24 more often than annually to advise in matters affecting health or
25 fire protection. Inspections shall be made as permitted by law.

26 (3) An adult foster care facility shall be inspected for
27 fire safety by 1 of the following:

1 (a) Department staff, if the facility is licensed or
2 proposed to be licensed for 6 or fewer adults. The department
3 may request that a fire safety inspection be completed or caused
4 to be completed by the state fire marshal, for a facility
5 licensed or proposed to be licensed for 6 or fewer adults, when
6 such an inspection would result in the efficient administration
7 of this act.

8 (b) The state fire marshal or the designated representative
9 of the state fire marshal, if the facility is licensed or pro-
10 posed to be licensed for more than 6 adults. The state fire
11 marshal shall inspect or cause to be inspected for fire safety an
12 adult foster care facility licensed or proposed to be licensed
13 for 6 or fewer adults upon request by the department. The state
14 fire marshal may contract with the fire marshal of a city having
15 a population of not less than 1,000,000 to inspect adult foster
16 care facilities licensed or proposed to be licensed for more than
17 6 adults if the facility is located within that city. The fire
18 marshal of a city shall conduct an inspection in compliance with
19 procedures established and on forms provided by the state fire
20 marshal.

21 (4) Except as provided in subsection (3)(b) and section
22 10(2), the inspector shall administer and enforce the rules
23 promulgated by the department.

24 (5) Upon receipt of a request from an adult foster care
25 facility for certification of a specialized program for develop-
26 mentally disabled or mentally ill adults, the department of
27 mental health shall inspect the facility to determine whether the

1 proposed specialized program conforms with the requirements of
2 applicable law and rules. The department of mental health shall
3 provide the department with an inspection report and a certifica-
4 tion, denial of certification, or certification with limited
5 terms for the proposed specialized program. The department of
6 mental health shall reinspect a certified specialized program not
7 less than once biennially and notify the department of social
8 services in the same manner as for the initial certification. In
9 carrying out this subsection, the department of mental health may
10 contract with a county community mental health board or any other
11 agency for services.

12 (6) Inspection reports required by this section shall be
13 furnished to the department and shall be used in the evaluation
14 for licensing of an adult foster care facility. The department
15 shall consider the reports carefully and may make special consul-
16 tations if necessary. The department shall be responsible for
17 the final determination of the issuance, denial, or revocation
18 and the temporary or provisional nature of a license issued to an
19 adult foster care facility. A report of the department's find-
20 ings shall be furnished to the licensee or applicant.

21 (7) The inspection reports required by this section shall be
22 available for public inspection during reasonable business
23 hours.

24 Sec. 13. (1) A person, partnership, corporation, associa-
25 tion, or a department or agency of the state, county, city, or
26 other political subdivision shall not establish or maintain an
27 adult foster care facility unless licensed by the department.

1 (2) Application for a license shall be made on forms
2 provided and in the manner prescribed by the department. The
3 application shall be accompanied by THE FEE PRESCRIBED IN
4 SECTION 13A. ~~a license fee of not less than \$15.00 nor more than~~
5 ~~\$100.00. The department shall establish a license fee schedule~~
6 ~~providing for fees based on the type of adult foster care~~
7 ~~facility.~~

8 (3) Before issuing OR RENEWING a license, the department
9 shall investigate the activities and proposed standards of care
10 of the applicant and shall make an on-site evaluation of the pro-
11 posed facility. THE ON-SITE INSPECTION CONDUCTED IN RESPONSE TO
12 THE APPLICATION MAY BE CONDUCTED WITHOUT PRIOR NOTICE TO THE
13 APPLICANT. The department shall issue or renew a license if sat-
14 isfied as to all of the following:

15 (a) The financial stability of the facility.

16 (b) The applicant's compliance with this act and rules
17 promulgated under this act.

18 (c) The good moral character of the applicant, or owners,
19 partners, or directors of the facility, if other than an
20 individual. Each of these persons shall be not less than 18
21 years of age.

22 (d) The physical and emotional ability of the applicant, and
23 the person responsible for the daily operation of the facility to
24 operate an adult foster care facility.

25 (e) The good moral character of the person responsible for
26 the daily operations of the facility. The person responsible for

1 the daily operation of the facility shall be not less than 18
2 years of age.

3 (4) The department shall require an applicant or a licensee
4 to disclose the names, addresses, and official positions of all
5 persons who have an ownership interest in the adult foster care
6 facility. If the adult foster care facility is located on or in
7 real estate ~~which~~ THAT is leased, the applicant or licensee
8 shall disclose the name of the lessor of the real estate and any
9 direct or indirect interest that the applicant or licensee has in
10 the lease other than as lessee.

11 (5) Each license shall state the maximum number of persons
12 to be received for foster care at 1 time.

13 (6) If applicable, a license shall state the type of spe-
14 cialized program for which certification has been received from
15 the department of mental health.

16 (7) A license shall be issued to a specific person for a
17 facility at a specific location, shall be nontransferable, and
18 shall remain the property of the department. The prohibition
19 against transfer of a license ~~shall~~ TO ANOTHER LOCATION DOES
20 not apply when a licensee's adult foster care facility or home is
21 closed as a result of eminent domain proceedings, if the facility
22 or home, as relocated, otherwise meets the requirements of this
23 act and the rules promulgated under this act.

24 (8) An applicant or licensee proposing a sale of an adult
25 foster care facility or home to another owner shall provide the
26 department with advance notice of the proposed sale in writing.
27 The applicant or licensee and other parties to the sale shall

1 arrange to meet with specified department representatives and
 2 shall obtain before the sale a determination of the items of non-
 3 compliance with applicable law and rules ~~which~~ THAT shall be
 4 corrected. The department shall notify the respective parties of
 5 the items of noncompliance before the change of ownership, shall
 6 indicate that the items of noncompliance shall be corrected as a
 7 condition of issuance of a license to the new owner, and shall
 8 notify the prospective purchaser of all licensure requirements.

9 (9) A person who violates this section, or who signs a false
 10 statement under this section, is guilty of a misdemeanor, punish-
 11 able by a fine of not more than \$1,000.00.

12 SEC. 13A. (1) APPLICATION FEES FOR A PERSON, PARTNERSHIP,
 13 FIRM, CORPORATION, ASSOCIATION, OR NONGOVERNMENTAL ORGANIZATION
 14 LICENSED OR SEEKING LICENSURE UNDER THIS ACT ARE AS FOLLOWS:

15 (A) APPLICATION FEE FOR A TEMPORARY LICENSE:

16	(i) FAMILY HOME.....	\$70.00
17	(ii) SMALL GROUP HOME (1-6).....	115.00
18	(iii) SMALL GROUP HOME (7-12).....	140.00
19	(iv) LARGE GROUP HOME.....	175.00
20	(v) CONGREGATE FACILITY.....	225.00
21	(vi) CAMP.....	50.00

22 (B) APPLICATION FEE FOR SUBSEQUENT LICENSES:

23	(i) FAMILY HOME.....	\$ 25.00
24	(ii) SMALL GROUP HOME (1-6).....	40.00
25	(iii) SMALL GROUP HOME (7-12).....	65.00
26	(iv) LARGE GROUP HOME.....	100.00

1 (v) CONGREGATE FACILITY..... 150.00

2 (vi) CAMP..... 25.00

3 (2) FEES COLLECTED PURSUANT TO THIS ACT SHALL BE CREDITED TO
4 THE GENERAL FUND OF THE STATE TO BE APPROPRIATED BY THE LEGISLA-
5 TURE TO THE DEPARTMENT FOR THE ENFORCEMENT OF THIS ACT.

6 (3) EXCEPT UNDER RULES PROMULGATED BY THE DEPARTMENT, A FEE
7 COLLECTED BY THE DEPARTMENT UNDER THIS ACT SHALL NOT BE
8 REFUNDED. THE DEPARTMENT SHALL PROMULGATE RULES CONCERNING THE
9 REFUND OF FEES, PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF
10 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS
11 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS.

12 Sec. 14. (1) A temporary license shall be issued to an
13 adult foster care facility for the first ~~6~~ 12 months of opera-
14 tion if the adult foster care facility has not previously been
15 licensed as an adult foster care facility. At the end of the
16 first ~~6~~ 12 months of operation, the department shall issue a
17 regular license, issue a provisional license, or refuse to issue
18 a license in the manner provided for in section 22. A temporary
19 license shall not be renewed.

20 (2) Before issuing a temporary license, the department may
21 require an adult foster care facility to submit to the department
22 an acceptable plan of correction for the adult foster care
23 facility. The adult foster care facility shall implement the
24 plan of correction within the time limitations of the temporary
25 license period.

26 Sec. 17. (1) A provisional license may be issued to an
27 adult foster care facility ~~which~~ THAT has previously held a

1 temporary or regular license under this act or an act repealed by
2 this act. A provisional license may be issued for 6 months if an
3 adult foster care facility is temporarily unable to conform to
4 the requirements of this act for a regular license and may be
5 renewed NOT MORE THAN 2 CONSECUTIVE TIMES as provided in subsec-
6 tions (2) and (4). The issuance of a provisional license shall
7 be contingent upon the submission to the department of an accept-
8 able plan of correction for the adult foster care facility within
9 the time limitations of the provisional period.

10 (2) If the provisional license is issued for deficiencies in
11 the physical plant of the adult foster care facility, the provi-
12 sional license may be renewed for not more than 2 consecutive
13 6-month terms for the same physical plant deficiencies.

14 (3) If the provisional license is issued for deficiencies in
15 the quality of care provided in the adult foster care facility,
16 the provisional license shall not be renewable. If the quality
17 of care deficiencies are corrected and intervening deficiencies
18 of any kind are not incurred, a regular license shall be issued.

19 (4) If a provisional license has been issued because of
20 deficiencies in both the quality of care and the physical plant
21 of the adult foster care facility, the provisional license may be
22 renewed under subsection (2) if the quality of care deficiencies
23 have been corrected.

24 (5) The department shall notify the applicant of the reasons
25 for issuing a provisional license and shall designate whether the
26 deficiencies are physical plant deficiencies or quality of care
27 deficiencies.

1 Sec. 19. (1) A regular license shall be issued to an adult
2 foster care facility which is in compliance with the requirements
3 of this act and rules promulgated under this act for issuance of
4 a regular license.

5 (2) A regular license FOR ALL ADULT FOSTER CARE FACILITIES
6 EXCEPT ADULT FOSTER CARE CAMPS shall be valid for ~~2~~ 3 years
7 after the date of issuance unless revoked as authorized by sec-
8 tion 22 or modified to a provisional status based on evidence of
9 noncompliance with this act or the rules promulgated under this
10 act. THE LICENSE SHALL BE RENEWED TRIENNIALLY ON APPLICATION AND
11 APPROVAL.

12 (3) A REGULAR LICENSE FOR AN ADULT FOSTER CARE CAMP SHALL BE
13 EFFECTIVE FOR THE SPECIFIC DATES OF OPERATION NOT TO EXCEED A
14 12-MONTH PERIOD UNLESS REVOKED AS AUTHORIZED BY SECTION 22 OR
15 MODIFIED TO A PROVISIONAL STATUS BASED ON EVIDENCE OF NONCOMPLI-
16 ANCE WITH THIS ACT OR THE RULES PROMULGATED UNDER THIS ACT. THE
17 LICENSE SHALL BE RENEWED ANNUALLY ON APPLICATION AND APPROVAL.

18 (4) ~~(3)~~ Any increase beyond 6 in the number of persons to
19 be received for foster care at 1 time in a small group home shall
20 require application for a temporary license pursuant to sections
21 14 and 16. This subsection shall apply to facilities which have
22 been previously licensed.

23 Sec. 30. ~~If an adult foster care facility operates with-~~
24 ~~out a license issued under this act or if an adult foster care~~
25 ~~facility violates this act or a rule promulgated under this act,~~
26 ~~and the unlawful activity or condition of the adult foster care~~
27 ~~facility is likely to result in serious harm to the adults under~~

~~1 care, the department may seek injunctive action against the adult~~
~~2 foster care facility in the circuit court through proceedings~~
~~3 instituted by the attorney general on behalf of the department.~~

4 THE ATTORNEY GENERAL, ON BEHALF OF THE DEPARTMENT, MAY SEEK AN
5 INJUNCTION AGAINST AN ADULT FOSTER CARE FACILITY IN EITHER OF THE
6 FOLLOWING CASES:

7 (A) IF THE FACILITY IS BEING OPERATED WITHOUT A LICENSE IN
8 VIOLATION OF SECTION 13.

9 (B) IF A LICENSEE VIOLATES THIS ACT OR A RULE PROMULGATED
10 UNDER THIS ACT AND THE VIOLATION MAY RESULT IN HARM TO THE RESI-
11 DENTS UNDER CARE.