

HOUSE BILL No. 5505

January 31, 2018, Introduced by Reps. Liberati and Rendon.

A bill to amend 1979 PA 218, entitled "Adult foster care facility licensing act," by amending sections 3, 4, 5, 7, 13, 13a, 14, 15, and 22 (MCL 400.703, 400.704, 400.705, 400.707, 400.713, 400.713a, 400.714, 400.715, and 400.722), sections 3 and 4 as amended by 2016 PA 525, section 5 as amended by 2010 PA 380, section 7 as amended by 1986 PA 257, section 13 as amended by 2012 PA 52, section 13a as amended by 2004 PA 285, section 15 as amended by 1984 PA 40, and section 22 as amended by 2004 PA 59, and by adding sections 19a, 22a, and 22c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 3. (1) "Adult" means:
2 (a) A person 18 years of age or older.

1 (b) A person who is placed in an adult foster care family home
2 or an adult foster care small group home according to section 5(6)
3 or (8) of 1973 PA 116, MCL 722.115.

4 (2) "Adult foster care camp" or "adult camp" means an adult
5 foster care facility with the approved capacity to receive more
6 than 4 adults to be provided foster care. An adult foster care camp
7 is a facility located in a natural or rural environment.

8 (3) "Adult foster care congregate facility" means an adult
9 foster care facility with the approved capacity to receive more
10 than 20 adults to be provided with foster care.

11 (4) "Adult foster care facility" means a ~~governmental or~~
12 ~~nongovernmental establishment~~ **HOME OR FACILITY** that provides foster
13 care to adults. Subject to section 26a(1), adult foster care
14 facility includes facilities and foster care family homes for
15 adults who are aged, mentally ill, developmentally disabled, or
16 physically disabled who require supervision on an ongoing basis but
17 who do not require continuous nursing care. Adult foster care
18 facility does not include any of the following:

19 (a) A nursing home licensed under article 17 of the public
20 health code, 1978 PA 368, MCL 333.20101 to 333.22260.

21 (b) A home for the aged licensed under article 17 of the
22 public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

23 (c) A hospital licensed under article 17 of the public health
24 code, 1978 PA 368, MCL 333.20101 to 333.22260.

25 (d) A hospital for the mentally ill or a facility for the
26 developmentally disabled operated by the department of health and
27 human services under the mental health code, 1974 PA 258, MCL

1 330.1001 to 330.2106.

2 (e) A county infirmary operated by a county department of
3 health and human services under section 55 of the social welfare
4 act, 1939 PA 280, MCL 400.55.

5 (f) A child caring institution, children's camp, foster family
6 home, or foster family group home licensed or approved under 1973
7 PA 116, MCL 722.111 to 722.128, if the number of residents who
8 become 18 years of age while residing in the institution, camp, or
9 home does not exceed the following:

10 (i) Two, if the total number of residents is 10 or fewer.

11 (ii) Three, if the total number of residents is not less than
12 11 and not more than 14.

13 (iii) Four, if the total number of residents is not less than
14 15 and not more than 20.

15 (iv) Five, if the total number of residents is 21 or more.

16 (g) A foster family home licensed or approved under 1973 PA
17 116, MCL 722.111 to 722.128, that has a person who is 18 years of
18 age or older placed in the foster family home under section 5(7) of
19 1973 PA 116, MCL 722.115.

20 (h) An establishment commonly described as an alcohol or a
21 substance use disorder rehabilitation center, a residential
22 facility for persons released from or assigned to adult
23 correctional institutions, a maternity home, or a hotel or rooming
24 house that does not provide or offer to provide foster care.

25 (i) A facility created by 1885 PA 152, MCL 36.1 to 36.12.

26 (j) An area excluded from the definition of adult foster care
27 facility under section 17(3) of the continuing care community

1 disclosure act, 2014 PA 448, MCL 554.917.

2 (5) "Adult foster care family home" means a private residence
3 with the approved capacity to receive **AT LEAST 3 BUT NOT MORE THAN**
4 ~~6 or fewer~~ adults to be provided with foster care. ~~for 5 or more~~
5 ~~days a week and for 2 or more consecutive weeks.~~ The adult foster
6 care family home licensee ~~shall~~ **MUST** be a member of the household ~~7~~
7 and an occupant of the residence.

8 (6) "Adult foster care large group home" means an adult foster
9 care facility with the approved capacity to receive at least 13 but
10 not more than 20 adults to be provided with foster care.

11 (7) "Adult foster care small group home" means an adult foster
12 care facility with the approved capacity to receive **AT LEAST 3 BUT**
13 **NOT MORE THAN** ~~12 or fewer~~ adults to be provided with foster care.

14 (8) "Aged" means an adult whose chronological age is 60 years
15 of age or older or whose biological age, as determined by a
16 physician, is 60 years of age or older.

17 (9) "Assessment plan" means a written statement prepared in
18 cooperation with a responsible agency or person that identifies the
19 specific care and maintenance, services, and resident activities
20 appropriate for each individual resident's physical and behavioral
21 needs and well-being and the methods of providing the care and
22 services taking into account the preferences and competency of the
23 individual.

24 (10) **"BOARD" MEANS FOOD SERVICE PROVIDED AT THE ADULT FOSTER**
25 **CARE FACILITY.**

26 Sec. 4. (1) "Council" means the adult foster care licensing
27 advisory council created in section 8.

1 (2) "Department" means the department of licensing and
2 regulatory affairs.

3 (3) "Developmental disability" means that term as defined in
4 section 100a of the mental health code, 1974 PA 258, MCL 330.1100a.

5 (4) "Direct access" means access to a resident or to a
6 resident's property, financial information, medical records,
7 treatment information, or any other identifying information.

8 (5) "Director" means the director of the department.

9 (6) "Do-not-resuscitate order" means a document executed under
10 the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL
11 333.1051 to 333.1067, directing that, in the event a resident
12 suffers cessation of both spontaneous respiration and circulation,
13 no resuscitation will be initiated.

14 (7) "Foster care" means the provision of supervision, personal
15 care, and protection in addition to room and board, for 24 hours a
16 day, 5 or more days a week, and for 2 or more consecutive weeks for
17 compensation **PROVIDED AT A SINGLE ADDRESS. PROVIDING ROOM UNDER A**
18 **LANDLORD AND TENANT ARRANGEMENT DOES NOT, BY ITSELF, EXCLUDE A**
19 **PERSON FROM THE LICENSURE REQUIREMENT UNDER THIS ACT.**

20 Sec. 5. (1) "Good moral character" means good moral character
21 as defined in 1974 PA 381, MCL 338.41 to 338.47.

22 (2) "Licensed hospice program" means a health care program
23 that provides a coordinated set of services rendered at home or in
24 an outpatient or institutional setting for individuals suffering
25 from a disease or condition with a terminal prognosis and that is
26 licensed under article 17 of the public health code, 1978 PA 368,
27 MCL 333.20101 to 333.22260.

1 (3) "Licensee" means the agency, association, corporation,
2 organization, person, or department or agency of the state, county,
3 city, or other political subdivision, that has been issued a
4 license to operate an adult foster care facility.

5 (4) "Licensee designee" means the individual designated in
6 writing by the owner or person with legal authority to act on
7 behalf of the company or organization on licensing matters. **THE**
8 **LICENSEE DESIGNEE MUST MEET THE LICENSEE QUALIFICATION REQUIREMENTS**
9 **OF THIS ACT AND RULES PROMULGATED UNDER THIS ACT.** The licensee
10 designee who is not an owner, partner, or director of the applicant
11 shall not sign the original license application or amendments to
12 the application.

13 (5) "Mental illness" means a substantial disorder of thought
14 or mood that significantly impairs judgment, behavior, capacity to
15 recognize reality, or ability to cope with the ordinary demands of
16 life.

17 (6) "New construction" means a newly constructed facility or a
18 facility that has been completely renovated for use as an adult
19 foster care facility.

20 Sec. 7. (1) "Regular license" means a license issued to an
21 adult foster care facility ~~which~~**THAT** is in compliance with this
22 act and the rules promulgated under this act.

23 (2) "Related" means any of the following relationships by
24 marriage, blood, or adoption: spouse, child, parent, brother,
25 sister, grandparent, **GRANDCHILD**, aunt, uncle, stepparent,
26 stepbrother, stepsister, or cousin.

27 (3) "Short-term operation" means an adult foster care facility

1 ~~which~~**THAT** operates for a period of time less than 6 months within
2 a calendar year.

3 (4) "Special license" means a license issued for the duration
4 of the operation of an adult foster care facility if the licensee
5 is a short-term operation.

6 (5) "Specialized program" means a program of services or
7 treatment provided in an adult foster care facility licensed under
8 this act that is designed to meet the unique programmatic needs of
9 the residents of that home as set forth in the assessment plan for
10 each resident and for which the facility receives special
11 compensation.

12 (6) "Special compensation" means payment to an adult foster
13 care facility to ensure the provision of a specialized program in
14 addition to the basic payment for adult foster care. Special
15 compensation does not include payment received by the adult foster
16 care facility directly from the ~~medicaid~~**MEDICAID** program for
17 personal care services for a resident, or payment received under
18 the supplemental security income program under title XVI of the
19 social security act, 42 U.S.C. ~~1381 to 1383e~~**USC 1381 TO 1383F**.

20 (7) "Supervision" means guidance of a resident in the
21 activities of daily living, including ~~all~~**1 OR MORE** of the
22 following:

23 (a) Reminding a resident to maintain his or her medication
24 schedule, as directed by the resident's physician.

25 (b) Reminding a resident of important activities to be carried
26 out.

27 (c) Assisting a resident in keeping appointments.

1 (d) Being aware of a resident's general whereabouts even
2 though the resident may travel independently about the community.

3 (8) "Temporary license" means a license issued to a facility
4 ~~which~~ **THAT** has not previously been licensed ~~pursuant to~~ **UNDER** this
5 act or ~~to former Act No. 287 of the Public Acts of 1972.~~ **UNDER**
6 **FORMER 1972 PA 287.**

7 Sec. 13. (1) A person, partnership, corporation, association,
8 or a department or agency of the state, county, city, or other
9 political subdivision shall not establish or maintain an adult
10 foster care facility unless licensed by the department.

11 (2) Application for a license shall be made on forms provided
12 and in the manner prescribed by the department. The application
13 shall be accompanied by the fee prescribed in section 13a.

14 (3) Before issuing or renewing a license, the department shall
15 investigate the activities and standards of care of the applicant
16 and shall make an on-site evaluation of the facility. On-site
17 inspections conducted in response to the application may be
18 conducted without prior notice to the applicant. **ON-SITE**
19 **INSPECTIONS CONDUCTED FOR RENEWING A LICENSE MAY BE CONDUCTED**
20 **WITHIN 12 MONTHS BEFORE THE EXPIRATION DATE OF THE CURRENT LICENSE.**

21 Subject to subsections (9), (10), and (11), the department shall
22 issue or renew a license if satisfied as to all of the following:

23 (a) The financial stability of the facility.

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

26 (c) The good moral character of the applicant, or owners,
27 partners, or directors of the facility, if other than an

1 individual. Each of these persons shall be not less than 18 years
2 of age.

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

6 (e) The good moral character of the ~~person responsible for the~~
7 ~~daily operations of the facility and all employees of the facility.~~

8 **LICENSEE OR LICENSEE DESIGNEE, OWNER, PARTNER, DIRECTOR, AND PERSON**
9 **RESPONSIBLE FOR THE DAILY OPERATION OF THE FACILITY.** The applicant
10 ~~shall be~~ **IS** responsible for assessing the good moral character of
11 the employees of the facility. The person responsible for the daily
12 operation of the facility shall be not less than 18 years of age.

13 (4) The department shall require an applicant or a licensee to
14 disclose the names, addresses, and official positions of all
15 persons who have an ownership interest in the adult foster care
16 facility. If the adult foster care facility is located on or in
17 real estate that is leased, the applicant or licensee shall
18 disclose the name of the lessor of the real estate and any direct
19 or indirect interest that the applicant or licensee has in the
20 lease other than as lessee.

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

23 (6) If applicable, a license shall state the type of
24 specialized program for which certification has been received from
25 the department.

26 (7) A license shall be issued to a specific person for a
27 facility at a specific location ~~—~~ **AND** is nontransferable. ~~—and~~

~~1 remains the property of the department. The prohibition against
2 transfer of a license to another location does not apply if a
3 licensee's adult foster care facility or home is closed as a result
4 of eminent domain proceedings, if the facility or home, as
5 relocated, otherwise meets the requirements of this act and the
6 rules promulgated under this act.~~

7 (8) An applicant or licensee proposing a sale of an adult
8 foster care facility or home to another owner shall provide the
9 department with advance notice of the proposed sale in writing. The
10 applicant or licensee and other parties to the sale shall arrange
11 to meet with specified department representatives and shall obtain
12 before the sale a determination of the items of noncompliance with
13 applicable law and rules that shall be corrected. The department
14 shall notify the respective parties of the items of noncompliance
15 before the change of ownership, shall indicate that the items of
16 noncompliance shall be corrected as a condition of issuance of a
17 license to the new owner, and shall notify the prospective
18 purchaser of all licensure requirements.

19 (9) The department shall not issue a license to or renew the
20 license of an owner, partner, or director of the applicant, who has
21 regular direct access to residents or who has on-site facility
22 operational responsibilities, or an applicant or the licensee
23 designee, if any of those individuals have been convicted of 1 or
24 more of the following:

25 (a) A felony under this act or under chapter XXA of the
26 Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

27 (b) A misdemeanor under this act or under chapter XXA of the

1 Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r, within
2 the 10 years immediately preceding the application.

3 (c) A misdemeanor involving abuse, neglect, assault, battery,
4 or criminal sexual conduct or involving fraud or theft against a
5 vulnerable adult as that term is defined in section 145m of the
6 Michigan penal code, 1931 PA 328, MCL 750.145m, or a state or
7 federal crime that is substantially similar to a misdemeanor
8 described in this subdivision within the 10 years immediately
9 preceding the application.

10 (10) If the department has revoked, suspended, or refused to
11 renew a person's license, **OR DENIED AN APPLICATION FOR A LICENSE,**
12 for an adult foster care facility according to section 22, the
13 department may refuse to issue a license to or renew a license of
14 that person for a period of 5 years after the suspension,
15 revocation, or nonrenewal of the license, **OR DENIAL OF THE**
16 **APPLICATION.**

17 (11) The department may refuse to issue a license to or renew
18 the license of an applicant if the department determines that the
19 applicant has a relationship with a former licensee whose license
20 under this act has been suspended, revoked, or nonrenewed under
21 subsection (9) or section 22 or a convicted person to whom a
22 license has been denied under subsection (9). This subsection
23 applies for 5 years after the suspension, revocation, or nonrenewal
24 of the former licensee's license or the denial of the convicted
25 person's license. For purposes of this subsection, an applicant has
26 a relationship with a former licensee or convicted person if the
27 former licensee or convicted person is involved with the facility

1 in 1 or more of the following ways:

2 (a) Participates in the administration or operation of the
3 facility.

4 (b) Has a financial interest in the operation of the facility.

5 (c) Provides care to residents of the facility.

6 (d) Has contact with residents or staff on the premises of the
7 facility.

8 (e) Is employed by the facility.

9 (f) Resides in the facility.

10 (12) If the department determines that an unlicensed facility
11 is an adult foster care facility, the department shall notify the
12 owner or operator of the facility that it is required to be
13 licensed under this act. A person receiving the notification
14 required under this section who does not apply for a license within
15 30 days is subject to the penalties described in subsection (13).

16 (13) Subject to subsection (12), a person who violates
17 subsection (1) is guilty of a misdemeanor, punishable by
18 imprisonment for not more than 2 years or a fine of not more than
19 \$50,000.00, or both. A person who has been convicted of a violation
20 of subsection (1) who commits a second or subsequent violation is
21 guilty of a felony, punishable by imprisonment for not more than 5
22 years or a fine of not more than \$75,000.00, or both.

23 (14) The department shall issue an initial or renewal license
24 not later than 6 months after the applicant files a completed
25 application. Receipt of the application is considered the date the
26 application is received by ~~any~~ **AN** agency or department of this
27 state. If the application is considered incomplete by the

1 department, the department shall notify the applicant in writing or
2 make notice electronically available within 30 days after receipt
3 of the incomplete application, describing the deficiency and
4 requesting additional information. If the department identifies a
5 deficiency or requires the fulfillment of a corrective action plan,
6 the 6-month period is tolled until either of the following occurs:

7 (a) Upon notification by the department of a deficiency, until
8 the date the requested information is received by the department.

9 (b) Upon notification by the department that a corrective
10 action plan is required, until the date the department determines
11 the requirements of the corrective action plan have been met.

12 (15) The determination of the completeness of an application
13 does not operate as an approval of the application for the license
14 and does not confer eligibility of an applicant determined
15 otherwise ineligible for issuance of a license.

16 (16) If the department fails to issue or deny a license within
17 the time required by this section, the department shall return the
18 license fee and shall reduce the license fee for the applicant's
19 next renewal application, if any, by 15%. Failure to issue or deny
20 a license within the time period required under this section does
21 not allow the department to otherwise delay processing an
22 application. The completed application shall be placed in sequence
23 with other completed applications received at that same time. The
24 department shall not discriminate against an applicant in the
25 processing of an application based on the fact that the application
26 fee was refunded or discounted under this subsection.

27 (17) If, on a continual basis, inspections performed by a

1 local health department delay the department in issuing or denying
2 licenses under this act within the 6-month period, the department
3 may use department staff to complete the inspections instead of the
4 local health department causing the delays.

5 (18) The department director shall submit a report by December
6 1 of each year to the standing committees and appropriations
7 subcommittees of the senate and house of representatives concerned
8 with human services issues. The department director shall include
9 all of the following information in the report concerning the
10 preceding fiscal year:

11 (a) The number of initial and renewal applications the
12 department received and completed within the 6-month time period
13 described in subsection (14).

14 (b) The number of applications requiring a request for
15 additional information.

16 (c) The number of applications rejected.

17 (d) The number of licenses not issued within the 6-month
18 period.

19 (e) The average processing time for initial and renewal
20 licenses granted after the 6-month period.

21 (19) An applicant, if an individual, **OR AN OWNER, PARTNER, OR**
22 **DIRECTOR OF THE APPLICANT WHO HAS REGULAR DIRECT ACCESS TO**
23 **RESIDENTS OR WHO HAS ON-SITE FACILITY OPERATIONAL RESPONSIBILITIES**
24 shall give written consent at the time of original license
25 application and a licensee designee shall give written consent at
26 the time of appointment for the department of state police to
27 conduct both of the following:

1 (a) A criminal history check.

2 (b) A criminal records check through the ~~federal bureau of~~
3 ~~investigation.~~ **FEDERAL BUREAU OF INVESTIGATION.**

4 (20) ~~Unless already submitted under subsection (19), an~~ **AN**
5 owner, partner, or director of the applicant who has regular direct
6 access to residents or who has on-site facility operational
7 responsibilities ~~shall give written consent at the time of original~~
8 ~~license application for the department of state police to conduct~~
9 ~~both of the following:~~

10 ~~—— (a) A criminal history check.~~

11 ~~—— (b) A criminal records check through the federal bureau of~~
12 ~~investigation.~~ **IS EXEMPT FROM THE REQUIREMENTS OF SUBSECTION (19) IF**

13 **HE OR SHE HAS ALREADY SUBMITTED CONSENT DESCRIBED IN SUBSECTION**

14 **(19) AND WERE CONTINUOUSLY AFFILIATED WITH A LICENSED ADULT FOSTER**

15 **CARE FACILITY AS AN APPLICANT, OWNER, PARTNER, OR DIRECTOR.**

16 (21) The department shall require the applicant, if an
17 individual, the licensee designee, owner, partner, or director of
18 the applicant who has regular direct access to residents or who has
19 on-site facility operational responsibilities to submit his or her
20 fingerprints to the department of state police for the criminal
21 history check and criminal records check described in ~~subsections~~
22 **SUBSECTION (19). and (20).**

23 (22) The department shall request a criminal history check and
24 criminal records check required under this section in the manner
25 prescribed by the department of state police. The department of
26 state police shall conduct the criminal history check and provide a
27 report of the results to the licensing or regulatory bureau of the

1 department. The report shall contain any criminal history
 2 information on the person maintained by the department of state
 3 police and the results of the criminal records check from the
 4 ~~federal bureau of investigation.~~ **FEDERAL BUREAU OF INVESTIGATION.**

5 The department of state police may charge the person on whom the
 6 criminal history check and criminal records check are performed
 7 under this section a fee that does not exceed the actual and
 8 reasonable cost of conducting the checks.

9 ~~—— (23) Not later than 1 year after the effective date of the~~
 10 ~~2012 amendatory act that amended this subsection, all licensees and~~
 11 ~~licensee designees of facilities licensed on the effective date of~~
 12 ~~the 2012 amendatory act that amended this subsection and all~~
 13 ~~persons described in subsection (20) shall comply with the~~
 14 ~~requirements of this section.~~

15 **(23)** ~~(24)~~ Beginning the effective date of the 2012 amendatory
 16 act that amended this subsection, **MARCH 13, 2012**, if an applicant
 17 or licensee designee or person described in subsection (20) applies
 18 for a license or to renew a license to operate an adult foster care
 19 facility and he or she or the licensee designee previously
 20 underwent a criminal history check and criminal records check
 21 required under subsection (19) ~~or (20)~~ or under section 134a of the
 22 mental health code, 1974 PA 258, MCL 330.1134a, and has remained
 23 continuously licensed or continuously employed under section 34b or
 24 under section 20173a of the public health code, 1978 PA 368, MCL
 25 333.20173a, after the criminal history check and criminal records
 26 check have been performed, that person is not required to submit to
 27 another criminal history check or criminal records check upon

1 renewal of the license obtained under subsection (3).

2 **(24)** ~~(25)~~—The department of state police shall store and
3 maintain all fingerprints submitted under this act in an automated
4 fingerprint identification system database that provides for an
5 automatic notification at the time of a subsequent criminal arrest
6 fingerprint card submitted into the system that matches a set of
7 fingerprints previously submitted in accordance with this act. Upon
8 notification, the department of state police shall immediately
9 notify the department and the department shall take the appropriate
10 action.

11 **(25)** ~~(26)~~—A licensee, licensee designee, owner, partner, or
12 director of the licensee shall not be permitted on the premises of
13 an adult foster care facility **OR HAVE DIRECT ACCESS TO RESIDENTS OR**
14 **RESIDENT RECORDS** if he or she has been convicted of any of the
15 following: adult abuse, neglect, or financial exploitation; or
16 listed offenses as defined in section 2 of the sex offenders
17 registration act, 1994 PA 295, MCL 28.722.

18 **(26) AN ADULT FOSTER FAMILY CARE HOME OR AN ADULT FOSTER CARE**
19 **GROUP HOME SHALL NOT BE CONCURRENTLY LICENSED AS A GROUP CHILD CARE**
20 **HOME OR A FAMILY CHILD CARE HOME.**

21 (27) As used in this section, "completed application" means an
22 application complete on its face **WITH ALL REQUESTED INFORMATION**
23 **PROVIDED AND ANSWERS TO ALL QUESTIONS PROVIDED** and submitted with
24 any applicable licensing fees as well as any other information,
25 records, approval, security, or similar item required by law or
26 rule from a local unit of government, a federal agency, or a
27 private entity but not from another department or agency of this

1 state. A completed application does not include a health inspection
2 performed by a local health department.

3 Sec. 13a. ~~(1)~~ Application fees for an individual, partnership,
4 firm, corporation, association, governmental organization, or
5 nongovernmental organization licensed or seeking licensure under
6 this act ~~are as follows:~~

7 ~~— (a) Application fee for a temporary OR RENEWAL license ARE AS~~
8 **FOLLOWS:**

9	(A) (i)	Family home (3-6)	\$ 65.00 100.00
10	(B) (ii)	Small group home (1-6) (3-6)	105.00 150.00
11	(C) (iii)	Small group home (7-12)	135.00 200.00
12	(D) (iv)	Large group home	170.00 500.00
13	(E) (v)	Congregate facility (RENEWAL ONLY) .	220.00 500.00
14	(F) (vi)	Camp	40.00 200.00

15 ~~(b) Application fee for subsequent licenses:~~

16	(i)	Family home	\$ 25.00
17	(ii)	Small group home (1-6)	25.00
18	(iii)	Small group home (7-12)	60.00
19	(iv)	Large group home	100.00
20	(v)	Congregate facility	150.00
21	(vi)	Camp	25.00

22 ~~— (2) Fees collected under this act shall be credited to the~~
23 ~~general fund of the state to be appropriated by the legislature to~~
24 ~~the department for the enforcement of this act.~~

25 ~~— (3) The department shall use a portion of the fees collected~~
26 ~~to inspect new adult foster care facilities for fiscal year 1991-~~
27 ~~1992.~~

1 Sec. 14. (1) A temporary license shall be issued to an adult
 2 foster care facility for the first 6 months of operation. ~~if the~~
 3 ~~adult foster care facility has not previously been licensed as an~~
 4 ~~adult foster care facility.~~ At the end of the first 6 months of
 5 operation, the department shall **EITHER** issue a regular license,
 6 issue a provisional license, or refuse to issue a license in the
 7 manner provided for in section 22. A temporary license shall not be
 8 renewed.

9 (2) Before issuing a temporary license, the department may
 10 require an adult foster care facility to submit to the department
 11 an acceptable plan of correction for the adult foster care
 12 facility. The adult foster care facility shall implement the plan
 13 of correction within the time limitations of the temporary license
 14 period.

15 Sec. 15. ~~(1)~~ The department shall not issue a temporary
 16 license to an adult foster care congregate facility, except a
 17 ~~facility which is to replace an adult foster care~~ **EXISTING ADULT**
 18 **FOSTER CARE** congregate facility. ~~licensed on March 27, 1984 and is~~
 19 ~~a~~ **THE** new construction ~~;~~ ~~satisfies~~ **MUST SATISFY** all applicable
 20 state construction code requirements and the fire safety
 21 requirements prescribed by section 20; and the bed capacity ~~does~~
 22 **MUST** not exceed that of the licensed facility ~~which~~ **THAT** it
 23 replaces.

24 **SEC. 19A. (1) THE DEPARTMENT SHALL DETERMINE THAT A FACILITY**
 25 **IS EXEMPT FROM LICENSURE AS AN ADULT FOSTER CARE FACILITY UNDER**
 26 **THIS ACT IF THE FACILITY APPLIES FOR AN EXEMPTION AND SUBMITS AN**
 27 **ATTESTATION THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS:**

1 (A) ALL RESIDENTS ARE CONSUMERS WHO RECEIVE BENEFITS FROM A
2 COMMUNITY MENTAL HEALTH SERVICES PROGRAM AND THE LOCAL COMMUNITY
3 MENTAL HEALTH SERVICES PROGRAM MONITORS THE SERVICES BEING
4 DELIVERED IN THE RESIDENTIAL SETTING.

5 (B) THE FACILITY HAS A CAPACITY OF 4 OR FEWER ADULTS.

6 (C) THE FACILITY AGREES TO COMPLY WITH R. 400.14505 OF THE
7 MICHIGAN ADMINISTRATIVE CODE, REGARDING SMOKE DETECTION EQUIPMENT.

8 (2) A DENIAL OF AN APPLICATION FOR AN EXEMPTION OR A
9 REVOCATION OF AN EXEMPTION IS SUBJECT TO A REVIEW BY THE DEPARTMENT
10 UPON THE APPLICANT'S PROVIDING FURTHER INFORMATION OR AN APPEAL AS
11 PROVIDED IN SECTION 22, OR BOTH. THE DEPARTMENT SHALL ACT ON AN
12 EXEMPTION REQUESTED UNDER THIS SECTION AS SOON AS PRACTICABLE BUT
13 NO LATER THAN 60 DAYS AFTER RECEIPT OF THE APPLICATION FOR AN
14 EXEMPTION.

15 (3) AN EXEMPTION GRANTED UNDER THIS SUBSECTION MAY BE REVOKED
16 IF THE DEPARTMENT DETERMINES 1 OF THE FOLLOWING:

17 (A) THAT THE FALSE OR INACCURATE INFORMATION PROVIDED IN THE
18 ATTESTATION WAS MATERIAL TO GRANTING THE EXEMPTION.

19 (B) THE APPLICANT RECEIVING THE EXEMPTION IS FOUND TO BE
20 NEGLIGENT, WHICH NEGLIGENCE RESULTS IN SERIOUS PHYSICAL INJURY,
21 DEATH OF A RESIDENT, OR SERIOUS MENTAL ANGUISH, AND THERE CONTINUES
22 TO BE A RISK TO THE HEALTH AND SAFETY OF THE RESIDENTS AT THAT
23 FACILITY.

24 (C) THE APPLICANT RECEIVING THE EXEMPTION DOES NOT COOPERATE
25 IN THE DEPARTMENT'S INVESTIGATION TO MAKE A DETERMINATION UNDER
26 SUBDIVISION (A) OR (B).

27 (4) AS USED IN THIS SECTION:

1 (A) "SERIOUS MENTAL ANGUISH" MEANS DAMAGE SUFFERED BY A
 2 RESIDENT THAT A PHYSICIAN, PHYSICIAN'S ASSISTANT, OR NURSE
 3 PRACTITIONER DETERMINES CAUSED OR COULD HAVE CAUSED EXTREME
 4 EMOTIONAL DISTRESS THAT RESULTED IN HOSPITALIZATION, PSYCHIATRIC
 5 TREATMENT, OR DEATH OF A RESIDENT.

6 (B) "SERIOUS PHYSICAL INJURY" MEANS DAMAGE SUFFERED BY A
 7 RESIDENT THAT A PHYSICIAN, PHYSICIAN'S ASSISTANT, OR NURSE
 8 PRACTITIONER DETERMINES CAUSED OR COULD HAVE CAUSED DEATH OF A
 9 RESIDENT, CAUSED THE IMPAIRMENT OF A RESIDENT'S BODILY FUNCTIONS,
 10 OR CAUSED PERMANENT DISFIGUREMENT OF A RESIDENT.

11 Sec. 22. (1) The department may deny, suspend, revoke, or
 12 refuse to renew a license, or modify a regular license to a
 13 provisional license, if the licensee falsifies information on the
 14 application for license or willfully and substantially violates
 15 this act, the rules promulgated under this act, or the terms of the
 16 license.

17 (2) The department may **DENY**, suspend, revoke, or modify a
 18 ~~license of an applicant~~ **APPLICATION FOR LICENSURE OR A LICENSE OF A**
 19 **LICENSEE** if the department determines that the applicant **OR**
 20 **LICENSEE** has a relationship with a former **APPLICANT WHOSE**
 21 **APPLICATION UNDER THIS ACT HAS BEEN DENIED OR A FORMER** licensee
 22 whose license under this act has been suspended, revoked, or
 23 ~~nonrenewed~~ **REFUSED RENEWAL** under this section or section 13(9) or a
 24 convicted person to whom a license has been denied under section
 25 13(9). This subsection applies for 10 years after the suspension,
 26 revocation, or ~~nonrenewal~~ **REFUSED RENEWAL** of the former licensee's
 27 license, **THE DENIAL OF THE FORMER APPLICANT'S APPLICATION FOR**

1 **LICENSURE**, or the denial of the convicted person's ~~license~~.
2 **APPLICATION FOR LICENSURE**. As used in this subsection, an applicant
3 has a relationship with a former licensee or convicted person if
4 the former **APPLICANT**, licensee, or convicted person is involved
5 with the facility in 1 or more of the following ways:

6 (a) Participates in the administration or operation of the
7 facility.

8 (b) Has a financial interest in the operation of the facility.

9 (c) Provides care to residents of the facility.

10 (d) Has contact with residents or staff on the premises of the
11 facility.

12 (e) Is employed by the facility.

13 (f) Resides in the facility.

14 (3) **THE DEPARTMENT MAY DENY AN APPLICATION FOR LICENSURE BASED**
15 **ON A PRIOR SETTLEMENT AGREEMENT THAT PROHIBITS A PERSON FROM**
16 **PROVIDING ADULT FOSTER CARE.**

17 (4) **AN APPLICATION FOR LICENSURE SHALL NOT BE DENIED, A**
18 **LICENSE SHALL NOT BE REVOKED, A RENEWAL SHALL NOT BE REFUSED, AND A**
19 **REGULAR LICENSE SHALL NOT BE MODIFIED TO A PROVISIONAL LICENSE**
20 **UNLESS THE DEPARTMENT GIVES THE APPLICANT OR LICENSEE WRITTEN**
21 **NOTICE OF THE GROUNDS FOR THE PROPOSED DENIAL, REVOCATION, REFUSAL**
22 **TO RENEW, OR MODIFICATION. IF THE PROPOSED DENIAL, REVOCATION,**
23 **REFUSAL TO RENEW, OR MODIFICATION IS NOT APPEALED WITHIN 30 DAYS**
24 **AFTER RECEIPT, THE DEPARTMENT SHALL DENY, REVOKE, REFUSE TO RENEW,**
25 **OR MODIFY THE APPLICATION OR LICENSE. THE APPLICANT OR LICENSEE**
26 **MUST APPEAL IN WRITING TO THE DEPARTMENT DIRECTOR, OR THE**
27 **DIRECTOR'S DESIGNEE, A PROPOSED DENIAL, REVOCATION, REFUSAL TO**

1 RENEW, OR MODIFICATION WITHIN 30 DAYS AFTER RECEIPT OF THE WRITTEN
2 NOTICE. UPON RECEIPT OF THE WRITTEN REQUEST FOR APPEAL, THE
3 DIRECTOR OR THE DIRECTOR'S DESIGNEE MUST CONDUCT A CONTESTED CASE
4 HEARING UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA
5 306, MCL 24.301 TO 24.328. NOTICE OF THE HEARING MUST BE GIVEN TO
6 THE APPLICANT OR LICENSEE BY PERSONAL SERVICE OR DELIVERY TO THE
7 PROPER ADDRESS BY REGISTERED MAIL NOT LESS THAN 2 WEEKS BEFORE THE
8 DATE OF THE HEARING. THE DECISION OF THE DIRECTOR OR HIS OR HER
9 DESIGNEE SHALL BE ISSUED AS SOON AS PRACTICABLE AFTER THE HEARING
10 AND FORWARDED TO THE PROTESTING PARTY BY REGISTERED MAIL. THE
11 FORMAL NOTICE AND HEARING REQUIREMENT IN THIS SUBSECTION DOES NOT
12 APPLY IF THE LICENSEE AND THE DEPARTMENT COMPLY WITH SECTION 22A.

13 (5) ~~(3)~~—A license shall not be denied, suspended, or revoked,
14 a renewal shall not be refused, and a regular license shall not be
15 modified to a provisional license unless the department gives the
16 licensee or applicant written notice of the grounds of the proposed
17 denial, revocation, refusal to renew, or modification. If the
18 licensee or applicant appeals the denial, revocation, refusal to
19 renew, or modification by filing a written appeal with the director
20 within 30 days after receipt of the written notice, the director or
21 the director's designated representative shall conduct a **CONTESTED**
22 **CASE** hearing at which the licensee or applicant may present
23 testimony and confront witnesses. Notice of the hearing shall be
24 given to the licensee or applicant by personal service or delivery
25 to the proper address by registered mail not less than 2 weeks
26 before the date of the hearing. The decision of the director shall
27 be made and forwarded to the protesting party by registered mail

1 not more than 30 days after the hearing. If the proposed denial,
2 revocation, refusal to renew, or modification is not protested
3 within 30 days, the license shall be denied, revoked, refused, or
4 modified.

5 (6) ~~(4)~~—If the department has revoked, suspended, or refused
6 to renew a license, the former licensee shall not receive or
7 maintain in that facility an adult who requires foster care. A
8 person who violates this subsection is guilty of a felony,
9 punishable by imprisonment for not more than 5 years or a fine of
10 not more than \$75,000.00, or both.

11 (7) ~~(5)~~—If the department has revoked, suspended, or refused
12 to renew a license, relocation services shall be provided to adults
13 who were being served by the formerly licensed facility, upon the
14 department's determination that the adult or his or her designated
15 representative is unable to relocate the adult in another facility
16 without assistance. The relocation services shall be provided by
17 the responsible agency, as defined in administrative rules, or, if
18 the adult has no agency designated as responsible, by the
19 department **OF HEALTH AND HUMAN SERVICES.**

20 ~~—— (6) In the case of facilities that are operated under lease~~
21 ~~with a state department or a community mental health services~~
22 ~~board, the department may issue an emergency license for a 90-day~~
23 ~~period to avoid relocation of residents following the revocation,~~
24 ~~suspension, or nonrenewal of a license, if all of the following~~
25 ~~requirements are met:~~

26 ~~—— (a) The leased physical plant is in substantial compliance~~
27 ~~with all licensing requirements.~~

1 ~~—— (b) The applicant for the emergency license is a licensee who~~
2 ~~is in compliance with all applicable regulations under this act and~~
3 ~~under contract with a state department or a community mental health~~
4 ~~services board to operate the leased physical plant temporarily.~~

5 ~~—— (c) The former licensee's access to the facility according to~~
6 ~~a lease, sublease, or contract has been lawfully terminated by the~~
7 ~~owner or lessee of the facility.~~

8 **SEC. 22A. THE DEPARTMENT MAY IMMEDIATELY SUSPEND, REVOKE,**
9 **MODIFY, OR REFUSE TO RENEW A LICENSE OR DENY AN APPLICATION FOR A**
10 **LICENSE WITHOUT PROVIDING WRITTEN NOTICE OF THE GROUNDS FOR THE**
11 **PROPOSED ACTION OR GIVING THE LICENSE OR APPLICANT 30 DAYS TO**
12 **APPEAL IF THE LICENSEE OR APPLICANT AGREES IN WRITING TO DO ALL OF**
13 **THE FOLLOWING:**

14 **(A) WAIVE THE REQUIREMENT THAT THE DEPARTMENT PROVIDE WRITTEN**
15 **NOTICE OF THE GROUNDS FOR THE PROPOSED ACTION.**

16 **(B) WAIVE THE 30-DAY TIME FRAME IN WHICH TO SUBMIT A WRITTEN**
17 **APPEAL TO THE PROPOSED ACTION.**

18 **(C) WAIVE THE RIGHT TO A CONTESTED CASE HEARING UNDER THE**
19 **ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.301 TO**
20 **24.328.**

21 **SEC. 22C. WHEN THE DEPARTMENT ISSUES A SUMMARY SUSPENSION**
22 **ORDER FOR CLOSURE OF AN ADULT FOSTER CARE FACILITY, OR WHEN AN**
23 **ADULT FOSTER CARE FACILITY CANNOT PROVIDE ADEQUATE RESIDENT CARE,**
24 **THE DEPARTMENT MUST DO THE FOLLOWING:**

25 **(A) ENSURE THAT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**
26 **HAS BEEN NOTIFIED TO MAKE ARRANGEMENTS FOR THE ORDERLY AND SAFE**
27 **DISCHARGE AND TRANSFER OF THE RESIDENTS TO ANOTHER FACILITY OR**

1 APPROPRIATE SETTING.

2 (B) DETERMINE WHETHER A REPRESENTATIVE OF THE DEPARTMENT MUST
3 BE PLACED IN A FACILITY ON A DAILY BASIS TO MONITOR THE DELIVERY OF
4 SERVICES DURING THE DISCHARGE OF RESIDENTS TO ANOTHER FACILITY OR
5 LOCATION.

6 (C) DETERMINE IF THE APPOINTMENT OF A TEMPORARY ADMINISTRATIVE
7 ADVISOR OR A TEMPORARY CLINICAL ADVISOR, OR BOTH, IS NECESSARY,
8 WITH AUTHORITY AND DUTIES SPECIFIED BY THE DEPARTMENT TO ASSIST THE
9 FACILITY MANAGEMENT AND STAFF TO OVERSEE THE ORDERLY CLOSURE OF THE
10 FACILITY. THE LICENSEE MUST PAY THE EXPENSE OF THE PERSON
11 APPOINTED.

12 Enacting section 1. This amendatory act takes effect 90 days
13 after the date it is enacted into law.

14 Enacting section 2. This amendatory act does not take effect
15 unless Senate Bill No. _____ or House Bill No. 5506 (request no.
16 05465'18) of the 99th Legislature is enacted into law.