

Act No. 176  
Public Acts of 1992  
Approved by the Governor  
July 22, 1992  
Filed with the Secretary of State  
July 23, 1992

**STATE OF MICHIGAN  
86TH LEGISLATURE  
REGULAR SESSION OF 1992**

Introduced by Rep. Hollister

# **ENROLLED HOUSE BILL No. 4743**

An act to amend the title and sections 11, 13, 17, 19, and 30 of Act No. 218 of the Public Acts of 1979, entitled "An act to provide for the licensing and regulation of adult foster care facilities; to provide for the establishment of standards of care for adult foster care facilities; to prescribe powers and duties of the department of social services and other departments; to prescribe penalties; and to repeal certain acts and parts of acts," sections 11, 13, and 19 as amended by Act No. 257 of the Public Acts of 1986, being sections 400.711, 400.713, 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:*

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

## **TITLE**

An act to provide for the licensing and regulation of adult foster care facilities; to provide for the establishment of standards of care for adult foster care facilities; to prescribe powers and duties of the department of social services and other departments; to prescribe certain fees; to prescribe penalties; and to repeal certain acts and parts of acts.

Sec. 11. (1) The director, the director's agent, or personnel of another department or agency, acting at the request of the director, may enter upon the premises of an applicant or licensee at a reasonable time to make inspections, as permitted by applicable law, to determine whether the applicant or licensee is complying with this act and the rules promulgated under this act. On-site inspections may be conducted without prior notice to the adult foster care facility. A health and sanitation inspection of an adult foster care facility shall be conducted upon the request of the department by 1 of the following:

- (a) Department staff.
- (b) The department of public health.
- (c) A local health department.

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

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

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

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

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

(5) Upon receipt of a request from an adult foster care facility for certification of a specialized program for developmentally disabled or mentally ill adults, the department of mental health shall inspect the facility to determine whether the proposed specialized program conforms with the requirements of applicable law and rules. The department of mental health shall provide the department with an inspection report and a certification, denial of certification, or certification with limited terms for the proposed specialized program. The department of mental health shall reinspect a certified specialized program not less than once biennially and notify the department of social services in the same manner as for the initial certification. In carrying out this subsection, the department of mental health may contract with a county community mental health board or any other agency for services.

(6) Inspection reports required by this section shall be furnished to the department and shall be used in the evaluation for licensing of an adult foster care facility. The department shall consider the reports carefully and may make special consultations if necessary. The department shall be responsible for the final determination of the issuance, denial, or revocation and the temporary or provisional nature of a license issued to an adult foster care facility. A report of the department's findings shall be furnished to the licensee or applicant.

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

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

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

(3) Before issuing or renewing a license, the department shall investigate the activities and standards of care of the applicant and shall make an on-site evaluation of the facility. On-site inspections conducted in response to the application may be conducted without prior notice to the applicant. The department shall issue or renew a license if satisfied as to all of the following:

(a) The financial stability of the facility.

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

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

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

(e) The good moral character of the person responsible for the daily operations of the facility and all employees of the facility. The applicant shall be responsible for assessing the good moral character of the employees of the facility. The person responsible for the daily operation of the facility shall be not less than 18 years of age.

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

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

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

(7) A license shall be issued to a specific person for a facility at a specific location, shall be nontransferable, and shall remain the property of the department. The prohibition against transfer of a license to another location does not apply if a licensee's adult foster care facility or home is closed as a result of eminent domain proceedings, if the facility or home, as relocated, otherwise meets the requirements of this act and the rules promulgated under this act.

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

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

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

(a) Application fee for a temporary license:

(i) Family home.....	\$ 65.00
(ii) Small group home (1-6).....	105.00
(iii) Small group home (7-12).....	135.00
(iv) Large group home .....	170.00
(v) Congregate facility .....	220.00
(vi) Camp.....	40.00

(b) Application fee for subsequent licenses:

(i) Family home.....	\$ 25.00
(ii) Small group home (1-6).....	25.00
(iii) Small group home (7-12).....	60.00
(iv) Large group home .....	100.00
(v) Congregate facility .....	150.00
(vi) Camp.....	25.00

(2) Fees collected pursuant to this act shall be credited to the general fund of the state to be appropriated by the legislature to the department for the enforcement of this act.

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

(4) A fee collected by the department under this act shall not be refunded.

Sec. 17. (1) A provisional license may be issued to an adult foster care facility that has previously held a temporary or regular license under this act or an act repealed by this act. A provisional license may be issued for 6 months if an adult foster care facility is temporarily unable to conform to the requirements of this act for a regular license and may be renewed not more than 2 consecutive times as provided in subsections (2) and (4). The issuance of a provisional license shall be contingent upon the submission to the department of an acceptable plan of correction for the adult foster care facility within the time limitations of the provisional period.

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

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

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

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

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

(2) A regular license for all adult foster care facilities except adult foster care camps is valid for 2 years after the date of issuance unless revoked as authorized by section 22 or modified to a provisional status based on evidence of noncompliance with this act or the rules promulgated under this act. The license shall be renewed biennially on application and approval.

(3) A regular license for an adult foster care camp is effective for the specific dates of operation not to exceed a 12-month period unless revoked as authorized by section 22 or modified to a provisional status based on evidence of noncompliance with this act or the rules promulgated under this act. The license shall be renewed annually on application and approval.

(4) Any increase beyond 6 in the number of persons to be received for foster care at 1 time in a small group home requires application for a temporary license pursuant to sections 14 and 16. This subsection applies to facilities that have been previously licensed.

Sec. 30. The attorney general, on behalf of the department, may seek an injunction against an adult foster care facility in either of the following cases:

(a) The facility is being operated without a license in violation of section 13.

(b) A licensee violates this act or a rule promulgated under this act and the violation may result in serious harm to the residents under care.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved .....

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Governor.