



HOUSE BILL No. 4717

May 5, 1993, Introduced by Rep. Varga and referred to the Committee on Judiciary.

A bill to amend sections 13, 22, and 31 of Act No. 218 of the Public Acts of 1979, entitled as amended "Adult foster care facility licensing act," section 13 as amended by Act No. 176 of the Public Acts of 1992 and sections 22 and 31 as amended by Act No. 262 of the Public Acts of 1990, being sections 400.713, 400.722, and 400.731 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 13, 22, and 31 of Act No. 218 of the
2 Public Acts of 1979, section 13 as amended by Act No. 176 of the
3 Public Acts of 1992 and sections 22 and 31 as amended by Act
4 No. 262 of the Public Acts of 1990, being sections 400.713,
5 400.722, and 400.731 of the Michigan Compiled Laws, are amended
6 to read as follows:

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

6 (2) Application for a license shall be made on forms pro-
7 vided and in the manner prescribed by the department. The appli-
8 cation shall be accompanied by the fee prescribed in
9 section 13a.

10 (3) Before issuing or renewing a license, the department
11 shall investigate the activities and standards of care of the
12 applicant and shall make an on-site evaluation of the facility.
13 On-site inspections conducted in response to the application may
14 be conducted without prior notice to the applicant. ~~The~~
15 SUBJECT TO SUBSECTION (9), THE department shall issue or renew a
16 license if satisfied as to all of the following:

17 (a) The financial stability of the facility.

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

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

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

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

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

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

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

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

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

13 (9) THE DEPARTMENT SHALL NOT ISSUE A LICENSE TO OR RENEW THE
14 LICENSE OF A PERSON WHO HAS BEEN CONVICTED OF A FELONY UNDER THIS
15 ACT OR UNDER CHAPTER XXA OF THE MICHIGAN PENAL CODE, ACT NO. 328
16 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.145M TO 750.145Q
17 OF THE MICHIGAN COMPILED LAWS. THE DEPARTMENT SHALL NOT ISSUE A
18 LICENSE TO A PERSON WHO HAS BEEN CONVICTED OF A MISDEMEANOR UNDER
19 THIS ACT OR UNDER CHAPTER XXA OF ACT NO. 328 OF THE PUBLIC ACTS
20 OF 1931 FOR A PERIOD OF 5 YEARS AFTER THE CONVICTION. IF THE
21 DEPARTMENT HAS REVOKED, SUSPENDED, OR REFUSED TO RENEW A PERSON'S
22 LICENSE FOR AN ADULT FOSTER CARE FACILITY PURSUANT TO SECTION 22,
23 THE DEPARTMENT MAY REFUSE TO ISSUE A LICENSE TO THAT PERSON, OR
24 TO A PERSON WITH WHOM THAT PERSON IS ASSOCIATED DIRECTLY OR INDI-
25 RECTLY, FOR A PERIOD OF NOT LESS THAN 5 YEARS AFTER THE SUSPEN-
26 SION, REVOCATION, OR NONRENEWAL OF THE LICENSE.

1 (10) IF THE DEPARTMENT DETERMINES THAT AN UNLICENSED
2 FACILITY IS AN ADULT FOSTER CARE FACILITY, THE DEPARTMENT SHALL
3 NOTIFY THE OWNER OR OPERATOR OF THE FACILITY THAT IT IS REQUIRED
4 TO BE LICENSED UNDER THIS ACT. A PERSON RECEIVING THE NOTIFICA-
5 TION REQUIRED UNDER THIS SECTION WHO DOES NOT APPLY FOR A LICENSE
6 WITHIN 30 DAYS IS SUBJECT TO THE PENALTIES DESCRIBED IN SUBSEC-
7 TION (11).

8 (11) ~~(9) A~~ SUBJECT TO SUBSECTION (10), A person who vio-
9 lates this section, or who signs a false statement under this
10 section, is guilty of a misdemeanor, punishable by ~~a fine of not~~
11 ~~more than \$1,000.00~~ IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A
12 FINE OF NOT LESS THAN \$10,000.00 OR MORE THAN \$50,000.00, OR
13 BOTH. A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF THIS
14 SECTION WHO COMMITS A SECOND OR SUBSEQUENT VIOLATION IS GUILTY OF
15 A FELONY, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR
16 A FINE OF NOT LESS THAN \$25,000.00 OR MORE THAN \$75,000.00, OR
17 BOTH.

18 Sec. 22. (1) The department may deny, revoke, or refuse to
19 renew a license, or modify a regular license to a provisional
20 license, if the licensee falsifies information on the application
21 for license or willfully and substantially violates this act, the
22 rules promulgated under this act, or the terms of the license.

23 (2) A license shall not be denied or revoked, a renewal
24 shall not be refused, and a regular license shall not be modified
25 to a provisional license unless the department gives the licensee
26 or applicant written notice of the grounds of the proposed
27 denial, revocation, refusal to renew, or modification. If the

1 licensee or applicant appeals the denial, revocation, refusal to
2 renew, or modification by filing a written appeal with the direc-
3 tor within 30 days after receipt of the written notice, the
4 director or the director's designated representative shall con-
5 duct a hearing at which the licensee or applicant may present
6 testimony and confront witnesses. Notice of the hearing shall be
7 given to the licensee or applicant by personal service or deliv-
8 ery to the proper address by registered mail not less than 2
9 weeks before the date of the hearing. The decision of the direc-
10 tor shall be made and forwarded to the protesting party by regis-
11 tered mail not more than 30 days after the hearing. If the pro-
12 posed denial, revocation, refusal to renew, or modification is
13 not protested within 30 days, the license shall be denied,
14 revoked, refused, or modified.

15 (3) If the department has revoked, suspended, or refused to
16 renew a license, the former licensee shall not receive or main-
17 tain ~~adults in need of~~ IN THAT FACILITY AN ADULT WHO REQUIRES
18 foster care. A person who violates this subsection is guilty of
19 a ~~misdemeanor, punishable by a fine of not more than \$1,000.00~~
20 FELONY, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A
21 FINE OF NOT LESS THAN \$25,000.00 OR MORE THAN \$75,000.00, OR
22 BOTH.

23 (4) If the department has revoked, suspended, or refused to
24 renew a license, relocation services shall be provided to adults
25 who were being served by the formerly licensed facility, upon the
26 department's determination that the adult or his or her
27 designated representative is unable to relocate the adult in

1 another facility without assistance. The relocation services
2 shall be provided by the responsible agency, as defined in admin-
3 istrative rules, or, if the adult has no agency designated as
4 responsible, by the department.

5 (5) IN THE CASE OF FACILITIES THAT ARE OPERATED UNDER LEASE
6 WITH THE DEPARTMENT OF MENTAL HEALTH OR A COUNTY COMMUNITY MENTAL
7 HEALTH BOARD, THE DEPARTMENT MAY ISSUE AN EMERGENCY LICENSE FOR A
8 90-DAY PERIOD TO AVOID RELOCATION OF RESIDENTS FOLLOWING THE
9 REVOCATION, SUSPENSION, OR NONRENEWAL OF A LICENSE, IF ALL OF THE
10 FOLLOWING REQUIREMENTS ARE MET:

11 (A) THE LEASED FACILITY IS IN FULL COMPLIANCE WITH ALL
12 LICENSING REQUIREMENTS.

13 (B) THE APPLICANT FOR THE EMERGENCY LICENSE IS LICENSED
14 UNDER THIS ACT TO OPERATE ANOTHER FACILITY AND CONTRACTS WITH THE
15 DEPARTMENT OF MENTAL HEALTH OR A COUNTY COMMUNITY MENTAL HEALTH
16 BOARD TO OPERATE THE LEASED FACILITY TEMPORARILY.

17 (C) THE FORMER LICENSEE'S ACCESS TO THE FACILITY PURSUANT TO
18 A LEASE, SUBLEASE, OR CONTRACT HAS BEEN LAWFULLY TERMINATED BY
19 THE OWNER OR LESSEE OF THE FACILITY.

20 Sec. 31. (1) A person, adult foster care facility, agency,
21 or representative or officer of a corporation, association, or
22 organization who violates this act, other than section 13 or
23 section 22(3), is guilty of a misdemeanor, PUNISHABLE BY IMPRIS-
24 ONMENT FOR 1 YEAR OR A FINE OF \$1,000.00, OR BOTH.

25 (2) ~~A person, adult foster care facility, agency, or repre-~~
26 ~~sentative or officer of a corporation, association, or~~
27 ~~organization who has a license revoked, application denied, or~~

~~1 renewal refused, may be refused a license, or be prohibited from~~
~~2 being connected, directly or indirectly, with a licensee for not~~
~~3 less than 2 years after the license is revoked, application~~
~~4 denied, or renewal refused. The department shall promulgate~~
~~5 rules that shall be the basis for determining the circumstances~~
~~6 under which the action shall be taken.~~ A PERSON CONVICTED OF A
7 MISDEMEANOR UNDER THIS ACT OR UNDER CHAPTER XXA OF THE MICHIGAN
8 PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING
9 SECTIONS 750.145M TO 750.145Q OF THE MICHIGAN COMPILED LAWS,
10 SHALL NOT BE ASSOCIATED DIRECTLY OR INDIRECTLY WITH THE OWNERSHIP
11 OR OPERATION OF AN ADULT FOSTER CARE FACILITY FOR A PERIOD OF 5
12 YEARS AFTER THE CONVICTION. A PERSON CONVICTED OF A FELONY UNDER
13 THIS ACT OR UNDER CHAPTER XXA OF THE MICHIGAN PENAL CODE, ACT
14 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.145M TO
15 750.145Q OF THE MICHIGAN COMPILED LAWS, SHALL NOT BE ASSOCIATED
16 DIRECTLY OR INDIRECTLY WITH THE OWNERSHIP OR OPERATION OF AN
17 ADULT FOSTER CARE FACILITY.

18 Section 2. This amendatory act shall not take effect unless
19 Senate Bill No. _____ or House Bill No. 4716 (request
20 no. 02746'93) of the 87th Legislature is enacted into law.