

Act No. 201  
Public Acts of 2006  
Approved by the Governor  
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**STATE OF MICHIGAN  
93RD LEGISLATURE  
REGULAR SESSION OF 2006**

Introduced by Senators Olshove, Prusi, George, Clarke, Kuipers, Garcia, Barcia and Schauer

# **ENROLLED SENATE BILL No. 1139**

AN ACT to amend 1979 PA 218, 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 certain fees; to prescribe penalties; and to repeal certain acts and parts of acts," by amending sections 10, 11, and 20 (MCL 400.710, 400.711, and 400.720), sections 10 and 20 as amended by 1986 PA 257 and section 11 as amended by 1992 PA 176.

*The People of the State of Michigan enact:*

Sec. 10. (1) The department shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, in the areas provided under subsection (4).

(2) The bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, shall promulgate rules providing for adequate fire prevention and safety in an adult foster care facility licensed or proposed to be licensed for more than 6 adults. The rules shall be promulgated in cooperation with the department and the state fire safety board and shall provide for the protection of the health, safety, and welfare of the adults residing in a facility. The bureau of fire services shall promulgate the rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A person may request a variance from the application of a rule promulgated pursuant to this subsection by application to the state fire marshal. The state fire marshal may make a variance upon a finding that the variance does not result in a hazard to life or property. The finding shall be transmitted to the person requesting the variance and shall be entered into the records of the bureau of fire services. If the variance requested concerns a building, the finding shall also be transmitted to the governing body of the city, village, or township in which the building is located. The entire state fire safety board shall act as a hearing body in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to review and render decisions on a ruling of the state fire marshal interpreting or applying these rules. After a hearing, the state fire safety board may modify the ruling or interpretation of the state fire marshal if the enforcement of the ruling or interpretation would do manifest injustice and would be contrary to the spirit and purpose of the rules or the public interest. A decision of the state fire safety board to modify or change a ruling of the state fire marshal, shall specify in what manner the modification or change is made, the conditions upon which it is made, and the reasons for the modification or change.

(3) The department of human services shall promulgate rules for the certification of specialized programs offered in an adult foster care facility to a mentally ill or developmentally disabled resident. The rules shall include provision for an appeal of a denial or limitation of the terms of certification to the department pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287.

(4) The rules promulgated by the department under this act shall be restricted to the following:

(a) The operation and conduct of adult foster care facilities.

(b) The character, suitability, training, and qualifications of applicants and other persons directly responsible for the care and welfare of adults served.

(c) The general financial ability and competence of applicants to provide necessary care for adults and to maintain prescribed standards.

(d) The number of individuals or staff required to ensure adequate supervision and care of the adults served.

(e) The appropriateness, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate health standards to provide for the physical comfort, care, protection, and well-being of the adults received and maintenance of adequate fire protection for adult foster care facilities licensed to receive 6 or fewer adults. Rules promulgated in the areas provided by this subdivision shall be promulgated in cooperation with the state fire safety board.

(f) Provisions for food, clothing, educational opportunities, equipment, and individual supplies to assure the healthy physical, emotional, and mental development of adults served.

(g) The type of programs and services necessary to provide appropriate care to each resident admitted.

(h) Provisions to safeguard the rights of adults served, including cooperation with rights protection systems established by law.

(i) Provisions to prescribe the rights of licensees.

(j) Maintenance of records pertaining to admission, progress, health, and discharge of adults. The rules promulgated under this subdivision shall include a method by which a licensee promptly shall notify the appropriate placement agency or responsible agent of any indication that a resident's assessment plan is not appropriate for that resident.

(k) Filing of reports with the department.

(l) Transportation safety.

(5) The rules shall be reviewed by the council not less than once every 5 years.

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 community health.

(c) A local health department.

(2) The department of community health, the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, 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 performed by or at the direction of the bureau of fire services, for a facility licensed or proposed to be licensed for 6 or fewer adults, if such an inspection would result in the efficient administration of this act.

(b) The bureau of fire services or the designated representative of the bureau of fire services, if the facility is licensed or proposed to be licensed for more than 6 adults. The bureau of fire services shall inspect or have 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 bureau of fire services 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 bureau of fire services.

(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 human services shall inspect the facility to determine whether the proposed specialized program conforms with the requirements of applicable law and rules. The department of human services 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 human services shall reinspect a certified specialized program not less than once biennially. In carrying out this subsection, the department of human services 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. 20. (1) The department shall not issue a temporary, provisional, or regular license to an adult foster care facility with a capacity of more than 6 adults until the facility receives a certificate of approval from the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, after compliance with fire safety standards prescribed in rules promulgated by the bureau of fire services pursuant to section 10(2).

(2) The department shall not issue a license to an adult foster care facility indicating approval to operate a specialized program for developmentally disabled adults or mentally ill adults until the facility receives a certificate of approval as required under section 11(5).

(3) A licensee or applicant who is denied a certificate of approval by the bureau of fire services or who is denied or certified with limitations for a specialized program by the department of human services may request a hearing. The hearing shall be conducted by the state fire safety board or the department of human services, as applicable, pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 1133.

(b) House Bill No. 5860.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Ray E. Randall*

Clerk of the House of Representatives

Approved .....

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Governor