

HOUSE BILL No. 5882

May 12, 2004, Introduced by Reps. Newell, Richardville, Shackleton, Palsrok, Stahl, Voorhees, Amos, Taub, LaJoy, Meyer, Garfield, Nitz, DeRoche, Milosch, Pumford, Hummel, Koetje, Steil, Bisbee, Hune, Tabor, Shaffer, DeRossett, Ehardt, Gaffney, Caswell, Walker, Moolenaar, Acciavatti, Kooiman, Huizenga, Hoogendyk, Caul, Nofs and Sheen and referred to the Committee on Government Operations.

A bill to amend 1979 PA 218, entitled
"Adult foster care facility licensing act,"
by amending section 13 (MCL 400.713), as amended by 2004 PA 59.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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
4 maintain an adult foster care facility unless licensed by the
5 department.

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

9 (3) Before issuing or renewing a license, the department
10 shall investigate the activities and standards of care of the
11 applicant and shall make an on-site evaluation of the facility.

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1 On-site inspections conducted in response to the application may
2 be conducted without prior notice to the applicant. Subject to
3 subsections (9), (10), and (11), the department shall issue or
4 renew a license if satisfied as to all of the following:

5 (a) The financial stability of the facility.

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

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

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

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

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

1 lease other than as lessee.

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

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

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

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

27 (9) The department shall not issue a license to or renew the

1 license of a person who has been convicted of a felony under this
2 act or under chapter XXA of the Michigan penal code, 1931 PA 328,
3 MCL 750.145m to 750.145r. The department shall not issue a
4 license to or renew the license of a person who has been
5 convicted of a misdemeanor under this act or under chapter XXA of
6 the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r,
7 for a period of 10 years after the conviction.

8 (10) If the department has revoked, suspended, or refused to
9 renew a person's license for an adult foster care facility
10 according to section 22, the department may refuse to issue a
11 license to or renew a license of that person for a period of 5
12 years after the suspension, revocation, or nonrenewal of the
13 license.

14 (11) The department may refuse to issue a license to or renew
15 the license of an applicant if the department determines that the
16 applicant has a relationship with a former licensee whose license
17 under this act has been suspended, revoked, or nonrenewed under
18 subsection (9) or section 22 or a convicted person to whom a
19 license has been denied under subsection (9). This subsection
20 applies for 5 years after the suspension, revocation, or
21 nonrenewal of the former licensee's license or the denial of the
22 convicted person's license. For purposes of this subsection, an
23 applicant has a relationship with a former licensee or convicted
24 person if the former licensee or convicted person is involved
25 with the facility in 1 or more of the following ways:

26 (a) Participates in the administration or operation of the
27 facility.

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

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

4 (d) Has contact with residents or staff on the premises of
5 the facility.

6 (e) Is employed by the facility.

7 (f) Resides in the facility.

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

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

23 (14) Beginning the effective date of the amendatory act that
24 added this subsection, the department shall issue an initial or
25 renewal license or registration not later than 180 days after the
26 applicant files a completed application. If the application is
27 considered incomplete by the department, the department shall

1 notify the applicant in writing within 10 days after receipt of
2 the incomplete application, describing the deficiency and
3 requesting additional information. If the department identifies
4 a deficiency or requires the fulfillment of a corrective action
5 plan, the 180-day period is tolled until either of the following
6 occurs:

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

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

13 (15) If the department fails to issue or deny a license or
14 registration within the time required by this section, the
15 department shall return the license or registration fee and shall
16 reduce the license or registration fee for the applicant's next
17 renewal application, if any, by 15%. The department shall not
18 discriminate against an applicant in the processing of an
19 application based on the fact that the application fee was
20 refunded or discounted under this subsection.

21 (16) Beginning January 31, 2005, the director of the
22 department shall submit a report by January 31 of each year to
23 the standing committees and appropriations subcommittees of the
24 senate and house of representatives concerned with human services
25 issues. The director shall include all of the following
26 information in the report concerning the calendar year that ended
27 the preceding December 31:

1 (a) The number of initial and renewal applications the
2 department received and completed within the 180-day time period
3 described in subsection (14).

4 (b) The number of applications requiring a request for
5 additional information.

6 (c) The average time for an applicant to respond to a request
7 for additional information.

8 (d) The number of applications rejected, categorized by
9 reason for rejection.

10 (e) The amount of money returned to licensees and registrants
11 under subsection (15).

12 (f) The number of licenses not issued within the 180-day
13 period.

14 (g) The average processing time for initial and renewal
15 licenses granted after the 180-day period.