

# SENATE BILL NO. 1026

October 02, 2024, Introduced by Senator MCDONALD RIVET and referred to the Committee on Housing and Human Services.

A bill to require the licensing of adult day-care facilities; to provide for the powers and duties of certain state and local governmental officers and entities; to impose a fee for the issuance of certain licenses; to provide for certain sanctions and penalties; and to require the promulgation of rules.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act may be cited as the "adult day-care facility  
2 licensing" act.

3           Sec. 3. As used in this act:

1 (a) "Adult day-care facility" means a facility that provides  
2 care for any part of a day, but less than 24 hours, to cognitively  
3 impaired individuals who are 18 years of age or older.

4 (b) "Cognitively impaired" means an individual who has a  
5 cognitive impairment that is manifested during the developmental  
6 period as determined through a full and individual evaluation by a  
7 multidisciplinary evaluation team that includes a psychologist and  
8 that demonstrates all of the following behavioral characteristics:

9 (i) Development at a rate at or below approximately 2 standard  
10 deviations below the mean as determined through intellectual  
11 assessment.

12 (ii) If the individual is of an age, grade, or mental age  
13 appropriate for formal or standardized achievement tests, the  
14 individual scores approximately within the lowest 6 percentiles on  
15 a standardized test in reading and arithmetic.

16 (iii) Lack of development primarily in the cognitive domain.

17 (iv) Impairment of adaptive behavior.

18 (v) Behaviors that adversely affect the individual's  
19 educational performance.

20 (c) "Department" means the Michigan department of lifelong  
21 education, advancement, and potential.

22 (d) "License" means an authorization granted by the department  
23 granting permission to a person to establish or maintain and  
24 operate, or both, an adult day-care facility.

25 (e) "Licensee" means a person to whom a license is granted  
26 under this act.

27 Sec. 5. (1) Beginning 12 months after the department  
28 promulgates rules to implement this act, a person shall not  
29 establish or maintain and operate an adult day-care facility

1 without holding a license from the department. Adult day-care  
2 facility or a similar term or abbreviation must not be used to  
3 describe or refer to a facility unless it is licensed under this  
4 act.

5 (2) An adult day-care facility shall apply for licensure on a  
6 form authorized and provided by the department. The application  
7 must include attachments, additional data, and information required  
8 by the department.

9 (3) A license granted under this act is effective for no  
10 longer than 2 years after the date of issuance.

11 (4) A license is not transferable and must state the persons,  
12 buildings, and properties to which it applies.

13 (5) If ownership of the adult day-care facility is  
14 transferred, the department must be notified immediately and the  
15 new owner shall apply for a license not later than 30 days after  
16 the transfer.

17 Sec. 7. (1) Fees for a person licensed or seeking licensure to  
18 establish or maintain and operate an adult day-care facility are as  
19 follows:

20 (a) Application processing fee \$120.00.

21 (b) Facility license fee, per year \$100.00.

22 (2) Fees described in this section are payable to the  
23 department at the time an application for a license is submitted.  
24 If an application for a license is denied or if a license is  
25 revoked before its expiration date, the department shall not refund  
26 fees paid to the department.

27 Sec. 9. (1) Beginning 12 months after the effective date of  
28 this act, upon a determination that an adult day-care facility is  
29 in compliance with this act and the rules promulgated under this

1 act, the department shall grant an initial license not later than 6  
2 months after the applicant files a completed application. Receipt  
3 of the application is considered the date the application is  
4 received by the department. If the application is considered  
5 incomplete by the department, the department shall notify the  
6 applicant in writing or make the notice electronically available  
7 not later than 30 days after receipt of the incomplete application,  
8 describing the deficiency and requesting additional information. If  
9 the department identifies a deficiency or requires the fulfillment  
10 of a corrective action plan, the 6-month period is tolled until  
11 either of the following occurs:

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

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

17 (2) The determination of the completeness of an application  
18 does not operate as an approval of the application for the license  
19 and does not confer eligibility of an applicant determined  
20 otherwise ineligible for issuance of a license.

21 (3) Except as otherwise provided in this subsection, if the  
22 department fails to grant or deny a license within the time period  
23 required by this section, the department shall return the license  
24 fee and shall reduce the license fee for the applicant's next  
25 licensure application, if any, by 15%. Failure to grant or deny a  
26 license within the time period required under this section does not  
27 allow the department to otherwise delay processing an application.  
28 The completed application must be placed in sequence with other  
29 completed applications received at that same time. The department

1 shall not discriminate against an applicant in the processing of  
2 the application based upon the fact that the application fee was  
3 refunded or discounted under this subsection.

4 (4) The department, in order to protect the people of this  
5 state, shall provide a procedure for the orderly closing of a  
6 facility if it is unable to maintain its license under this act.

7 (5) The department, upon finding that an adult day-care  
8 facility is not operating in accord with the requirements of its  
9 license, may issue an order directing the licensee to:

10 (a) Discontinue admissions.

11 (b) Transfer selected patients out of the facility.

12 (c) Reduce its licensed capacity.

13 (d) Comply with specific requirements for licensure as  
14 appropriate.

15 (6) After a finding that a deficiency or violation of this act  
16 or the rules promulgated under this act seriously affects the  
17 health, safety, and welfare of individuals receiving care or  
18 services in or from a licensed adult day-care facility, the  
19 department may issue an emergency order limiting, suspending, or  
20 revoking the license of the adult day-care facility. The department  
21 shall provide an opportunity for a hearing not later than 5 working  
22 days after issuance of the order. An order described in this  
23 subsection must incorporate the department's findings. The conduct  
24 of a hearing under this section does not suspend the department's  
25 order. An order described under subsection (5) is subject to the  
26 notice and hearing requirements under this subsection.

27 Sec. 11. (1) Except as otherwise provided in this section,  
28 after notice of intent to an applicant or licensee to deny, limit,  
29 suspend, or revoke the applicant's or licensee's license and an

1 opportunity for a hearing, the department may deny, limit, suspend,  
2 or revoke the license or impose an administrative fine on a  
3 licensee if 1 or more of the following exist:

4 (a) Fraud or deceit in obtaining or attempting to obtain a  
5 license or in the operation of the adult day-care facility.

6 (b) A violation of this act or a rule promulgated under this  
7 act.

8 (c) False or misleading advertising.

9 (d) Negligence or failure to exercise due care, including  
10 negligent supervision of employees and subordinates.

11 (e) Permitting a license to be used by an unauthorized adult  
12 day-care facility.

13 (f) Evidence of abuse regarding a patient's health, welfare,  
14 or safety.

15 (2) The department may deny an application for a license based  
16 on a finding of a condition or practice that would constitute a  
17 violation of this act if the applicant were a licensee.

18 Sec. 13. (1) Notice of intent to deny, limit, suspend, or  
19 revoke a license must be given by certified mail or personal  
20 service, must set forth the particular reasons for the proposed  
21 action, and must fix a date, not less than 30 days after the date  
22 of service, on which the applicant or licensee must be given the  
23 opportunity for a hearing before the director or the director's  
24 authorized representative. The hearing must be conducted in  
25 accordance with the administrative procedures act of 1969, 1969 PA  
26 306, MCL 24.201 to 24.328, and rules promulgated by the department.  
27 A full and complete record must be kept of the proceeding and must  
28 be transcribed when requested by an interested party, who shall pay  
29 the cost of preparing the transcript.

1           (2) On the basis of a hearing or on the default of the  
2 applicant or licensee, the department may grant, deny, limit,  
3 suspend, or revoke a license. A copy of the determination must be  
4 sent by certified mail or served personally upon the applicant or  
5 licensee. The determination becomes final 30 days after it is  
6 mailed or served, unless the applicant or licensee within the 30  
7 days appeals the decision to the circuit court in the county of  
8 jurisdiction or to the Ingham County circuit court.

9           (3) The department may establish procedures, hold hearings,  
10 administer oaths, issue subpoenas, or order testimony to be taken  
11 at a hearing or by deposition in a proceeding pending at any stage  
12 of the proceeding. A person may be compelled to appear and testify  
13 and to produce books, papers, or documents in a proceeding.

14           (4) In case of disobedience of a subpoena, a party to a  
15 hearing may invoke the aid of the circuit court of the jurisdiction  
16 in which the hearing is held to require the attendance and  
17 testimony of witnesses. The circuit court may issue an order  
18 requiring an individual to appear and give testimony. Failure to  
19 obey the order of the circuit court may be punished by the court as  
20 a contempt.

21           Sec. 15. A person that violates this act or a rule promulgated  
22 or an order issued under this act is guilty of a misdemeanor,  
23 punishable by a fine of not more than \$200.00 for each day the  
24 violation continues.

25           Sec. 17. A person may notify the department of a violation of  
26 this act or of a rule promulgated under this act that the person  
27 believes exists. The department shall investigate each written  
28 complaint received.

29           Sec. 19. The department may promulgate rules to implement this

1 act.

2 Enacting section 1. This act does not take effect unless all  
3 of the following bills of the 102nd Legislature are enacted into  
4 law:

5 (a) Senate Bill No. 1025.

6

7 (b) Senate Bill No. 1027.

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