

SUBSTITUTE FOR
SENATE BILL NO. 1027

A bill to amend 1979 PA 218, entitled
"Adult foster care facility licensing act,"
by amending section 10 (MCL 400.710), as amended by 1986 PA 257.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10. (1) The department shall promulgate rules ~~pursuant~~
2 **ACCORDING** to the administrative procedures act of 1969, ~~Act No.~~
3 ~~306 of the Public Acts of 1969, as amended, being sections 24.201~~
4 ~~to 24.328 of the Michigan Compiled Laws~~ **1969 PA 306, MCL 24.201 TO**
5 **24.328**, in the areas provided under subsection (4).

6 (2) The state fire safety board created under the fire
7 prevention code, ~~Act No. 207 of the Public Acts of 1941, as~~
8 ~~amended, being sections 29.1 to 29.33 of the Michigan Compiled Laws~~
9 **1941 PA 207, MCL 29.1 TO 29.34**, shall promulgate rules providing
10 for adequate fire prevention and safety in an adult foster care

1 facility licensed or proposed to be licensed for more than 6
2 adults. The rules shall be promulgated in cooperation with the
3 department and shall provide for the protection of the health,
4 safety, and welfare of the adults residing in a facility. The state
5 fire safety board shall promulgate rules ~~pursuant to Act No. 306~~
6 ~~of the Public Acts of 1969, as amended~~ **ACCORDING TO THE**
7 **ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO**
8 **24.328.** A person may request a variance from the application of a
9 rule promulgated ~~pursuant to~~ **UNDER** this subsection by application
10 to the state fire marshal. The state fire marshal may make a
11 variance upon a finding that the variance does not result in a
12 hazard to life or property. The finding shall be transmitted to the
13 person requesting the variance and shall be entered into the
14 records of the department of state police. If the variance
15 requested concerns a building, the finding shall also be
16 transmitted to the governing body of the city, village, or township
17 in which the building is located. The entire state fire safety
18 board shall act as a hearing body in accordance with ~~Act No. 306~~
19 ~~of the Public Acts of 1969~~ **THE ADMINISTRATIVE PROCEDURES ACT OF**
20 **1969, 1969 PA 306, MCL 24.201 TO 24.328,** to review and render
21 decisions on a rule promulgated ~~pursuant to~~ **UNDER** this subsection
22 or a ruling of the state fire marshal in the marshal's
23 interpretation or application of these rules. After a hearing, the
24 state fire safety board may vary the application of a rule or may
25 modify the ruling or interpretation of the state fire marshal if
26 the enforcement of the ruling or interpretation would do manifest
27 injustice and would be contrary to the spirit and purpose of the

1 rules or the public interest. A decision of the state fire safety
2 board to vary the application of a rule, or to modify or change a
3 ruling of the state fire marshal, shall specify in what manner the
4 variance, modification, or change is made, the conditions upon
5 which it is made, and the reasons for the variance, modification,
6 or change.

7 (3) The department of ~~mental health~~ **HUMAN SERVICES** shall
8 promulgate rules for the certification of specialized programs
9 offered in an adult foster care facility to a mentally ill or
10 developmentally disabled resident. The rules shall include
11 provision for an appeal of a denial or limitation of the terms of
12 certification to the department ~~pursuant~~ **ACCORDING** to chapter 4
13 of the administrative procedures act of 1969, ~~being sections~~
14 ~~24.271 to 24.287 of the Michigan Compiled Laws~~ **1969 PA 306, MCL**
15 **24.271 TO 24.287.**

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

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

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

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

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

27 (e) The appropriateness, safety, cleanliness, and general

1 adequacy of the premises, including maintenance of adequate health
2 standards to provide for the physical comfort, care, protection,
3 and well-being of the adults received and maintenance of adequate
4 fire protection for adult foster care facilities licensed to
5 receive 6 or fewer adults. Rules promulgated in the areas provided
6 by this subdivision shall be promulgated in cooperation with the
7 state fire safety board.

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

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

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

16 (i) Provisions to prescribe the rights of licensees.

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

23 (k) Filing of reports with the department.

24 (l) Transportation safety.

25 (5) ~~(4)~~ The rules shall be reviewed by the council not less
26 than once every 5 years.

27 (6) A RULE PROMULGATED UNDER THIS ACT OR AN EXCEPTION TO A

1 RULE PROMULGATED UNDER THIS ACT SHALL NOT DISCRIMINATE IN FAVOR OF
2 OR AGAINST ANY PROVIDER, FACILITY, OR EMPLOYER LICENSED UNDER THIS
3 ACT BASED ON THE PRESENCE OF, OR LACK OF, A COLLECTIVE BARGAINING
4 AGREEMENT WITH EMPLOYEES, NOR SHALL COLLECTIVE BARGAINING STATUS,
5 LEVEL OF WAGES, OR FRINGE BENEFITS BE USED TO DEMONSTRATE OR EXCUSE
6 COMPLIANCE WITH STATE LICENSING OR REGULATORY STANDARDS OR
7 REQUIREMENTS.