

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1028 Session of
1975

INTRODUCED BY TADDONIO, SALVATORE, COWELL, M. E. MILLER JR.,
MRKONIC, STAHL, PARKER, CESSAR, ZORD, FISHER, KNEPPER,
GEISLER, TRELLO, ABRAHAM AND PETRARCA, APRIL 16, 1975

REFERRED TO COMMITTEE ON HEALTH AND WELFARE, APRIL 21, 1975

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; and prescribing the manner in which the
18 number and compensation of the deputies and all other
19 assistants and employes of certain departments, boards and
20 commissions shall be determined," creating within State
21 Government a State Department of Developmental Disabilities,
22 defining its powers and duties, authorizing interstate
23 compacts on mental health, authorizing reciprocal agreements
24 and creating a Commonwealth Development Disabilities
25 Foundation.

26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

28 Section 1. Section 201, act of April 9, 1929 (P.L.177,
29 No.175), known as "The Administrative Code of 1929," amended

1 December 3, 1970 (P.L.834, No.275), is amended to read:

2 Section 201. Executive Officers, Administrative Departments
3 and Independent Administrative Boards and Commissions.--The
4 executive and administrative work of this Commonwealth shall be
5 performed by the Executive Department, consisting of the
6 Governor, Lieutenant Governor, Secretary of the Commonwealth,
7 Attorney General, Auditor General, State Treasurer, and
8 [Superintendent of Public Instruction] Secretary of Education;
9 by the Executive Board, and the Pennsylvania State Police; by
10 the following administrative departments: Department of State,
11 Department of Justice, Department of the Auditor General,
12 Treasury Department, Department of [Public Instruction,]
13 Education, Department of Military Affairs, Insurance Department,
14 Department of Banking, Department of Agriculture, Department of
15 Transportation, Department of Health, Department of Labor and
16 Industry, Department of Public Welfare, Department of Property
17 and Supplies, Department of Revenue, Department of Commerce,
18 Department of Community Affairs, [and] Department of
19 Environmental Resources and Department of Developmental
20 Disabilities; and by the following independent administrative
21 boards and commissions: Pennsylvania Game Commission,
22 Pennsylvania Fish Commission, State Civil Service Commission,
23 Pennsylvania Public Utility Commission, and the Pennsylvania
24 Historical and Museum Commission.

25 All of the provisions of this act, which apply generally to
26 administrative departments, or generally except to the
27 Department of the Auditor General and the Treasury Department,
28 shall apply to the Executive Board and to the Pennsylvania State
29 Police.

30 Section 2. Section 202 of the act is amended, by amending as

1 much thereof as applies to the Department of Public Welfare,
2 amended July 9, 1970 (P.L.470, No.161), and adding before the
3 last paragraph, a paragraph to read:

4 Section 202. Departmental Administrative Boards, Commissions
5 and Offices.--The following boards, commissions and offices are
6 hereby placed and made departmental administrative boards,
7 commissions, or offices, as the case may be, in the respective
8 administrative departments mentioned in the preceding section,
9 as follows:

10 * * *

11 In the Department of Public Welfare,
12 Board of Trustees of The Western Youth Development Centers,
13 Board of Trustees of The Central Youth Development Centers,
14 Board of Trustees of The Eastern Youth Development Centers,
15 [Board of Trustees of Allentown State Hospital,
16 Board of Trustees of Clarks Summit State Hospital,
17 Board of Trustees of Danville State Hospital,
18 Board of Trustees of Embreeville State Hospital,
19 Board of Trustees of Eastern Pennsylvania Psychiatric
20 Institute,
21 Board of Trustees of Farview State Hospital,
22 Board of Trustees of Harrisburg State Hospital,
23 Board of Trustees of Hollidaysburg State Hospital,
24 Board of Trustees of Mayview State Hospital,
25 Board of Trustees of Norristown State Hospital,
26 Board of Trustees of Philadelphia State Hospital,
27 Board of Trustees of Retreat State Hospital,
28 Board of Trustees of Somerset State Hospital,
29 Board of Trustees of Warren State Hospital,
30 Board of Trustees of Wernersville State Hospital,

1 Board of Trustees of Woodville State Hospital,
2 Board of Trustees of Torrance State Hospital,
3 Board of Trustees of Haverford State Hospital,]
4 Board of Trustees of Ashland State General Hospital,
5 Board of Trustees of Blossburg State General Hospital,
6 Board of Trustees of Coaldale State General Hospital,
7 Board of Trustees of Connellsville State General Hospital,
8 [Board of Trustees of Dixmont State Hospital,]
9 Board of Trustees of Hazleton State General Hospital,
10 Board of Trustees of Locust Mountain State General Hospital,
11 Board of Trustees of Nanticoke State General Hospital,
12 Board of Trustees of Philipsburg State General Hospital,
13 Board of Trustees of Scranton State General Hospital,
14 Board of Trustees of Shamokin State General Hospital,
15 [Board of Trustees of Cresson State School and Hospital,
16 Board of Trustees of Ebensburg State School and Hospital,
17 Board of Trustees of Eastern State School and Hospital,
18 Board of Trustees of Laurelton State School and Hospital,
19 Board of Trustees of Pennhurst State School and Hospital,
20 Board of Trustees of Polk State School and Hospital,
21 Board of Trustees of Selinsgrove State School and Hospital,
22 Board of Trustees of Hamburg State School and Hospital,
23 Board of Trustees of Western State School and Hospital,
24 Board of Trustees of White Haven State School and Hospital,
25 Board of Trustees of Eastern Mental Health Center,]
26 Board of Trustees of Western Restoration Centers,
27 Board of Trustees of Central Restoration Centers,
28 Board of Trustees of Eastern Restoration Centers.

29 * * *

30 In the Department of Developmental Disabilities,

1 Board of Advisors of Allentown State Hospital,
2 Board of Advisors of Clarks Summit State Hospital,
3 Board of Advisors of Danville State Hospital,
4 Board of Advisors of Dixmont State Hospital,
5 Board of Advisors of Embreeville State Hospital,
6 Board of Advisors of Eastern Pennsylvania Psychiatric
7 Institute,
8 Board of Advisors of Farview State Hospital,
9 Board of Advisors of Harrisburg State Hospital,
10 Board of Advisors of Haverford State Hospital,
11 Board of Advisors of Hollidaysburg State Hospital,
12 Board of Advisors of Mayview State Hospital,
13 Board of Advisors of Norristown State Hospital,
14 Board of Advisors of Philadelphia State Hospital,
15 Board of Advisors of Retreat State Hospital,
16 Board of Advisors of Somerset State Hospital,
17 Board of Advisors of Torrance State Hospital,
18 Board of Advisors of Warren State Hospital,
19 Board of Advisors of Wernersville State Hospital,
20 Board of Advisors of Woodville State Hospital,
21 Board of Advisors of Eastern State School and Hospital,
22 Board of Advisors of Ebensburg State School and Hospital,
23 Board of Advisors of Hamburg State School and Hospital,
24 Board of Advisors of Laurelton State School and Hospital,
25 Board of Advisors of Pennhurst State School and Hospital,
26 Board of Advisors of Polk State School and Hospital,
27 Board of Advisors of Selinsgrove State School and Hospital,
28 Board of Advisors of Western State School and Hospital,
29 Board of Advisors of White Haven State School and Hospital,
30 Board of Advisors of Eastern Mental Health Center.

1 All of the foregoing departmental administrative boards and
2 commissions shall be organized or reorganized as provided by
3 this act.

4 Section 3. Section 203, section 206, and the first paragraph
5 of subsection (a) of section 207 of the act, amended December 3,
6 1970 (P.L.834, No.275), are amended to read:

7 Section 203. Advisory Boards and Commissions.--The following
8 advisory boards and commissions are placed in and made parts of
9 the respective administrative departments, as follows:

10 In the Department of Military Affairs,

11 State Military Reservation Commission,

12 State Veterans' Commission;

13 In the Department of Environmental Resources,

14 Citizens Advisory Council;

15 In the Department of Health,

16 Advisory Health Board;

17 In the Department of Labor and Industry,

18 Industrial Board,

19 Advisory Council on Affairs of the Handicapped,

20 Advisory Board on Problems of Older Workers;

21 In the Department of Public Welfare,

22 State Board of Public Welfare,

23 Advisory Committee for the Aging,

24 Advisory Committee for the Blind,

25 Advisory Committee for General and Special Hospitals,

26 Advisory Committee for Children and Youth,

27 Advisory Committee for Public Assistance;

28 [Advisory Committee for Mental Health and Mental
29 Retardation;]

30 In the Department of Property and Supplies,

General Galusha-Pennypacker Monument Commission;
In the Department of Commerce,
Board of the Pennsylvania Science and Engineering
Foundation;

In the Department of Developmental Disabilities,
Advisory Committee for Developmental Disabilities.

Section 206. Department Heads.--Each administrative
department shall have as its head an officer who shall, either
personally, by deputy, or by the duly authorized agent or
employee of the department, and subject at all times to the
provisions of this act, exercise the powers and perform the
duties by law vested in and imposed upon the department.

The following officers shall be the heads of the
administrative departments following their respective titles:

Secretary of the Commonwealth, of the Department of State;
Attorney General, of the Department of Justice;
Auditor General, of the Department of the Auditor General;
State Treasurer, of the Treasury Department;

[Superintendent of Public Instruction,] Secretary of
Education, of the Department of [Public Instruction;]
Education;

Adjutant General, of the Department of Military Affairs;
Insurance Commissioner, of the Insurance Department;
Secretary of Banking, of the Department of Banking;
Secretary of Agriculture, of the Department of Agriculture;
Secretary of Transportation, of the Department of
Transportation;

Secretary of Health, of the Department of Health;
Secretary of Labor and Industry, of the Department of
Labor and Industry;

1 Secretary of Public Welfare, of the Department of Public
2 Welfare;

3 Secretary of Property and Supplies, of the Department of
4 Property and Supplies;

5 Secretary of Revenue, of the Department of Revenue;

6 Secretary of Commerce, of the Department of Commerce;

7 Secretary of Community Affairs, of the Department of
8 Community Affairs;

9 Secretary of Environmental Resources, of the Department of
10 Environmental Resources;

11 Secretary of Developmental Disabilities, of the
12 Department of Developmental Disabilities.

13 Section 207. Appointment.--The Governor shall nominate and,
14 by and with the advice and consent of two-thirds of all the
15 members of the Senate, appoint:

16 (a) The Secretary of the Commonwealth, the Attorney General,
17 the [Superintendent of Public Instruction,] Secretary of
18 Education, the Adjutant General, the Insurance Commissioner, the
19 Secretary of Banking, the Secretary of Agriculture, the
20 Secretary of Transportation, the Secretary of Health, the
21 Commissioner of the Pennsylvania State Police, the Secretary of
22 Labor and Industry, the Secretary of Public Welfare, the
23 Secretary of Property and Supplies, the Secretary of Revenue,
24 the Secretary of Commerce, the Secretary of Community Affairs,
25 the Secretary of Environmental Resources, the Secretary of
26 Developmental Disabilities, and the members of all independent
27 administrative boards and commissions.

28 * * *

29 Section 4. Section 448 of the act is amended by amending the
30 first paragraph of clause (1), amended July 9, 1970 (P.L.470,

1 No.161), and adding a clause to read:

2 Section 448. Advisory Boards and Commissions.--The advisory
3 boards and commissions, within the several administrative
4 departments, shall be constituted as follows:

5 * * *

6 (1) The following advisory committees are hereby created:

7 Advisory Committee for the Aging,

8 Advisory Committee for the Blind,

9 Advisory Committee for General and Special Hospitals,

10 Advisory Committee for Children and Youth,

11 Advisory Committee for Public Assistance.

12 [Advisory Committee for Mental Health and Mental
13 Retardation.]

14 Each advisory committee shall consist of the Commissioner in
15 the Department of Public Welfare, directing the program to which
16 the advisory committee is attached, as an ex officio member, and
17 not less than three (3) nor more than nine (9) members appointed
18 by the Governor. [In the case of the Advisory Committee for
19 Mental Health and Mental Retardation, the committee shall
20 include the Chairman of the Public Health and Welfare Committee
21 of the Senate, the Chairman of the Health and Welfare Committee
22 of the House of Representatives and the President of the
23 Pennsylvania State Association of County Commissioners or his
24 alternate.] The exact number of members of each advisory
25 committee shall be determined by the Governor upon
26 recommendation of the State Board of Public Welfare. The
27 qualifications of the members of each advisory committee shall
28 also be determined by the Governor upon recommendation of the
29 State Board of Public Welfare: Provided, That with respect to
30 each advisory committee, the Governor shall appoint members with

1 due regard for representation of the professional and lay groups
2 concerned with the fields of interest served by the program to
3 which each advisory committee is attached. The term of office of
4 each member of each advisory committee, except as herein
5 otherwise provided, shall be six (6) years.

6 The original appointment of the members of the advisory
7 committee shall be for overlapping terms of six (6), four (4)
8 and two (2) years. In making these original appointments, the
9 Governor shall, in so far as possible, appoint approximately
10 one-third (1/3) of the recommended complement of each advisory
11 board to each of the overlapping terms.

12 A majority of the members of each advisory committee shall
13 constitute a quorum. Each advisory committee shall elect a
14 chairman from among its members. Each advisory committee shall
15 meet at least four (4) times a year. Special meetings of each
16 advisory committee shall be held on call of the chairman, and it
17 shall be the duty of the chairman to call a special meeting upon
18 the written request of one-third (1/3) or more of the members
19 not including vacancies of the advisory committee.

20 The provisions of clause (k) of this section with respect to
21 filling of vacancies, removal of members, length of service,
22 political party office and compensation shall be applicable to
23 advisory committee members, and are incorporated herein by
24 reference.

25 * * *

26 (q) The Advisory Committee of Developmental Disabilities
27 shall be appointed by the Governor on the advice of the
28 Secretary of Developmental Disabilities, and shall be composed
29 of both laymen and professionals in the field of development
30 disabilities. They shall serve without compensation, other than

1 reimbursement of travel and other actual expenses incurred in
2 the performance of their duties. The Advisory Committee shall
3 consist of the Secretary of Developmental Disabilities, who
4 shall be its chairman, ex officio, and twenty-five (25)
5 additional members, with alternates, at least one member from
6 each of the following functions or disciplines: Institution
7 trustee, special education teacher, psychologist, psychiatrist,
8 social worker, nutritionist, pediatrician, general medical
9 practitioner, speech specialist, hearing specialist, vision
10 specialist, physical therapist, occupational therapist,
11 vocational training specialist, two (2) Senators, three (3)
12 Representatives, and three (3) parents of developmentally
13 disabled persons. Alternates shall be chosen in the same
14 functions and disciplines as prescribed for members. The
15 Advisory Committee shall meet at least twice a year at times and
16 places of its own choice. Of the first appointees to the
17 committee, three (3) shall have terms of one (1) year, three
18 (3), terms of two (2) years, three (3), terms of three (3)
19 years, three (3), terms of four (4) years and three (3), terms
20 of five (5) years, and their successors shall serve terms of
21 five (5) years.

22 Ten (10) members of the committee, or their alternates,
23 together with the Secretary of Developmental Disabilities or, in
24 his place, his duly constituted deputy, shall constitute a
25 quorum.

26 * * *

27 Section 5. Sections 2313 and 2313.1 of the act are repealed.

28 Section 6. Section 2328 of the act, amended July 9, 1970
29 (P.L.470, No.161), is amended to read:

30 Section 2328. Powers and Duties of Advisory Committees.--The

1 Advisory Committee for the Aging, the Advisory Committee for the
2 Blind, the Advisory Committee for General and Special Hospitals,
3 [the Advisory Committee for Children and Youth,] and the
4 Advisory Committee for Public Assistance [and the Advisory
5 Committee for Mental Health and Mental Retardation,] shall,
6 concerning matters within their respective special fields of
7 interest, have the power and their duty shall be:

8 (a) To advise the appropriate major program unit of the
9 Department of Public Welfare. This advice shall include, but
10 shall not be limited to, such matters as standards of
11 eligibility, nature and extent of service, amounts of payments
12 to individuals, standards of approval, certification and
13 licensure of institutions and agencies, ways and means of
14 coordinating public and private welfare activities, and such
15 other matters as may, by law, require citizen review or may be
16 referred to the committees by the departmental units advised by
17 them. [and the Advisory Committee for Mental Health and Mental
18 Retardation shall also have the power and duty to advise the
19 Governor and the Secretary of Public Welfare with regard to the
20 appointment of the Commissioner of Mental Health.]

21 (b) To arrange for and conduct such public hearings as may
22 be required by law or which they deem necessary and advisable,

23 (c) To promote better public understanding of the programs
24 and objectives of the departmental units advised by them, and

25 (d) To make recommendations to the State Board of Public
26 Welfare on matters referred to the committees for consideration
27 and advice, or as may be required to promote the effectiveness
28 of the programs of the departmental units advised by them.

29 Section 7. The act is amended by adding an article to read:

30 Article XXIII-A

Powers and Duties of the Department of Developmental
Disabilities and its Departmental Administrative and
Advisory Boards and Commissions.

(a) General Provisions

Section 2301-A. Preliminary Statement; Definitions.--(a) The
purpose of this act is to combine under one department all State
service activities for developmentally disabled citizens.

(b) These service activities shall include, but not be
restricted to mental health/mental retardation services and
shall include coordination with other departments of such
services, child welfare and adult welfare services, residential
care and treatment services, family and social services,
vocational rehabilitation services, post judicial services, and
any other social, special educational or health service programs
and service activities related to the developmentally or
adventitiously disabled citizens for which the State has
statutory and regulatory responsibilities and which are
currently housed in other administrative departments. These
service activities shall be of high quality and operate to
protect the rights of developmentally disabled citizens in
achievement of their fullest potential in society.

(c) In order to integrate and at the same time eliminate
duplication of effort, the department shall combine such
responsibilities as assigning and licensing of all required
service activities and assume the duties and responsibilities
necessary for such activities. The department shall be concerned
with the care, education, treatment, and habilitation of all
developmentally disabled citizens and shall make available, and
approve, and be accountable for the use of, all State funds,
Federal funds, and such other public funds as may be provided or

1 obtained to carry out these functions. The department shall
2 consolidate in so far as possible those categorical fundings
3 which serve to label and restrict developmentally disabled
4 citizens of all ages, in order to ensure the provision of a
5 total range of services necessary for maximum development of the
6 individual service recipient's capabilities and potential. The
7 department shall also develop appropriate local governmental and
8 citizen/community decision making processes for the delivery of
9 the services described herein. The department will recognize the
10 developmentally disabled person as a citizen of the State, and,
11 regardless of disability or need, develop an individual plan for
12 each service recipient based not on the needs of any person or
13 discipline or mechanism serving him, but rather on the mutually
14 agreed-upon goals of the family and service delivery persons as
15 to how maximum development can be achieved. In order to
16 guarantee that services of highest quality are available to all
17 developmentally disabled citizens, rich or poor, no "means test"
18 will be applied in such a way as to limit or deny eligibility
19 for services. The department will specifically have no
20 responsibility for individual cash grant activities, such
21 activities to remain where currently housed. The sliding fee
22 schedule for appropriate services will apply as required by
23 existing State regulations.

24 (d) The department shall not itself operate or deliver those
25 services under its jurisdiction, but shall instead see that
26 services are delivered through units of local government,
27 conjoint units of government, or appropriately licensed private
28 non-profit corporations. When it is adjudged by the secretary
29 that existing local governmental units or private corporations
30 are not delivering services to the satisfaction of the

1 consumer's needs, the secretary shall modify existing, or
2 develop new or alternative regional mechanisms to become the
3 designated deliverers of services. The secretary shall have the
4 express responsibility of annual review of service delivery
5 prior to contract renewals. A cost sharing formula requiring
6 participation by the service deliverer shall be developed by the
7 secretary. All such service delivery mechanisms shall require
8 consumer participation in decision-making processes. It shall
9 further be the function of the department to set standards,
10 develop and enforce regulations, fund, research and evaluate,
11 and plan service activities; and to submit its own Statewide
12 budget annually for administrative and legislative review and
13 approval.

14 (e) The department shall require that all service delivery
15 units or corporations have governing bodies which are elected by
16 citizens in the area or region served. Such governing bodies
17 must be elected at least tri-annually. Membership in such
18 governing bodies shall not be restricted because of age, race,
19 religion, or belief. The bylaws or governing regulations of such
20 units or corporations shall not in any way restrict
21 establishment of a broad representative and readily accessible
22 membership of its governing body. Citizens groups representing
23 consumers shall have recourse to the secretary if they are
24 unable at the local level to modify, change, or improve service
25 activities paid for by public funds from any source.

26 (f) As used in this article:

27 "Advisory committee" means the body comprised of
28 appropriately appointed citizens, established immediately upon
29 the passage of this act to accomplish purposes herein set forth.

30 "Consumer" means developmentally disabled citizen and his

1 family or guardians, also referred to herein as "service
2 recipient."

3 "Department" means the Department of Developmental
4 Disabilities.

5 "Developmentally disabled citizens" mean citizens of the
6 Commonwealth who are developmentally affected by congenital or
7 adventitious disabilities or impairments such as mental
8 retardation, emotional disturbance, mental illness, brain
9 injury, brain damage, epilepsy, social and emotional
10 maladjustment, autism, specific learning disabilities, and all
11 those with multiple-handicaps including those with additional
12 causal or complicating disabilities such as blindness, deafness,
13 physical handicap and speech and vision and hearing impairments.

14 "Means test" means that application of an income standard,
15 for all services, above which a specific citizen may otherwise
16 be denied or declared ineligible for such services.

17 "Secretary" means the executive officer appointed by the
18 Governor and approved by the Legislature, said officer
19 responsible for the total operation of the department.

20 "Service activities" mean those facilities, personnel and
21 resources, required in each community to provide citizens with
22 comprehensive aid in the developmental process for consumers.

23 Section 2301.1-A. Powers and Duties in General.--The
24 Department of Developmental Disabilities shall have power and
25 its duty shall be:

26 (a) To administer and enforce the laws of this Commonwealth
27 relative to (i) mental health, (ii) the care, prevention, early
28 recognition and treatment of development disabilities, (iii) the
29 licensing and regulation of institutions for the developmentally
30 disabled, (iv) the admission and commitment of persons to

1 hospitals and institutions for developmentally disabled persons,
2 and (v) the transfer, discharge, escape, interstate rendition
3 and deportation of such persons.

4 (b) Except as otherwise provided in this act, to approve or
5 disapprove the advice and recommendations of the several boards
6 of advisors of State mental institutions, other than the Board
7 of Advisors of the Eastern Pennsylvania Psychiatric Institute.

8 (c) To exercise all powers and perform all duties relating
9 to developmental disabilities, and the care and treatment of
10 developmentally disabled persons heretofore conferred or imposed
11 upon the Department of Public Welfare and the Secretary of
12 Public Welfare.

13 Section 2302-A. Secretary of Developmental Disabilities.--In
14 addition to his other powers and duties as head of the
15 Department of Developmental Disabilities, the Secretary of
16 Developmental Disabilities shall develop plans and programs, and
17 make recommendations with respect to the general policy of the
18 Commonwealth's programs for the developmentally disabled. He
19 shall initiate, develop and carry into effect, plans and
20 programs designed to prevent, treat and habilitate the
21 developmentally disabled, and programs designed to conduct
22 research and training in developmental disabilities. He shall
23 appoint the superintendents of State mental institutions who, in
24 turn, shall assign, appoint and dismiss personnel of the
25 institutions.

26 Section 2303-A. Promotion of Local Mental Health
27 Facilities.--The Department of Developmental Disabilities shall
28 have the power to:

29 (a) Assist in the establishment of local mental health
30 planning bodies.

1 (b) Provide consultation to local public officials and
2 voluntary organizations in the establishment and operation of
3 public and private care, treatment, educational and habilitative
4 programs in fields in which the department has a responsibility.

5 (c) On the basis of formulae, which include ratios of public
6 and voluntary support, to disburse Federal and State funds
7 appropriated for the purpose as grants and subsidies to such
8 programs, if they meet the department's standards.

9 Section 2304-A. Transfers, Leave of Absence or Discharge of
10 Patients.--The Department of Developmental Disabilities shall
11 have the power within the limits of the mental health laws of
12 the Commonwealth:

13 (a) To apply to the proper court for the transfer or removal
14 of mentally ill persons or mentally defective from county or
15 district institutions to the State hospitals for the mentally
16 ill.

17 (b) To transfer developmentally disabled persons from State
18 hospitals to more appropriate settings or institutions of the
19 various counties charged with their maintenance.

20 (c) To transfer patients from one State hospital for the
21 developmentally disabled to another such hospital.

22 (d) To transfer a committed developmentally disabled person
23 from a licensed private hospital or institution to a State or
24 licensed county hospital and vice versa.

25 (e) To apply to the proper court for the removal to a
26 hospital for the developmentally disabled of any person
27 imprisoned in a correctional institution or prison and believed
28 to be mentally ill.

29 (f) To transfer a committed patient from one type of
30 institution under the supervision of the department to another

1 type of institution under its supervision.

2 (g) To investigate and be heard before an order is made in
3 any case to remove to any place of custody, other than a
4 hospital, any criminal confined in a hospital by order of any
5 court of any developmentally disabled person committed to a
6 hospital after an acquittal of crime.

7 The cost of the transfer or removal and of the maintenance of
8 any developmentally disabled person transferred by or under the
9 direction or under the application of the Secretary of
10 Developmental Disabilities or other officer of the department
11 pursuant hereto shall be borne and paid in the manner provided
12 by law in the case of any such transfer or removal.

13 All traveling expenses of indigent developmentally disabled
14 persons discharged by order of the department from any State
15 hospital for the developmentally disabled from the hospital to
16 their respective homes shall be paid by the hospital; the amount
17 thereof to be refunded to such hospital from the appropriation
18 for the care and treatment of such indigent developmentally
19 disabled.

20 (h) To order and compel the leave of absence or discharge of
21 any person detained in any place as developmentally disabled,
22 other than a person committed after trial and conviction for
23 crime, or by order of court; but, the department shall not make
24 any such order, unless notice be given to the person having
25 charge of the building in which the patient is detained and to
26 the person or persons at whose instance the patient is detained,
27 and reasonable opportunity given to them to justify a further
28 detention, and unless the department has caused the case of the
29 patient to be personally attended and examined by its officer or
30 agent.

1 Section 2305-A. Advisory Committee on Developmentally
2 Disabled.--The Committee on Developmental Disabilities shall
3 have the power and its duty shall be:

4 (a) To advise the Governor with regard to the appointment of
5 the Secretary of Developmental Disabilities.

6 (b) To advise, assist and make recommendations with respect
7 to the general policies and operations of the Commonwealth's
8 programs on developmental disabilities.

9 (c) To aid in increasing public understanding of and
10 formulating plans for furthering the purposes and intention of
11 this act.

12 (d) To this end, the advisory committee, shall within one
13 year of its appointment submit to the Governor appropriate
14 plans, regulations and procedures regarding the most effective
15 conduct of the future affairs of the department, and
16 modifications shall be made in this act as necessary.

17 Section 2306-A. Boards of Advisors of State Mental
18 Institutions.--(1) The powers and duties of the boards of
19 advisors of each State mental institution, within the
20 department, and the boards or governing bodies of all agencies
21 or facilities receiving public funds to provide care, treatment,
22 education, programs, training and habilitation services, and
23 caring for the developmentally disabled shall be only as defined
24 in this section:

25 (a) To advise, assist and make recommendations to the
26 superintendent or chief administrator with respect to the
27 management and operation of the institution, and with respect to
28 any plans or programs for its improvement.

29 (b) To keep under review all matters pertaining to the
30 welfare and well-being of patients, and to make recommendations

1 to the superintendent with respect thereto.

2 (c) To advise and make recommendations to the Secretary of
3 Developmental Disabilities with regard to the selection and
4 appointment of a superintendent in case of a vacancy.

5 (d) To advise and make recommendations to the superintendent
6 with regard to his selection of employes of the institution or
7 facility.

8 (e) To develop and further means and methods of establishing
9 proper relations and understanding between the institution (and
10 its program) the parents, relatives and guardians of those in
11 residence or served by the institution, and the community in
12 which it is located, and generally to provide liaison between
13 the institution and the community in order better to serve the
14 interest and needs of both.

15 (f) To make recommendations to the Advisory Committee on
16 Developmental Disabilities on matters of policy and program
17 emerging from its intimate knowledge and experience of programs
18 on developmental disabilities in operation.

19 (g) To accept as a member of the board with full voting
20 privileges a parent or relative or guardian of a person in
21 residence or being served by the facility, such a member to be
22 chosen by a majority of votes cast by the parents or relatives
23 or guardians of all those in residence or being served by the
24 facility. The board shall submit the name of the person chosen
25 to the Governor for formal appointment.

26 (2) The provisions of this section shall be applicable to
27 the boards of advisors and the boards of governing bodies of all
28 agencies or facilities receiving public funds to provide care,
29 treatment, education, programs, training and habilitation
30 services for the developmentally disabled.

1 Section 2307-A. Approval of Plans and Mortgages.--The
2 Department of Developmental Disabilities shall have the power
3 and its duty shall be:

4 (a) To approve or disapprove all plans for the erection or
5 substantial alteration of any State or supervised mental
6 institution or facility receiving aid from the Commonwealth.

7 (b) To investigate and report to the Auditor General upon
8 every application to the Auditor General made by any
9 institution, corporation or unincorporated association caring
10 for developmentally disabled patients desiring to give a
11 mortgage under the provisions of the act of April 29, 1915
12 (P.L.201, No.112), entitled "An act making mortgages given by
13 benevolent, charitable, philanthropic, educational and
14 eleemosynary institutions, corporations, or unincorporated
15 associations for permanent improvements and refunding purposes,
16 prior liens to the liens of the Commonwealth for the
17 appropriation of moneys; providing a method for the giving of
18 such mortgages, and fixing the duties of the Auditor General and
19 Board of Public Charities in connection therewith."

20 Section 2308-A. State Mental Institutions.--With regard to
21 State mental institutions, the department shall have the power
22 and its duty shall be:

23 (a) To determine the capacity of such institutions.

24 (b) To determine and designate the type of persons to be
25 received by such institutions and facilities, the proportion of
26 each type to be received therein and the districts from which
27 persons shall be received by such institutions. This shall be
28 done in conjunction with the mental health and mental
29 retardation programs and base service units of the areas
30 involved.

1 (c) To issue requisitions upon the Auditor General for
2 warrants to be drawn by the Auditor General upon the State
3 Treasurer in favor of such institutions for the payment out of
4 moneys specifically appropriated to the department for the
5 purpose of the expenses of administering, operating and
6 maintaining and developing such State institutions and
7 facilities.

8 (d) To require the submission to the department of any
9 contract for repairs, alterations or equipment which any such
10 State institution desires to make, and to approve or disapprove
11 such proposed contract. No such contract shall be valid without
12 the approval of the department, as evidenced by the signature of
13 the Secretary of Developmental Disabilities.

14 Section 2309-A. Stores at State Mental Institutions.--With
15 regard to State mental institutions, the department shall have
16 the power to authorize the construction of separate buildings or
17 the addition to or improvement of existing buildings for the
18 purpose of operating and conducting therein a store or canteen
19 for the convenience and benefit of the patients of such
20 institutions out of moneys appropriated therefor by the General
21 Assembly or from moneys derived from the operation of any such
22 stores or from grants or gifts offered for such particular
23 purpose.

24 Whenever any such construction, addition or improvement is
25 made for such purpose, the same shall become the property of the
26 Commonwealth, regardless of the source of the funds used in
27 connection therewith.

28 Section 2310-A. Utility Services for State Mental
29 Institutions.--For the purpose of providing utility services for
30 State mental institutions, the department may execute such

1 agreements and contracts as it may deem necessary therefor with
2 any political subdivision or any authority to provide utility
3 services, and for defraying the Commonwealth's share of the
4 expenses and charges to be incurred in establishing and
5 contracting with an authority or a political subdivision for the
6 purpose of acquiring, holding, constructing, improving,
7 maintaining and operating sewage systems, water supply systems,
8 electric power, gas, steam or other utility systems.

9 Payment of the costs of such expenses, charges and services
10 shall be made from appropriations to the department for such
11 purposes in accordance with the agreement made by the
12 department.

13 Section 2311-A. Powers; Harrisburg State Hospital Leases.--
14 The Department of Developmental Disabilities shall have the
15 power to lease for a period not to exceed ten years with the
16 right to renewal for one further term not to exceed ten years on
17 such terms as may be considered reasonable by the Secretary of
18 Developmental Disabilities, a portion of the lands of the
19 Commonwealth at the Harrisburg State Hospital to any
20 municipality or municipalities adjacent thereto for the use by
21 the municipality or municipalities in common with the Harrisburg
22 State Hospital for disposal of garbage, refuse and ashes by
23 depositing them in compact layers of controlled depth and width
24 in trenches or depressions and covering each layer promptly on
25 all sides with a compact layer of clean earth or other inorganic
26 material of sufficient thickness to exclude rodents and to
27 prevent the escape of odors or outbreak of fires, such method of
28 disposal being commonly known as sanitary land fill.

29 Section 2312-A. Charges for Care and Treatment to be Fixed
30 for State Mental Institutions.--The Department of Developmental

Disabilities shall have the power and its duty shall be to fix and establish charges for all services rendered by any State-owned mental institution or facility.

Section 2313-A. Care of the Indigent.--The Department of Developmental Disabilities shall have the power and its duty shall be:

(a) Whenever the General Assembly shall have specifically appropriated money to the department for the purpose, to issue requisitions upon the State Treasurer for warrants to be drawn in favor of such hospitals, homes and institutions as shall conform to at least the minimum standards of plant equipment, service, administration and care and treatment necessary for the proper care and treatment of patients as required by the rules and regulations of the department or established by law in amounts computed upon the per diem rates of payment established by law for free service to indigent persons for (i) the care of developmentally disabled children and adults in homes or institutions and (ii) the care, treatment and removal of developmentally disabled persons in county hospitals for the mentally ill or private institutions licensed by the department.

(b) To approve requisitions issued by hospitals, homes or institutions to which the General Assembly shall have appropriated money for the care and treatment of indigent mentally ill persons, if such hospitals, homes or institutions shall conform to at least the minimum standards of plant equipment, service, administration, and care and treatment necessary for the proper care and treatment of patients, as required by the rules and regulations of the department or established by law, and if such requisitions are in the amounts to which such hospitals, homes or institutions are entitled

1 according to law.

2 (c) To establish rules and regulations, not inconsistent
3 with law, prescribing minimum standards of plant, equipment,
4 service, administration, and care and treatment for State-aided
5 mental institutions, and for determining the number of free days
6 of care and treatment rendered to indigent persons by hospitals,
7 homes or institutions.

8 Section 2314-A. Study Classification and Assignment.--The
9 Department of Developmental Disabilities shall have the power
10 and its duty shall be to establish and administer a program
11 designed to assist public and private agencies on their request
12 in the diagnosis and study of children with developmental
13 disabilities, and to recommend to them the most appropriate
14 disposition for the rehabilitation and treatment of such
15 children. This program shall be based on review of local studies
16 of the children, but, when local studies indicate the need, or
17 when it is requested, may include residential study of the
18 children in centers which the department is hereby authorized to
19 establish and operate.

20 The three diagnostic and evaluation centers now operated and
21 maintained by the Department of Public Welfare are hereby
22 transferred to and shall hereafter be operated by the Department
23 of Developmental Disabilities.

24 Section 2315-A. Purchase of Services.--The Department of
25 Developmental Disabilities shall have the power:

26 (a) Whenever the General Assembly shall have appropriated
27 money to the department for mental health purposes to purchase
28 necessary services for individuals entitled to such services at
29 rates not exceeding those charged the general public or actual
30 cost such services may be purchased directly from agencies or

1 institutions conforming to minimum standards established by the
2 department or by law, or the department may reimburse local
3 public agencies which purchase such services from such agencies
4 or institutions.

5 (b) To establish rules and regulations not inconsistent with
6 law prescribing minimum standards of plant, equipment, service,
7 administration, and care and treatment for agencies and
8 institutions furnishing service to individuals paid for in whole
9 or in part by money appropriated to the department by the
10 General Assembly, and when not otherwise established by law,
11 fixing per diem or other rates for services furnished by such
12 agencies or institutions.

13 Section 2316-A. Training Programs.--For the purpose of
14 assuring the Department of Developmental Disabilities qualified
15 employees in technical and professional fields requiring special
16 training and experience, the department may, subject to the
17 approval of the Governor, establish a program to train otherwise
18 qualified State employees, including the following: registered
19 nurses in psychiatric nursing or nursing education and college
20 graduates in clinical psychology, occupational therapy, physical
21 therapy and social work. Such training shall be limited to those
22 occupational fields in which recruitment experience indicates
23 that a serious shortage of trained persons exists.

24 Such program may be carried out internally by the department
25 in schools or through other outside agencies in conjunction
26 therewith and the department may pay tuition fees, traveling
27 expenses and salary or portion thereof as may be agreed on as
28 part of such program and it may accept and use funds provided by
29 the Federal Government to finance all or any part of such
30 program. Regulations issued by the Executive Board shall provide

1 for the judicious and properly controlled administration of such
2 training program.

3 Before commencing a training program resulting in absence
4 from regular duties for a period of thirty full working days or
5 more within a twelve-month period, the employe receiving such
6 training shall sign a valid and binding contract of employment
7 with the Commonwealth of Pennsylvania through the department.
8 Under such contract, approved as to form and legality by the
9 Department of Justice, the employe shall promise to return to
10 regular State employment, and perform those services for which
11 he received training for the department for a period at least
12 equal to the length of time spent in training: Provided, That
13 at the election of the department, such equivalent service may
14 be performed in the employ of a county or municipal agency under
15 the supervision of the department. In no case shall the return
16 to regular employment be for less than one year. Such employe
17 shall be required to perform continuous service for or on behalf
18 of the Commonwealth during periods of the year when he is not
19 enrolled for training. In consideration of these promises, the
20 department in which such person is employed shall agree to
21 provide for the training of such persons so long as such
22 person's training is deemed necessary by the department, and
23 valuable for the performance of the work of the department, and
24 so long as the person maintains an academic standing
25 satisfactory to the proper authorities of the department, the
26 school or other agency conducting the training program.

27 Nothing in this act shall prevent the Commonwealth from
28 recovering damages in a civil action for breach of any contract
29 executed pursuant to this act.

30 No employe under the provisions of this act shall be

disqualified by reason of his minority; and, for the purpose of contract for employment with the department, such person shall be deemed to have full legal capacity to act, and shall have all the rights, powers, privileges and obligations of a person of full age with respect thereto.

Nothing in this act shall be construed to affect the attendance at short term meetings and conferences.

Section 2317-A. Ex Officio Visitation.--The Governor, the judges of the several courts of the Commonwealth and the members of the Legislature shall have the right by virtue of their office to visit State institutions.

(b) Licensing Provisions

Section 2331-A. Operation and Maintenance Without License Prohibited.--No person shall maintain, operate or conduct any mental health institution, as defined herein, without having a license therefor issued by the department. "Mental health institution" means any premises or part thereof, private or public, for the care of individuals who require care because of mental illness, mental retardation or inebriety but shall not be deemed to include the private home of a person who is rendering such care to a relative.

Section 2332-A. Application for License.--Any person desiring to secure a license for maintaining, operating and conducting a mental health institution shall submit an application therefor to the department upon forms prepared and furnished by the department, together with such other information as the department shall require. Application for annual renewal of license shall be made in the same manner as application for original licensure.

Section 2333-A. Fees.--Annual licenses shall be issued when

1 the proper fee, if required, is received by the department and
2 all the other conditions prescribed by this act are met. The
3 annual license fee shall be fifty dollars (\$50).

4 Section 2334-A. Issuance of License.--When, after
5 investigation, the department is satisfied that the applicant or
6 applicants for a license are responsible persons, that the place
7 to be used as a facility is suitable for the purpose, is
8 appropriately equipped and that the applicant or applicants and
9 the place to be used as a facility meet all the requirements of
10 this act and of the applicable statutes, ordinances and
11 regulations, it shall issue a license and shall keep a record
12 thereof and of the application.

13 Section 2335-A. Provisional License.--When there has been
14 substantial but not complete compliance with all the applicable
15 statutes, ordinances and regulations and when the applicant has
16 taken appropriate steps to correct deficiencies, the department
17 shall issue a provisional license for a specified period of not
18 more than six months which may be renewed three times. Upon full
19 compliance, a regular license shall be issued immediately.

20 Section 2336-A. Term and Content of License.--All licenses
21 issued by the department under this act shall expire one year
22 next following the day on which issued, shall be on a form
23 prescribed by the department, shall not be transferable, shall
24 be issued only to the person for the premises and for the
25 facility named in the application and shall specify the maximum
26 number of individuals who may be cared for in the facility at
27 any one time. The license shall at all times be posted in a
28 conspicuous place on the applicant's premises.

29 Section 2337-A. Right to Enter and Inspect.--For the purpose
30 of determining the suitability of the applicants and of the

premises or the continuing conformity of the licensees to this act and to the applicable regulations of the department, any authorized agent of the department shall have the right to enter, visit and inspect any facility licensed or requiring a license under this act and shall have full and free access to the records of the facility and to the individuals therein and full opportunity to interview, inspect or examine such individuals.

An authorized agent of the department shall also confer with the operators of facilities regarding the minimum standards of the department, encourage the adoption of higher standards and recommend methods of improving care and services.

Section 2338-A. Records.--Every person licensed under this act to maintain, operate and conduct a facility shall keep such records and make such reports as are required by the department.

Section 2339-A. Regulations.--The department is hereby authorized and empowered to adopt regulations establishing minimum standards for building, equipment, operation, care, program and services and for the issuance of licenses.

Section 2340-A. Refusal to Issue License; Revocation; Notice.--(a) Whenever the department, upon inspection or investigation, shall learn of violation of this act or of regulations adopted by the department pursuant to this act, it shall give written notice thereof to the offending person. Such notice shall require the offending person to take action to bring the facility into compliance with this act or with the relevant regulations within a specified time.

(b) The department shall refuse to issue a license or shall revoke a license for any of the following reasons:

(1) Violation of or non-compliance with the provisions of

1 this act or of regulations pursuant thereto;

2 (2) Fraud or deceit in obtaining or attempting to obtain a
3 license;

4 (3) Lending, borrowing or using the license of another, or
5 in any way knowingly aiding or abetting the improper granting of
6 a license;

7 (4) Gross incompetence, negligence or misconduct in
8 operating the facility;

9 (5) Mistreating or abusing individuals cared for in the
10 facility.

11 (c) Whenever the department revokes or refuses to issue a
12 license, it shall give written notice thereof by certified mail.
13 Such notice shall specify the reason for the refusal or
14 revocation.

15 Section 2341-A. Violation; Penalty.--Any person operating a
16 mental health institution within this Commonwealth without a
17 license required by this act, shall upon conviction thereof in a
18 summary proceeding be sentenced to pay a fine of not less than
19 twenty-five dollars (\$25) nor more than three hundred dollars
20 (\$300), and costs of prosecution, and in default of the payment
21 thereof to undergo imprisonment for not less than ten days nor
22 more than thirty days. Each day of operating a mental health
23 institution without a license required by this act shall
24 constitute a separate offense.

25 (c) Injunctions Against Unlicensed Activities; Procedures

26 Section 2350-A. Definitions.--As used in this subarticle--

27 "Private institution" means any of the following facilities
28 by whatever term known and irrespective of the age group served:
29 Mental hospital, institution for the mentally defective, day
30 care center, family day care home, nursing home, hospital,

boarding home, personal care home, and other similar institution
which is operated for profit and which requires a license issued
by the department.

Section 2351-A. Actions Against Unlicensed Institutions.--
Whenever a license is required by law for the establishment,
operation or conduct of a private institution, the department,
upon advice of the Attorney General, may maintain an action in
the name of the Commonwealth for an injunction or other process
restraining or prohibiting any person from establishing,
conducting or operating any private institution during any
period after a license to engage in such activity has been
refused, has not been renewed or has been revoked by the
department.

Section 2352-A. Actions Against Violations of Law and Rules
and Regulations.--Whenever any person, regardless of whether
such person is a licensee, has violated the laws of this
Commonwealth pertaining to the licensing of a private
institution or the rules and regulations adopted pursuant to
such laws by the department, the department, upon the advice of
the Attorney General, may maintain an action in the name of the
Commonwealth for an injunction or other process restraining or
prohibiting such person from engaging in such activity.

Section 2353-A. Venue.--An action authorized under the
provisions of this subarticle shall be instituted in the court
of common pleas in the county where the alleged unauthorized
activity is committed.

Section 2354-A. Injunction or Restraining Order When Appeal
is Pending.--Whenever the department shall have refused to grant
or renew a license, or shall have revoked a license required by
law to operate or conduct a private institution, or shall have

1 ordered the person to refrain from conduct violating the rules
2 and regulations of the department and the person deeming himself
3 aggrieved by such refusal or revocation or order shall have
4 appealed the action of the department, the court may, during
5 pendency of such appeal, issue a restraining order or injunction
6 upon proof that the operation of the private institution or its
7 failure to comply with the order of the department adversely
8 affects the well-being and safety of the patients or inmates in
9 the private institution.

10 Section 2355-A. Injunction or Restraining Order When No
11 Appeal is Pending.--Should a person, who is refused a license or
12 the renewal of a license to operate or conduct a private
13 institution, or whose license to operate or conduct a private
14 institution is revoked, or who has been ordered to refrain from
15 conduct or activity which violates the rules and regulations of
16 the department, fail to appeal or should such appeal be decided
17 finally favorably to the department, then the court shall issue
18 a permanent injunction upon proof that the person is operating
19 or conducting a private institution without a license as
20 required by law, or has continued to violate the rules and
21 regulations of the department.

22 Section 2356-A. Appeals.--Appeals from any final decision of
23 a court of common pleas to the Superior or Supreme Court shall
24 be as in similar cases.

25 Section 2357-A. Bonds and Costs.--No bond shall be required
26 of and no costs shall be taxed against the department on account
27 of any such action.

28 Section 2358-A. Law Supplementary.--The provisions of this
29 subarticle shall be construed as supplementary to all other
30 provisions dealing with the same subject matter. No action

1 brought under the provisions of this subarticle shall prevent
2 the prosecution or institution of any civil or criminal action
3 otherwise provided by law for violation of any law providing for
4 licensing or departmental rules or regulations promulgated
5 thereunder.

6 (d) Interstate Compact on Mental Health

7 Section 2360-A. Authorization; Compact Provisions.--The
8 Governor is hereby authorized and directed to execute a compact
9 on behalf of the Commonwealth of Pennsylvania with any other
10 state or states legally joining therein in form substantially as
11 follows:

12 INTERSTATE COMPACT ON MENTAL HEALTH

13 The contracting states solemnly agree that:

14 ARTICLE I

15 The party states find that the proper and expeditious
16 treatment of the developmentally disabled can be facilitated by
17 cooperative action to the benefit of the patients, their
18 families and society as a whole. Further the party states find
19 that the necessity of and desirability for furnishing such care
20 and treatment bears no primary relation to the residence or
21 citizenship of the patient but that on the contrary the
22 controlling factors of community safety and humanitarianism
23 require that facilities and services be made available for all
24 who are in need of them. Consequently, it is the purpose of this
25 compact and of the party states to provide the necessary legal
26 basis for the institutionalization or other appropriate care and
27 treatment of the developmentally disabled under a system that
28 recognizes the paramount importance of patient welfare and to
29 establish the responsibilities of the party states in terms of
30 such welfare.

ARTICLE II

As used in this compact:

(1) "Sending states" shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

(2) "Receiving state" shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

(3) "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

(4) "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state for institutionalization or other care, treatment or supervision pursuant to the provisions of this compact.

(5) "After-care" shall mean care, treatment and services provided a patient as defined herein on convalescent status or conditional release.

(6) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare or the welfare of others or of the community.

(7) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs but shall not include mental illness as defined herein.

(8) "State" shall mean any state, territory or possession of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

(9) "Court" shall mean the court of common pleas or other

1 court of record having jurisdiction or law judge thereof of the
2 county in which the patient is or resides.

3 ARTICLE III

4 (a) Whenever a person physically present in any party state
5 shall be in need of institutionalization by reason of mental
6 illness or mental deficiency, he shall be eligible for care and
7 treatment in an institution in that state, irrespective of his
8 residence, settlement or citizenship qualifications.

9 (b) The provisions of paragraph (a) of this article to the
10 contrary notwithstanding, any patient may be transferred to an
11 institution in another state whenever there are factors based
12 upon clinical determinations indicating that the care and
13 treatment of said patient would be facilitated or improved
14 thereby. Any such institutionalization may be for the entire
15 period of care and treatment or for any portion or portions
16 thereof. The factors referred to in this paragraph shall include
17 the patient's full record with due regard for the location of
18 the patient's family, character of the illness and probable
19 duration thereof and such other factors as shall be considered
20 appropriate.

21 (c) No state shall be obliged to receive any patient
22 pursuant to the provisions of paragraph (b) of this article
23 unless the sending state has given advance notice of its
24 intention to send the patient, furnished all available medical
25 and other pertinent records concerning the patient, giving the
26 qualified medical or other appropriate clinical authorities of
27 the receiving state an opportunity to examine the patient, if
28 said authorities so wish and unless the receiving state shall
29 agree to accept the patient.

30 (d) In the event that the laws of the receiving state

1 establish a system of priorities for the admission of patients,
2 an interstate patient under this compact shall receive the same
3 priority as a local patient and shall be taken in the same order
4 and at the same time that he would be taken if he were a local
5 patient.

6 (e) Pursuant to this compact, the determination as to the
7 suitable place of institutionalization for a patient may be
8 reviewed at any time and such further transfer of the patient
9 may be made as seems likely to be in the best interest of the
10 patient.

11 ARTICLE IV

12 (a) Whenever pursuant to the laws of the state in which a
13 patient is physically present, it shall be determined that the
14 patient should receive after-care or supervision, such care or
15 supervision may be provided in a receiving state. If the medical
16 or other appropriate clinical authorities having responsibility
17 for the care and treatment of the patient in the sending state
18 shall have reason to believe that after-care in another state
19 would be in the best interest of the patient and would not
20 jeopardize the public safety, they shall request the appropriate
21 authorities in the receiving state to investigate the
22 desirability of affording the patient such after-care in said
23 receiving state and such investigation shall be made with all
24 reasonable speed. The request for investigation shall be
25 accompanied by complete information concerning the patient's
26 intended place of residence and the identity of the person in
27 whose charge it is proposed to place the patient, the complete
28 medical history of the patient and such other documents as may
29 be pertinent.

30 (b) If the medical or other appropriate clinical authorities

1 having responsibility for the care and treatment of the patient
2 in the sending state and the appropriate authorities in the
3 receiving state find that the best interest of the patient would
4 be served thereby and if the public safety would not be
5 jeopardized thereby, the patient may receive after-care or
6 supervision in the receiving state.

7 (c) In supervising, treating or caring for a patient on
8 after-care pursuant to the terms of this article, a receiving
9 state shall employ the same standards of visitation,
10 examination, care and treatment that it employs for similar
11 local patients.

12 ARTICLE V

13 Whenever a dangerous or potentially dangerous patient - to
14 himself or to others - escapes from an institution in any party
15 state, that state shall promptly notify all appropriate
16 authorities within and without the jurisdiction of the escape in
17 a manner reasonably calculated to facilitate the speedy
18 apprehension of the escapee. Immediately upon the apprehension
19 and identification of any such dangerous or potentially
20 dangerous patient, he shall be detained in the state where
21 found, pending disposition in accordance with law.

22 ARTICLE VI

23 The duly accredited officers of any state party to this
24 compact, upon the establishment of their authority and the
25 identity of the patient, shall be permitted to transport any
26 patient being moved pursuant to this compact through any and all
27 states party to this compact without interference.

28 ARTICLE VII

29 (a) No person shall be deemed a patient of more than one
30 institution at any given time. Completion of transfer of any

1 patient to an institution in a receiving state shall have the
2 effect of making the person a patient of the institution in the
3 receiving state.

4 (b) The sending state shall pay all costs of and incidental
5 to the transportation of any patient pursuant to this compact
6 but any two or more party states may, by making a specific
7 agreement for that purpose, arrange for a different allocation
8 of costs as among themselves.

9 (c) No provision of this compact shall be construed to alter
10 or affect any internal relationships among the departments,
11 agencies and officers of and in the government of a party state
12 or between a party state and its subdivisions as to the payment
13 of costs or responsibilities therefor.

14 (d) Nothing in this compact, shall be construed to prevent
15 any party state or subdivision thereof from asserting any right
16 against any person, agency or other entity in regard to costs
17 for which such party state or subdivision thereto may be
18 responsible pursuant to any provision of this compact.

19 (e) Nothing in this compact shall be construed to invalidate
20 any reciprocal agreement between a party state and a nonparty
21 state relating to institutionalization, care or treatment of the
22 mentally ill or mentally deficient or any statutory authority
23 pursuant to which such agreements may be made.

24 ARTICLE VIII

25 (a) Nothing in this compact shall be construed to abridge,
26 diminish or in any way impair the rights, duties and
27 responsibilities of any patient's guardian on his own behalf or
28 in respect of any patient for whom he may serve, except that
29 where the transfer of any patient to another jurisdiction makes
30 advisable the appointment of a supplemental or substitute

1 guardian, any court of competent jurisdiction in the receiving
2 state may make such supplemental or substitute appointment and
3 the court which appointed the previous guardian shall, upon
4 being duly advised of the new appointment and upon the
5 satisfactory completion of such accounting and other acts as
6 such court may by law require, relieve the previous guardian of
7 power and responsibility to whatever extent shall be appropriate
8 in the circumstances: Provided, however, That in the case of any
9 patient having settlement in the sending state, the court of
10 competent jurisdiction in the sending state shall have the sole
11 discretion to relieve a guardian appointed by it or continue his
12 power and responsibility, whichever it shall deem advisable. The
13 court in the receiving state may, in its discretion, confirm or
14 reappoint the person or persons previously serving as guardian
15 in the sending state in lieu of making a supplemental or
16 substitute appointment. No mentally ill or mentally deficient
17 patient shall be transferred between party states until consent
18 has been obtained from the person legally responsible for the
19 patient's maintenance.

20 (b) The term "guardian" as used in paragraph (a) of this
21 article shall include any guardian, trustee, legal committee,
22 conservator or other person or agency however denominated who is
23 charged by law with power to act for or responsibility for the
24 person or property of a patient.

25 ARTICLE IX

26 (a) No provision of this compact, except Article V, shall
27 apply to any person institutionalized while under sentence in a
28 penal or correctional institution or while subject to trial on a
29 criminal charge or whose institutionalization is due to the
30 commission of an offense for which, in the absence of mental

1 illness or mental deficiency, said person would be subject to
2 incarceration in a penal or correctional institution.

3 (b) To every extent possible, it shall be the policy of
4 states party to this compact that no patient shall be placed or
5 detained in any prison, jail or lockup but such patient shall,
6 with all expedition, be taken to a suitable institutional
7 facility for mental illness or mental deficiency.

8 ARTICLE X

9 (a) Each party state shall appoint a "compact administrator"
10 who on behalf of his state shall act as general coordinator of
11 activities under the compact in his state and who shall receive
12 copies of all reports, correspondence and other documents
13 relating to any patient processed under the compact by his
14 state, either in the capacity of sending or receiving state. The
15 compact administrator or his duly designated representative
16 shall be the official with whom other party states shall deal in
17 any matter relating to the compact or any patient processed
18 thereunder.

19 (b) The compact administrators of the respective party
20 states shall have power to promulgate reasonable rules and
21 regulations to carry out more effectively the terms and
22 provisions of this compact.

23 ARTICLE XI

24 The duly constituted administrative authorities of any two or
25 more party states may enter into supplementary agreements for
26 the provision of any service or facility or for the maintenance
27 of any institution on a joint or cooperative basis whenever the
28 state concerned shall find that such agreements will improve
29 services, facilities or institutional care and treatment in the
30 fields of mental illness or mental deficiency. No such

1 supplementary agreement shall be construed so as to relieve any
2 party state of any obligation which it otherwise would have
3 under other provisions of this compact.

4 ARTICLE XII

5 This compact shall enter into full force and effect as to any
6 state when enacted by it into law and such state shall
7 thereafter be a party thereto with any and all states legally
8 joining therein.

9 ARTICLE XIII

10 (a) A state party to this compact may withdraw therefrom by
11 enacting a statute repealing the same. Such withdrawal shall
12 take effect one year after notice thereof has been communicated
13 officially and in writing to the governors and compact
14 administrators of all other party states. However, the
15 withdrawal of any state shall not change the status of any
16 patient who has been sent to said state or sent out of said
17 state pursuant to the provisions of the compact.

18 (b) Withdrawal from any agreement permitted by Article VII
19 (b) as to costs, or from any supplementary agreement made
20 pursuant to Article XI, shall be in accordance with the terms of
21 such agreement.

22 ARTICLE XIV

23 This compact shall be liberally construed so as to effectuate
24 the purposes thereof. The provisions of this compact shall be
25 severable and if any phrase, clause, sentence or provision of
26 this compact is declared to be contrary to the constitution of
27 any party state or of the United States or the applicability
28 thereof to any government agency, person or circumstance is held
29 invalid, the validity of the remainder of this compact and the
30 applicability thereof to any government agency, person or

1 circumstance shall not be affected thereby. If this compact
2 shall be held contrary to the constitution of any state party
3 thereto, the compact shall remain in full force and effect as to
4 the remaining states and in full force and effect as to the
5 state affected as to all severable matters.

6 Section 2361-A. Compact Administrator.--Pursuant to said
7 compact, the Governor is hereby authorized and empowered to
8 designate an officer who shall be the compact administrator and
9 who, acting jointly with like officers of other party states,
10 shall have power to promulgate rules and regulations to carry
11 out more effectively the terms of the compact. Said compact
12 administrator shall serve subject to the pleasure of the
13 Governor. The compact administrator is hereby authorized,
14 empowered and directed to cooperate with all departments,
15 agencies and officers of and in the government of this State and
16 its subdivisions in facilitating the proper administration of
17 the compact or of any supplementary agreement or agreements
18 entered into by this State thereunder.

19 Section 2362-A. Supplementary Agreements.--The compact
20 administrator is hereby authorized and empowered to enter into
21 supplementary agreements with appropriate officials of other
22 states pursuant to Articles VII and XI of the compact. In the
23 event that such supplementary agreement shall require or
24 contemplate the use of any institution or facility of this State
25 or require or contemplate provision of any service by this
26 State, no such agreement shall have force or effect until
27 approved by the head of the department or agency under whose
28 jurisdiction said institution or facility is operated or whose
29 department or agency will be charged with the rendering of such
30 service.

1 Section 2363-A. Financial Obligations.--The compact
2 administrator, subject to the approval of the Auditor General,
3 may make or arrange for any payments necessary to discharge any
4 financial obligations imposed upon this State by the compact or
5 by any supplementary agreement entered into thereunder.

6 Section 2364-A. Consultation with Families of Transferees.--
7 The compact administrator is hereby directed to consult with the
8 immediate family of any proposed transferee.

9 Section 2365-A. Limitation of Compact Applicability.--This
10 compact shall apply only to patients who either are in
11 institutions maintained by the Commonwealth of Pennsylvania,
12 having been duly and properly committed or admitted pursuant to
13 laws of the Commonwealth of Pennsylvania or whose admission to
14 an institution maintained by the Commonwealth is being sought by
15 a sending state pursuant to this compact, and shall not in any
16 case apply to any patient of a private licensed institution.

17 (e) Reciprocal Agreements with Other States

18 Section 2371-A. Agreements Authorized.--The department,
19 subject to the approval of the Attorney General, is hereby
20 authorized to enter into reciprocal agreements with
21 corresponding state agencies of other states regarding the
22 interstate transportation or transfer of persons with mental
23 illness or defect and to arrange with the proper officials in
24 this State for the acceptance, transfer, and support of persons
25 who are residents of this State but who are temporarily detained
26 or who are receiving psychiatric or mental care in public
27 institutions of other states in accordance with the terms of
28 such agreements.

29 (f) Commonwealth Developmental Disabilities

30 Research Foundation

1 Section 2381-A. Creation--There is hereby created a body
2 corporate and politic constituting a public corporation and
3 governmental instrumentality known as the "Commonwealth
4 Developmental Disabilities Research Foundation," referred to in
5 this subarticle as the foundation. The foundation shall be
6 administered exclusively in accordance with the provisions of
7 this subarticle. The foundation is hereby constituted an
8 instrumentality of the Commonwealth and the exercise by the
9 foundation of powers and duties conferred upon it by this act
10 shall be deemed and held to be an essential governmental
11 function of the Commonwealth.

12 Section 2382-A. Purpose.--It shall be the purpose of the
13 foundation to support, encourage and finance research of every
14 nature and description in the field of developmental
15 disabilities including all aspects thereof or related thereto
16 and to train men in the field of mental health including all
17 aspects thereof or related thereto.

18 Section 2383-A. Powers and Duties.--The foundation shall
19 have the following powers and duties:

20 (1) It shall maintain a principal office at such place as
21 shall be designated by the secretary.

22 (2) It may contract and be contracted within its own name.

23 (3) It may sue and be sued in its own name, and plead and be
24 impleaded. Any and all actions at law or in equity against it
25 shall be brought only in Dauphin County.

26 (4) It shall have an official seal.

27 (5) It shall make necessary bylaws, rules and regulations
28 for the management and regulation of its affairs.

29 (6) It shall have the power and authority to acquire, own,
30 use, hire, lease, operate and dispose of personal property, real

1 property and interests in real property.

2 (7) It may make and enter into all contracts and agreements
3 necessary or incidental to the performance of its duties and the
4 execution of its powers under this act.

5 (8) It may employ such employes as may, in the judgment of
6 the board of trustees, be necessary and to fix their
7 compensation.

8 (9) It shall not be required to pay any taxes or assessments
9 on any property acquired or used by it.

10 Section 2384-A. Board of Trustees.--(a) The foundation shall
11 be administered by a board of fifteen trustees consisting of the
12 Governor, the Secretary of Developmental Disabilities and
13 thirteen trustees, four of whom shall be professionals in the
14 field of developmental disabilities and three of whom shall be
15 any parents or relatives or guardians of developmentally
16 disabled citizens. All shall be appointed by the Governor for
17 terms of three years each and until their respective successors
18 shall be duly appointed and qualified. Any trustee may be
19 reappointed. Any person appointed to fill a vacancy shall serve
20 for the unexpired term.

21 (b) The members of the board shall not be entitled to any
22 compensation for their services as members, except for necessary
23 and authorized travel and expenses in connection with the
24 business of the foundation.

25 (c) Eight members of the board shall constitute a quorum and
26 any action taken by a majority of a quorum present at a duly
27 convened meeting of the board shall be the legal action of the
28 board.

29 (d) The secretary shall be the chairman of the board and the
30 foundation shall have such other officers as the board deems

1 necessary.

2 (e) The board shall meet regularly at least three times each
3 year and specially upon the call of the chairman.

4 Section 2385-A. Research Advisory Committee.--The secretary
5 who shall be chairman and nine members appointed by the
6 secretary shall constitute the Research Advisory Committee. In
7 appointing such committee, the secretary shall select one
8 representative from each of the following eight disciplines;
9 psychiatry, psychology, nutrition, pediatrics, social work,
10 education, pharmacology, neurology, and one parent of a
11 developmentally disabled person. The Research Advisory Committee
12 shall apprise every college, university, institution and
13 facility of the Commonwealth of its existence and solicit
14 proposals for research projects aimed at preventing or
15 curtailing the incidence of developmental disabilities, or at
16 improving the lives of developmentally disabled persons and
17 their families. The Research Advisory Committee, subject to
18 approval of the board, shall choose and supervise the projects
19 to be undertaken by the foundation. The members of the Research
20 Advisory Committee shall not be entitled to any compensation for
21 their services as members but shall be entitled to reimbursement
22 for all necessary expenses incurred in connection with the
23 performance of their duties as members. The programs of research
24 and of training men in the field of developmental disabilities
25 shall be carried out only in Commonwealth institutions under the
26 jurisdiction of the department. This section shall not be
27 construed to prevent ancillary research or training outside of
28 these institutions so long as the primary program in connection
29 with which the ancillary research or training is undertaken is
30 conducted within a Commonwealth institution.

1 Section 2386-A. Administration.--(a) The board of trustees
2 shall have sole and exclusive jurisdiction to administer the
3 foundation and no other department, board or officer of the
4 Commonwealth shall have any jurisdiction whatsoever in
5 connection therewith except as set forth in this subarticle. No
6 appropriation made to the foundation shall be available unless
7 and until it shall have complied with section 604 of The
8 Administrative Code of 1929 in the same manner as if it were an
9 administrative department, board or commission.

10 (b) All moneys belonging to the foundation shall be invested
11 in securities or deposited with depositories subject to the same
12 restrictions as are imposed by law upon the investment or
13 deposit of Commonwealth funds, except that any donor of money or
14 other property may specify that such donation shall be held in
15 the form in which acquired by the board or that such donation
16 shall be invested in or converted into some other specific
17 property or class of investment. So long as the board complies
18 with the instructions of the donor in this regard, it shall be
19 relieved of all liability which may result from the imprudent
20 investment of such moneys.

21 (c) The board of trustees shall have general supervisory
22 powers and responsibility for the propriety of all expenditures
23 by the foundation. All payments for the general cost of
24 administration of the foundation in excess of three hundred
25 dollars (\$300) shall be made only with the prior approval of the
26 board. All payments for research and training made by the
27 foundation in excess of three hundred dollars (\$300) shall be
28 made only with the prior approval of the board which shall not
29 approve any such expenditure until it has first been approved by
30 the Research Advisory Committee. The board shall have the right

1 to approve a future series of payments at one time so long as
2 the specific purpose therefor is known at the time of approval.

3 (d) The board shall set up a system for the payment of all
4 sums less than three hundred dollars (\$300) upon the approval of
5 a responsible executive officer of the foundation. Such system
6 shall contain adequate checks so as to insure that no moneys are
7 improperly diverted from the foundation.

8 (e) There shall be maintained by the foundation an adequate
9 set of financial books and records in accordance with generally
10 accepted accounting theory and practice.

11 (f) The financial books and records of the foundation shall
12 be audited at least once each year by a certified public
13 accountant or firm of certified public accountants who shall
14 report to the board. Such report shall be a public record and a
15 copy thereof shall be furnished to each trustee, the Governor,
16 the secretary, the Attorney General and to such other persons
17 who request copies from the foundation, for which other copies a
18 charge adequate to cover printing and other related costs may be
19 made.

20 (g) The fiscal year of the foundation shall commence on July
21 1, and end on the following June 30.

22 (h) The Attorney General and the secretary shall each have
23 the right to examine all phases of the operations of the
24 foundation, including all of its books and records, at such time
25 and in such manner as they or either of them shall deem
26 necessary.

27 Section 2387-A. Gifts and Grants.--The foundation is hereby
28 authorized to accept gifts or grants of money or property of any
29 nature from any source whatsoever. Such gifts and grants may be
30 accepted for the general purposes of the foundation, for

1 specific purposes within the general purposes of the foundation
2 or to be held in trust for the benefit of the foundation with
3 the income to be used for a specific purpose within the general
4 purposes of the foundation or for the general purposes of the
5 foundation.

6 Section 2388-A. Patents.--All discoveries and patentable
7 inventions resulting from the work of the foundation, or of any
8 employee or person granted financial aid by the foundation, shall
9 become the property of the foundation by assignment or other
10 transfer from the discoverers or inventor. Each employee of the
11 foundation or other person granted financial aid by the
12 foundation shall be required to sign an agreement agreeing to
13 assign and transfer to the foundation all of his right, title
14 and interest in any development or patent acquired as a result
15 of such employment or receipt of financial aid before being
16 employed or granted such aid. All royalties or other income
17 received from the use of any such patents or discoveries shall
18 be paid to the foundation to be used for its general purposes.

19 Section 8.--(a) All of the State mental institutions now
20 operated by the Department of Public Welfare are hereby
21 transferred to and shall hereafter be operated by the Department
22 of Developmental Disabilities; and, all personnel of such
23 institutions and all appropriations, contracts, agreements,
24 equipment, files and obligations of the Department of Public
25 Welfare respecting such institutions are hereby transferred to
26 the Department of Developmental Disabilities with the same force
27 and effect as if said contracts, agreements and obligations of
28 the Department of Public Welfare had been incurred or entered
29 into by the Department of Developmental Disabilities; and, the
30 balances remaining in any such appropriations are hereby

1 appropriated to the Department of Developmental Disabilities for
2 the same purpose as expressed in the act making them.

3 All personnel, equipment, files, obligations and records of
4 the Department of Public Welfare employed in the performance of
5 the powers and duties transferred by this act are hereby
6 transferred to the Department of Developmental Disabilities;
7 and, the balances of any appropriations for the payment of
8 salaries and other expenses in connection therewith are hereby
9 appropriated to the Department of Developmental Disabilities for
10 the same purpose as expressed in the act making them.

11 (b) All personnel transferred pursuant to this act shall
12 retain any civil service employment status assigned to said
13 personnel.

14 (c) All orders, permits, regulations, decisions and other
15 actions of the Department of Public Welfare or any agency whose
16 functions have been transferred by this act shall remain in full
17 force and effect until modified, repealed, suspended, superseded
18 or otherwise changed by appropriate action of the Department of
19 Developmental Disabilities.

20 Section 9. All interstate compacts on medical health entered
21 into pursuant to Article XI of the Public Welfare Code repealed
22 by this act shall continue to be in full force and effect.

23 Section 10. The trustees of the Commonwealth Mental Health
24 Research Foundation appointed by the Governor and in office on
25 the effective date of this act shall continue in office for the
26 duration of their terms.

27 Section 11. The act of June 13, 1967 (P.L.31, No.21), known
28 as the "Public Welfare Code," is repealed in so far as it is
29 inconsistent herewith.

30 Section 12. This act shall take effect July 1, 1976.