

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 500

Session of
1977

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MARCH 7, 1977

AS REPORTED FROM COMMITTEE ON HEALTH AND WELFARE, AS AMENDED,
HOUSE OF REPRESENTATIVES, MARCH 14, 1978

AN ACT

1 ~~Providing for the licensing of personal care boarding homes and~~ <—
2 ~~the registration of noncare boarding homes, providing~~
3 ~~penalties and making an appropriation.~~
4 PROVIDING FOR THE LICENSING OF PERSONAL CARE BOARDING HOMES, <—
5 PROVIDING PENALTIES AND MAKING AN APPROPRIATION.

6 ~~TABLE OF CONTENTS~~ <—

7 ~~Chapter 1. General Provisions~~

8 ~~Section 101. Short title.~~

9 ~~Section 102. Legislative findings.~~

10 ~~Section 103. Purpose.~~

11 ~~Section 104. Application.~~

12 ~~Section 105. Definitions.~~

13 ~~Chapter 2. Registration of Boarding Homes~~

14 ~~Section 201. Requirement to register.~~

15 ~~Section 202. Advertisement of registration requirement.~~

16 ~~Section 203. Penalty for failure to register.~~

17 ~~Section 204. Determination of type of boarding home.~~

~~Section 205.— Investigation.~~

~~Section 206.— Assistance in relocation.~~

~~Section 207.— Access to boarding homes.~~

~~Section 208.— Notification of other departments and agencies.~~

~~Chapter 3.— Commercial Boarding Homes~~

~~Section 301.— Designation as a commercial boarding home.~~

~~Section 302.— Annual reregistration and renewal of
— designation.~~

~~Section 303.— Reporting requirement when a boarder becomes
— a personal care resident.~~

~~Section 304.— Assistance in relocation.~~

~~Section 305.— No licensure, approval or certification.~~

~~Chapter 4.— Personal Care Homes.~~

~~Section 401.— License required.~~

~~Section 402.— Separate license required.~~

~~Section 403.— Advice to applicants.~~

~~Section 404.— Licensing procedures.~~

~~Section 405.— Application for a license.~~

~~Section 406.— License fees.~~

~~Section 407.— Prelicensure investigation.~~

~~Section 408.— Notice of deficiencies.~~

~~Section 409.— Issuance of license; term and content of
— license; payment of appropriate fee.~~

~~Section 410.— Provisional licenses.~~

~~Section 411.— Time limit on consideration of application.~~

~~Section 412.— Revocation of licenses.~~

~~Section 413.— Penalties for operation without a license.~~

~~Section 414.— Training of owners and managers.~~

~~Section 415.— Department access to individual residents.~~

~~Section 416.— Rights of residents with regard to access.~~

~~Section 417. Community service access.~~
~~Section 418. Notice of access provisions.~~
~~Section 419. Enforcement action.~~
~~Section 420. Other rights and privileges of residents.~~
~~Section 421. Employees' duty to report.~~
~~Section 422. Duty to report suspected violations.~~
~~Section 423. Unlawful referrals and transfers.~~
~~Section 424. Penalty for unlawful referral or transfer.~~

~~Chapter 5. Miscellaneous Provisions~~

~~Section 501. Appropriation.~~
~~Section 502. Right to appeal.~~
~~Section 503. Immunity from civil and criminal liability.~~
~~Section 504. Repealer.~~
~~Section 505. Effective date.~~

TABLE OF CONTENTS

<—

CHAPTER 1. GENERAL PROVISIONS

SECTION 101. SHORT TITLE.
SECTION 102. LEGISLATIVE FINDINGS.
SECTION 103. PURPOSE.
SECTION 104. DEFINITIONS.
SECTION 105. POWERS OF THE SECRETARY OF HEALTH.

CHAPTER 2. PERSONAL CARE BOARDING HOME ADVISORY COMMITTEE

SECTION 201. PERSONAL CARE BOARDING HOME ADVISORY COMMITTEE.
SECTION 202. MEMBERSHIP.
SECTION 203. POWERS OF THE COMMITTEE.

CHAPTER 3. PERSONAL CARE BOARDING HOMES

SECTION 301. LICENSE REQUIRED.
SECTION 302. SEPARATE LICENSE REQUIRED.
SECTION 303. ADVERTISEMENT OF LICENSURE REQUIREMENT.
SECTION 304. APPLICATION FOR A LICENSE.

1 SECTION 305. PENALTY FOR FAILURE TO APPLY FOR A LICENSE.
2 SECTION 306. EXEMPTIONS FROM PENALTIES FOR OPERATING A
3 PERSONAL CARE BOARDING HOME WITHOUT A LICENSE.
4 SECTION 307. RELOCATION OF PERSONAL CARE RESIDENTS PURSUANT
5 TO A REPORT MADE IN SECTION 306.
6 SECTION 308. LICENSE FEES.
7 SECTION 309. PRELICENSURE INVESTIGATION.
8 SECTION 310. NOTICE OF DEFICIENCIES.
9 SECTION 311. ISSUANCE OF LICENSE; TERM AND CONTENT OF
10 LICENSE; PAYMENT OF APPROPRIATE FEE.
11 SECTION 312. PROVISIONAL LICENSES.
12 SECTION 313. TIME LIMIT ON CONSIDERATION OF APPLICATION.
13 SECTION 314. REVOCATION OF LICENSES.
14 SECTION 315. RIGHT TO ENTER AND INSPECT.
15 SECTION 316. PENALTIES FOR OPERATION WITHOUT A LICENSE.
16 SECTION 317. RIGHT TO APPEAL.
17 SECTION 318. DEPARTMENT ACCESS TO INDIVIDUAL RESIDENTS.
18 SECTION 319. RIGHTS OF RESIDENTS WITH REGARD TO ACCESS.
19 SECTION 320. COMMUNITY SERVICE ACCESS.
20 SECTION 321. NOTICE OF ACCESS PROVISIONS.
21 SECTION 322. ENFORCEMENT POWERS.
22 SECTION 323. ENFORCEMENT ACTION.
23 SECTION 324. DUTY TO REPORT SUSPECTED VIOLATIONS.
24 SECTION 325. UNLAWFUL REFERRALS AND TRANSFERS.
25 SECTION 326. PENALTY FOR UNLAWFUL REFERRAL OR TRANSFER.
26 CHAPTER 4. MISCELLANEOUS PROVISIONS
27 SECTION 401. APPROPRIATION.
28 SECTION 402. DISPOSITION OF FUNDS.
29 SECTION 403. IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY.
30 SECTION 404. APPLICATION OF SPECIAL OCCUPANCY REGULATIONS.

SECTION 405. RESPONSIBILITIES OF THE DEPARTMENT OF
PUBLIC WELFARE.

SECTION 406. REPEALS.

SECTION 407. EFFECTIVE DATE.

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

~~CHAPTER 1~~

<—

~~GENERAL PROVISIONS~~

~~Section 101. Short title.~~

~~This act shall be known and may be cited as the "Boarding
Home Act."~~

~~Section 102. Legislative findings.~~

~~Many frail elderly or handicapped persons in the Commonwealth
who need supportive living arrangements but not nursing care do
not have families or relatives who can provide homes for them. A
number of these persons currently reside in boarding homes or
similar lodgings which in many cases are not providing the care,
assistance and supervision actually required. There is at
present no effective licensing or regulation of such boarding
homes. Instances of severe neglect, exploitation, abuse or
imprisonment have occurred.~~

~~Section 103. Purpose.~~

~~The purpose of this act is to protect the Commonwealth's
frail elderly or handicapped citizens from hazardous conditions
in certain types of congregate living arrangements. The act
seeks to attain this purpose by requiring the registration and
inspection of all boarding homes and by providing for the
licensing and regulation of a special category of boarding homes
called personal care homes. The intent of this act is to provide
that all boarding homes meet minimum fire, safety, and health~~

1 ~~code standards that currently exist at the State and local~~
2 ~~municipality level. It is further the intent of this act to~~
3 ~~insure that personal care homes comply with certain standards~~
4 ~~consistent with the health care and social service needs of~~
5 ~~their residents. In so doing it is the intent of this act to~~
6 ~~avoid the imposition of arbitrary, unnecessary, and unreasonable~~
7 ~~rules and regulations on all boarding homes who are meeting the~~
8 ~~needs of their residents. It is our intent that this act shall~~
9 ~~clarify currently conflicting sets of rules and regulations of~~
10 ~~various State agencies so that all boarding homes shall have~~
11 ~~consistent standards applied to them, so that no boarding home~~
12 ~~operator making an honest effort to comply with standards and~~
13 ~~meet the needs of his residents shall be forced to close because~~
14 ~~of the application of unreasonable rules and regulations.~~

15 ~~Section 104. Application.~~

16 ~~This act is intended to apply broadly to all congregate~~
17 ~~living arrangements for two or more residents which regularly~~
18 ~~provide room and board, whether or not they provide any~~
19 ~~additional services. The term "boarding home" as defined herein~~
20 ~~is intended to include both:~~

21 ~~(1) facilities or homes such as some hotels, motels or~~
22 ~~apartments which regularly provide one or more meals per day~~
23 ~~but not complete board; and~~

24 ~~(2) facilities or homes which offer in addition to room~~
25 ~~and board services such as laundry, housekeeping or~~
26 ~~additional personal, social or health related services to~~
27 ~~residents.~~

28 ~~Section 105. Definitions.~~

29 ~~The following words and phrases when used in this act shall~~
30 ~~have, unless the context clearly indicates otherwise, the~~

1 ~~meanings given to them in this section.~~

2 ~~"Ambulatory." Physically and mentally capable of getting in~~
3 ~~and out of bed and of making one's way from the facility to a~~
4 ~~place of safety in case of fire or other emergency without the~~
5 ~~aid of another person. Persons who use assistive devices such as~~
6 ~~canes, crutches, walkers, or wheel chairs are regarded as~~
7 ~~ambulatory if they meet the requirements of this definition.~~

8 ~~"Applicant." A person or legal entity who, as owner, has~~
9 ~~applied for a license to operate a personal care home.~~

10 ~~"Boarder." A resident whose needs can be met through a~~
11 ~~commercial boarding home, and who are ambulatory, and who are~~
12 ~~physically and mentally capable of providing for themselves~~
13 ~~routine daily activities including but not limited to bathing,~~
14 ~~dressing, maintaining proper diet, maintaining his own health~~
15 ~~care needs such as taking prescribed medications or carrying out~~
16 ~~the directives of a doctor or nurse.~~

17 ~~"Boarding home." Any facility, home, lodging or institution,~~
18 ~~however named, operated for profit or otherwise, which~~
19 ~~accommodates or is designed to accommodate two or more adults~~
20 ~~unrelated to the owner or manager and which offers or holds~~
21 ~~itself out to offer room and board on a 24 hour basis to~~
22 ~~nontransients. There are two categories of boarding homes:~~

23 ~~(1) commercial boarding homes; and~~

24 ~~(2) personal care homes.~~

25 ~~"Commercial boarding homes." Any boarding home which~~
26 ~~provides or holds itself out to offer to its residents only~~
27 ~~basic accommodations or room and board, or, in addition to room~~
28 ~~and board, may offer or provide other such basic accommodations~~
29 ~~as laundry or housekeeping services, or use of living room or~~
30 ~~recreational areas for their residents. There shall be three~~

~~classes of commercial boarding homes as follows:~~

~~(1) Class I maximum occupancy between 2 and 14 residents.~~

~~(2) Class II maximum occupancy between 15 and 50 residents.~~

~~(3) Class III maximum occupancy of 51 or more residents.~~

~~"Department." The Department of Health, in coordination with the Department of Public Welfare, the Department of Labor and Industry and the Department of Environmental Resources.~~

~~"Fully ambulatory." Ambulatory without the use of assistive devices such as canes, crutches, walkers or wheel chairs.~~

~~"Holding itself out." Offering specific services ranging in scope from providing room and board to providing all related personal care services. A boarding home shall be considered to be holding itself out to offer or provide specific services when the owner or manager of said home or facility:~~

~~(1) applies to the department for registration as a commercial boarding home or applies to the department for a license to operate a personal care home;~~

~~(2) lets it be known to the general public in any manner that he is operating a home or facility which provides such services; or~~

~~(3) knowingly accepts personal care residents.~~

~~"Licensee." A person or legal entity to whom a license to operate a personal care home has been granted.~~

~~"Manager." The person having ultimate responsibility for the general management, daily operation and maintenance of a boarding home.~~

~~"Nontransient." A person who resides continuously for 30~~

1 ~~days or more in a particular facility, home, lodging or~~
2 ~~institution.~~

3 ~~"Owner." The person or legal entity having ultimate~~
4 ~~financial control of and responsibility for the general~~
5 ~~operation of the boarding home.~~

6 ~~"Personal care home." A boarding home which provides or~~
7 ~~holds itself out to offer, in addition to room and board or~~
8 ~~other basic accommodations, some level of assistance of personal~~
9 ~~care, supervision, or assistance in daily routine activities~~
10 ~~such as bathing, dressing, diet, taking of medication prescribed~~
11 ~~for self administration, or assistance in the financial~~
12 ~~management of a resident's personal affairs; or which houses,~~
13 ~~without proper notification, on a continuing basis any personal~~
14 ~~care residents. There shall be three classes of personal care~~
15 ~~homes as follows:~~

16 ~~(1) Class I maximum occupancy between 2 and 14~~
17 ~~residents.~~

18 ~~(2) Class II maximum occupancy between 15 and 50~~
19 ~~residents.~~

20 ~~(3) Class III maximum occupancy of 51 or more~~
21 ~~residents.~~

22 ~~"Personal care resident." A resident whose needs, because~~
23 ~~of age, health, physical or mental handicap or disability,~~
24 ~~cannot be met by a commercial boarding home, or who requires, in~~
25 ~~addition to room and board, assistance or supervision in such~~
26 ~~matters as bathing, dressing, diet, and health maintenance,~~
27 ~~including but not limited to assistance in administering~~
28 ~~prescribed medications or in carrying out the directives or~~
29 ~~orders of a doctor or nurse, or who requires some level of~~
30 ~~assistance in maintaining his personal finances, or who needs~~

~~the personal care, supervision, or assistance in daily routine activities provided by a personal care home.~~

~~"Personnel, employees, or staff." The owner or manager and all persons other than residents, whether paid or not, who regularly perform some duty or duties within the boarding home on a full time or part time basis.~~

~~"Relative." Parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half brother, half sister, aunt, uncle, niece, nephew, cousin, spouse, or any of the above acquired by marriage.~~

~~"Resident." Any person living in a boarding home on a 24 hour nontransient basis who is unrelated to the owner or manager. There are two categories of residents:~~

~~(1) boarders; and~~

~~(2) personal care residents.~~

~~"Team." A group of four individuals consisting of one each from the Department of Health, the Department of Public Welfare, the Department of Labor and Industry and the Department of Environmental Resources, appointed by the secretary of each department and under the general coordination of the Department of Health, or those county, city or local departments, offices, bureaus, or agencies which have authority to enforce boarding homes' compliance with certain regulations and standards.~~

~~"Unrelated." A person who is not a relative of the owner or manager by blood or marriage. Residents related to members of a firm, corporation, company, association or joint stock association licensed to operate a facility shall not be considered as related to the licensee.~~

~~CHAPTER 2~~

~~REGISTRATION OF BOARDING HOMES~~

~~Section 201. Requirement to register.~~

~~Within 180 days of the effective date of this act, all boarding homes must register with the Department of Health on forms to be supplied by the department. Together with such other information as the department may require, the forms shall include the following information:~~

~~(1) The name and address of the applicant and of the person who will be the operator of the boarding home, if different from the applicant. If the applicant is a copartnership, association or corporation, the application shall include the names and addresses of all the partners and officers, as the case may be.~~

~~(2) The location of the boarding home and, if the applicant is a copartnership, association or corporation, the state of organization or incorporation.~~

~~(3) The type of structure and the extent to which the facility meets current State and local fire and sanitary protection standards.~~

~~(4) The type of services provided to the residents, and the rates charged for such services.~~

~~(5) The maximum number of residents to be accommodated in the home. A registration fee shall be paid at the time of filing the registration form with the department, and shall be as follows:~~

~~(i) Class I (2—14 residents) \$10~~

~~(ii) Class II (15—50 residents) 20~~

~~(iii) Class III (51 or more) 35~~

~~Section 202. Advertisement of registration requirement.~~

~~It shall be the department's responsibility, immediately following the effective date of this act and on a continuing~~

~~basis thereafter, to advertise the registration requirement and to inform all known boarding homes of it.~~

~~Section 203. Penalty for failure to register.~~

~~Any owner of a boarding home who fails to register with the department within the time provided shall be liable to be charged with a misdemeanor of the third degree. If upon notice of failure to register the owner fails to register within 30 days, he or she shall be liable to be charged with a misdemeanor of the first degree and shall be prosecuted by the department.~~

~~Section 204. Determination of type of boarding home.~~

~~(a) Every registered boarding home shall either be designated as a commercial boarding home or be designated and licensed as a personal care home. During the first year following the effective date of this act, a determination as to which class a given boarding home belongs to shall be made by the department within 90 days from the date the department receives the registration form. Thereafter such a determination shall be made by the department within 30 days of the date of receiving the registration form.~~

~~(b) A boarding home shall be classified as a commercial boarding home if:~~

~~(1) the owner requests to be designated as such;~~

~~(2) there are no personal care residents living in the home; or~~

~~(3) if there are some personal care residents living in the home, and the owner attempts to cooperate with the Department of Public Welfare and the team in relocating those personal care residents to appropriate facilities, and the personal care residents refuse to be relocated, the owner shall be deemed to have complied with this section and shall~~

~~be granted a certificate as a commercial boarding home.~~

~~(c) A boarding home shall be classified as a personal care home, and the owner shall be required to apply for a license to operate a personal care home if:~~

~~(1) the owner wishes to apply for a license to operate a personal care home;~~

~~(2) the owner is providing or holding himself out to offer personal care beyond the basic accommodations of room and board to the residents; or~~

~~(3) there are personal care residents living in the home and the owner fails to cooperate with the Department of Public Welfare in efforts to relocate those residents to appropriate facilities.~~

~~Section 205. Investigation.~~

~~Upon receipt of a registration form the department shall conduct such investigation as is required as a basis for the determination prescribed in section 204. According to regulations to be published by the department, it shall visit the home, interview the owner and/or manager, if necessary interview the residents, and perform such other inspections or examinations as are required in order to obtain adequate information upon which to make a determination. Knowledge of the health or disability status and personal care needs of the present residents is required.~~

~~Section 206. Assistance in relocation.~~

~~(a) If in the course of implementing its responsibilities pursuant to sections 204 and 205 the department discovers residents who:~~

~~(1) require personal care services, and it is not the owner's intention to apply for a license to operate a~~

1 ~~personal care home; or~~

2 ~~(2) require a level of care more intensive than personal~~
3 ~~care services, the department shall provide assistance in~~
4 ~~relocating such residents to an appropriate home, facility or~~
5 ~~institution.~~

6 ~~(b) The department shall intervene promptly in a manner~~
7 ~~designed to be helpful and not disruptive to the resident. The~~
8 ~~department shall first interview the resident to verify his or~~
9 ~~her condition and to learn his or her wishes and plans, and if~~
10 ~~feasible assist the resident in carrying out those plans. Beyond~~
11 ~~this, it may be necessary for the department to contact~~
12 ~~relatives or friends of the resident, or, in extreme~~
13 ~~circumstances, provide the resident with protective services~~
14 ~~which may lead to legal intervention if there is no other way to~~
15 ~~ensure the safety, health and welfare of the resident.~~

16 ~~Section 207. Access to boarding homes.~~

17 ~~(a) Owners, managers and staff of boarding homes are~~
18 ~~required to permit access by authorized representatives of the~~
19 ~~department to all such homes in accordance with applicable~~
20 ~~sections of Articles IX and X of the Public Welfare Code as~~
21 ~~amended.~~

22 ~~(b) Upon reasonable cause to suspect that the life, health~~
23 ~~or safety of one or more residents of a boarding home are in~~
24 ~~imminent danger, authorized representatives of the department~~
25 ~~are empowered to require access without notice at any hour.~~

26 ~~Section 208. Notification of other departments and agencies.~~

27 ~~The department shall on a quarterly basis notify the~~
28 ~~Departments of Health, Labor and Industry and Environmental~~
29 ~~Resources, and such other State or local agencies as have~~
30 ~~jurisdiction in regards to such matters as nursing home~~

~~licensure, fire safety, sanitation and health factors, of all newly registered boarding homes by name and address of operator by county. Such lists shall identify the ownership of the home and the compliance status with pertinent laws and regulations, if known.~~

~~CHAPTER 3~~

~~COMMERCIAL BOARDING HOMES~~

~~Section 301. Designation as a commercial boarding home.~~

~~Upon completion of the determination prescribed by section 204 the department shall issue to the operator of every boarding home designated as a commercial boarding home a formal document with the major heading "Designation as a commercial boarding home." In order to distinguish it clearly from a license or certificate of approval, this document shall state: "The Department of Public Welfare hereby declares that it has designated _____(home) as a commercial boarding home to signify that it is not a personal care home. This home intends to accept as residents only individuals who are seeking the basic accommodations typical of boarding home services. This home legally may not accept as residents individuals who need personal care, supervision, service beyond basic accommodations, or assistance in daily routine activities such as bathing, dressing, diet, or the taking of medication."~~

~~Designation as a commercial boarding home shall not constitute approval of such commercial boarding home, and the owner shall not use or permit use of such designation to imply the contrary.~~

~~Section 302. Annual reregistration and renewal of designation.~~

~~All commercial boarding homes are required to reregister annually, and pay the appropriate reregistration fee as follows:~~

- 1 ~~(1) Class I \$10~~
2 ~~(2) Class II \$25~~
3 ~~(3) Class III \$50~~

4 ~~Within 30 days the department shall then review their status as~~
5 ~~a commercial boarding home, conducting such investigation as is~~
6 ~~deemed necessary, and either renew the designation as a~~
7 ~~commercial boarding home or inform the owner in writing that he~~
8 ~~is required to apply for a license to operate a personal care~~
9 ~~home, and stating specific reasons for this determination.~~

10 ~~Section 303. Reporting requirement when a boarder becomes a~~
11 ~~— personal care resident.~~

12 ~~Whenever a resident in a commercial boarding home becomes~~
13 ~~incapacitated or functionally disabled to such a degree that~~
14 ~~over a period of time he or she is unable to care for himself or~~
15 ~~herself and apparently requires personal care services or~~
16 ~~nursing care, and neither the resident nor his or her family or~~
17 ~~friends succeed in locating alternative living arrangements more~~
18 ~~adequate to his or her needs, within a reasonable time not to~~
19 ~~exceed two weeks, the manager of the commercial boarding home~~
20 ~~shall immediately report this circumstance to the department. By~~
21 ~~compliance with this reporting requirement the manager avoids~~
22 ~~legal responsibility for a violation of this act which is due to~~
23 ~~circumstances beyond his or her control. If the situation~~
24 ~~persists without change, the manager shall repeat his report to~~
25 ~~the department in writing within two weeks.~~

26 ~~Section 304. Assistance in relocation.~~

27 ~~Upon receipt of a report such as is prescribed by section 303~~
28 ~~the department shall provide assistance in relocation.~~

29 ~~Section 305. No licensure, approval or certification.~~

30 ~~Commercial boarding homes officially designated as such are~~

~~not required by this act to meet any standards or regulations concerning the physical structure, staffing requirements, or other such matters, above and beyond the current applicable statutes and ordinances enforced by State or local authorities concerning fire safety, sanitation, and health standards. Owners and managers of commercial boarding homes are required by this act only to comply with certain requirements regarding their own behavior as specified in this act.~~

~~CHAPTER 4~~

~~PERSONAL CARE HOMES~~

~~Section 401. License required.~~

~~No person or legal entity shall establish, conduct, maintain or operate in the Commonwealth of Pennsylvania a personal care home or hold itself out to do so without having first obtained a license from the Department of Public Welfare.~~

~~Section 402. Separate license required.~~

~~Separate licenses are required for homes or facilities maintained on separate premises even though they have the same owner or are operated under the same management.~~

~~Section 403. Advice to applicants.~~

~~An agent of the department shall confer with the applicant concerning the inspection and licensing procedure, explaining the scope of the department's standards and regulations and of the various other approvals required in order to obtain a license, and advising the applicant of his option to seek the relocation of all personal care residents currently residing in his home and then to continue in operation as a commercial boarding home.~~

~~Section 404. Licensing procedures.~~

~~The procedures for licensing personal care homes shall~~

~~conform to pertinent regulations published by the department dealing with licensure or approval of facilities, except in those specific respects concerning which this act prescribes different or additional procedures.~~

~~Section 405. Application for a license.~~

~~Every owner desiring to operate a boarding home within the Commonwealth shall file an application for a license with the department and pay the appropriate fee as prescribed herein. The application shall be on a form prescribed, prepared and furnished by the department, and, together with such other information as the department shall require, shall state:~~

~~(1) The name and address of the applicant and of the person who will be the operator of the boarding home, if different from the applicant. If the applicant is a copartnership, association or corporation, the application shall also state the names and addresses of all the partners and officers, as the case may be.~~

~~(2) The location of the boarding home and, if the applicant is a copartnership, association or corporation, the state of organization or incorporation.~~

~~(3) The type and extent of facilities of the boarding home for providing care, service or assistance, including sanitary and fire protection facilities.~~

~~Section 406. License fees.~~

~~The annual fee for a regular license to operate a personal care home shall be as follows:~~

~~(1) Class I — \$30~~

~~(2) Class II — \$75~~

~~(3) Class III — \$125~~

~~The fee for a provisional license, as provided herein, shall be~~

~~one twelfth of the annual fee for a regular license multiplied by the number of months for which the provisional license is issued.~~

~~Section 407. Prelicensure investigation.~~

~~(a) Upon receipt of an application for a license, the department shall cause a thorough investigation to be made as to the qualification of the applicant and, if the applicant is a copartnership, association or corporation, of all the officers or partners, as the case may be, and of the person designated in the application as the proprietor of the boarding home, the adequacy of the facilities of the home to furnish the type of care, services, supervision and assistance specified in the application and by the department, the sanitary and fire protection facilities, the reasonableness of rates charged to boarders and any other matter or thing which the department finds to be reasonable and necessary for the proper operation of a boarding home and the adequate protection of the life, health and safety of the boarders.~~

~~(b) The department shall promulgate rules and regulations necessary to carry out its responsibilities under this act. The department shall further designate and supervise a team, whose responsibility it will be to carry out the departments responsibilities as designated in subsection (a). The members of this team shall be appointed by the secretaries of their respective departments.~~

~~Section 408. Notice of deficiencies.~~

~~When the team has finished its prelicensure investigation, the reports of the various Commonwealth inspectors shall be transmitted to the Department of Health, and to the applicant. The department shall inform the owner in writing of all respects~~

~~1 in which the applicant home is not in compliance with this act,
2 or with appropriate State or local rules or ordinances, and
3 shall inform the applicant of the steps that will be required to
4 bring the home into compliance so that a license can be issued.~~

~~5 Section 409. Issuance of license; term and content of license;
6 — payment of appropriate fee.~~

~~7 (a) The department, when satisfied through its prelicensure
8 investigation, that the applicant for such license, and the
9 proprietor named in the application, if different from the
10 applicant, meets the standards and requirements as set forth in
11 this act or as determined by the department, that the place
12 sought to be used as a boarding home is suitable for such
13 purpose and is properly equipped therefor, and when all
14 requirements of this act have been complied with, shall issue a
15 license to the applicant, upon payment of the appropriate
16 license fee, which shall be paid into the State Treasury through
17 the Department of Revenue.~~

~~18 (b) All licenses issued by the department under this act
19 shall expire one year next following the day on which issued,
20 shall be on a form prescribed by the department, shall not be
21 transferable with respect to either the applicant or the
22 facility, shall specify the maximum number of boarders who may
23 be cared for in the facility at any one time, shall be posted in
24 a conspicuous place on the premises used as a boarding home, and
25 may be renewed from year to year upon payment of the license fee
26 as prescribed in this act.~~

~~27 (c) The department may, upon its own initiative, and shall
28 upon written complaint, cause a reinvestigation to be made of
29 any boarding home prior to issuing a renewal of the original
30 license.~~

~~Section 410. Provisional licenses.~~

~~(a) When there has been substantial but not complete compliance with all applicable statutes, ordinances and regulations and when the applicant has taken, or is taking appropriate steps to correct deficiencies, the department shall issue a provisional license for a specified period of not more than six months which may be renewed once.~~

~~(b) A provisional license shall be issued upon payment of the appropriate provisional license fee, such fee not being applied toward a regular license or another provisional license. Upon full compliance, a regular license shall be issued immediately by the department upon payment of the regular license fee.~~

~~(c) The department shall be responsible for providing technical assistance and advice to those persons who are eligible, or who desire to become eligible, for such a provisional license to correct deficiencies, fulfill the requirements of all applicable statutes, ordinances and regulations and to achieve eligibility for a provisional, and, ultimately, for a regular license.~~

~~Section 411. Time limit on consideration of application.~~

~~The department shall make a decision on each application for license and shall notify the applicant of its decision within 60 days of the receipt of the application. The department shall make a decision on each renewal application and shall notify the applicant of its decision within 30 days of the receipt of the renewal application.~~

~~Section 412. Revocation of licenses.~~

~~(a) Whenever the department shall, upon inspection, investigation or written complaint, learn of any violation of~~

~~this act or of the rules and regulations adopted by the department, or of any failure to establish, provide or maintain the standards and facilities required by this act or by the department, shall give written notice to the offending licensee.~~

~~(b) Upon receipt of written notice from the department, the offending licensee shall have 60 days to bring said violations into conformity with those prescribed by this act or by the department. The department may revoke the license of said licensee if said violations do not cease within the prescribed period of time.~~

~~(c) The department, where the violations of which notice was given do not present an imminent danger to the life, health and safety of a boarder or boarders and where the licensee is taking appropriate steps to correct said violations, may grant no more than two additional extensions of time, not to exceed 60 days each, for an offending licensee to correct deficiencies or bring standards and facilities into conformity with the requirements of the law.~~

~~(d) The department, in all instances where it is determined that a license should be revoked, shall have the responsibility of notifying the Department of Public Welfare of such revocation, and it shall be the responsibility of the Department of Public Welfare, in cooperation with the Department of Health, to relocate all residents into facilities meeting the requirements of this act, prior to closing the offending personal care home.~~

~~Section 413. Penalties for operation without a license.~~

~~Any person, or any or all officers or partners of any copartnership, association or corporation maintaining or operating within the Commonwealth of Pennsylvania a boarding~~

~~home, for profit or otherwise, without a license as required by this act shall be guilty of a misdemeanor of the third degree and a second or subsequent violation shall be guilty of a misdemeanor of the first degree.~~

~~Section 414. Training of owners and managers.~~

~~Owners and managers of personal care homes shall meet the ongoing training and educational requirements established in regulations to be promulgated by the Department of Health and the Department of Public Welfare. These regulations shall provide for satisfactory completion of a specially designed program at an accredited higher educational institution, under the supervision of the above departments. Failure to comply within two years after the initiation of such a training program shall be cause for the automatic termination of the license.~~

~~Departmental regulations shall provide in appropriate circumstances for personal care home personnel other than the owner and manager to participate in such training, in lieu of owners and managers.~~

~~Department regulations shall also provide for exceptions to be granted to owners, managers, and personal care home personnel to the above provision for those persons who meet the standards required through a combination of experience in the field and appropriate higher education.~~

~~Section 415. Department access to individual residents.~~

~~For purposes of carrying out its responsibilities under this act, the department or any authorized agent thereof shall have full and free access to the home or facility, to its records, and to the residents, with full opportunity unrestricted by the owner or manager to interview, inspect or examine individual residents.~~

~~Section 416. Rights of residents with regard to access.~~

~~All residents of personal care homes shall be permitted to receive visitations by relatives, friends or acquaintances during reasonable visiting hours as established by the owner or manager. Nothing in this article shall be construed to restrict any right or privilege of any resident to receive visitors who are not authorized agents of the department nor representatives of community organizations or service programs, so long as those visitors do not infringe upon the rights or jeopardize the safety of other residents nor interfere unduly with the orderly operation of the home. Other rights of residents in this regard shall be promulgated in regulations developed by the department.~~

~~Section 417. Community service access.~~

~~The personal care home shall permit members of recognized community organizations, representatives of community legal service programs whose purposes include rendering assistance without charge, and agents of the Department of Public Welfare, including area agencies on aging, county boards of assistance, and community mental health and mental retardation centers, to have access to those areas of the home occupied by residents who are not relatives of the owner or operator. The purpose of visits by such persons may be to visit, talk with, and make personal, social and legal services available to all residents, and to engage in all other methods of assisting, advising and representing residents so as to extend to them the full enjoyment of their rights. Regulations governing community service access shall be promulgated by the department.~~

~~Section 418. Notice of access provisions.~~

~~A notice setting forth the provisions of this article concerning access shall be posted in a conspicuous place near~~

~~the entrance of the home. A copy of sections 410 and 412 shall be made available by the manager to every person already a resident in a personal care home and to every new resident upon admission. The manager shall explain these rights regarding access to every new resident upon admission and keep the resident informed of these rights for the duration of his or her residence.~~

~~Section 419. Enforcement action.~~

~~The department need not be joined as plaintiff in an action brought to enforce these access regulations.~~

~~Section 420. Other rights and privileges of residents.~~

~~(a) The manager shall make available to each resident a written agreement setting forth in specific terms the services to be provided, the basic rate charged for such services, the charges for services (if any) not covered by the basic rate, and the time period during which the agreement is in effect.~~

~~(b) Every resident shall be treated with consideration and respect, and shall be granted privacy in the provision of care for his or her personal needs. Every resident shall be free from coercion, discrimination, harassment, intimidation and reprisal.~~

~~(c) In the case of unanticipated sudden change in the condition of a resident, medications or other measures shall be used only as prescribed by a physician for a limited period of time. If the changed condition of the resident persists or recurs, the resident shall be considered for transfer to a more appropriate facility.~~

~~(d) If married and both spouses are residents of the home, they shall be permitted to share a room for their exclusive use if they so desire.~~

~~(e) The resident may manage his or her own personal~~

~~financial affairs. If at the request of the resident the manager accepts responsibility for the resident's financial affairs, the resident must designate the transfer in writing. The written agreement shall indicate the amount of personal funds provided to the resident for his or her discretionary use. Further, the manager must give the resident a monthly accounting of all financial transactions made on the resident's behalf.~~

~~(f) If the resident appears to be having money management problems but is either unwilling to delegate responsibility for assisting him or her with financial affairs or is unable to identify anyone suitable in the resident's judgment for handling such responsibility, the operator shall report this situation to the department. The department shall, after exploring the circumstances, arrange for a substitute payee if this seems appropriate and shall provide protective services as needed.~~

~~(g) The resident shall be permitted to retain and use his personal clothing and possessions. Individual storage space for such items shall be provided for each resident.~~

~~(h) Individual residents shall be encouraged to do things for themselves and take care of their own needs to the greatest extent feasible and reasonable given their specific capabilities and limitations. All duties and responsibilities of residents for housekeeping or other chores shall be specified in the personal care home's rules and regulations.~~

~~(i) The manager shall pay residents for work they perform which is of consequential economic benefit to the manager or the home. This work shall be paid for according to 29 CFR Part 529 under the Fair Labor Standards Act.~~

~~(j) Each resident shall be permitted to associate and communicate privately with persons of his or her choice. All~~

1 ~~residents shall be permitted to send and receive their personal~~
2 ~~mail unopened and shall have reasonable access to a telephone.~~
3 ~~Residents shall be encouraged to participate in community~~
4 ~~programs and in social and religious activities, and to take~~
5 ~~advantage of community services.~~

6 ~~Section 421. Employees' duty to report.~~

7 ~~Employees of personal care homes shall report to the~~
8 ~~Department of Public Welfare any serious charges of misconduct~~
9 ~~on the part of the operator or other staff, without punishment~~
10 ~~or harassment by the employer.~~

11 ~~Section 422. Duty to report suspected violations.~~

12 ~~(a) The following persons and officials are required to~~
13 ~~report to the department when they have reasonable cause to~~
14 ~~suspect that a boarding home is being operated in violation of~~
15 ~~this act: all officers and employees of any city, county or~~
16 ~~State agency, department, commission or institution. Such~~
17 ~~persons shall include, but not be limited to, police officers,~~
18 ~~fire department employees and adult services workers.~~

19 ~~(b) Any person may make such a report if such person has~~
20 ~~reasonable cause to suspect that a boarding home is being~~
21 ~~operated in violation of this act.~~

22 ~~Section 423. Unlawful referrals and transfers.~~

23 ~~It shall be unlawful for any official or employee, of any~~
24 ~~State, State aided or municipal department, agency, commission,~~
25 ~~or institution or of an institution district to refer or~~
26 ~~transfer any individual to a boarding home if the official or~~
27 ~~employee knows that such home is not licensed as required by~~
28 ~~this act.~~

29 ~~Section 424. Penalty for unlawful referral or transfer.~~

30 ~~Any person who makes a referral or transfers an individual in~~

~~violation of this act shall be guilty of a summary offense and shall be fined \$250 for the first offense, and \$500 for each subsequent offense.~~

~~CHAPTER 5~~

~~MISCELLANEOUS PROVISIONS~~

~~Section 501. Appropriation.~~

~~The sum of \$4,500,000 is hereby appropriated to the Department of Health for the establishment of registration and licensure procedures and for carrying out all services and responsibilities as prescribed in this act. The sum of \$1,500,000 is hereby appropriated to the Department of Public Welfare for the establishment of all services and responsibilities as prescribed in this act.~~

~~Section 502. Right to appeal.~~

~~Any owner or applicant may appeal any decision made by the department which affects designation as a commercial boarding home or licensure as a personal care home, as defined herein, in accordance with the licensure and approval appeal procedure set forth in Department of Public Welfare Manual Section 9000.~~

~~Section 503. Immunity from civil and criminal liability.~~

~~In the absence of willful misconduct or gross negligence, departmental employees or authorized agents of the department performing any of the functions authorized under this act shall not be civilly or criminally liable for a decision, action or its consequences.~~

~~Section 504. Repealer.~~

~~All acts and parts of acts are repealed insofar as they are inconsistent herewith.~~

~~Section 505. Effective date.~~

~~This act shall take effect in 60 days.~~

GENERAL PROVISIONS

SECTION 101. SHORT TITLE.

THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE "PERSONAL CARE BOARDING HOME ACT."

SECTION 102. LEGISLATIVE FINDINGS.

MANY FRAIL ELDERLY OR HANDICAPPED PERSONS IN THE COMMONWEALTH WHO DO NOT HAVE FAMILIES OR RELATIVES TO PROVIDE HOMES FOR THEM NEED SUPPORTIVE LIVING ARRANGEMENTS. IN MOST CASES, THE LEVEL OF CARE, ASSISTANCE AND SUPERVISION THEY REQUIRE IS LOWER, AND LESS COSTLY THAN NURSING CARE. FOR MANY, WHAT IS NEEDED IS A SETTING WHICH FOSTERS THE RETENTION OR DEVELOPMENT OF THE SKILLS AND ATTITUDES WHICH OFTEN ATROPHY OR DO NOT DEVELOP IN A HIGHLY STRUCTURED, INSTITUTIONAL SETTING BUT ARE ENCOURAGED IN FACILITIES THAT RESEMBLE FAMILY HOMES AND THAT DO NOT UPROOT THE RESIDENTS FROM THE COMMUNITY NOR ISOLATE THEM FROM FRIENDS AND ACQUAINTANCES. A NUMBER OF THESE PERSONS CURRENTLY RESIDE IN FACILITIES COMMONLY REFERRED TO AS BOARDING HOMES, OR SIMILAR LODGINGS, WHICH IN MANY CASES ARE NOT PROVIDING THE CARE, ASSISTANCE AND SUPERVISION ACTUALLY REQUIRED. THERE IS AT PRESENT NO EFFECTIVE LICENSING OR REGULATION OF SUCH BOARDING HOMES. INSTANCES OF SEVERE NEGLECT, EXPLOITATION, ABUSE OR IMPRISONMENT HAVE OCCURRED.

SECTION 103. PURPOSE.

THE PURPOSE OF THIS ACT IS TO PROTECT THE COMMONWEALTH'S FRAIL ELDERLY AND HANDICAPPED CITIZENS FROM HAZARDOUS CONDITIONS IN CERTAIN TYPES OF CONGREGATE LIVING FACILITIES. THE ACT SEEKS TO ATTAIN THIS PURPOSE BY CENTRALIZING THE AUTHORITY FOR SETTING AND ENFORCING STANDARDS FOR PERSONAL CARE BOARDING HOMES IN ONE DEPARTMENT; BY MANDATING THE DRAFTING OF REGULATIONS AND

1 STANDARDS WHICH ARE CONSISTENT WITH THE FINDINGS EXPRESSED IN
2 SECTION 102; AND BY PROVIDING FOR THE LICENSING AND REGULATION
3 OF PERSONAL CARE BOARDING HOMES. IT IS FURTHER THE INTENT OF
4 THIS ACT TO INSURE THAT PERSONAL CARE BOARDING HOMES MEET
5 CERTAIN STANDARDS CONSISTENT WITH THE HEALTH CARE AND SOCIAL
6 SERVICE NEEDS OF THEIR RESIDENTS. IN SO DOING IT IS THE INTENT
7 OF THIS ACT TO AVOID THE IMPOSITION OF ARBITRARY, UNNECESSARY,
8 AND UNREASONABLE RULES AND REGULATIONS ON PERSONAL CARE BOARDING
9 HOMES. THE ACT FURTHER INTENDS TO ENCOURAGE THE DEVELOPMENT OF A
10 COMPREHENSIVE CONTINUUM OF LONG TERM CARE, COMPOSING THE FULL
11 RANGE OF HEALTH, HOUSING AND SUPPORTIVE SERVICES, ALL EQUALLY
12 AVAILABLE AND ACCESSIBLE TO THE ELDERLY AND HANDICAPPED CITIZENS
13 OF THE COMMONWEALTH WHO NEED THEM.

14 SECTION 104. DEFINITIONS.

15 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
16 HAVE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE
17 MEANINGS GIVEN TO THEM IN THIS SECTION.

18 "APPLICANT." A PERSON OR LEGAL ENTITY WHO, AS OWNER, HAS
19 APPLIED FOR A LICENSE TO OPERATE A PERSONAL CARE HOME.

20 "DEPARTMENT." THE DEPARTMENT OF HEALTH AND ITS AUTHORIZED
21 AGENTS.

22 "LICENSEE." A PERSON OR LEGAL ENTITY TO WHOM A LICENSE TO
23 OPERATE A PERSONAL CARE HOME HAS BEEN GRANTED.

24 "MANAGER." THE PERSON HAVING ULTIMATE RESPONSIBILITY FOR THE
25 GENERAL MANAGEMENT, DAILY OPERATION AND MAINTENANCE OF A
26 PERSONAL CARE BOARDING HOME.

27 "OWNER." THE PERSON OR LEGAL ENTITY HAVING ULTIMATE
28 FINANCIAL CONTROL OF AND RESPONSIBILITY FOR THE GENERAL
29 OPERATION OF A PERSONAL CARE BOARDING HOME.

30 "PERSONAL CARE BOARDING HOME." ANY FACILITY, HOME, LODGING

1 OR INSTITUTION, HOWEVER NAMED, OPERATED FOR PROFIT OR OTHERWISE,
2 WHICH ACCOMMODATES OR IS DESIGNED TO ACCOMMODATE TWO OR MORE
3 INDIVIDUALS UNRELATED TO THE OWNER OR MANAGER WHO REQUIRE, ON A
4 CONTINUING BASIS, IN ADDITION TO ROOM AND BOARD, A MINIMAL LEVEL
5 OF PERSONAL CARE, SUPERVISION, OR ASSISTANCE IN DAILY ROUTINE
6 ACTIVITIES SUCH AS BATHING, DRESSING, DIET, OR THE TAKING OF
7 MEDICATION PRESCRIBED FOR SELF-ADMINISTRATION, AND WHO MAY ALSO
8 REQUIRE ASSISTANCE IN THE FINANCIAL MANAGEMENT OF HIS PERSONAL
9 AFFAIRS.

10 "PERSONAL CARE RESIDENT." AN INDIVIDUAL WHO IS UNRELATED TO
11 THE OWNER OR MANAGER OF A FACILITY AND WHO REQUIRES, ON A
12 CONTINUING BASIS, IN ADDITION TO ROOM AND BOARD, A MINIMAL LEVEL
13 OF PERSONAL CARE, SUPERVISION, OR ASSISTANCE IN DAILY ROUTINE
14 ACTIVITIES SUCH AS BATHING, DRESSING, DIET, OR THE TAKING OF
15 MEDICATION PRESCRIBED FOR SELF-ADMINISTRATION, AND WHO MAY ALSO
16 REQUIRE ASSISTANCE IN THE FINANCIAL MANAGEMENT OF HIS PERSONAL
17 AFFAIRS.

18 "PERSONNEL, EMPLOYEES, OR STAFF." THE OWNER OR MANAGER AND
19 ALL PERSONS OTHER THAN RESIDENTS, WHETHER PAID OR NOT, WHO
20 REGULARLY PERFORM SOME DUTY OR DUTIES WITHIN THE BOARDING HOME
21 ON A FULL-TIME OR PART-TIME BASIS.

22 "RELATIVE." PARENT, CHILD, STEPPARENT, STEPCHILD,
23 GRANDPARENT, GRANDCHILD, BROTHER, SISTER, HALF-BROTHER, HALF-
24 SISTER, AUNT, UNCLE, NIECE, NEPHEW, COUSIN, SPOUSE, OR ANY OF
25 THE ABOVE ACQUIRED BY MARRIAGE.

26 "UNRELATED." A PERSON WHO IS NOT A RELATIVE OF THE OWNER OR
27 MANAGER BY BLOOD OR MARRIAGE. RESIDENTS RELATED TO MEMBERS OF A
28 FIRM, CORPORATION, COMPANY, ASSOCIATION OR JOINT STOCK
29 ASSOCIATION LICENSED TO OPERATE A FACILITY SHALL NOT BE
30 CONSIDERED AS RELATED TO THE LICENSEE.

1 SECTION 105. POWERS OF THE SECRETARY OF HEALTH.

2 THE SECRETARY OF HEALTH SHALL:

3 (1) PROMULGATE RULES AND REGULATIONS NECESSARY FOR THE
4 ADEQUATE PROTECTION OF THE LIFE, HEALTH AND SAFETY OF
5 PERSONAL CARE HOME RESIDENTS.

6 (2) WITHIN EIGHT MONTHS OF THE PASSAGE OF THIS ACT,
7 PROMULGATE RULES AND REGULATIONS APPLICABLE TO PERSONAL CARE
8 BOARDING HOMES.

9 (3) WITHIN 12 MONTHS OF THE PASSAGE OF THIS ACT,
10 FINALIZE AND PUBLISH ALL RULES AND REGULATIONS PROMULGATED IN
11 ORDER TO CARRY OUT THIS ACT.

12 (4) ASSURE THAT INSPECTORS ENFORCING REGULATIONS UNDER
13 THIS ACT SHALL BE COMPETENT IN ALL AREAS INCLUDED THEREIN SO
14 THAT A SINGLE INSPECTOR WILL BE ABLE TO CONDUCT AND COMPLETE
15 REQUIRED INSPECTIONS UNAIDED.

16 (5) ASSURE THAT THE PROVISIONS OF THIS ACT SHALL BE
17 ENFORCED.

18 (6) SUPPLY STAFF TO THE PERSONAL CARE BOARDING HOME
19 ADVISORY COMMITTEE AS CREATED IN CHAPTER 2 WHEN NECESSARY FOR
20 THE COMPLETION OF THE ADVISORY COMMITTEE'S DUTIES.

21 CHAPTER 2

22 PERSONAL CARE BOARDING HOME ADVISORY COMMITTEE

23 SECTION 201. PERSONAL CARE BOARDING HOME ADVISORY COMMITTEE.

24 IT SHALL BE THE PURPOSE OF THE ADVISORY COMMITTEE TO INSURE
25 THAT RULES AND REGULATIONS GOVERNING PERSONAL CARE BOARDING
26 HOMES SHALL BE CONSISTENT WITH SECTIONS 102 AND 103.

27 SECTION 202. MEMBERSHIP.

28 THE COMMITTEE SHALL BE COMPOSED OF THE SECRETARY OF HEALTH,
29 THE SECRETARY OF PUBLIC WELFARE, THE SECRETARY OF LABOR AND
30 INDUSTRY, THE SECRETARY OF COMMUNITY AFFAIRS OR THEIR DESIGNEES:

1 TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES, ONE OF WHOM SHALL
2 BE APPOINTED BY THE SPEAKER OF THE HOUSE AND THE OTHER BY THE
3 MINORITY LEADER; AND TWO MEMBERS OF THE SENATE, ONE OF WHOM
4 SHALL BE APPOINTED BY THE PRESIDENT PRO TEMPORE OF THE SENATE
5 AND THE OTHER BY THE MINORITY LEADER OF THE SENATE; AND NINE
6 NONGOVERNMENTAL REPRESENTATIVES AS FOLLOWS: THREE
7 REPRESENTATIVES OF CONSUMER INTERESTS, TWO REPRESENTATIVES OF
8 PROPRIETARY PERSONAL CARE BOARDING HOMES, TWO REPRESENTATIVES OF
9 NONPROFIT PERSONAL CARE BOARDING HOMES, AND TWO REPRESENTATIVES
10 OF NONPROFIT VOLUNTARY HEALTH AND SOCIAL AGENCIES.

11 THE NONGOVERNMENTAL REPRESENTATIVES SHALL BE APPOINTED BY THE
12 GOVERNOR IN THE FOLLOWING MANNER: FIVE OF THE NONGOVERNMENTAL
13 REPRESENTATIVES SHALL BE APPOINTED INITIALLY FOR A TERM OF TWO
14 YEARS; FOUR OF THE NONGOVERNMENTAL REPRESENTATIVES SHALL BE
15 APPOINTED INITIALLY FOR A TERM OF FOUR YEARS. THEREAFTER, ALL
16 APPOINTMENTS SHALL BE FOR A TERM OF FOUR YEARS. NO COMMITTEE
17 MEMBER SHALL BE REAPPOINTED MORE THAN ONCE. THE CHAIRMAN SHALL
18 BE APPOINTED BY THE GOVERNOR FROM ONE OF THE NINE
19 NONGOVERNMENTAL MEMBERS.

20 SECTION 203. POWERS OF THE COMMITTEE.

21 THE COMMITTEE SHALL:

22 (1) MEET QUARTERLY, OR AT THE CALL OF THE CHAIR.

23 (2) HOLD PUBLIC HEARINGS.

24 (3) SUBMIT AN ANNUAL REPORT TO THE LEGISLATURE ON THEIR
25 ACTIVITIES, FINDINGS AND RECOMMENDATIONS.

26 (4) MONITOR THE IMPLEMENTATION OF RULES AND REGULATIONS
27 PUBLISHED PURSUANT TO THIS ACT.

28 (5) REVIEW ALL PERTINENT STATUTES AND RULES AND
29 REGULATIONS FOR THE PURPOSE OF ASSISTING THE SECRETARY IN
30 STANDARDIZING AND FORMING RULES AND REGULATIONS THAT WILL BE

1 APPLIED TO PERSONAL CARE BOARDING HOMES PURSUANT TO THIS ACT.

2 (6) STUDY THE NEED FOR EXPANDING AVAILABLE SERVICES FOR
3 RESIDENTS OF PERSONAL CARE BOARDING HOMES, SUCH AS VISITING
4 NURSES AND HOME-MAKER SERVICES.

5 (7) PREPARE, FOR PROMULGATION AS RULES AND REGULATIONS
6 OF THE DEPARTMENT, WITH THE SECRETARY'S APPROVAL, A BILL OF
7 RIGHTS FOR RESIDENTS OF PERSONAL CARE BOARDING HOMES:

8 (I) WHICH SHALL BE ISSUED AS PROPOSED RULES WITHIN
9 EIGHT MONTHS AND ADOPTED AS FINAL RULES AND REGULATIONS
10 WITHIN 12 MONTHS AFTER PASSAGE OF THIS ACT; AND

11 (II) WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, A
12 REQUIREMENT THAT THE OWNER OF A PERSONAL CARE BOARDING
13 HOME DISTRIBUTE A COPY OF SAID RIGHTS TO EACH RESIDENT
14 UPON HIS ADMISSION INTO THE FACILITY AND THAT A COPY OF
15 SAID RIGHTS BE POSTED IN A CONSPICUOUS PLACE WITHIN THE
16 FACILITY.

17 CHAPTER 3

18 PERSONAL CARE BOARDING HOMES

19 SECTION 301. LICENSE REQUIRED.

20 NO PERSON OR LEGAL ENTITY SHALL ESTABLISH, CONDUCT, MAINTAIN
21 OR OPERATE IN THE COMMONWEALTH OF PENNSYLVANIA A PERSONAL CARE
22 BOARDING HOME WITHOUT HAVING FIRST OBTAINED A LICENSE FROM THE
23 DEPARTMENT OF HEALTH.

24 SECTION 302. SEPARATE LICENSE REQUIRED.

25 SEPARATE LICENSES ARE REQUIRED FOR HOMES OR FACILITIES
26 MAINTAINED ON SEPARATE PREMISES EVEN THOUGH THEY HAVE THE SAME
27 OWNER OR ARE OPERATED UNDER THE SAME MANAGEMENT.

28 SECTION 303. ADVERTISEMENT OF LICENSURE REQUIREMENT.

29 IT SHALL BE THE DEPARTMENT'S RESPONSIBILITY, IMMEDIATELY
30 FOLLOWING THE EFFECTIVE DATE OF THIS ACT, AND ON A CONTINUING

1 BASIS THEREAFTER, TO ADVERTISE THE LICENSURE REQUIREMENT AND TO
2 INFORM ALL KNOWN PERSONAL CARE BOARDING HOMES OF IT.

3 SECTION 304. APPLICATION FOR A LICENSE.

4 EVERY OWNER DESIRING TO OPERATE A PERSONAL CARE BOARDING HOME
5 WITHIN THE COMMONWEALTH SHALL WITHIN 12 MONTHS FOLLOWING THE
6 ADOPTION OF FINAL RULES AND REGULATIONS PURSUANT TO THIS ACT,
7 FILE AN APPLICATION FOR A LICENSE WITH THE DEPARTMENT. THE
8 APPLICATION SHALL BE ON A FORM PRESCRIBED, PREPARED AND
9 FURNISHED BY THE DEPARTMENT, AND, TOGETHER WITH SUCH OTHER
10 INFORMATION AS THE DEPARTMENT SHALL REQUIRE, SHALL STATE:

11 (1) THE NAME AND ADDRESS OF THE APPLICANT AND OF THE
12 PERSON WHO WILL BE THE OPERATOR OF THE PERSONAL CARE BOARDING
13 HOME, IF DIFFERENT FROM THE APPLICANT. IF THE APPLICANT IS A
14 COPARTNERSHIP, ASSOCIATION OR CORPORATION, THE APPLICATION
15 SHALL ALSO STATE THE NAMES AND ADDRESSES OF ALL THE PARTNERS
16 AND OFFICERS, AS THE CASE MAY BE.

17 (2) THE LOCATION AND NAME OF THE PERSONAL CARE BOARDING
18 HOME AND, IF THE APPLICANT IS A COPARTNERSHIP, ASSOCIATION OR
19 CORPORATION, THE STATE OF ORGANIZATION OR INCORPORATION.

20 (3) THE TYPE AND EXTENT OF FACILITIES OF THE PERSONAL
21 CARE BOARDING HOME FOR PROVIDING CARE, SERVICE OR ASSISTANCE,
22 INCLUDING SANITARY AND FIRE PROTECTION FACILITIES.

23 (4) THE MAXIMUM NUMBER OF PERSONAL CARE RESIDENTS WHO
24 MAY BE CARED FOR IN THE FACILITY AT ANY ONE TIME.

25 SECTION 305. PENALTY FOR FAILURE TO APPLY FOR A LICENSE.

26 ANY OWNER OF A PERSONAL CARE BOARDING HOME WHO FAILS TO APPLY
27 FOR A PERSONAL CARE BOARDING HOME LICENSE WITH THE DEPARTMENT
28 WITHIN 12 MONTHS FOLLOWING THE ADOPTION OF FINAL RULES AND
29 REGULATIONS PURSUANT TO THIS ACT SHALL BE LIABLE TO BE CHARGED
30 WITH A MISDEMEANOR OF THE THIRD DEGREE. IF UPON NOTICE OF

1 FAILURE TO APPLY FOR A LICENSE THE OWNER FAILS TO APPLY WITHIN
2 30 DAYS, HE OR SHE SHALL BE LIABLE TO BE CHARGED WITH A
3 MISDEMEANOR OF THE FIRST DEGREE AND SHALL BE PROSECUTED BY THE
4 DEPARTMENT.

5 SECTION 306. EXEMPTIONS FROM PENALTIES FOR OPERATING A PERSONAL
6 CARE BOARDING HOME WITHOUT A LICENSE.

7 AN OWNER OF A FACILITY IN WHICH RESIDE TWO OR MORE PERSONAL
8 CARE RESIDENTS WILL NOT BE CONSIDERED AS OPERATING A PERSONAL
9 CARE BOARDING HOME WITHOUT A LICENSE AND WILL NOT BE SUBJECT TO
10 THE PENALTIES FOR OPERATING SAID FACILITY WITHOUT A LICENSE
11 UNDER THE FOLLOWING CIRCUMSTANCES:

12 (1) IF, WITHIN 12 MONTHS FOLLOWING THE ADOPTION OF FINAL
13 REGULATIONS BY THE DEPARTMENT PURSUANT TO THIS ACT, THE OWNER
14 HAS NOTIFIED THE DEPARTMENT THAT:

15 (I) THERE ARE PERSONAL CARE RESIDENTS LIVING WITHIN
16 THE FACILITY;

17 (II) HE DOES NOT INTEND TO APPLY FOR A LICENSE TO
18 OPERATE A PERSONAL CARE BOARDING HOME; AND

19 (III) HE WILL COOPERATE WITH THE DEPARTMENT IN
20 RELOCATING THESE PERSONAL CARE RESIDENTS TO AN
21 APPROPRIATE FACILITY. HOWEVER, SUCH EXEMPTION SHALL
22 EXPIRE 12 MONTHS FOLLOWING THE ADOPTION OF FINAL
23 REGULATIONS BY THE DEPARTMENT PURSUANT TO THIS ACT; OR

24 (2) IF THE OWNER OF A FACILITY HAS APPLIED FOR A LICENSE
25 TO OPERATE A PERSONAL CARE BOARDING HOME IN ACCORDANCE WITH
26 THE REGULATIONS ESTABLISHED BY THE DEPARTMENT AND IS AWAITING
27 A PRELICENSURE INVESTIGATION AND REPORT BY THE DEPARTMENT.

28 HOWEVER, SUCH EXEMPTION SHALL EXPIRE SIX MONTHS FOLLOWING THE
29 RECEIPT OF THE REPORT.

30 SECTION 307. RELOCATION OF PERSONAL CARE RESIDENTS PURSUANT TO

1 A REPORT MADE IN SECTION 306.

2 UPON RECEIPT OF A REPORT BY AN OWNER OF A FACILITY, AS
3 PROVIDED FOR IN SECTION 306, THE DEPARTMENT SHALL HAVE THE
4 RESPONSIBILITY FOR RELOCATING PERSONAL CARE RESIDENTS IN THE
5 FACILITY AND FOR PROVIDING APPROPRIATE SERVICES TO THE RESIDENTS
6 PRIOR TO THEIR RELOCATION.

7 SECTION 308. LICENSE FEES.

8 THE ANNUAL FEE FOR A REGULAR LICENSE TO OPERATE A PERSONAL
9 CARE BOARDING HOME SHALL BE AS FOLLOWS:

10	CLASS OF PERSONAL CARE	ANNUAL
11	BOARDING HOME	FEE
12	CLASS I - MAXIMUM CAPACITY BETWEEN	
13	2-14 PERSONAL CARE RESIDENTS	\$15
14	CLASS II - MAXIMUM CAPACITY BETWEEN	
15	15-50 PERSONAL CARE RESIDENTS	\$25
16	CLASS III - MAXIMUM CAPACITY 51 OR MORE	
17	PERSONAL CARE RESIDENTS	\$75

18 THE FEE FOR A PROVISIONAL LICENSE, AS PROVIDED HEREIN, SHALL BE
19 ONE-TWELFTH OF THE ANNUAL FEE FOR A REGULAR LICENSE MULTIPLIED
20 BY THE NUMBER OF MONTHS FOR WHICH THE PROVISIONAL LICENSE IS
21 ISSUED.

22 SECTION 309. PRELICENSURE INVESTIGATION.

23 (A) WITHIN 90 DAYS OF RECEIPT OF AN APPLICATION FOR A
24 LICENSE, THE DEPARTMENT SHALL CAUSE A REASONABLE INVESTIGATION
25 TO BE MADE AS TO THE QUALIFICATION OF THE APPLICANT AND, IF THE
26 APPLICANT IS A COPARTNERSHIP, ASSOCIATION OR CORPORATION, OF ALL
27 THE OFFICERS OR PARTNERS, AS THE CASE MAY BE, AND OF THE PERSON
28 DESIGNATED IN THE APPLICATION AS THE PROPRIETOR OF THE PERSONAL
29 CARE BOARDING HOME; THE ADEQUACY OF THE FACILITIES OF THE HOME
30 TO FURNISH THE TYPE OF CARE, SERVICES, SUPERVISION AND

1 ASSISTANCE SPECIFIED IN THE APPLICATION AND BY THE DEPARTMENT;
2 THE SANITARY AND FIRE PROTECTION FACILITIES; AND ANY OTHER
3 MATTER WHICH THE DEPARTMENT FINDS TO BE REASONABLE AND NECESSARY
4 FOR THE PROPER OPERATION OF A PERSONAL CARE BOARDING HOME AND
5 FOR THE ADEQUATE PROTECTION OF THE LIFE, HEALTH AND SAFETY OF
6 THE PERSONAL CARE RESIDENTS.

7 (B) THE DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS
8 NECESSARY TO CARRY OUT ITS RESPONSIBILITIES UNDER THIS ACT.

9 SECTION 310. NOTICE OF DEFICIENCIES.

10 WHEN THE DEPARTMENT HAS FINISHED ITS PRELICENSURE
11 INVESTIGATION, A REPORT OF ITS FINDINGS SHALL BE TRANSMITTED TO
12 THE APPLICANT WITHIN 90 DAYS AFTER COMPLETION OF THE
13 PRELICENSURE INVESTIGATION. THE DEPARTMENT SHALL INFORM THE
14 OWNER IN WRITING OF ALL RESPECTS IN WHICH THE HOME IS NOT IN
15 COMPLIANCE WITH THIS ACT, OR WITH APPROPRIATE STATE OR LOCAL
16 RULES OR ORDINANCES, AND SHALL INFORM THE APPLICANT OF THE STEPS
17 THAT WILL BE REQUIRED TO BRING THE HOME INTO COMPLIANCE SO THAT
18 A LICENSE CAN BE ISSUED.

19 SECTION 311. ISSUANCE OF LICENSE; TERM AND CONTENT OF LICENSE;
20 PAYMENT OF APPROPRIATE FEE.

21 (A) THE DEPARTMENT, WHEN SATISFIED THROUGH ITS PRELICENSURE
22 INVESTIGATION, THAT THE APPLICANT FOR SUCH LICENSE, AND THE
23 PROPRIETOR NAMED IN THE APPLICATION, IF DIFFERENT FROM THE
24 APPLICANT, MEETS THE STANDARDS AND REQUIREMENTS AS SET FORTH IN
25 THIS ACT OR AS DETERMINED BY THE DEPARTMENT, THAT THE PLACE
26 SOUGHT TO BE USED AS A PERSONAL CARE BOARDING HOME IS SUITABLE
27 FOR SUCH PURPOSE AND IS PROPERLY EQUIPPED THEREFOR, AND WHEN ALL
28 REQUIREMENTS OF THIS ACT HAVE BEEN COMPLIED WITH, SHALL WITHIN
29 90 DAYS AFTER THE COMPLETION OF A PRELICENSURE INVESTIGATION,
30 ISSUE A LICENSE TO THE APPLICANT, UPON PAYMENT OF THE

1 APPROPRIATE LICENSE FEE, WHICH SHALL BE PAID INTO THE STATE
2 TREASURY THROUGH THE DEPARTMENT OF REVENUE.

3 (B) ALL LICENSES ISSUED BY THE DEPARTMENT UNDER THIS ACT
4 SHALL EXPIRE ONE YEAR NEXT FOLLOWING THE DAY ON WHICH ISSUED,
5 SHALL BE ON A FORM PRESCRIBED BY THE DEPARTMENT, SHALL NOT BE
6 TRANSFERABLE WITH RESPECT TO EITHER THE APPLICANT OR THE
7 FACILITY, SHALL SPECIFY THE MAXIMUM NUMBER OF PERSONAL CARE
8 RESIDENTS WHO MAY BE CARED FOR IN THE FACILITY AT ANY ONE TIME,
9 SHALL BE POSTED IN A CONSPICUOUS PLACE ON THE PREMISES USED AS A
10 PERSONAL CARE BOARDING HOME, AND MAY BE RENEWED FROM YEAR TO
11 YEAR UPON PAYMENT OF THE LICENSE FEE AS PRESCRIBED IN THIS ACT.

12 (C) THE DEPARTMENT MAY, UPON ITS OWN INITIATIVE, AND SHALL
13 UPON WRITTEN COMPLAINT, CAUSE A REINVESTIGATION TO BE MADE OF
14 ANY PERSONAL CARE BOARDING HOME PRIOR TO ISSUING A RENEWAL OF
15 THE ORIGINAL LICENSE.

16 SECTION 312. PROVISIONAL LICENSES.

17 (A) WHEN THERE HAS BEEN SUBSTANTIAL BUT NOT COMPLETE
18 COMPLIANCE WITH ALL APPLICABLE STATUTES, ORDINANCES AND
19 REGULATIONS AND WHEN THE APPLICANT HAS TAKEN, OR IS TAKING
20 APPROPRIATE STEPS TO CORRECT DEFICIENCIES, THE DEPARTMENT SHALL
21 ISSUE A PROVISIONAL LICENSE FOR A SPECIFIED PERIOD OF NOT MORE
22 THAN SIX MONTHS WHICH MAY BE RENEWED ONCE.

23 (B) A PROVISIONAL LICENSE SHALL BE ISSUED UPON PAYMENT OF
24 THE APPROPRIATE PROVISIONAL LICENSE FEE, SUCH FEE NOT BEING
25 APPLIED TOWARD A REGULAR LICENSE OR ANOTHER PROVISIONAL LICENSE.
26 UPON FULL COMPLIANCE, A REGULAR LICENSE SHALL BE ISSUED
27 IMMEDIATELY BY THE DEPARTMENT UPON PAYMENT OF THE REGULAR
28 LICENSE FEE.

29 (C) THE DEPARTMENT SHALL BE RESPONSIBLE FOR PROVIDING
30 TECHNICAL ASSISTANCE AND ADVICE TO THOSE PERSONS WHO ARE

1 ELIGIBLE, OR WHO DESIRE TO BECOME ELIGIBLE, FOR SUCH A
2 PROVISIONAL LICENSE TO CORRECT DEFICIENCIES, FULFILL THE
3 REQUIREMENTS OF ALL APPLICABLE STATUTES, ORDINANCES AND
4 REGULATIONS AND TO ACHIEVE ELIGIBILITY FOR A PROVISIONAL, AND,
5 ULTIMATELY, FOR A REGULAR LICENSE.

6 SECTION 313. TIME LIMIT ON CONSIDERATION OF APPLICATION.

7 TWO YEARS FOLLOWING THE EFFECTIVE DATE OF THIS ACT, THE
8 DEPARTMENT SHALL MAKE A DECISION ON EACH APPLICATION FOR LICENSE
9 AND SHALL NOTIFY THE APPLICANT OF ITS DECISION WITHIN 90 DAYS OF
10 THE RECEIPT OF THE APPLICATION. THE DEPARTMENT SHALL MAKE A
11 DECISION ON EACH RENEWAL APPLICATION AND SHALL NOTIFY THE
12 APPLICANT OF ITS DECISION WITHIN 30 DAYS OF THE RECEIPT OF THE
13 RENEWAL APPLICATION.

14 SECTION 314. REVOCATION OF LICENSES.

15 (A) WHENEVER THE DEPARTMENT SHALL, UPON INSPECTION,
16 INVESTIGATION OR WRITTEN COMPLAINT, LEARN OF ANY VIOLATION OF
17 THIS ACT OR OF THE RULES AND REGULATIONS ADOPTED BY THE
18 DEPARTMENT, OR OF ANY FAILURE TO ESTABLISH, PROVIDE OR MAINTAIN
19 THE STANDARDS AND FACILITIES REQUIRED BY THIS ACT OR BY THE
20 DEPARTMENT, SHALL GIVE WRITTEN NOTICE TO THE OFFENDING LICENSEE.

21 (B) UPON RECEIPT OF WRITTEN NOTICE FROM THE DEPARTMENT, THE
22 OFFENDING LICENSEE SHALL HAVE 60 DAYS TO BRING SAID VIOLATIONS
23 INTO CONFORMITY WITH THOSE PRESCRIBED BY THIS ACT OR BY THE
24 DEPARTMENT. THE DEPARTMENT MAY REVOKE THE LICENSE OF SAID
25 LICENSEE IF SAID VIOLATIONS DO NOT CEASE WITHIN THE PRESCRIBED
26 PERIOD OF TIME.

27 (C) THE DEPARTMENT, WHERE THE VIOLATIONS OF WHICH NOTICE WAS
28 GIVEN DO NOT PRESENT AN IMMINENT DANGER TO THE LIFE, HEALTH AND
29 SAFETY OF A BOARDER OR BOARDERS AND WHERE THE LICENSEE IS TAKING
30 APPROPRIATE STEPS TO CORRECT SAID VIOLATIONS, MAY GRANT NO MORE

1 THAN TWO ADDITIONAL EXTENSIONS OF TIME, NOT TO EXCEED 60 DAYS
2 EACH, FOR AN OFFENDING LICENSEE TO CORRECT DEFICIENCIES OR BRING
3 STANDARDS AND FACILITIES INTO CONFORMITY WITH THE REQUIREMENTS
4 OF THE LAW.

5 (D) THE DEPARTMENT, WHERE THE VIOLATIONS OF WHICH NOTICE WAS
6 GIVEN DO NOT PRESENT AN IMMINENT DANGER TO THE LIFE, HEALTH AND
7 SAFETY OF A BOARDER OR BOARDERS, MAY, IN LIEU OF REVOCATION OF
8 THE FACILITY'S LICENSE, IMPOSE FINES FOR SAID VIOLATIONS, NOT TO
9 EXCEED \$1,000 PER VIOLATION, AS IT MAY DEEM APPROPRIATE, AND IN
10 PURSUANCE OF RULES AND REGULATIONS PUBLISHED BY THE DEPARTMENT
11 IN FURTHERANCE OF THE PURPOSES OF THIS ACT.

12 (E) WHENEVER THE DEPARTMENT SHALL, UPON INSPECTION, OR
13 INVESTIGATION LEARN OF A VIOLATION OF THIS ACT OR OF THE RULES
14 AND REGULATIONS ADOPTED BY THE DEPARTMENT THAT PRESENTS EXTREME
15 JEOPARDY OR IMMINENT DANGER TO THE LIFE, HEALTH AND SAFETY OF A
16 PERSONAL CARE RESIDENT OR RESIDENTS, SHALL REVOKE THE LICENSE OF
17 SAID FACILITY IMMEDIATELY.

18 (F) THE DEPARTMENT, IN ALL INSTANCES WHERE IT IS DETERMINED
19 THAT A LICENSE SHOULD BE REVOKED, SHALL HAVE THE RESPONSIBILITY
20 FOR PROVIDING FOR THE TRANSFER OF ALL PERSONAL CARE RESIDENTS IN
21 THE FACILITY TO BE CLOSED TO APPROPRIATE FACILITIES AND FOR
22 PROVIDING ADEQUATE CARE TO THE PERSONAL CARE RESIDENTS OF THE
23 FACILITY PRIOR TO RELOCATION.

24 SECTION 315. RIGHT TO ENTER AND INSPECT.

25 FOR THE PURPOSES OF DETERMINING THE SUITABILITY OF THE
26 APPLICANTS AND OF THE PREMISES OR WHETHER OR NOT ANY PREMISES IN
27 FACT QUALIFIES AS A FACILITY AS DEFINED IN SECTION 105 OF THIS
28 ACT OR THE CONTINUING CONFORMITY OF THE LICENSEES TO THIS ACT
29 AND TO THE APPLICABLE REGULATIONS OF THE DEPARTMENT, ANY
30 AUTHORIZED AGENT OF THE DEPARTMENT SHALL HAVE THE RIGHT TO

1 ENTER, VISIT AND INSPECT ANY FACILITY, LICENSED OR REQUIRING A
2 LICENSE UNDER THIS ACT AND SHALL HAVE FULL AND FREE ACCESS TO
3 THE RECORDS OF THE FACILITY AND TO THE INDIVIDUALS THEREIN AND
4 FULL OPPORTUNITY TO INTERVIEW, INSPECT, OR EXAMINE SUCH
5 INDIVIDUALS.

6 SECTION 316. PENALTIES FOR OPERATION WITHOUT A LICENSE.

7 ANY PERSON, OR ANY OR ALL OFFICERS OR PARTNERS OF ANY
8 COPARTNERSHIP, ASSOCIATION OR CORPORATION MAINTAINING OR
9 OPERATING WITHIN THE COMMONWEALTH OF PENNSYLVANIA A PERSONAL
10 CARE BOARDING HOME, FOR PROFIT OR OTHERWISE, WITHOUT A LICENSE
11 AS REQUIRED BY THIS ACT SHALL BE GUILTY OF A MISDEMEANOR OF THE
12 THIRD DEGREE AND A SECOND OR SUBSEQUENT VIOLATION SHALL BE
13 GUILTY OF A MISDEMEANOR OF THE FIRST DEGREE.

14 SECTION 317. RIGHT TO APPEAL.

15 ANY OWNER OR APPLICANT MAY APPEAL ANY DECISION MADE BY THE
16 DEPARTMENT IN ACCORDANCE WITH APPEAL PROCEDURES ESTABLISHED IN
17 REGULATIONS PROMULGATED BY THE DEPARTMENT PURSUANT TO THIS ACT.

18 SECTION 318. DEPARTMENT ACCESS TO INDIVIDUAL RESIDENTS.

19 FOR PURPOSES OF CARRYING OUT ITS RESPONSIBILITIES UNDER THIS
20 ACT, THE DEPARTMENT OR ANY AUTHORIZED AGENT THEREOF SHALL HAVE
21 FULL AND FREE ACCESS TO THE PERSONAL CARE BOARDING HOME, WHETHER
22 OR NOT THE FACILITY HAS BEEN LICENSED AS SUCH, TO ITS RECORDS,
23 AND TO THE RESIDENTS, WITH FULL OPPORTUNITY UNRESTRICTED BY THE
24 OWNER OR MANAGER TO INTERVIEW, INSPECT OR EXAMINE INDIVIDUAL
25 RESIDENTS.

26 SECTION 319. RIGHTS OF RESIDENTS WITH REGARD TO ACCESS.

27 ALL RESIDENTS OF PERSONAL CARE BOARDING HOMES SHALL BE
28 PERMITTED TO RECEIVE VISITATIONS BY RELATIVES, FRIENDS OR
29 ACQUAINTANCES DURING REASONABLE VISITING HOURS AS ESTABLISHED BY
30 THE OWNER OR MANAGER. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED

1 TO RESTRICT ANY RIGHT OR PRIVILEGE OF ANY RESIDENT TO RECEIVE
2 VISITORS WHO ARE NOT AUTHORIZED AGENTS OF THE DEPARTMENT NOR
3 REPRESENTATIVES OF COMMUNITY ORGANIZATIONS OR SERVICE PROGRAMS,
4 SO LONG AS THOSE VISITORS DO NOT INFRINGE UPON THE RIGHTS OR
5 JEOPARDIZE THE SAFETY OF OTHER RESIDENTS NOR INTERFERE UNDULY
6 WITH THE ORDERLY OPERATION OF THE HOME. OTHER RIGHTS OF
7 RESIDENTS IN THIS REGARD SHALL BE PROMULGATED IN REGULATIONS
8 DEVELOPED BY THE DEPARTMENT.

9 SECTION 320. COMMUNITY SERVICE ACCESS.

10 THE PERSONAL CARE BOARDING HOME SHALL PERMIT MEMBERS OF
11 RECOGNIZED COMMUNITY ORGANIZATIONS, REPRESENTATIVES OF COMMUNITY
12 LEGAL SERVICE PROGRAMS WHOSE PURPOSES INCLUDE RENDERING
13 ASSISTANCE WITHOUT CHARGE, AND AGENTS OF AREA AGENCIES ON AGING,
14 COUNTY BOARDS OF ASSISTANCE, AND COMMUNITY MENTAL HEALTH AND
15 MENTAL RETARDATION CENTERS, TO HAVE ACCESS TO THOSE AREAS OF THE
16 HOME OCCUPIED BY RESIDENTS WHO ARE NOT RELATIVES OF THE OWNER OR
17 OPERATOR. THE PURPOSE OF VISITS BY SUCH PERSONS MAY BE TO VISIT,
18 TALK WITH, AND MAKE PERSONAL, SOCIAL AND LEGAL SERVICES
19 AVAILABLE TO ALL RESIDENTS, AND TO ENGAGE IN ALL OTHER METHODS
20 OF ASSISTING, ADVISING AND REPRESENTING RESIDENTS SO AS TO
21 EXTEND TO THEM THE FULL ENJOYMENT OF THEIR RIGHTS. REGULATIONS
22 GOVERNING COMMUNITY SERVICE ACCESS SHALL BE PROMULGATED BY THE
23 DEPARTMENT.

24 SECTION 321. NOTICE OF ACCESS PROVISIONS.

25 A NOTICE SETTING FORTH THE PROVISIONS OF THIS ARTICLE
26 CONCERNING ACCESS SHALL BE POSTED IN A CONSPICUOUS PLACE NEAR
27 THE ENTRANCE OF THE HOME. A COPY OF SECTIONS OF THIS ACT
28 RELATING TO ACCESS SHALL BE MADE AVAILABLE BY THE MANAGER TO
29 EVERY PERSON ALREADY A RESIDENT IN A PERSONAL CARE BOARDING HOME
30 AND TO EVERY NEW RESIDENT UPON ADMISSION. THE MANAGER SHALL

1 EXPLAIN THESE RIGHTS REGARDING ACCESS TO EVERY NEW RESIDENT UPON
2 ADMISSION AND KEEP THE RESIDENT INFORMED OF THESE RIGHTS FOR THE
3 DURATION OF HIS OR HER RESIDENCE.

4 SECTION 322. ENFORCEMENT POWERS.

5 FAILURE BY THE OWNER, MANAGER, OR EMPLOYEES OF A FACILITY TO
6 ALLOW ACCESS OF AGENTS OF THE DEPARTMENT OR COMMUNITY SERVICES
7 AGENCIES TO SAID FACILITY IN COMPLIANCE WITH THIS ACT SHALL BE
8 PUNISHABLE AS A MISDEMEANOR OF THE THIRD DEGREE.

9 SECTION 323. ENFORCEMENT ACTION.

10 THE DEPARTMENT NEED NOT BE JOINED AS PLAINTIFF IN AN ACTION
11 BROUGHT TO ENFORCE THESE ACCESS REGULATIONS.

12 SECTION 324. DUTY TO REPORT SUSPECTED VIOLATIONS.

13 (A) THE FOLLOWING PERSONS AND OFFICIALS ARE REQUIRED TO
14 REPORT TO THE DEPARTMENT WHEN THEY HAVE REASONABLE CAUSE TO
15 SUSPECT THAT A PERSONAL CARE BOARDING HOME IS BEING OPERATED IN
16 VIOLATION OF THIS ACT: ALL OFFICERS AND EMPLOYEES OF ANY CITY,
17 COUNTY OR STATE AGENCY, DEPARTMENT, COMMISSION OR INSTITUTION,
18 INCLUDING BUT NOT LIMITED TO, POLICE OFFICERS, FIRE DEPARTMENT
19 EMPLOYEES, ADULT SERVICES WORKERS AND EMPLOYEES OF PERSONAL CARE
20 BOARDING HOMES.

21 (B) ANY PERSON MAY MAKE SUCH A REPORT IF SUCH PERSON HAS
22 REASONABLE CAUSE TO SUSPECT THAT A PERSONAL CARE BOARDING HOME
23 IS BEING OPERATED IN VIOLATION OF THIS ACT.

24 SECTION 325. UNLAWFUL REFERRALS AND TRANSFERS.

25 IT SHALL BE UNLAWFUL FOR ANY OFFICIAL OR EMPLOYEE, OF ANY
26 STATE, STATE-AIDED OR MUNICIPAL DEPARTMENT, AGENCY, COMMISSION,
27 OR INSTITUTION OR OF AN INSTITUTION DISTRICT TO REFER OR
28 TRANSFER ANY INDIVIDUAL TO A PERSONAL CARE BOARDING HOME IF THE
29 OFFICIAL OR EMPLOYEE KNOWS THAT SUCH HOME IS NOT LICENSED AS
30 REQUIRED BY THIS ACT.

1 SECTION 326. PENALTY FOR UNLAWFUL REFERRAL OR TRANSFER.

2 ANY PERSON WHO KNOWINGLY MAKES A REFERRAL OR TRANSFERS AN
3 INDIVIDUAL IN VIOLATION OF THIS ACT SHALL BE GUILTY OF A SUMMARY
4 OFFENSE AND SHALL BE FINED \$250 FOR THE FIRST OFFENSE, AND
5 \$1,000 FOR EACH SUBSEQUENT OFFENSE.

6 CHAPTER 4

7 MISCELLANEOUS PROVISIONS

8 SECTION 401. APPROPRIATION.

9 THE SUM OF \$6,000,000 IS HEREBY APPROPRIATED TO THE
10 DEPARTMENT OF HEALTH FOR THE ESTABLISHMENT OF LICENSURE
11 PROCEDURES AND FOR CARRYING OUT ALL SERVICES AND
12 RESPONSIBILITIES AS PRESCRIBED IN THIS ACT.

13 SECTION 402. DISPOSITION OF FUNDS.

14 ALL FEES, FINES, PENALTIES, AND OTHER MONEYS PAID, RECEIVED,
15 RECOVERED AND COLLECTED UNDER THE PROVISIONS OF THIS ACT SHALL
16 BE PAID INTO THE STATE TREASURY AND SHALL BE RETURNED TO THE
17 GENERAL FUND.

18 SECTION 403. IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY.

19 IN THE ABSENCE OF WILLFUL MISCONDUCT OR GROSS NEGLIGENCE,
20 DEPARTMENTAL EMPLOYEES OR AUTHORIZED AGENTS OF THE DEPARTMENT
21 PERFORMING ANY OF THE FUNCTIONS AUTHORIZED UNDER THIS ACT SHALL
22 NOT BE CIVILLY OR CRIMINALLY LIABLE FOR A DECISION, ACTION OR
23 ITS CONSEQUENCES.

24 SECTION 404. APPLICATION OF SPECIAL OCCUPANCY REGULATIONS.

25 AS OF THE EFFECTIVE DATE OF THIS ACT, THE SPECIAL OCCUPANCY
26 BOARDING HOME RULES AND REGULATIONS OF THE ACT OF APRIL 27, 1927
27 (P.L.465, NO.299), REFERRED TO AS THE FIRE AND PANIC ACT SHALL
28 NOT APPLY TO PERSONAL CARE BOARDING HOMES.

29 SECTION 405. RESPONSIBILITIES OF THE DEPARTMENT OF
30 PUBLIC WELFARE.

1 (A) THE DEPARTMENT OF PUBLIC WELFARE SHALL, COMMENCING WITH
2 THE 13TH MONTH AFTER THE EFFECTIVE DATE OF THIS ACT, INCLUDE
3 WITHIN THE "COMPREHENSIVE ANNUAL SERVICES PROGRAM PLAN" A
4 SPECIFIC SECTION DEFINING SERVICES FOR RESIDENTS OF LICENSED
5 PERSONAL CARE BOARDING HOMES AND ESTIMATING THE AMOUNT TO BE
6 SPENT. THE DEPARTMENT OF PUBLIC WELFARE SHALL SUBMIT SUCH
7 SECTION TO THE SECRETARY OF HEALTH PRIOR TO ITS INCLUSION IN THE
8 PLAN FOR HIS REVIEW AND COMMENT.

9 (B) WITHIN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ACT
10 AND ON A CONTINUING BASIS THEREAFTER, THE DEPARTMENT OF PUBLIC
11 WELFARE SHALL SUBMIT TO THE DEPARTMENT OF HEALTH THE NAME AND
12 LOCATION OF ANY FACILITY:

13 (1) WHICH IT HAS REASON TO BELIEVE IS A PERSONAL CARE
14 BOARDING HOME; OR

15 (2) TO WHICH IT HAS REFERRED AN INDIVIDUAL WHO THE
16 DEPARTMENT BELIEVES QUALIFIES AS A PERSONAL CARE RESIDENT.
17 SECTION 406. REPEALS.

18 (A) THE ACT OF APRIL 27, 1927 (P.L.465, NO.299), ENTITLED,
19 AS AMENDED "AN ACT TO PROVIDE FOR THE SAFETY OF PERSONS
20 EMPLOYED, HOUSED, OR ASSEMBLED IN CERTAIN BUILDINGS AND
21 STRUCTURES NOT IN CITIES OF THE FIRST CLASS, SECOND CLASS, AND
22 SECOND CLASS A, BY REQUIRING CERTAIN CONSTRUCTION AND WAYS OF
23 EGRESS, EQUIPMENT, AND MAINTENANCE; PROVIDING FOR THE LICENSING
24 OF PROJECTIONISTS; EXCEPT IN CITIES OF THE FIRST CLASS AND
25 SECOND CLASS; REQUIRING THE SUBMISSION OF PLANS FOR EXAMINATION
26 AND APPROVAL; PROVIDING FOR THE PROMULGATION OF RULES AND
27 REGULATIONS FOR THE ENFORCEMENT OF THIS ACT; PROVIDING FOR THE
28 ENFORCEMENT OF THIS ACT BY THE DEPARTMENT OF LABOR AND INDUSTRY
29 AND, IN CERTAIN CASES, BY THE CHIEFS OF FIRE DEPARTMENTS IN
30 CITIES OF THE THIRD CLASS; PROVIDING PENALTIES FOR VIOLATIONS OF

1 THE PROVISIONS OF THIS ACT; AND REPEALING CERTAIN ACTS," IS
2 REPEALED INsofar AS IT APPLIES TO PERSONAL CARE BOARDING HOMES
3 EXCEPT AS TO THE ENFORCEMENT OF STANDARD C-2 RULES AND
4 REGULATIONS UNTIL JULY 1, 1979; ON JULY 1, 1979, THE POWER TO
5 ENFORCE STANDARD C-2 RULES AND REGULATIONS IS REPEALED INsofar
6 AS IT APPLIES TO PERSONAL CARE BOARDING HOMES.

7 (B) ARTICLES IX AND X, ACT OF JUNE 13, 1967 (P.L.31, NO.21),
8 KNOWN AS THE "PUBLIC WELFARE CODE," ARE REPEALED INsofar AS THEY
9 APPLY TO BOARDING HOMES FOR THE AGED AND HANDICAPPED AND
10 PERSONAL CARE HOMES.

11 (C) ALL ACTS AND PARTS OF ACTS ARE REPEALED INsofar AS THEY
12 ARE INCONSISTENT HEREWITH.

13 SECTION 407. EFFECTIVE DATE.

14 THIS ACT SHALL TAKE EFFECT JULY 1, 1978.