

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2070 Session of
1978

INTRODUCED BY SALVATORE, KATZ, D. M. O'BRIEN, GIAMMARCO, HARPER,
LOGUE, GOEBEL, HOPKINS, MACKOWSKI, PICCOLA, POLITE, TADDONIO,
ZORD AND BURD, FEBRUARY 15, 1978

REFERRED TO COMMITTEE ON APPROPRIATIONS, FEBRUARY 15, 1978

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 a Department of
21 Mental Health and Mental Retardation, defining its powers and
22 duties, transferring State mental institutions and their
23 boards of trustees into the department, transferring certain
24 powers and duties of the Department of Public Welfare and the
25 Secretary of Public Welfare to the Department of Mental
26 Health and Mental Retardation, and making appropriations.

27 The General Assembly of the Commonwealth of Pennsylvania

28 hereby enacts as follows:

29 Section 1. Section 201, act of April 9, 1929 (P.L.177,

1 No.175), known as "The Administrative Code of 1929," amended
2 July 22, 1975 (P.L.75, No.45) and also amended December 19, 1975
3 (P.L.602, No.172), is amended to read:

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

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

1 Police.

2 Section 2. Section 202 of the act is amended, by amending as
3 much thereof as applies to the Department of Public Welfare,
4 amended September 28, 1976 (P.L.1048, No.211), and adding before
5 the last paragraph, a paragraph to read:

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

12 * * *

13 In the Department of Public Welfare,

14 Board of Trustees of The Western Youth Development
15 Centers,

16 Board of Trustees of The Central Youth Development
17 Centers,

18 Board of Trustees of The Eastern Youth Development
19 Centers,

20 [Board of Trustees of Allentown State Hospital,

21 Board of Trustees of Clarks Summit State Hospital,

22 Board of Trustees of Danville State Hospital,

23 Board of Trustees of Embreeville State Hospital,

24 Board of Trustees of Eastern Pennsylvania Psychiatric
25 Institute,

26 Board of Trustees of Farview State Hospital,

27 Board of Trustees of Harrisburg State Hospital,

28 Board of Trustees of Mayview State Hospital,

29 Board of Trustees of Norristown State Hospital,

30 Board of Trustees of Philadelphia State Hospital,

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

1 Board of Trustees of Western Restoration Center,
2 Board of Trustees of South Mountain Restoration Center.

3 * * *

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

1 Board of Trustees of Western Center,

2 Board of Trustees of White Haven Center.

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

6 Section 3. Sections 203 and 206 of the act, section 203
7 amended December 3, 1970 (P.L.834, No.275), and section 206
8 amended July 22, 1975 (P.L.75, No.45), are amended to read:

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

12 In the Department of Military Affairs,

13 State Military Reservation Commission,

14 State Veterans' Commission;

15 In the Department of Environmental Resources,

16 Citizens Advisory Council;

17 In the Department of Health,

18 Advisory Health Board;

19 In the Department of Labor and Industry,

20 Industrial Board,

21 Advisory Council on Affairs of the Handicapped,

22 Advisory Board on Problems of Older Workers;

23 In the Department of Public Welfare,

24 State Board of Public Welfare,

25 Advisory Committee for the Aging,

26 Advisory Committee for the Blind,

27 Advisory Committee for General and Special Hospitals,

28 Advisory Committee for Children and Youth,

29 Advisory Committee for Public Assistance,

30 [Advisory Committee for Mental Health and Mental

1 Retardation;]

2 In the Department of Commerce,

3 Board of the Pennsylvania Science and Engineering

4 Foundation.

5 In the Department of Mental Health and Mental Retardation,

6 Advisory Committee for Mental Health and Mental

7 Retardation.

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

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

16 Secretary of the Commonwealth, of the Department of State;

17 Attorney General, of the Department of Justice;

18 Auditor General, of the Department of the Auditor General;

19 State Treasurer, of the Treasury Department;

20 Secretary of Education, of the Department of Education;

21 Adjutant General, of the Department of Military Affairs;

22 Insurance Commissioner, of the Insurance Department;

23 Secretary of Banking, of the Department of Banking;

24 Secretary of Agriculture, of the Department of Agriculture;

25 Secretary of Transportation, of the Department of

26 Transportation;

27 Secretary of Health, of the Department of Health;

28 Secretary of Labor and Industry, of the Department of Labor
29 and Industry;

30 Secretary of Public Welfare, of the Department of Public

Welfare;
Secretary of Revenue, of the Department of Revenue;
Secretary of Commerce, of the Department of Commerce;
Secretary of Community Affairs, of the Department of
Community Affairs;
Secretary of Environmental Resources, of the Department of
Environmental Resources;
Secretary of Mental Health and Mental Retardation, of the
Department of Mental Health and Mental Retardation;
Secretary of General Services, of the Department of General
Services.

Section 4. Section 448 of the act is amended by amending the
first paragraph of clause (1), amended July 9, 1970 (P.L.470,
No.161), and adding a clause to read:

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

* * *

(1) The following advisory committees are hereby created:

Advisory Committee for the Aging,
Advisory Committee for the Blind,
Advisory Committee for General and Special Hospitals,
Advisory Committee for Children and Youth,
Advisory Committee for Public Assistance.

[Advisory Committee for Mental Health and Mental
Retardation.]

Each advisory committee shall consist of the Commissioner in
the Department of Public Welfare, directing the program to which
the advisory committee is attached, as an ex officio member, and
not less than three (3) nor more than nine (9) members appointed

1 by the Governor. [In the case of the Advisory Committee for
2 Mental Health and Mental Retardation, the committee shall
3 include the Chairman of the Public Health and Welfare Committee
4 of the Senate, the Chairman of the Health and Welfare Committee
5 of the House of Representatives and the President of the
6 Pennsylvania State Association of County Commissioners or his
7 alternate.] The exact number of members of each advisory
8 committee shall be determined by the Governor upon
9 recommendation of the State Board of Public Welfare. The
10 qualifications of the members of each advisory committee shall
11 also be determined by the Governor upon recommendation of the
12 State Board of Public Welfare: Provided, That with respect to
13 each advisory committee, the Governor shall appoint members with
14 due regard for representation of the professional and lay groups
15 concerned with the fields of interest served by the program to
16 which each advisory committee is attached. The term of office of
17 each member of each advisory committee, except as herein
18 otherwise provided, shall be six (6) years.

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

25 A majority of the members of each advisory committee shall
26 constitute a quorum. Each advisory committee shall elect a
27 chairman from among its members. Each advisory committee shall
28 meet at least four (4) times a year. Special meetings of each
29 advisory committee shall be held on call of the chairman, and it
30 shall be the duty of the chairman to call a special meeting upon

1 the written request of one-third (1/3) or more of the members
2 not including vacancies of the advisory committee.

3 The provisions of clause (k) of this section with respect to
4 filling of vacancies, removal of members, length of service,
5 political party office and compensation shall be applicable to
6 advisory committee members, and are incorporated herein by
7 reference.

8 * * *

9 (q) The Advisory Committee of Mental Health and Mental
10 Retardation shall be appointed by the Governor on the advice of
11 the Secretary of Mental Health and Mental Retardation, and shall
12 be composed of both laymen and professionals in the field of
13 mental health. They shall serve without compensation, other than
14 reimbursement of travel and other actual expenses incurred in
15 the performance of their duties. The Advisory Committee shall
16 consist of the Secretary of Mental Health and Mental
17 Retardation, who shall be its chairman, ex officio, and twenty
18 additional members, of whom five shall be trustees of State
19 mental institutions, five shall be members of the Pennsylvania
20 Medical Society, and ten shall be laymen. The Advisory Committee
21 shall meet at least twice a year at times and places of its own
22 choice. Of the first appointees to the committee, four shall
23 have terms of one year, four, terms of two years, four, terms of
24 three years, four, terms of four years and four, terms of five
25 years, and their successors shall serve terms of five years.

26 Six members of the committee, together with the Secretary of
27 Mental Health and Mental Retardation or, in his place, his duly
28 constituted deputy, shall constitute a quorum.

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

30 Section 6. Section 2328 of the act, amended July 9, 1970

1 (P.L.470, No.161), is amended to read:

2 Section 2328. Powers and Duties of Advisory Committees.--The
3 Advisory Committee for the Aging, the Advisory Committee for the
4 Blind, the Advisory Committee for General and Special Hospitals,
5 the Advisory Committee for Children and Youth, and the Advisory
6 Committee for Public Assistance [and the Advisory Committee for
7 Mental Health and Mental Retardation,] shall, concerning matters
8 within their respective special fields of interest, have the
9 power and their duty shall be:

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

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

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

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

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

2 Article XXIII-A

3 Powers and Duties of the Department of Mental Health and
4 Mental Retardation and its Departmental Administrative and
5 Advisory Boards and Commissions.

6 (a) General Provisions

7 Section 2301-A. Powers and Duties in General.--The
8 Department of Mental Health and Mental Retardation shall have
9 power and its duty shall be:

10 (a) To administer and enforce the laws of this Commonwealth
11 relative to (i) mental health, (ii) the care, prevention, early
12 recognition and treatment of mental illness, mental defect,
13 epilepsy and inebriety, (iii) the licensing and regulation of
14 institutions for the mentally ill, mentally defective and
15 epileptic, (iv) the admission and commitment of mental patients
16 to hospitals for mental diseases and institutions for mental
17 defectives and epilepsy, and (v) the transfer, discharge,
18 escape, interstate rendition and deportation of such patients.

19 (b) Except as otherwise provided in this act, to approve or
20 disapprove the advice and recommendations of the several boards
21 of trustees of State mental institutions, other than the Board
22 of Trustees of the Eastern Pennsylvania Psychiatric Institute.

23 (c) To exercise all powers and perform all duties relating
24 to mental health, mental diseases, mental defects, epilepsy and
25 inebriety, and the care and treatment of patients heretofore
26 conferred or imposed upon the Department of Public Welfare and
27 the Secretary of Public Welfare.

28 Section 2302-A. Secretary of Mental Health and Mental
29 Retardation.--In addition to his other powers and duties as head
30 of the Department of Mental Health and Mental Retardation, the

Secretary of Mental Health and Mental Retardation shall develop plans and programs, and make recommendations with respect to the general policy of the mental health program of the Commonwealth. He shall initiate, develop and carry into effect, plans and programs designed to prevent, treat and cure the mentally ill and the mentally defective, and programs designed to conduct research and training in mental illness and mental deficiency. He shall appoint the superintendents of State mental institutions who, in turn, shall assign, appoint and dismiss personnel of the institutions.

Section 2303-A. Promotion of Local Mental Health Facilities.--The Department of Mental Health and Mental Retardation shall have the power to:

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

(b) Provide consultation to local public officials and voluntary organizations in the establishment and operation of public and private mental health programs in fields in which the department has a responsibility.

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

Section 2304-A. Transfers, Leave of Absence or Discharge of Patients.--The Department of Mental Health and Mental Retardation shall have the power within the limits of the mental health laws of the Commonwealth:

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

1 ill.

2 (b) To transfer the indigent, mentally ill or mentally
3 defective from State hospitals to the institutions of the
4 several counties charged with their maintenance.

5 (c) To transfer a committed mentally ill person from a
6 licensed private hospital or institution to a State or licensed
7 county hospital and vice versa.

8 (d) To apply to the proper court for the removal to a
9 hospital for the mentally ill of any person imprisoned in a
10 correctional institution or prison and believed to be mentally
11 ill.

12 (e) To transfer a patient from one institution under the
13 supervision of the department to another institution under its
14 supervision.

15 (f) To investigate and be heard before an order is made in
16 any case to remove to any place of custody, other than a
17 hospital, any criminal confined in a hospital by order of any
18 court of any mentally ill person committed to a hospital after
19 an acquittal of crime.

20 The cost of the transfer or removal and of the maintenance of
21 any mentally ill person transferred by or under the direction or
22 under the application of the Secretary of Mental Health and
23 Mental Retardation or other officer of the department pursuant
24 hereto shall be borne and paid in the manner provided by law in
25 the case of any such transfer or removal.

26 All traveling expenses of indigent mentally ill persons
27 discharged by order of the department from any State hospital
28 for the mentally ill from the hospital to their respective homes
29 shall be paid by the hospital; the amount thereof to be refunded
30 to such hospital from the appropriation for the care and

1 treatment of such indigent mentally ill.

2 (g) To order and compel the leave of absence or discharge of
3 any person detained in any place as mentally ill or of unsound
4 mind, other than a person committed after trial and conviction
5 for crime, or by order of court; but, the department shall not
6 make any such order, unless notice be given to the person having
7 charge of the building in which the patient is detained and to
8 the person or persons at whose instance the patient is detained,
9 and reasonable opportunity given to them to justify a further
10 detention, and unless the department has caused the case of the
11 patient to be personally attended and examined by its officer or
12 agent.

13 Section 2305-A. Advisory Committee on Mental Health and
14 Mental Retardation.--The Committee on Mental Health and Mental
15 Retardation shall have the power and its duty shall be:

16 (a) To advise the Governor with regard to the appointment of
17 the Secretary of Mental Health and Mental Retardation.

18 (b) To advise, assist and make recommendations with respect
19 to the general policies and operations of the Commonwealth's
20 programs on mental health and mental retardation.

21 (c) To aid in increasing public understanding of and
22 formulating plans for furthering the purposes and intention of
23 this act.

24 Section 2306-A. Boards of Trustees of State Mental
25 Institutions.--The powers and duties of the boards of trustees
26 of each State mental institution, within the Department of
27 Mental Health and Mental Retardation, caring for the mentally
28 ill and mentally deficient shall be only as defined in this
29 section:

30 (a) To advise, assist and make recommendations to the

superintendent with respect to the management and operation of the institution, and with respect to any plans or programs for its improvement.

(b) To keep under review all matters pertaining to the welfare and well-being of patients, and to make recommendations to the superintendent with respect thereto.

(c) To advise and make recommendations to the Secretary of Mental Health and Mental Retardation with regard to the selection and appointment of a superintendent in case of a vacancy.

(d) To advise and make recommendations to the superintendent with regard to his selection of employees of the institution.

(e) To develop and further means and methods of establishing proper relations and understanding between the institution (and its program) and the community in which it is located, and generally to provide liaison between the institution and the community in order better to serve the interest and needs of both.

(f) To make recommendations to the Advisory Committee on Mental Health and Mental Retardation on matters of policy and program emerging from its intimate knowledge and experience of programs on developmental disabilities in operation.

(g) The provisions of this section shall be applicable to the boards of trustees in all of the State mental institutions within the Department of Mental Health and Mental Retardation caring for mentally ill and mentally deficient.

Section 2307-A. Approval of Plans and Mortgages.--The Department of Mental Health and Mental Retardation shall have the power and its duty shall be:

(a) To approve or disapprove all plans for the erection or

substantial alteration of any State or supervised mental institution receiving aid from the Commonwealth.

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

Section 2308-A. State Mental Institutions.--With regard to State mental institutions, the Department of Mental Health and Mental Retardation shall have the power and its duty shall be:

(a) To determine the capacity of such institutions.

(b) To determine and designate the type of persons to be received by such institutions, the proportion of each type to be received therein and the districts from which persons shall be received by such institutions.

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

(d) To require the submission to the department of any

1 contract for repairs, alterations or equipment which any such
2 State institution desires to make, and to approve or disapprove
3 such proposed contract. No such contract shall be valid without
4 the approval of the department, as evidenced by the signature of
5 the Secretary of Mental Health and Mental Retardation.

6 Section 2309-A. Stores at State Mental Institutions.--With
7 regard to State mental institutions, the Department of Mental
8 Health and Mental Retardation shall have the power to authorize
9 the construction of separate buildings or the addition to or
10 improvement of existing buildings for the purpose of operating
11 and conducting therein a store or canteen for the convenience
12 and benefit of the patients of such institutions out of moneys
13 appropriated therefor by the General Assembly or from moneys
14 derived from the operation of any such stores or from grants or
15 gifts offered for such particular purpose.

16 Whenever any such construction, addition or improvement is
17 made for such purpose, the same shall become the property of the
18 Commonwealth, regardless of the source of the funds used in
19 connection therewith.

20 Section 2310-A. Utility Services for State Mental
21 Institutions.--For the purpose of providing utility services for
22 State mental institutions, the Department of Mental Health and
23 Mental Retardation may execute such agreements and contracts as
24 it may deem necessary therefor with any political subdivision or
25 any authority to provide utility services, and for defraying the
26 share of the Commonwealth of the expenses and charges to be
27 incurred in establishing and contracting with an authority or a
28 political subdivision for the purpose of acquiring, holding,
29 constructing, improving, maintaining and operating sewage
30 systems, water supply systems, electric power, gas, steam or

1 other utility systems.

2 Payment of the costs of such expenses, charges and services
3 shall be made from appropriations to the department for such
4 purposes in accordance with the agreement made by the
5 department.

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

22 Section 2312-A. Charges for Care and Treatment to be Fixed
23 for State Mental Institutions.--The Department of Mental Health
24 and Mental Retardation shall have the power and its duty shall
25 be to fix and establish charges for all services rendered by any
26 State-owned mental institution.

27 Section 2313-A. Care of the Indigent.--The Department of
28 Mental Health and Mental Retardation shall have the power and
29 its duty shall be:

30 (a) Whenever the General Assembly shall have specifically

1 appropriated money to the department for the purpose, to issue
2 requisitions upon the State Treasurer for warrants to be drawn
3 in favor of such hospitals, homes and institutions as shall
4 conform to at least the minimum standards of plant equipment,
5 service, administration and care and treatment necessary for the
6 proper care and treatment of patients as required by the rules
7 and regulations of the department or established by law in
8 amounts computed upon the per diem rates of payment established
9 by law for free service to indigent persons for (i) the care of
10 mentally defective children in homes or institutions and (ii)
11 the care, treatment and removal of mentally ill persons in
12 county hospitals for the mentally ill or private institutions
13 licensed by the department.

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

25 (c) To establish rules and regulations, not inconsistent
26 with law, prescribing minimum standards of plant, equipment,
27 service, administration, and care and treatment for State-aided
28 mental institutions, and for determining the number of free days
29 of care and treatment rendered to indigent persons by hospitals,
30 homes or institutions.

1 Section 2314-A. Study Classification and Assignment.--The
2 Department of Mental Health and Mental Retardation shall have
3 the power and its duty shall be to establish and administer a
4 program designed to assist public and private agencies on their
5 request in the diagnosis and study of children with mental
6 problems or emotionally disturbed children, and to recommend to
7 them the most appropriate disposition for the rehabilitation and
8 treatment of such children. This program shall be based on
9 review of local studies of the children, but, when local studies
10 indicate the need, or when it is requested, may include
11 residential study of the children in centers which the
12 department is hereby authorized to establish and operate.

13 The three diagnostic and evaluation centers now operated and
14 maintained by the Department of Public Welfare are hereby
15 transferred to and shall hereafter be operated by the Department
16 of Mental Health and Mental Retardation.

17 Section 2315-A. Purchase of Services.--Purchase of
18 Services.--The Department of Mental Health and Mental
19 Retardation shall have the power:

20 (a) Whenever the General Assembly shall have appropriated
21 money to the department for mental health purposes to purchase
22 necessary services for individuals entitled to such services at
23 rates not exceeding those charged the general public or actual
24 cost such services may be purchased directly from agencies or
25 institutions conforming to minimum standards established by the
26 department or by law, or the department may reimburse local
27 public agencies which purchase such services from such agencies
28 or institutions.

29 (b) To establish rules and regulations not inconsistent with
30 law prescribing minimum standards of plant, equipment, service,

1 administration, and care and treatment for agencies and
2 institutions furnishing service to individuals paid for in whole
3 or in part by money appropriated to the department by the
4 General Assembly, and when not otherwise established by law,
5 fixing per diem or other rates for services furnished by such
6 agencies or institutions.

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

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

28 Before commencing a training program resulting in absence
29 from regular duties for a period of thirty full working days or
30 more within a twelve-month period, the employe receiving such

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

22 Nothing in this act shall prevent the Commonwealth from
23 recovering damages in a civil action for breach of any contract
24 executed pursuant to this act.

25 No employe under the provisions of this act shall be
26 disqualified by reason of his minority; and, for the purpose of
27 contract for employment with the department, such person shall
28 be deemed to have full legal capacity to act, and shall have all
29 the rights, powers, privileges and obligations of a person of
30 full age with respect thereto.

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

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

7 (b) Licensing Provisions

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

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

26 Section 2333-A. Fees.--Annual licenses shall be issued when
27 the proper fee, if required, is received by the Department of
28 Mental Health and Mental Retardation and all the other
29 conditions prescribed by this act are met. The annual license
30 fee shall be fifty dollars (\$50).

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

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

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

Section 2339-A. Regulations.--The Department of Mental Health and Mental Retardation 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 of Mental Health and Mental Retardation, 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.

1 (b) A hearing shall be conducted by the department before
2 any order which refuses to issue a license or revokes an
3 existing license becomes final.

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

6 (1) Violation of or noncompliance with the provisions of
7 this act or of regulations pursuant thereto;

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

10 (3) Lending, borrowing or using the license of another, or
11 in any way knowingly aiding or abetting the improper granting of
12 a license;

13 (d) Gross incompetence, negligence or misconduct in
14 operating the facility;

15 (5) Mistreating or abusing individuals cared for in the
16 facility.

17 (d) Whenever the department revokes or refuses to issue a
18 license, it shall give written notice thereof by certified mail.
19 Such notice shall specify the reason for the refusal or
20 revocation.

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

1 (c) Injunctions Against Unlicensed Activities; Procedures

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

3 "Private institution" means any of the following facilities
4 by whatever term known and irrespective of the age group served:
5 mental hospital, institution for the mentally defective, day
6 care center, family day care home, nursing home, hospital,
7 boarding home, personal care home, and other similar institution
8 which is operated for profit and which requires a license issued
9 by the department.

10 Section 2351-A. Actions Against Unlicensed Institutions.--

11 Whenever a license is required by law for the establishment,
12 operation or conduct of a private institution, the department,
13 upon advice of the Attorney General, may maintain an action in
14 the name of the Commonwealth for an injunction or other process
15 restraining or prohibiting any person from establishing,
16 conducting or operating any private institution during any
17 period after a license to engage in such activity has been
18 refused, has not been renewed or has been revoked by the
19 Department of Mental Health and Mental Retardation.

20 Section 2352-A. Actions Against Violations of Law and Rules

21 and Regulations.--Whenever any person, regardless of whether
22 such person is a licensee, has violated the laws of this
23 Commonwealth pertaining to the licensing of a private
24 institution or the rules and regulations adopted pursuant to
25 such laws by the Department of Mental Health and Mental
26 Retardation, the department, upon the advice of the Attorney
27 General, may maintain an action in the name of the Commonwealth
28 for an injunction or other process restraining or prohibiting
29 such person from engaging in such activity.

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

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

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

4 Section 2357-A. Bonds and Costs.--No bond shall be required
5 of and no costs shall be taxed against the Department of Mental
6 Health and Mental Retardation on account of any such action.

7 Section 2358-A. Law Supplementary.--The provisions of this
8 subarticle shall be construed as supplementary to all other
9 provisions dealing with the same subject matter. No action
10 brought under the provisions of this subarticle shall prevent
11 the prosecution or institution of any civil or criminal action
12 otherwise provided by law for violation of any law providing for
13 licensing or departmental rules or regulations promulgated
14 thereunder.

15 (d) Interstate Compact on Mental Health

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

21 INTERSTATE COMPACT ON MENTAL HEALTH

22 The contracting states solemnly agree that:

23 Article I

24 The party states find that the proper and expeditious
25 treatment of the mentally ill and mentally deficient can be
26 facilitated by cooperative action to the benefit of the
27 patients, their families and society as a whole. Further the
28 party states find that the necessity of and desirability for
29 furnishing such care and treatment bears no primary relation to
30 the residence or citizenship of the patient but that on the

contrary the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of 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

1 community.

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

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

9 (9) "Court" shall mean the court of common pleas or other
10 court of record having jurisdiction or law judge thereof of the
11 county in which the patient is or resides.

12 Article III

13 (a) Whenever a person physically present in any party state
14 shall be in need of institutionalization by reason of mental
15 illness or mental deficiency, he shall be eligible for care and
16 treatment in an institution in that state, irrespective of his
17 residence, settlement or citizenship qualifications.

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

30 (c) No state shall be obliged to receive any patient

1 pursuant to the provisions of paragraph (b) of this article
2 unless the sending state has given advance notice of its
3 intention to send the patient, furnished all available medical
4 and other pertinent records concerning the patient, giving the
5 qualified medical or other appropriate clinical authorities of
6 the receiving state an opportunity to examine the patient, if
7 said authorities so wish and unless the receiving state shall
8 agree to accept the patient.

9 (d) In the event that the laws of the receiving state
10 establish a system of priorities for the admission of patients,
11 an interstate patient under this compact shall receive the same
12 priority as a local patient and shall be taken in the same order
13 and at the same time that he would be taken if he were a local
14 patient.

15 (e) Pursuant to this compact, the determination as to the
16 suitable place of institutionalization for a patient may be
17 reviewed at any time and such further transfer of the patient
18 may be made as seems likely to be in the best interest of the
19 patient.

20 Article IV

21 (a) Whenever pursuant to the laws of the state in which a
22 patient is physically present, it shall be determined that the
23 patient should receive after-care or supervision, such care or
24 supervision may be provided in a receiving state. If the medical
25 or other appropriate clinical authorities having responsibility
26 for the care and treatment of the patient in the sending state
27 shall have reason to believe that after-care in another state
28 would be in the best interest of the patient and would not
29 jeopardize the public safety, they shall request the appropriate
30 authorities in the receiving state to investigate the

1 desirability of affording the patient such after-care in said
2 receiving state and such investigation shall be made with all
3 reasonable speed. The request for investigation shall be
4 accompanied by complete information concerning the patient's
5 intended place of residence and the identity of the person in
6 whose charge it is proposed to place the patient, the complete
7 medical history of the patient and such other documents as may
8 be pertinent.

9 (b) If the medical or other appropriate clinical authorities
10 having responsibility for the care and treatment of the patient
11 in the sending state and the appropriate authorities in the
12 receiving state find that the best interest of the patient would
13 be served thereby and if the public safety would not be
14 jeopardized thereby, the patient may receive after-care or
15 supervision in the receiving state.

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

21 Article V

22 Whenever a dangerous or potentially dangerous patient escapes
23 from an institution in any party state, that state shall
24 promptly notify all appropriate authorities within and without
25 the jurisdiction of the escape in a manner reasonably calculated
26 to facilitate the speedy apprehension of the escapee.
27 Immediately upon the apprehension and identification of any such
28 dangerous or potentially dangerous patient, he shall be detained
29 in the state where found, pending disposition in accordance with
30 law.

1 Article VI

2 The duly accredited officers of any state party to this
3 compact, upon the establishment of their authority and the
4 identity of the patient, shall be permitted to transport any
5 patient being moved pursuant to this compact through any and all
6 states party to this compact without interference.

7 Article VII

8 (a) No person shall be deemed a patient of more than one
9 institution at any given time. Completion of transfer of any
10 patient to an institution in a receiving state shall have the
11 effect of making the person a patient of the institution in the
12 receiving state.

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

18 (c) No provision of this compact shall be construed to alter
19 or affect any internal relationships among the departments,
20 agencies and officers of and in the government of a party state
21 or between a party state and its subdivisions as to the payment
22 of costs or responsibilities therefor.

23 (d) Nothing in this compact, shall be construed to prevent
24 any party state or subdivision thereof from asserting any right
25 against any person, agency or other entity in regard to costs
26 for which such party state or subdivision thereto may be
27 responsible pursuant to any provision of this compact.

28 (e) Nothing in this compact shall be construed to invalidate
29 any reciprocal agreement between a party state and a nonparty
30 state relating to institutionalization, care or treatment of the

1 mentally ill or mentally deficient or any statutory authority
2 pursuant to which such agreements may be made.

3 Article VIII

4 (a) Nothing in this compact shall be construed to abridge,
5 diminish or in any way impair the rights, duties and
6 responsibilities of any patient's guardian on his own behalf or
7 in respect of any patient for whom he bay serve, except that
8 where the transfer of any patient to another jurisdiction makes
9 advisable the appointment of a supplemental or substitute
10 guardian, any court of competent jurisdiction in the receiving
11 state may make such supplemental or substitute appointment and
12 the court which appointed the previous guardian shall, upon
13 being duly advised of the new appointment and upon the
14 satisfactory completion of such accounting and other acts as
15 such court may by law require, relieve the previous guardian of
16 power and responsibility to whatever extent shall be appropriate
17 in the circumstances: Provided, however, That in the case of any
18 patient having settlement in the sending state, the court of
19 competent jurisdiction in the sending state shall have the sole
20 discretion to relieve a guardian appointed by it or continue his
21 power and responsibility, whichever it shall deem advisable. The
22 court in the receiving state may, in its discretion, confirm or
23 reappoint the person or persons previously serving as guardian
24 in the sending state in lieu of making a supplemental or
25 substitute appointment. No mentally ill or mentally deficient
26 patient shall be transferred between party states until consent
27 has been obtained from the person legally responsible for the
28 patient's maintenance.

29 (b) The term "guardian" as used in paragraph (a) of this
30 article shall include any guardian, trustee, legal committee,

1 conservator or other person or agency however denominated who is
2 charged by law with power to act for or responsibility for the
3 person or property of a patient.

4 Article IX

5 (a) No provision of this compact, except Article V, shall
6 apply to any person institutionalized while under sentence in a
7 penal or correctional institution or while subject to trial on a
8 criminal charge or whose institutionalization is due to the
9 commission of an offense for which, in the absence of mental
10 illness or mental deficiency, said person would be subject to
11 incarceration in a penal or correctional institution.

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

17 Article X

18 (a) Each party state shall appoint a "Compact administrator"
19 who on behalf of his state shall act as general coordinator of
20 activities under the compact in his state and who shall receive
21 copies of all reports, correspondence and other documents
22 relating to any patient processed under the compact by his
23 state, either in the capacity of sending or receiving state. The
24 compact administrator or his duly designated representative
25 shall be the official with whom other party states shall deal in
26 any matter relating to the compact or any patient processed
27 thereunder.

28 (b) The compact administrators of the respective party
29 states shall have power to promulgate reasonable rules and
30 regulations to carry out more effectively the terms and

1 provisions of this compact.

2 Article XI

3 The duly constituted administrative authorities of any two or
4 more party states may enter into supplementary agreements for
5 the provision of any service or facility or for the maintenance
6 of any institution on a joint or cooperative basis whenever the
7 state concerned shall find that such agreements will improve
8 services, facilities or institutional care and treatment in the
9 fields of mental illness or mental deficiency. No such
10 supplementary agreement shall be construed so as to relieve any
11 party state of any obligation which it otherwise would have
12 under other provisions of this compact.

13 Article XII

14 This compact shall enter into full force and effect as to any
15 state when enacted by it into law and such state shall
16 thereafter be a party thereto with any and all states legally
17 joining therein.

18 Article XIII

19 (a) A state party to this compact may withdraw therefrom by
20 enacting a statute repealing the same. Such withdrawal shall
21 take effect one year after notice thereof has been communicated
22 officially and in writing to the governors and compact
23 administrators of all other party states. However, the
24 withdrawal of any state shall not chance the status of any
25 patient who has been sent to said state or sent out of said
26 state pursuant to the provisions of the compact.

27 (b) Withdrawal from any agreement permitted by Article VII

28 (b) as to costs, or from any supplementary agreement made
29 pursuant to Article XI, shall be in accordance with the terms of
30 such agreement.

Article XIV

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government agency, person or circumstances shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

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

Section 2362-A. Supplementary Agreements.--The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other

1 states pursuant to Articles VII and XI of this compact. In the
2 event that such supplementary agreement shall require or
3 contemplate the use of any institution or facility of this State
4 or require or contemplate provision of any service by this
5 State, no such agreement shall have force or effect until
6 approved by the head of the department or agency under whose
7 jurisdiction said institution or facility is operated or whose
8 department or agency will be charged with the rendering of such
9 service.

10 Section 2363-A. Financial Obligations.--The compact
11 administrator, subject to the approval of the Auditor General,
12 may make or arrange for any payments necessary to discharge any
13 financial obligations imposed upon this State by the compact or
14 by any supplementary agreement entered into thereunder.

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

18 Section 2365-A. Limitation of Compact Applicability.--This
19 compact shall apply only to patients who either are in
20 institutions maintained by the Commonwealth of Pennsylvania,
21 having been duly and properly committed or admitted pursuant to
22 laws of the Commonwealth of Pennsylvania or whose admission to
23 an institution maintained by the Commonwealth is being sought by
24 a sending state pursuant to this compact, and shall not in any
25 case apply to any patient of a private licensed institution.

26 (e) Reciprocal Agreements with Other States

27 Section 2371-A. Agreements Authorized.--The Department of
28 Mental Health and Mental Retardation, subject to the approval of
29 the Attorney General, is hereby authorized to enter into
30 reciprocal agreements with corresponding state agencies of other

1 states regarding the interstate transportation or transfer of
2 persons with mental illness or defect and to arrange with the
3 proper officials in this State for the acceptance, transfer, and
4 support of persons who are residents of this State but who are
5 temporarily detained or who are receiving psychiatric or mental
6 care in public institutions of other states in accordance with
7 the terms of such agreements.

8 (f) Commonwealth Mental Health Research Foundation

9 Section 2381-A. Creation--There is hereby created a body
10 corporate and politic constituting a public corporation and
11 governmental instrumentality known as the "Commonwealth Mental
12 Health Research Foundation," referring to in this subarticle as
13 the foundation. The foundation shall be administered exclusively
14 in accordance with the provisions of this subarticle. The
15 foundation is hereby constituted an instrumentality of the
16 Commonwealth and the exercise by the foundation of powers and
17 duties conferred upon it by this act shall be deemed and held to
18 be an essential governmental function of the Commonwealth.

19 Section 2382-A. Purpose.--It shall be the purpose of the
20 foundation to support, encourage and finance research of every
21 nature and description in the field of mental health including
22 all aspects thereof or related thereto and to train men in the
23 field of mental health including all aspects thereof or related
24 thereto.

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

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

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

30 (3) It may sue and be sued in its own name, and plead and be

1 impleaded. Any and all actions at law or in equity against it
2 shall be brought only in Dauphin County.

3 (4) It shall have an official seal.

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

6 (6) It shall have the power and authority to acquire, own,
7 use, hire, lease, operate and dispose of personal property, real
8 property and interests in real property.

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

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

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

17 Section 2384-A. Board of Trustees.--(a) The foundation
18 shall be administered by a board of fifteen trustees consisting
19 of the Governor, the Secretary of Mental Health and Mental
20 Retardation and thirteen trustees appointed by the Governor for
21 terms of three years each and until their respective successors
22 shall be duly appointed and qualified. Any trustee may be
23 reappointed. Any person appointed to fill a vacancy shall serve
24 for the unexpired term.

25 (b) The members of the board shall not be entitled to any
26 compensation for their services as members.

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

1 (d) The secretary shall be the chairman of the board and the
2 foundation shall have such other officers as the board deems
3 necessary.

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

6 Section 2385-A. Research Advisory Committee.--The Secretary
7 of Mental Health and Mental Retardation who shall be chairman
8 and eight members appointed by the secretary shall constitute
9 the Research Advisory Committee. In appointing such committee,
10 the secretary shall select one representative from each of the
11 following six medical schools, colleges, or mental institutions
12 having an active research department: The School of Medicine of
13 Temple University, the School of Medicine of the University of
14 Pennsylvania, the Pennsylvania State University, the School of
15 Medicine of the University of Pittsburgh, the Eastern
16 Pennsylvania Psychiatric Institute and Carnegie Institute of
17 Technology. The Research Advisory Committee, subject to approval
18 of the board, shall choose and supervise the projects to be
19 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 mental health shall be
25 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 act of
8 April 9, 1929 (P.L.177, No.175), known as "The Administrative
9 Code of 1929" in the same manner as if it were an administrative
10 department, board or commission.

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

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

1 the Research Advisory Committee. The board shall have the right
2 to approve a future series of payments at one time so long as
3 the specific purpose therefor is known at the time for approval.

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

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

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

21 (g) The fiscal year of the foundation shall commence on July
22 1, and end on the following June 30.

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

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

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

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

20 Section 8. The Secretary of Mental Health and Mental
21 Retardation shall receive an annual salary, payable in equal
22 semimonthly installments, of \$25,000.

23 Section 9.--(a) All of the State mental institutions now
24 operated by the Department of Public Welfare are hereby
25 transferred to and shall hereafter be operated by the Department
26 of Mental Health and Mental Retardation; and, all personnel of
27 such institutions and all appropriations, contracts, agreements,
28 equipment, files and obligations of the Department of Public
29 Welfare respecting such institutions are hereby transferred to
30 the Department of Mental Health and Mental Retardation with the

1 same force and effect as if said contracts, agreements and
2 obligations of the Department of Public Welfare had been
3 incurred or entered into by the Department of Mental Health and
4 Mental Retardation; and, the balances remaining in any such
5 appropriations are hereby appropriated to the Department of
6 Mental Health and Mental Retardation for the same purpose as
7 expressed in the act making them.

8 All personnel, equipment, files, obligations and records of
9 the Department of Public Welfare employed in the performance of
10 the powers and duties transferred by this act are hereby
11 transferred to the Department of Mental Health and Mental
12 Retardation; and, the balances of any appropriations for the
13 payment of salaries and other expenses in connection therewith
14 are hereby appropriated to the Department of Mental Health and
15 Mental Retardation for the same purpose as expressed in the act
16 making them.

17 (b) All personnel transferred to this act shall retain any
18 civil service employment status assigned to said personnel.

19 (c) All orders, permits, regulations, decisions and other
20 actions of the Department of Public Welfare or any agency whose
21 functions have been transferred by this act shall remain in full
22 force and effect until modified, repealed, suspended, superseded
23 or otherwise changed by appropriate action of the Department of
24 Mental Health and Mental Retardation.

25 Section 10. All interstate compacts on medical health
26 entered into pursuant to Article XI of the Public Welfare Code
27 repealed by this act shall continue to be in full force and
28 effect.

29 Section 11. The trustees of the Commonwealth Mental Health
30 Research Foundation appointed by the Governor and in office on

1 the effective date of this act shall continue in office for the
2 duration of their terms.

3 Section 12. The following acts and parts of acts are
4 repealed to the extent indicated:

5 The act of October 20, 1966 (3rd Sp.Sess., P.L.96, No.6),
6 known as the "Mental Health and Mental Retardation Act of 1966,"
7 insofar as inconsistent.

8 Article XI, act of June 13, 1967 (P.L.31, No.21), known as
9 the "Public Welfare Code," absolutely.

10 Section 13. This act shall take effect July 1, 1978.