

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1436 Session of
1979

INTRODUCED BY MESSRS. COCHRAN, ZORD, MRS. ARTY, MRS. E. Z.
TAYLOR, MESSRS. BARBER, PYLES, MILLER, JONES, REED, HOEFFEL,
COLE, MRKONIC, LETTERMAN, B. D. CLARK, GLADECK, POTT, GANNON,
MRS. R. CLARK, MESSRS. DiCARLO, KLINGAMAN, BURD, MADIGAN,
PETERSON, SIEMINSKI, GRUPPO, L. E. SMITH, DeWEESE, MANDERINO,
IRVIS AND F. TAYLOR, MAY 31, 1979

SENATOR SMITH, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, OCTOBER 6, 1980

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," ~~requiring the Department~~ <—
4 ~~of Public Welfare to develop and implement a State plan for~~
5 ~~regulating and licensing personal care boarding homes, AND~~ <—
6 ~~PROVIDING A PROCEDURE FOR THE REVIEW AND APPROVAL BY~~
7 ~~LEGISLATIVE COMMITTEES OF PROPOSED STATE INSTITUTION CLOSINGS~~
8 ~~OR SUBSTANTIAL REDUCTION IN PATIENTS, INMATES OR STAFF;~~
9 ~~LIMITING THE EXPENDITURE OF PUBLIC FUNDS FOR ABORTIONS AND~~
10 ~~PROVIDING FOR REIMBURSEMENT TO COUNTIES. LIMITING THE~~
11 ~~EXPENDITURE OF PUBLIC FUNDS FOR ABORTIONS, PROVIDING FOR~~
12 ~~REIMBURSEMENT TO COUNTIES FOR CHILD WELFARE SERVICES, AND~~
13 ~~MAKING AN APPROPRIATION.~~

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

16 ~~Section 1. The act of June 13, 1967 (P.L.31, No.21), known~~ <—
17 ~~as the "Public Welfare Code," is amended by adding a section to~~
18 ~~read:~~

19 ~~Section 211. State Plan for Regulating and Licensing~~
20 ~~Personal Care Boarding Homes. (a) In accordance with the~~

~~statutory authority and responsibility vested in the department
to regulate nonprofit boarding homes for adults which provide
personal care and services and to license for profit personal
care boarding homes for adults, pursuant to Articles IX and X,
the department shall develop and implement a State plan for
regulating and licensing said facilities AS DEFINED BY SECTION
1001 OF THIS ACT.~~

~~(b) As used in this section, "personal care boarding homes"
are "institutions for adults" as defined in section 901 and
"personal care homes for adults" as defined in section 1001.~~

~~(B) IN DEVELOPING RULES AND REGULATIONS FOR THE STATE PLAN,
THE DEPARTMENT SHALL:~~

~~(1) DISTINGUISH BETWEEN PERSONAL CARE HOMES SERVING LESS
THAN EIGHT PERSONS AND PERSONAL CARE HOMES SERVING MORE THAN
EIGHT PERSONS.~~

~~(2) BY JULY 1, 1981 ADOPT RULES RELATING TO THE CONDUCT OF
OWNERS AND EMPLOYEES OF PERSONAL CARE BOARDING HOMES RELATIVE TO
THE ENDORSEMENT OR DELIVERY OF PUBLIC OR PRIVATE WELFARE,
PENSION OR INSURANCE CHECKS BY A RESIDENT OF A PERSONAL CARE
BOARDING HOME.~~

~~(3) NOT REGULATE OR REQUIRE THE REGISTRATION OF BOARDING
HOMES WHICH MERELY PROVIDE ROOM, BOARD AND LAUNDRY SERVICES TO
PERSONS WHO DO NOT NEED PERSONAL BOARDING HOME CARE SERVICES.~~

~~(c) Within three months following the effective date of this
act, the department shall submit to the General Assembly for
comment and review, and publish in the Pennsylvania Bulletin in
accordance with the provisions of the Commonwealth Documents Law
relating to the publication of regulations, a preliminary State
plan for regulating and licensing personal care boarding homes.~~

~~(d) The preliminary plan shall include, but is not limited~~

1 ~~to, the following:~~

2 ~~(1) Coordination of the department's statutory~~
3 ~~responsibilities with those of other State and local agencies~~
4 ~~having statutory responsibilities relating to personal care~~
5 ~~boarding homes, with particular attention given to the~~
6 ~~Department of Labor and Industry, the Department of~~
7 ~~Environmental Resources, the Department of Aging and the~~
8 ~~Pennsylvania Human Relations Commission. THE DEPARTMENT OF LABOR <—~~
9 ~~AND INDUSTRY SHALL PROMULGATE RULES AND REGULATIONS APPLICABLE~~
10 ~~TO PERSONAL CARE BOARDING HOMES ON A STATEWIDE BASIS CONSISTENT~~
11 ~~WITH SIZE DISTINCTIONS SET FORTH IN SUBSECTION (B) PERTAINING TO~~
12 ~~CONSTRUCTION AND MEANS OF EGRESS.~~

13 ~~(2) Recommendations for changes in existing State law and~~
14 ~~proposed legislation to:~~

15 ~~(i) Resolve inconsistencies that hinder the department's~~
16 ~~implementation of the State plan.~~

17 ~~(ii) Promote the cost efficiency and effectiveness of~~
18 ~~visitations and inspections.~~

19 ~~(iii) Delegate to other State and local agencies~~
20 ~~responsibility for visitations, inspections, referral, placement~~
21 ~~and protection of adults residing in personal care boarding~~
22 ~~homes.~~

23 ~~(iv) Evaluate the State's fire and panic laws as applied to~~
24 ~~personal care boarding homes.~~

25 ~~(3) Recommendations for implementation of fire safety and~~
26 ~~resident care standards relating to personal care boarding homes~~
27 ~~in BY cities of the first class, second class and second class <—~~
28 ~~A.~~

29 ~~(4) A programmatic and fiscal impact statement regarding the~~
30 ~~effect of the plan on existing residential programs for the~~

~~disabled, including but not limited to skilled nursing homes, intermediate care facilities, domiciliary care homes, adult foster care homes, community living arrangements for the mentally retarded and group homes for the mentally ill and the effect of the plan on recipients of Supplemental Security Income.~~

~~(5) Cost analysis of the entire plan and of all regulations that will be proposed pursuant to the plan.~~

~~(6) Number of personnel at the State, regional and county level required to inspect personal care boarding homes and monitor and enforce final rules and regulations adopted by the department.~~

~~(7) Process for relocating residents of personal care boarding homes whose health and safety are in imminent danger.~~

~~(c) If the department deems that it is in the best interest of the Commonwealth to develop a plan for implementation on a phased basis, the department shall submit a detailed schedule of the plan to the General Assembly which shall be part of the preliminary State plan.~~

~~(f) Within six months of the effective date of this act, the department shall adopt a final State plan which shall be submitted and published in the same manner as the preliminary plan.~~

~~(g) The final plan shall include the information required in the preliminary plan and, in addition, the cost to operators of personal care boarding homes for compliance with the regulations.~~

~~(h) At no time may the department change, alter, amend or modify the final State plan, except in emergency situations, without first publishing such change in the Pennsylvania~~

~~Bulletin in accordance with the Commonwealth Documents Law relating to publication of regulations and without first submitting the proposed change to the General Assembly for comment and review. In an emergency, the department may change, alter, amend or modify the State plan without publishing the change or submitting the change to the General Assembly; but, within thirty days, the department shall submit and publish the change as otherwise required.~~

~~(i) The State plan shall not apply to any facility operated by a religious organization for the care of clergymen or other persons in a religious profession.~~

~~(J) PRIOR TO JANUARY 1, 1985, DEPARTMENT REGULATIONS SHALL NOT APPLY TO PERSONAL CARE BOARDING HOMES IN WHICH SERVICES ARE INTEGRATED WITH, ARE UNDER THE SAME MANAGEMENT AS, AND ON THE SAME GROUNDS AS A SKILLED NURSING OR INTERMEDIATE CARE FACILITY LICENSED FOR MORE THAN TWENTY FIVE BEDS AND HAVING AN AVERAGE DAILY OCCUPANCY OF MORE THAN FIFTEEN BEDS. PRIOR TO JANUARY 1, 1985 THE DEPARTMENT MAY REQUIRE REGISTRATION OF SUCH FACILITIES AND MAY VISIT SUCH FACILITIES FOR THE PURPOSE OF ASSISTING RESIDENTS AND SECURING INFORMATION REGARDING FACILITIES OF THIS NATURE.~~

~~(K) ANY REGULATIONS BY THE DEPARTMENT RELATING TO THE FUNDING OF RESIDENTIAL CARE FOR THE MENTALLY ILL OR MENTALLY RETARDED ADULTS AND ANY REGULATIONS OF THE DEPARTMENT OF AGING RELATING TO DOMICILIARY CARE SHALL USE AS THEIR BASE, REGULATIONS ESTABLISHED IN ACCORDANCE WITH THIS SECTION. SUPPLEMENTARY REQUIREMENTS OTHERWISE AUTHORIZED BY LAW MAY BE ADDED.~~

~~(L) AFTER INITIAL APPROVAL, PERSONAL CARE BOARDING HOMES NEED NOT BE VISITED OR INSPECTED ANNUALLY; PROVIDED THAT THE~~

1 ~~DEPARTMENT SHALL SCHEDULE INSPECTIONS IN ACCORDANCE WITH A PLAN~~
2 ~~THAT PROVIDES FOR THE COVERAGE OF AT LEAST SEVENTY FIVE PER CENT~~
3 ~~OF THE LICENSED PERSONAL CARE BOARDING HOMES EVERY TWO YEARS.~~

4 ~~(M) REGULATIONS SPECIFICALLY RELATED TO PERSONAL CARE HOMES~~
5 ~~OR PERSONAL CARE BOARDING HOME SERVICES ADOPTED PRIOR TO THE~~
6 ~~EFFECTIVE DATE OF THIS ACT SHALL REMAIN IN EFFECT UNTIL~~
7 ~~SUPERSEDED BY A FINAL PLAN ADOPTED IN ACCORDANCE WITH THIS~~
8 ~~SECTION.~~

9 ~~SECTION 2. ARTICLE III OF THE ACT IS AMENDED BY ADDING A~~
10 ~~SUBDIVISION TO READ:~~

11 ~~ARTICLE III~~

12 ~~STATE INSTITUTIONS IN THE DEPARTMENT OF~~

13 ~~PUBLIC WELFARE~~

14 ~~* * *~~

15 ~~(F) LEGISLATIVE OVERSIGHT~~

16 ~~SECTION 361. LEGISLATIVE REVIEW. (A) IT IS HEREBY DECLARED~~
17 ~~TO BE THE LEGISLATIVE INTENT TO PROMOTE THE WELFARE OF THIS~~
18 ~~COMMONWEALTH BY PROVIDING A REVIEW AND APPROVAL PROCESS BY~~
19 ~~CERTAIN COMMITTEES OF THE GENERAL ASSEMBLY BEFORE ANY STATE~~
20 ~~HOSPITALS OR MENTAL HEALTH/MENTAL RETARDATION CENTERS ARE CLOSED~~
21 ~~OR BEFORE THEIR STAFF OR PATIENT POPULATION ARE SUBSTANTIALLY~~
22 ~~REDUCED BY DEPARTMENT ACTION.~~

23 ~~(B) AT LEAST NINETY DAYS BEFORE THE DEPARTMENT SCHEDULES THE~~
24 ~~CLOSING OF ANY STATE HOSPITAL OR MENTAL HEALTH/MENTAL~~
25 ~~RETARDATION CENTER, OR INITIATES A POLICY OF STAFF REDUCTION OR~~
26 ~~PATIENT OR INMATE TRANSFER OR OUTPLACEMENT WHICH WILL RESULT IN~~
27 ~~A TWENTY FIVE PERCENT OR HIGHER REDUCTION DURING A TWELVE MONTH~~
28 ~~PERIOD OF THE STAFF, PATIENT OR INMATE POPULATION OF SUCH STATE~~
29 ~~HOSPITAL OR MENTAL HEALTH/MENTAL RETARDATION CENTER, THE~~
30 ~~DEPARTMENT SHALL NOTIFY THE MAJORITY AND MINORITY CHAIRMEN OF~~

~~THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE AND OF THE HOUSE
HEALTH AND WELFARE COMMITTEE.~~

~~(C) UPON BEING NOTIFIED OF THE PROPOSED CLOSING OR A
SUBSTANTIAL REDUCTION IN STAFF OR PATIENTS AS PROVIDED IN
SUBSECTION (B), THE HOUSE HEALTH AND WELFARE COMMITTEE AND THE
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE SHALL PROMPTLY HOLD
EITHER JOINT OR SEPARATE PUBLIC HEARINGS ON THE DEPARTMENT'S
PROPOSAL TO DETERMINE THE IMPACT ON THE PATIENTS, COMMUNITY AND
STAFF.~~

~~(D) THE DEPARTMENT SHALL NOT IMPLEMENT ANY PROPOSED CLOSING
OR SUBSTANTIAL REDUCTION IN STAFF, PATIENTS OR INMATES AS
PROVIDED IN SUBSECTION (B) UNTIL SUCH TIME AS THE SENATE PUBLIC
HEALTH AND WELFARE COMMITTEE AND THE HOUSE HEALTH AND WELFARE
COMMITTEE, ACTING INDIVIDUALLY, EACH APPROVE THE DEPARTMENT'S
PROPOSED ACTION AND SO NOTIFY THE DEPARTMENT.~~

SECTION 3 1. THE ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN
AS THE "PUBLIC WELFARE CODE," IS AMENDED BY ADDING SECTIONS TO
READ:

SECTION 453. EXPENDITURE OF PUBLIC FUNDS FOR ABORTIONS
LIMITED.--SINCE IT IS THE PUBLIC POLICY OF THE COMMONWEALTH TO
FAVOR CHILDBIRTH OVER ABORTION, NO COMMONWEALTH FUNDS AND NO
FEDERAL FUNDS WHICH ARE APPROPRIATED BY THE COMMONWEALTH SHALL
BE EXPENDED BY ANY STATE OR LOCAL GOVERNMENT AGENCY FOR THE
PERFORMANCE OF ABORTION: PROVIDED, THAT NOTHING IN THIS ACT
SHALL BE CONSTRUED TO DENY THE USE OF FUNDS WHERE A PHYSICIAN
HAS CERTIFIED IN WRITING THAT THE LIFE OF THE MOTHER WOULD BE
ENDANGERED IF THE FETUS WERE CARRIED TO FULL TERM OR EXCEPT FOR
SUCH MEDICAL PROCEDURES NECESSARY FOR THE VICTIMS OF RAPE OR
INCEST WHEN SUCH RAPE OR INCEST HAS BEEN REPORTED PROMPTLY TO A
LAW ENFORCEMENT AGENCY OR PUBLIC HEALTH SERVICE. NOTHING

1 CONTAINED IN THIS SECTION SHALL BE INTERPRETED TO RESTRICT OR
2 LIMIT IN ANY WAY, APPROPRIATIONS, MADE BY THE COMMONWEALTH OR A
3 LOCAL GOVERNMENTAL AGENCY TO HOSPITALS FOR THEIR MAINTENANCE AND
4 OPERATION, OR, FOR REIMBURSEMENT TO HOSPITALS FOR SERVICES
5 RENDERED WHICH ARE NOT FOR THE PERFORMANCE OF ABORTIONS.

6 SECTION 709. REIMBURSEMENT TO COUNTIES.--(A) REIMBURSEMENT
7 FOR CHILD WELFARE SERVICES MADE PURSUANT TO SECTION 704.1 SHALL
8 NOT EXCEED THE STATE FUNDS APPROPRIATED EACH FISCAL YEAR.

9 (B) COMMENCING NO LATER THAN JULY 1, 1981 THE COUNTY
10 INSTITUTION DISTRICTS OR THEIR SUCCESSORS SHALL BE REIMBURSED IN
11 ACCORDANCE WITH THEIR FISCAL YEAR PLANS AS APPROVED BY THE
12 DEPARTMENT.

13 (C) THE DEPARTMENT SHALL, BY REGULATION, DEFINE ALLOWABLE
14 COSTS FOR AUTHORIZED CHILD WELFARE SERVICES AND SHALL NOT
15 APPROVE FOR REIMBURSEMENT PLANS IN THE AGGREGATE WHOSE COSTS ARE
16 IN EXCESS OF THE AMOUNT APPROPRIATED BY THE GENERAL ASSEMBLY.
17 LEGISLATIVE OVERSIGHT SHALL BE REQUIRED IN THE FORM OF AN ANNUAL
18 REPORT TO THE LEGISLATURE FROM THE DEPARTMENT INDICATING, BUT
19 NOT LIMITED TO, SHOWING THE AMOUNTS PAID TO EACH COUNTY FOR EACH
20 FISCAL YEAR, THE SOURCE OF FUNDS, THE TIMELINESS OF PAYMENTS AND
21 THE EXTENT TO WHICH FUNDS WERE NOT AVAILABLE TO MEET ALLOWABLE
22 AND AUTHORIZED COSTS.

23 ~~SECTION 2 3 4. THE DEFINITION OF "PERSONAL CARE HOME FOR~~ <—
24 ~~ADULTS" IN SECTION 1001 OF THE ACT IS AMENDED TO READ:~~

25 ~~SECTION 1001. DEFINITIONS. AS USED IN THIS ARTICLE—~~

26 ~~* * *~~

27 ~~"PERSONAL CARE HOME FOR ADULTS" MEANS ANY PREMISES [OPERATED~~
28 ~~FOR PROFIT] IN WHICH FOOD, SHELTER AND PERSONAL ASSISTANCE OR~~
29 ~~SUPERVISION ARE PROVIDED FOR A PERIOD EXCEEDING TWENTY FOUR~~
30 ~~HOURS FOR MORE THAN [TWO] THREE ADULTS WHO ARE NOT RELATIVES OF~~

1 ~~THE OPERATOR AND WHO REQUIRE ASSISTANCE OR SUPERVISION IN SUCH~~
2 ~~MATTERS AS DRESSING, BATHING, DIET OR MEDICATION PRESCRIBED FOR~~
3 ~~SELF ADMINISTRATION.~~

4 * * *

5 ~~SECTION 3 4 5. SECTION 4, ACT OF APRIL 27, 1927 (P.L.465,~~ <—
6 ~~NO.299), REFERRED TO AS THE FIRE AND PANIC ACT, IS REPEALED~~
7 ~~INSOFAR AS THEY RELATE IT RELATES to personal care boarding~~ <—
8 ~~homes.~~

9 SECTION 2. THE SUM OF \$28,000,000 IS HEREBY SPECIFICALLY <—
10 APPROPRIATED TO THE DEPARTMENT OF PUBLIC WELFARE FOR THE 1980-
11 1981 FISCAL YEAR FOR PAYMENT TO COUNTIES FOR CHILD WELFARE
12 PROGRAMS AND FOR THE CARE OF DELINQUENT AND DEPRIVED CHILDREN
13 COMMITTED BY THE COURTS TO A PRIVATE OR PUBLIC FACILITY. THE
14 MONEYS APPROPRIATED BY THIS SECTION SHALL BE IN ADDITION TO
15 THOSE MONEYS APPROPRIATED BY THE ACT OF JUNE 18, 1980 (NO.17A),
16 KNOWN AS THE "GENERAL APPROPRIATION ACT OF 1980." REIMBURSEMENT
17 FOR CHILD WELFARE SERVICES MADE PURSUANT TO SECTION 704.1 OF THE
18 ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE "PUBLIC
19 WELFARE CODE," SHALL NOT EXCEED THE AMOUNT OF STATE FUNDS
20 APPROPRIATED.

21 Section ~~4-5-6~~ 3. This act shall take effect immediately. <—