

PRIVATE INSTITUTIONS LICENSED BY DEPARTMENT OF HEALTH

Act of Aug. 8, 1963, P.L. 595, No. 314

Cl. 35

AN ACT

Relating to private institutions licensed by the Department of Public Welfare or Department of Health; providing remedies against persons operating without a license or violating the laws or rules or regulations made thereunder; and prescribing procedures to be followed.

Compiler's Note: The Department of Public Welfare, referred to in this act, was redesignated as the Department of Human Services by Act 132 of 2014.

Compiler's Note: Section 1501(22) of Act 21 of 1967, provided that Act 314 is repealed insofar as it applies to the Department of Public Welfare.

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

Section 1. Definitions.--As used in this act:

(1) "Department" shall mean the Department of Public Welfare, the Department of Health or any officer of either department.

(2) "Person" shall mean a natural person, copartnership, association or corporation.

(3) "Private Institution" shall mean any of the following facilities by whatever term known and irrespective of the age group served: Mental hospital institution for the mentally defective, day care center, family day care home, nursing home, hospital boarding home, personal care home, and other similar institution which is operated for profit and which requires a license issued by the department.

Compiler's Note: The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Section 2. Actions Against Unlicensed Private Institutions.--Whenever a license is required by law for the establishment, operation or conduct of a private institution, the department responsible for issuing such license, upon advice of the Attorney General, may maintain an action in the name of the Commonwealth for an injunction or other process restraining or prohibiting any person from establishing, conducting or operating any private institution during any period after a license to engage in such activity has been refused, has not been renewed or has been revoked by the department instituting suit.

Compiler's Note: Section 504 of Act 164 of 1980 provided that section 2 is repealed insofar as it is inconsistent with Act 164.

Section 3. Actions Against Violations of Law and Rules and Regulations Pertaining to Private Institutions.--Whenever any person regardless of whether such person is a licensee has violated the laws of this Commonwealth pertaining to the licensing of a private institution or the rules and regulations adopted pursuant to such laws by the department responsible for issuing such licenses, such department, upon the advice of the Attorney General, may maintain an action in the name of the Commonwealth for an injunction or other process restraining or prohibiting such person from engaging in such activity.

Compiler's Note: Section 504 of Act 164 of 1980 provided that section 3 is repealed insofar as it is inconsistent with Act 164.

Section 4. Venue.--An action authorized under the provisions of this act shall be instituted in the court of common pleas in the county where the alleged unauthorized activity is committed.

Section 5. Injunction or Restraining Order When Appeal is Pending.--Whenever the department shall have refused to grant or renew a license, or shall have revoked a license required by law to operate or conduct a private institution, or shall have 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 6. 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, 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 as the case may be.

Section 7. Appeals.--(7 repealed June 3, 1971, P.L.118, No.6)

Section 8. Bonds and Costs.--No bond shall be required of and no costs shall be taxed against the department on account of any such action.

Section 9. Law Supplementary.--The provisions of this act shall be construed as supplementary to all other acts dealing with the same subject matter. No action brought under the provisions of this act shall prevent the prosecution or institution of any civil or criminal action otherwise provided by law for violation of any licensing act or departmental rules or regulations promulgated thereunder.

Section 10. Repealer.--The act of April 6, 1951 (P.L.68), entitled "An act authorizing the Department of Welfare, the Department of Health, or any departmental administrative board, commission or officer of either department to proceed by injunction or other process in the court of common pleas in any county where an alleged unauthorized activity is committed, to prohibit and restrain any unlicensed person, association, copartnership or corporation from engaging in an activity for which a license is required to be issued by either department, and setting out the method of procedure therefor," is repealed absolutely.

Section 11. Pending Actions.--All cases pending under the provisions of the act of April 6, 1951 (P.L.68), as amended, on the effective date of this act shall be governed by the provisions of this act.

Section 12. Effective Date.--This act shall take effect immediately.