

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 538

Session of  
1975

INTRODUCED BY RHODES, DiCARLO, LINCOLN, BARBER, A. P. KELLY,  
COHEN, CRAWFORD, HILL, JOHNSON, CAPUTO, ITKIN, FLAHERTY, FEE,  
OLIVER, DORR AND MORRIS, FEBRUARY 19, 1975

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,  
FEBRUARY 19, 1975

AN ACT

1 Providing for the licensing of boarding homes for the aged or  
2 handicapped and establishing penalties.

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

5 Section 1. Short Title.--This act shall be known and may be  
6 cited as the "Boarding Home Act."

7 Section 2. Definitions.--As used in this act:

8 "Boarder," means an individual who is domiciled in a boarding  
9 home for the aged or handicapped and who because of age or  
10 disability is unable to perform one or more daily routine  
11 activities without some level of supervision or assistance.

12 "Boarding home for the aged or handicapped," means any  
13 institution or facility, however named which is operated for  
14 profit or otherwise and which is advertised, announced or  
15 maintained for the express or implied purpose of providing  
16 shelter, services or supervision for two or more persons,  
17 unrelated to the proprietor of the facility, who require some

1 level of supervision or assistance in carrying out daily routine  
2 activities, but who are not so ill, aged or disabled as to  
3 require institutionalization in a facility providing a higher  
4 level of care.

5 "Daily routine activities," means those basic activities  
6 which, as a rule, are engaged in by all individuals on a regular  
7 daily basis. Such activities shall include, but not necessarily  
8 be limited to, bathing, dressing, eating and similar activities.

9 "Department," means the Department of Health of the  
10 Commonwealth of Pennsylvania.

11 "Non-care boarding home," means any facility, however named,  
12 which provides room and/or board for persons who require neither  
13 care, assistance nor supervision or for persons who, while  
14 requiring some level of care, supervision or assistance, choose  
15 not to reside in a boarding home for the aged or handicapped or  
16 other facility which offers such services.

17 "Proprietor," means the individual having ultimate  
18 responsibility for the general management, operation and  
19 maintenance of a boarding home for the aged or handicapped.

20 Section 3. License Required.--It shall be unlawful for any  
21 person to operate within this Commonwealth, for profit or  
22 otherwise, a boarding home for the aged or handicapped without a  
23 license as hereinafter required; but, this act shall not be  
24 construed to apply to any State or State-aided institution  
25 licensed by the Department of Welfare or the Department of  
26 Health under other statutes or to non-care boarding homes.

27 Section 4. Application for License.--Every person desiring  
28 to operate a boarding home for the aged or handicapped shall  
29 file an application for a license with the department. The  
30 application shall be on a form prescribed, prepared and

1 furnished by the department, and, together with such other  
2 information as the department shall require, shall state:

3 (1) The name and address of the applicant and of the person  
4 who will be the proprietor of the boarding home for the aged or  
5 handicapped, if different from the applicant. If the applicant  
6 is a copartnership, association or corporation, the application  
7 shall also state the names and addresses of all the partners and  
8 officers, as the case may be.

9 (2) The location of the boarding home for the aged or  
10 handicapped and, if the applicant is a copartnership,  
11 association or corporation, the state of organization or  
12 incorporation.

13 (3) The facilities of the boarding home for the aged and  
14 handicapped for providing care, service or assistance, including  
15 sanitary and fire protection facilities.

16 Section 5. Pre-licensure Investigation.--Upon receipt of an  
17 application for a license, the department shall cause a thorough  
18 investigation to be made as to the qualifications of the  
19 applicant and, if the applicant is a partnership, association or  
20 corporation, of all the officers or partners, as the case may  
21 be, and of the person designated in the application as the  
22 proprietor of the boarding home for the aged or handicapped, the  
23 adequacy of the facilities of the home to furnish the type of  
24 care, services, supervision and assistance specified in the  
25 application, the sanitary and fire protection facilities, the  
26 reasonableness of rates charged to boarders and any other matter  
27 or thing which the department finds to be reasonably necessary  
28 for the proper operation of a boarding home for the aged or  
29 handicapped.

30 Section 6. Issuance of License; Term and Content of License;

1 Payment of Fee.--(a) The department shall when satisfied that  
2 the applicant for such license, and the proprietor named in the  
3 application, if different from the applicant, is a responsible  
4 person, that the place sought to be used as a boarding home for  
5 the aged or handicapped is a suitable place for such purpose and  
6 is properly equipped therefor, and when all requirements of this  
7 act have been complied with, issue a license to the applicant,  
8 upon payment of a license fee of \$25 which shall be paid into  
9 the State Treasury through the Department of Revenue.

10 (b) All licenses issued by the department under this act  
11 shall expire one year next following the day on which issued,  
12 shall be on a form prescribed by the department, shall not be  
13 transferable with respect to either the facility or the  
14 proprietor thereof, shall specify the maximum number of  
15 individuals who may be cared for in the facility at any one  
16 time, shall be posted in a conspicuous place on the premises  
17 used as a boarding home for the aged or handicapped, and may be  
18 renewed from year to year upon application, investigation and  
19 payment of the license fee, as in the procurement of an original  
20 license.

21 Section 7. Provisional Licenses.--(a) When there has been  
22 substantial but not complete compliance with all applicable  
23 statutes, ordinances and regulations and when the applicant has  
24 taken, or is taking appropriate steps to correct deficiencies,  
25 the department shall issue a provisional license for a specified  
26 period of not more than six months which may be renewed three  
27 times. Upon full compliance, a regular license shall be issued  
28 immediately by the department.

29 (b) The department shall be responsible for providing  
30 assistance to those persons who are eligible, or who desire to

1 become eligible, for such a provisional license to correct  
2 deficiencies, fulfill the requirements of all applicable  
3 statutes, ordinances and regulations and to achieve eligibility  
4 for a provisional, and, ultimately, for a regular license.

5 Section 8. Revocation of Licenses.--(a) Whenever the  
6 department shall, upon inspection, investigation or complaint,  
7 learn of any violation of this act or of rules and regulations  
8 adopted by the department, or of any failure to establish,  
9 provide or maintain the standards and facilities required by the  
10 department, shall give written notice to the offending licensee.

11 (b) The department may revoke the license of said licensee,  
12 if such violations do not cease or if such standards and  
13 facilities are not established or brought into conformity with  
14 those prescribed by the department within two months after such  
15 written notice.

16 (c) The department may grant one or more extensions of time  
17 for an offending licensee to correct deficiencies or bring  
18 standards and facilities into conformity with the requirements  
19 of the law. Where the violations of which notice was given do  
20 not present an imminent danger to the life, health and safety of  
21 a boarder or boarders and where the licensee is taking  
22 appropriate steps to correct violations.

23 Section 9. Penalties for Operation Without License.--Any  
24 person, or any or all officers or partners of any partnership,  
25 association or corporation maintaining or operating within this  
26 Commonwealth a boarding home for the aged or handicapped without  
27 a license required by this act shall be guilty of a misdemeanor  
28 of the third degree and a second or subsequent violation shall  
29 be guilty of a misdemeanor of the first degree.

30 Section 10. Rules and Regulations; Visitation and

1 Inspection.--(a) The department may make and enforce reasonable  
2 rules and regulations for the issuance and removal of such  
3 licenses, for the proper maintenance, operation and conduct of  
4 such boarding homes for the aged and handicapped, and for the  
5 violation, examination and inspection of all such homes.

6 (b) The department or its duly authorized representative  
7 shall have free and full access to the grounds, premises and  
8 buildings and to the records of any home licensed under this  
9 act, and full opportunity to question or interview any boarder  
10 thereof to insure that the home is being operated in compliance  
11 with all applicable rules and regulations, all proprietors and  
12 other persons connected with such homes, such as officers of a  
13 corporation which operates such a home, are hereby directed to  
14 give to the department or its duly authorized representative  
15 such means, facilities and opportunity as necessary to enable  
16 the department to carry out such visitation, examination,  
17 inspection and interviewing as provided by this act and any  
18 rules and regulations adopted by the department pursuant hereto.

19 (c) All such visitations, examinations, inspections and  
20 interviews shall be conducted at reasonable times and after 24  
21 hour notice to the licensee unless the department has reason to  
22 believe that an immediate visitation, examination, inspection or  
23 interview is necessary to prevent or alleviate an imminent  
24 danger to the life, health or safety of a boarder or boarders.

25 Section 11. Duty to Report Suspected Violations.--(a) the  
26 following persons and officials are required to report to the  
27 department when they have reasonable cause to suspect that a  
28 boarding home for the aged or handicapped is being operated in  
29 violation of this act: All officers and employees of any city,  
30 county or State agency, department, commission or institution.

1 Such persons shall include, but not be limited to, police  
2 officers, fire department employees and adult welfare services  
3 workers.

4 (b) Any person may make such a report if such person has  
5 reasonable cause to suspect that a boarding home for the aged or  
6 handicapped is being operated in violation of this act.

7 Section 12. Penalty for Failure to Report.--Any person or  
8 official required by this act to report suspected violations and  
9 who wilfully fails to do so shall be guilty of a summary  
10 offense.

11 Section 13. Unlawful Referrals and Transfers.--It shall be  
12 unlawful for any official or employee, of any State, State-aided  
13 or municipal department, agency, commission, or institution or  
14 of an institution district to refer or transfer any individual  
15 to a boarding home for the aged or handicapped if the official  
16 or employee knows or should know that such home is not licensed  
17 as required by this act.

18 Section 14. Penalty for Unlawful Referral or Transfer.--Any  
19 person who makes a referral or transfers an individual in  
20 violation of this act shall be guilty of a summary offense.

21 Section 15. Appropriation.--The sum of \$500,000 is hereby  
22 appropriated to the Department of Health for the establishment  
23 of services prescribed by this act.

24 Section 16. County Health Departments.--In counties which  
25 have or establish a county department of health, such county  
26 departments are hereby authorized to contract with the  
27 department to perform the services and functions prescribed by  
28 this act; and, upon so contracting, such county department shall  
29 receive from the department such funds as are necessary to carry  
30 out the services and functions prescribed by this act in the

1 county where situated.

2 Section 17. Effective Date.--This act shall take effect in  
3 six months.