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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 670      Session of  
1999

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INTRODUCED BY MURPHY, WHITE, COSTA, BODACK, TOMLINSON, WAGNER,  
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MARCH 24, 1999

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SENATOR MOWERY, PUBLIC HEALTH AND WELFARE, AS AMENDED,  
JUNE 16, 1999

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AN ACT

1 Relating to the licensure and regulation of prescribed pediatric  
2 extended care centers in this Commonwealth.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Prescribed  
10 Pediatric Extended Care Centers Act.

11 Section 2. Legislative intent.

12 It is the intent of the General Assembly to develop,  
13 establish and enforce licensure and basic standards for  
14 prescribed pediatric extended care centers in order to assure  
15 that the centers provide the necessary family-centered medical,  
16 developmental, physiological, nutritional, psychosocial and  
17 family training services.

18 Section 3. Definitions.

19 The following words and phrases when used in this act shall  
20 have the meanings given to them in this section unless the  
21 context clearly indicates otherwise:

22 "Basic services." The term includes, but is not limited to,  
23 development, implementation and monitoring of a comprehensive  
24 protocol of care, developed in conjunction with the parent or  
25 guardian, which specifies the medical, nursing, psychological  
26 and developmental therapies required by the medically dependent  
27 or technologically dependent child served as well as the  
28 caregiver training needs of the child's legal guardian.

29 "Department." The Department of Health of the Commonwealth.

30 "Medical records." Medical records maintained in accordance

1 with accepted professional standards and practices as specified  
2 in the rules implementing this act.

3 "Medically dependent" or "technologically dependent child."

4 A child FIVE YEARS OF AGE OR YOUNGER who because of a medical <—  
5 condition requires continuous therapeutic interventions or  
6 skilled nursing supervision which must be prescribed by a  
7 licensed physician and administered by or under the direct  
8 supervision of, a licensed registered nurse.

9 "Owner" or "operator." Any individual who has general  
10 administrative charge of a prescribed pediatric extended care  
11 center.

12 "Prescribed pediatric extended care center" or "PPEC center."  
13 Any building or buildings, or other place, whether operated for-  
14 profit or not-for-profit, which undertakes through its ownership  
15 or management to provide basic nonresidential services to three  
16 or more medically dependent or technologically dependent  
17 children who are not related to the owner or operator by blood,  
18 marriage or adoption and who require such services. Infants and  
19 children considered for admission to a prescribed pediatric  
20 extended care center must have complex medical conditions that  
21 require continual care. Prerequisites for admission are a  
22 prescription from the child's attending physician and consent of  
23 a parent or guardian.

24 "Supportive services" or "contracted services." The term  
25 includes, but is not limited to, speech therapy, occupational  
26 therapy, physical therapy, social work, developmental, child  
27 life and psychological services.

28 Section 4. PPEC centers to be licensed; exemptions.

29 (a) Licensing.--The facilities to be licensed by the  
30 department shall include all PPEC centers which are not

1 otherwise exempt as provided by subsection (b).

2 (b) Exemption.--A facility, institution or other place  
3 operated by the Federal Government or agency thereof is exempt  
4 from the provisions of this act.

5 Section 5. License required; fee; exemptions; display.

6 (a) Licensure required.--It is unlawful to operate or  
7 maintain a PPEC center without first obtaining from the  
8 department a license authorizing such operation. The department  
9 is responsible for licensing PPEC centers in accordance with the  
10 provisions of this act.

11 (b) Offenses.--Any person who violates subsection (a)  
12 commits a felony of the third degree.

13 (c) Premises to be licensed.--Separate licenses are required  
14 for PPEC centers maintained on separate premises, even though  
15 they are operated under the same management. Separate licenses  
16 are not required for separate buildings on the same grounds.

17 (d) Fees.--The annual license fee required of a PPEC center  
18 shall be in an amount determined by the department to be  
19 sufficient to cover the agency's costs in carrying out its  
20 responsibilities under this act, but shall not be less than \$500  
21 or more than \$1,500.

22 (e) Exemption from fees.--County-operated or municipally  
23 operated PPEC centers applying for licensure under this section  
24 are exempt from the payment of license fees.

25 (f) Display of license.--The license shall be displayed in a  
26 conspicuous place inside the PPEC center.

27 (g) License transfer.--A license shall be valid only in the  
28 possession of the individual, firm, partnership, association or  
29 corporation to whom it is issued and shall not be subject to  
30 sale, assignment or other transfer, voluntary or involuntary nor

1 shall a license be valid for any premises other than that for  
2 which originally issued.

3 (h) Facility capacity.--Any license granted by the agency  
4 shall state the maximum capacity of the facility, the date the  
5 license was issued, the expiration date of the license and any  
6 other information deemed necessary by the department.

7 Section 6. Initial application for license.

8 (a) Application.--Application for a license shall be made to  
9 the agency on forms furnished by it and shall be accompanied by  
10 the appropriate license fee unless the applicant is exempt from  
11 payment of the fee as provided in section 4.

12 (b) Contents of application.--The application shall be under  
13 oath and shall contain the following:

14 (1) The name and address of the applicant and the name  
15 by which the facility is to be known.

16 (i) If the applicant is a firm, partnership or  
17 association, the application shall contain the name and  
18 address of every member thereof.

19 (ii) If the applicant is a corporation, the  
20 application shall contain its name and address, the names  
21 and addresses of its directors and officers and the name  
22 and address of each person having at least a 10% interest  
23 in the corporation.

24 (2) Information which provides a source to establish the  
25 suitable character and competency of the applicant and, if  
26 applicable, of the owner or operator, including the name and  
27 address of any licensed facility with which the applicant or  
28 owner or operator has been affiliated through ownership or  
29 employment within five years of the date of the application  
30 for a license.

1           (3) The names and addresses of other persons of whom the  
2 agency may inquire as to the character and reputation of the  
3 applicant and, if applicable, of the owner or operator.

4           (4) The names and addresses of other persons of whom the  
5 agency may inquire as to the financial responsibility of the  
6 applicant.

7           (5) Such other reasonable information as may be required  
8 by the agency to evaluate the ability of the applicant to  
9 meet the responsibilities entailed under this act.

10          (6) The location of the facility for which a license is  
11 sought and documentation, signed by the appropriate local  
12 government official, which states that the applicant has met  
13 local zoning requirements.

14          (7) Satisfactory proof of financial ability of the  
15 applicant to operate and conduct the PPEC center in  
16 accordance with the requirements of this act.

17          (c) Proof of insurance.--The applicant for licensure shall  
18 furnish proof of adequate liability insurance coverage or  
19 protection.

20          (d) Requirement.--Each applicant for licensure must comply  
21 with the following requirements:

22           (1) Upon receipt of a completed, signed and dated  
23 application, the department shall require background  
24 screening of the operator, and of the financial officer or  
25 other similarly titled individual who is responsible for the  
26 financial operation of the center, including billings, for  
27 patient care and services.

28           (2) The department may require background screening of  
29 any other individual who is an applicant if the department  
30 has a reasonable basis for believing that he or she has been

convicted of a crime.

(e) Provisional license.--A provisional license may be granted to an applicant when each individual required by this section to undergo background screening has applied for a report of Federal Criminal history record information but the department has not yet received background screening results from the Federal Bureau of Investigation. A standard license may be granted to the applicant upon the department's receipt of a report of the results of the Federal Bureau of Investigation background screening for each individual required by this section to undergo background screening which confirms that all standards have been met.

(f) Proof of compliance.--Each applicant must submit to the department, with its application, a description and explanation of any exclusions, permanent suspension or termination of the applicant from the Medicare or Medicaid programs. Proof of compliance with the requirements for disclosure of ownership and control interests under the Medicaid or Medicare program shall be accepted in lieu of this submission.

(g) Requirements for board of directors.--Each applicant must submit to the agency a description and explanation of any conviction of a criminal offense by a member of the board of directors of the applicant, its officers or any individual owning 5% or more of the applicant. This requirement does not apply to a director of a not-for-profit corporation or organization if the director serves solely in a voluntary capacity for the corporation or organization, does not regularly take part in the day-to-day operational decisions of the corporation or organization, receives no remuneration for his or her services on the corporation or organization's board of

1 directors and has no financial interest and has no family  
2 members with a financial interest in the corporation or  
3 organization, provided that the director and the not-for-profit  
4 corporation or organization include in the application a  
5 statement affirming that the director's relationship to the  
6 corporation satisfies the requirements of this subsection.

7 (h) Revocation.--The department may deny or revoke licensure  
8 if the applicant:

9 (1) Has falsely represented a material fact in the  
10 application required by subsection (f) or (g), or has omitted  
11 any material fact from the application required by subsection  
12 (f) or (g).

13 (2) Has had prior action taken against the applicant  
14 under the Medicaid or Medicare program as set forth in  
15 subsection (f).

16 Section 7. Denial, suspension or revocation of licensure;  
17 grounds.

18 (a) Action by department.--The department may deny, revoke  
19 or suspend a license or impose an administrative fine for a  
20 violation of this act.

21 (b) Grounds for department action.--Any of the following  
22 actions by a PPEC center or its employee is grounds for action  
23 by the department against a PPEC center or its employee:

24 (1) An intentional or negligent act materially affecting  
25 the health or safety of children in the PPEC center.

26 (2) A violation of the provisions of this act or of any  
27 standards or rules and regulations adopted pursuant to this  
28 act.

29 (3) Multiple and repeated violations of this act or of  
30 minimum standards or rules and regulations adopted pursuant



1 to this act.

2 (c) Investigations.--The department shall be responsible for  
3 all investigations and inspections conducted pursuant to this  
4 act.

5 Section 8. Administrative fines; disposition of fees and fines.

6 (a) Compliance.--If the department determines that a PPEC  
7 center is being operated without a license or is otherwise not  
8 in compliance with rules adopted under this act, the department,  
9 notwithstanding any other administrative action it takes, shall  
10 make a reasonable attempt to discuss each violation and  
11 recommended corrective action with the owner of the PPEC center  
12 prior to written notification thereof. The department may  
13 request that the PPEC center submit a corrective action plan  
14 which demonstrates a good faith effort to remedy each violation  
15 by a specific date, subject to the approval of the department.

16 (b) Fines.--The department may fine a PPEC center or  
17 employee found in violation of rules adopted pursuant to this  
18 act in an amount not to exceed \$500 for each violation. Such  
19 fine may not exceed \$5,000 in the aggregate.

20 (c) Correction of violation.--The failure to correct a  
21 violation by the date set by the department, or the failure to  
22 comply with an approved corrective action plan is a separate  
23 violation for each day such failure continues, unless the  
24 department approves an extension to a specific date.

25 (d) Interest.--If a PPEC center desires to appeal any  
26 department action under this section and the fine is upheld, the  
27 violator shall pay the fine, plus interest at the legal rate,  
28 for each day beyond the date set by the agency for payment of  
29 the fine.

30 (e) Amounts of fine.--In determining if a fine is to be

1 imposed and in fixing the amount of any fine, the department  
2 shall consider the following factors:

3 (1) The gravity of the violation, including the  
4 probability that death or serious physical or emotional harm  
5 to a child will result or has resulted, the severity of the  
6 actual or potential harm and the extent to which the  
7 provisions of the applicable statutes or rules were violated.

8 (2) Actions taken by the owner operator to correct  
9 violations.

10 (3) Any previous violations.

11 (4) The financial benefit to the PPEC center of  
12 committing or continuing the violation.

13 Section 9. Expiration of license; renewal; conditional license  
14 as permit.

15 (a) Renewal.--A license issued for the operation of a PPEC  
16 center, unless sooner suspended or revoked, shall expire one  
17 year after the date of issuance. At least 60 days before the  
18 expiration date, an application for renewal shall be submitted  
19 to the department. The department shall renew the license, upon  
20 the filing of an application on forms furnished by the  
21 department, if the applicant has first met the requirements  
22 established under this act and all rules adopted pursuant to  
23 this act. The PPEC center shall file with the application  
24 satisfactory proof of financial ability to operate and conduct  
25 the facility in accordance with this act.

26 (b) Action pending.--A licensee against whom a revocation or  
27 suspension proceeding is pending at the time of license renewal  
28 may be issued a conditional license effective until final  
29 disposition by the department of such proceedings. If judicial  
30 relief is sought from the final disposition, the court having

1 jurisdiction may issue a conditional permit for the duration of  
2 the judicial proceeding.

3 Section 10. Injunction proceedings authorized.

4 (a) Institution of proceedings.--The department may  
5 institute injunction proceedings in a court of competent  
6 jurisdiction to:

7 (1) Enforce the provisions of this act or any standard,  
8 rule or order issued or entered into pursuant thereto.

9 (2) Terminate the operation of a PPEC center if the  
10 licensee has:

11 (i) Not taken preventive or corrective measures in  
12 accordance with any order of the department.

13 (ii) Failed to abide by any final order of the  
14 department once it has become effective and binding.

15 (iii) Committed a violation of any provision of this  
16 act or of any rule adopted pursuant thereto, which  
17 violation constitutes an emergency requiring immediate  
18 action.

19 (b) Duration of relief.--Such injunctive relief may be  
20 temporary or permanent.

21 Section 11. Closing of PPEC center.

22 (a) Notice.--Whenever a PPEC center voluntarily discontinues  
23 operation, it shall inform the department in writing at least 30  
24 days before the discontinuance of operation. The PPEC center  
25 shall also, at such time, inform each child's legal guardian of  
26 the fact and the proposed time of such discontinuance.

27 (b) Surrender license.--Immediately upon discontinuance of  
28 the operation of a PPEC center, the owner or operator shall  
29 surrender the license therefor to the department, and the  
30 license shall be canceled.

1 Section 12. Right of entry and inspection.

2 Any duly designated officer or employee of the department  
3 have the right to enter upon and into the premises of any PPEC  
4 center licensed pursuant to this act, at any reasonable time, in  
5 order to determine the state of compliance with the provisions  
6 of this act and of rules or standards in force pursuant thereto.  
7 The right of entry and inspection shall also extend to any  
8 premises which the department has reason to believe are being  
9 operated or maintained as a PPEC center without a license, but  
10 no such entry or inspection of any premises shall be made  
11 without the permission of the owner or operator in charge  
12 thereof unless a warrant is first obtained from the circuit  
13 court authorizing the entry and inspection. Any application for  
14 PPEC center license or renewal made pursuant to this act shall  
15 constitute permission for and complete acquiescence in any entry  
16 or inspection of the premises for which the license is sought in  
17 order to facilitate verification of the information submitted on  
18 or in connection with the application.

19 Section 13. Rules establishing standards.

20 (a) Standards.--Pursuant to the intention of the General  
21 Assembly to provide safe and sanitary facilities and healthful  
22 programs, the department shall adopt and publish rules and  
23 regulations to implement the provisions of this act, which shall  
24 include reasonable and fair standards. Any conflict between  
25 these standards and those that may be set forth in local, county  
26 or city ordinances shall be resolved in favor of those having  
27 Statewide effect. Such standards shall relate to:

28 (1) The assurance that PPEC services are family centered  
29 and provide individualized medical, developmental and family  
30 training services.

1           (2) The maintenance of PPEC centers based upon the size  
2 of the structure and number of children, relating to  
3 plumbing, heating, lighting, ventilation and other building  
4 conditions, including adequate space, which will ensure the  
5 health, safety, comfort and protection from fire of the  
6 children served.

7           (3) The appropriate provisions of the most recent  
8 edition of the "Life Safety Code" (NFPA-101).

9           (4) The number and qualifications of all personnel who  
10 have responsibility for the care of the children served.

11           (5) All sanitary conditions within the PPEC center and  
12 its surroundings, including water supply, sewage disposal,  
13 food handling and general hygiene, and maintenance thereof,  
14 which will ensure the health and comfort of children served.

15           (6) Programs and basic services promoting and  
16 maintaining the health and development of the children served  
17 and meeting the training needs of the children's legal  
18 guardians.

19           (7) Supportive, contracted, other operational and  
20 transportation services.

21           (8) Maintenance of appropriate medical records, data and  
22 information relative to the children and programs. Such  
23 records shall be maintained in the facility for inspection by  
24 the department.

25           (b) Rules and regulations.--The department shall adopt rules  
26 to ensure that:

27           (1) No child attends a PPEC center for more than 12  
28 hours within a 24-hour period.

29           (2) No PPEC center provides services other than those  
30 provided to medically or technologically dependent children.

1 Section 14. Construction and renovation; requirements.

2 The requirements for the construction or renovation of a PPEC  
3 center shall comply with:

4 (1) all applicable building construction standards,  
5 including plumbing, electrical code, glass, manufactured  
6 buildings, accessibility for the physically disabled; and

7 (2) the standards or rules and regulations adopted  
8 pursuant to this act.

9 SECTION 15. INTERIM LICENSE. <—

10 UNTIL SUCH TIME AS FINAL RULES AND REGULATIONS ARE ADOPTED  
11 AND PUBLISHED, THE DEPARTMENT MAY, UPON APPLICATION BY A  
12 FACILITY SEEKING LICENSING AS A PPEC CENTER, AND AFTER SUITABLE  
13 INVESTIGATION BY THE DEPARTMENT, GRANT AN INTERIM LICENSE WHICH  
14 SHALL BE VALID UNTIL SUCH TIME THAT FINAL REGULATIONS ARE  
15 ADOPTED AND PUBLISHED.

16 Section ~~15~~ 16. Prohibited acts; penalty for violation. <—

17 (a) Prohibited acts.--It is unlawful for any person or  
18 public body to offer or advertise to the public, in any way or  
19 by any medium, basic services as defined in this act without  
20 obtaining a valid current license. It is unlawful for any holder  
21 of a license issued pursuant to this act to advertise or hold  
22 out to the public that it holds a license for a PPEC center  
23 other than that for which it actually holds a license.

24 (b) Penalty.--Any person who violates the provisions of  
25 subsection (a) commits a misdemeanor of the second degree. Each  
26 day of continuing violation shall be considered a separate  
27 offense.

28 Section ~~16~~ 17. Effective date. <—

29 This act shall take effect ~~in 180 days~~ IMMEDIATELY. <—